

*Leave of Absence**Friday, December 10, 2010***HOUSE OF REPRESENTATIVES***Friday, December 10, 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. Tim Gopeesingh, Member of Parliament for Caroni East; Hon. Collin Partap, Member of Parliament for Cumuto/Manzanilla and Miss Stacy Roopnarine, Member of Parliament for Oropouche West, all of whom are currently out of the country and have asked to be excused from today's sitting of the House. The Hon. Dr. Keith Rowley, Member of Parliament for Diego Martin West and Leader of the Opposition, has asked also to be excused from today's sitting of the House.

The leave which these Members seek is granted.

**JOINT SELECT COMMITTEE
(APPOINTMENT OF)**

Mr. Speaker: Hon. Members, I have received the following correspondence from the hon. Timothy Hamel-Smith. It is addressed to:

“Honourable Wade Mark, MP

Speaker of the House

Office of the Speaker

Office of the Parliament

The Red House

Abercromby Street

PORT OF SPAIN

Dear Mr. Speaker,

Appointment of a Joint Select Committee

Your letter dated December 06, 2010 on the subject at caption refers. I wish to advise that at a sitting held on Tuesday December 07, 2010, the Senate agreed to the following Resolution:

JSC (Appointment Of)
[MR. SPEAKER]

Friday, December 10, 2010

‘BE IT RESOLVED that a Bill entitled, ‘An Act to make provisions for the suppression of associations established for unlawful purposes and for the better preservation of public safety and order and for other related matters’ be referred to a Joint Select Committee comprising an equal number of Members of the House of Representatives and the Senate and that this Committee be empowered to discuss the general merits and principles of the Bill along with its details and be mandated to report within three months.’

The decision of the Senate is forwarded for the attention of the House of Representatives.

Yours sincerely,

Senator the Hon. Timothy Hamel-Smith
President of the Senate”

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, may I advise that both the Government and the Opposition would be prepared later in the proceedings to supply the names of the committee.

Mr. Speaker: Okay, yes.

**MATTER OF PRIVILEGE RULING
(MEMBER FOR D’ABADIE/O’MEARA)**

Mr. Speaker: Hon. Members, at the sitting of House held on Wednesday, December 01, 2010, the hon. Member for Diego Martin Central was granted leave to raise a matter of privilege in accordance with Standing Order 27(2). I indicated then that I would give my ruling at a later date. I do so now.

The hon. Member for Diego Martin Central alleges that at a sitting of the House held on Friday, November 26, 2010, the hon. Minister of Sport and Youth Affairs and Member of Parliament for D’Abadie/O’Meara deliberately misled the House while responding to a matter raised on the Motion for the Adjournment of the House. The matter involved Government’s involvement in the Nicki Minaj concert. In support of his submission, the Member for Diego Martin Central provided to me what he claimed to be actual footage of the concert as well as footage produced by MTV.

Hon. Members, it is perhaps relevant to note that on Friday, December 03, 2010, the hon. Minister of Sport and Youth Affairs and the Member of Parliament for D'Abadie/O'Meara made a personal explanation in this House in which he acknowledged that his statement on Friday, November 26, 2010 could have been open to varying interpretations. As hon. Members would recall, the hon. Minister offered the House an apology for the fact that his statements may have been structured to create the unfortunate impression that he intended to mislead the House. He further stated that he had no intention whatever to deliberately mislead this honourable House. It is also important at this point that I remind hon. Members that in a ruling on a question of privilege, the Speaker does not convey any concluded view on the matter. He is only required to determine whether the motion raised is, at a first glance, a strong and sufficient case for the attention of the Committee of Privileges. Put briefly, hon. Members, what is alleged is essentially that:

Firstly—information was conveyed to this House by the hon. Minister of Sport and Youth Affairs and Member of Parliament for D'Abadie/O'Meara on November 26, 2010 which is in fact inaccurate in a material particular;

Secondly—when the statement was made on November 26, the Minister of Sport and Youth Affairs knew or at least ought to have known that it was inaccurate; and

Thirdly—the Minister of Sport and Youth Affairs intended to mislead the House.

Hon. Members, in an earlier ruling I explained that, having regard to the essential ingredients of this particular contempt, to establish a case of deliberate and wilful intent to mislead is indeed very difficult. Without an admission of actual intent to mislead, the Chair must be satisfied, based on the facts alleged and all the material placed before him, that there is more than a remote or distant possibility of “intention to mislead” requiring the consideration of the relevant Committee.

So hon. Members, in deciding whether a prima facie case of contempt has been made out, the Chair must carefully consider the facts alleged and all the information placed before him. I have done just that and find that a prima facie case of contempt has indeed been made out. I so rule and refer this matter to the Committee of Privileges for consideration and report.

INTERCEPTION OF COMMUNICATIONS (AMDT.) BILL

Bill to amend the Interception of Communications Act, 2010 brought from the Senate [*The Minister of National Security*]; read the first time.

Motion made, That the next stage be taken at a later stage in the proceedings.
[*Hon. Brig. J. Sandy*]

Question put and agreed to.

PAPERS LAID

1. Annual report of the Public Service Commission for the year 2009. [*The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal)*]
2. Annual audited financial statements of Tourism and Industrial Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2006. [*Hon. Dr. R. Moonilal*]
3. Annual audited financial statements of Tourism and Industrial Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2007. [*Hon. Dr. R. Moonilal*]
4. Annual audited financial statements of Tourism and Industrial Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2008. [*Hon. Dr. R. Moonilal*]
5. Annual audited financial statements of Tourism and Industrial Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2009. [*Hon. Dr. R. Moonilal*]

Papers 2 to 5 to be referred to the Public Accounts Committee.

6. Administrative report of the Arima Borough Corporation for the financial year 2009. [*Hon. Dr. R. Moonilal*]

1.45 p.m.

ORAL ANSWERS TO QUESTIONS**Prime Minister's Overseas Travel****(Cost of)**

20. Mr. Colm Imbert (*Diego Martin North/East*) asked the Hon. Prime Minister:

- a) How many times has the Prime Minister travelled overseas, on official travel and/or at taxpayers' expense, over the period May 24, 2010 to November 11, 2010?

- b) Apart from the visit to New York during the period August 13 to 22, 2010 what is the total cost of the foreign travel referred to above, inclusive of airfare, accommodation, ground transport, meals, incidentals, gifts and other related expenses, and the costs associated with all Government officials, support staff, members of the media, security personnel and other persons who accompanied the Prime Minister on these trips or participated in these trips?

The Minister of Foreign Affairs (Hon. Dr. Surujrattan Rambachan): Mr. Speaker, the Government of the hon. Prime Minister, Kamla Persad-Bissessar, and the People's Partnership, is happy to answer yet another question posed by the Opposition and at the same time we welcome the opportunity that this question provides to share with the public the strategic importance of the Prime Minister's visits in the context of promoting Trinidad and Tobago as a destination of choice for tourists, for business and investments as well as to introduce the Government of Trinidad and Tobago to decision makers and world leaders.

The Government again wishes to emphasize that, unlike a previous administration, it takes seriously the matter of its parliamentary responsibility to answer questions as quickly as possible, since it views this aspect of Parliament as a most important facilitator to sustaining democracy through the right of citizens to information.

The Government's commitment to regional integration and to Caricom is well established. In the manifesto of the People's Partnership, which document was laid in this honourable Parliament and which is now public policy, the Government of the People's Partnership states a clear commitment to regional integration and to the deepening of ties with Caricom, and I quote from that document:

“On CARICOM more specifically, Trinidad and Tobago will re-engage fully with the regional integration process and contribute to the strengthening of the overall CARICOM framework, including the CSME...Also, Trinidad and Tobago will promote, as much as possible, a common and proactive policy stand among the CARICOM Members with regard to critical issues such as the ‘forced returnees’ from the United States and the UK, the reconstruction of Haiti, the ‘Bolivarian Alternative’, climate change and sustainable development.”

In this regard, following the meeting of Heads of Government in Jamaica, the Government appointed Ambassador Makandal Daaga as Cultural Ambassador to Caricom and Ambassador Mervyn Assam as Ambassador responsible for the harmonization of trade and industry issues, including issues related to Caricom. The trip to Jamaica was more than a meeting of Caricom. It was necessary to meet face to face with fellow leaders of the Caricom region and to introduce the new government as well as to assure the region of our commitment to integration and to the cause of the Caribbean people.

On that occasion of the visit to Jamaica for the Heads of Caricom meeting, the Prime Minister also met with the Secretary General of the United Nations, Ban ki Moon as well as participated in meetings with the Secretary General of the OAS and the IMF. In addition, Trinidad and Tobago had the opportunity to get a first-hand understanding of the Haitian situation from special envoy, former Prime Minister of Jamaica, Percival Patterson. The cost of that trip for the Prime Minister was \$96,780 and the entourage, \$425,528.42.

Between September 20th and September 28th, the Prime Minister travelled to the most important 65th UNGA (United Nations General Assembly) in New York where she addressed the UN General Assembly on two occasions. Firstly, she spoke on Trinidad and Tobago's progress on the achievement of the UN's Millennium Development Goals. Secondly, the Prime Minister addressed the General Assembly where she boldly called for drug trafficking to be made an offence to be tried by the International Court of Justice, that court being an initiative initially driven by former Prime Minister and President, ANR Robinson.

More than this, the hon. Prime Minister caused to be elevated the international profile of Trinidad and Tobago by indicating the intention of this country to place before the United Nations, a motion on "Women, Disarmament, Non-Proliferation and Arms Control", which motion was, in fact, placed and is now to go before the General Assembly. As you will agree, Trinidad and Tobago will not be limited by its smallness but will soar by its commitment to bring peace to the world through high-level diplomacy. In a similar fashion, the former government should also be proud that it also piloted a motion at the UN on NCDs which is to be debated next year.

On the margins of the UNGA the Prime Minister held several bilateral meetings as well as hosted a joint reception with the United Kingdom and Australia for Heads of the Commonwealth, the Hon. Prime Minister being, of course, the current Chair in Office. Ministers accompanying her also held several

bilateral meetings. The Minister of Foreign Affairs made a statement at the meeting on disarmament and also chaired the meeting of Foreign Ministers of the Commonwealth held on the margins of the UNGA.

These visits are also used to meet staff at the Embassies of Trinidad and Tobago as well as the diaspora. The diaspora, by themselves, are ambassadors of Trinidad and Tobago. They form an important niche market for products and services out of Trinidad and Tobago. Being part of the developed world, they are also an important resource for investments, skills and knowledge. In fact, Trinidad and Tobago is pushing forward the concept of diasporic trade diplomacy. Diasporic trade, of course, refers to the flow of goods and services between the diaspora community and its homeland and diasporic trade diplomacy is diplomacy aimed at influencing such flows.

The Prime Minister on that occasion also met with influential business groups, including the Council of the Americas, and participated in round-table discussions on hemispheric trade and development. The cost of that trip for the Prime Minister was \$142,702.50 and for the entourage, \$217,627.05. Between October 11 and October 16, the hon. Prime Minister travelled to London to the Commonwealth Business Forum. Here she addressed the forum on investment opportunities in Trinidad and Tobago, and as well met in the context of Trinidad and Tobago's push for diasporic trade diplomacy with the diaspora and staff of the High Commission.

One of the important aspects of this visit was the meeting with the Caribbean High Commissioners to take a common position on the matter of the airline passenger duty which has the potential to cripple the tourism industry in parts of the Caribbean, including Tobago. The Prime Minister took that position to the Prime Minister of the United Kingdom, in her meeting with him at No. 10 Downing Street. The Prime Minister of the United Kingdom, of course, has promised to review their position.

The Prime Minister also visited Marlborough House where detailed discussions were held with the Deputy Secretary General of the Commonwealth regarding the role of the Chair in Office, as well as reviewing the work of the Commonwealth, particularly with a view to leveraging the interests of small island developing States, most of which are Commonwealth countries. Trinidad and Tobago, through the hon. Prime Minister, has a vital role to play in the next few months to advocate the cause of the small island developing States and also of the near one billion Commonwealth citizens who are regarded as poor.

The Prime Minister was able on that occasion to obtain a commitment from the Commonwealth Business Forum to host, along with the Council of Americas in Trinidad and Tobago next year, a major business meeting. These types of meetings will not only raise Trinidad and Tobago's profile overseas but, more importantly, will be an opportunity, not only for Trinidad and Tobago but for Caribbean companies also, to seek business outside of the traditional markets.

What is also less discernible to the Caribbean is the seemingly lower level of interest by certain countries which traditionally had interests of bananas and sugar in the Caribbean but which now do not necessarily do so. The shift of interest away from the Caribbean to the BRIC countries, but especially to Brazil in this region, is cause for concern for us here in the Caribbean, a matter which the Prime Minister raised in her meeting with the Prime Minister of the UK on behalf of the peoples of this region. Establishing a voice at the highest level was important and continues to be so.

As part of her visit to the United Kingdom, the hon. Prime Minister also met with the Secretary General of the Commonwealth Parliamentary Association to discuss matters relating to parliamentary reform which is high on the agenda of the People's Partnership. Incidentally, on this visit the Prime Minister's delegation included members of the Energy Chamber and the Trinidad and Tobago Chamber of Commerce who paid their own expenses. The cost of that trip for the Prime Minister was \$165,785.60 and for the entourage, \$382,791.74.

On November 03, the Prime Minister travelled to Barbados to attend the funeral of the late Prime Minister of Barbados, David Thompson. She did not use a private jet but travelled on the Airguard of the Coast Guard. [*Desk thumping*] It will be instructive to note that in the year 2009, Senate Question No. 65, it was revealed that on March 18—21, travelling to Brazil, Paraguay, Ecuador, Mexico and Nicaragua, an aircraft was leased at a cost of \$754,859.57.

With regard to the trip to Barbados for the funeral of Mr. David Thompson, the cost to the Prime Minister was \$3,828.27 and the entourage, \$7,000.14.

Following the devastation by hurricane Tomas in St. Lucia and St. Vincent and the Grenadines, the Prime Minister, accompanied by other Ministers and by professionals and businessmen from the private sector, visited St. Lucia to assess damages and determine what types of assistance will be needed by the islands. Emanating out of that visit, Trinidad and Tobago was able to send several containers of immediate supplies to these countries. [*Desk thumping*] It will be important to note that three shipments by Trinidad and Tobago Coast Guard

vessels dropped off eight 20-foot containers in St. Lucia. Three of those containers contained material from WASA to help restore the water system which is crucial to the tourism industry in St. Lucia. Three 20-foot containers were shipped to St. Vincent and the Grenadines also, via Trinidad and Tobago Coast Guard, making it several containers that went out.

More important than that, relief supplies were also sent by Amerijet and two flights to Hewanorra International Airport took place on November 04, 2010, with shipments of water as hurricane relief supplies to St. Lucia. Blue Waters donated 13 skids weighing 17,730 pounds of water and this was shipped directly to the National and Emergency Management Organization, in care of the Prime Minister's Office in St. Lucia. I can read for you several of the shipments that went and I can provide you with this information that you require, because we did a lot following that visit of the Prime Minister to St. Lucia in order to send supplies to both St. Lucia and St. Vincent and the Grenadines.

During the period November 08 to November 10, the Prime Minister paid a visit to New York, Boston and Washington. In New York, she was the recipient of a major award by *Glamour* Magazine alongside three other female Heads of State. This was again an opportunity to profile Trinidad and Tobago and led to several interviews with major newspapers and international media.

The Prime Minister was invited by Harvard University to speak on Leadership and Appreciation. This address received an interesting review in the *Express* by Prof. Selwyn Ryan which makes excellent reading because it is perhaps the first time that a sitting Prime Minister of Trinidad and Tobago has articulated her leadership philosophy, not only to Trinidad and Tobago but to the world. This, of course, allows the citizens and decision makers to appreciate the philosophy of the leadership and makes for better interpersonal and international communications.

The visit to the US culminated in an address to the Organization of American States at a special sitting convened to listen to her, and finally with a meeting with Mrs. Hilary Clinton, Secretary of State. It is important that in the early life of this administration that the Prime Minister meets with those world leaders with whose countries we must continue to develop positive relationships. In particular, Trinidad and Tobago, as the Member for San Fernando East would know, is responsible for security in the quasi-cabinet of Caricom and the US has initiated the CSBI which is important to the security of the region. The cost of the trip for the Prime Minister, \$85,638.92 and the entourage, \$167,103.63

Overall, seven overseas visits costing \$494,735.29 were made by the hon. Prime Minister and the entourage, \$1,200,064.84. The rebranding of Trinidad and Tobago as a place to live, a place to work, a place to conduct business and a place to invest is at the heart of these visits. In addition, rekindling the diaspora's commitment to country and as ambassadors of Trinidad and Tobago also forms an integral part of the agenda.

Building a government is a matter of managing both internal and external affairs and image. We live and do business in a global environment necessitating new and different ways of managing the business of government.

2.00 p.m.

We do not intend to be left behind. We intend to be at the forefront of world leadership, joining and contributing at the highest levels to the global and regional debates. This will necessitate travel as part of the strategy to which Trinidad and Tobago must be prepared to commit.

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

Mr. Imbert: Mr. Speaker, based on what the Minister has said, would it be correct to say that the eight trips that the Prime Minister has been on since May 24 cost a total, inclusive of entourage, of \$2.5 million?

Dr. Moonilal: That is not true.

Hon. Dr. S. Rambachan: Mr. Speaker, if the hon. Member for Diego Martin North/East had brought his calculator, he would have been able to add \$494,735.29 to \$1,200,064.84 and, out of that, he would have been able to put the two together and find the figures.

Mr. Imbert: Mr. Speaker, I was referring to the eight trips, including the trip during the period August 13 to August 21, 2010. If you add the cost of that one, do you cross \$2 million?

Hon. Dr. S. Rambachan: Mr. Speaker, I am answering question No. 21. Part (b) of the question says: "Apart from the visit to New York during the period August 13 to 22, 2010, what is the total cost of the foreign travel referred to above?" August 13 to 21 was not included in the question that was asked and I think I have responded adequately to the Member for Diego Martin North/East. [*Desk thumping*]

OPV2
(Details of)

21. Mr. Colm Imbert (*Diego Martin North/East*) asked the hon. Minister of National Security:

Could the Minister confirm whether:

- i) OPV2, also known as the Scarborough, successfully completed its sea trials off the west coast of Scotland, or elsewhere, over the period July to September 2010, more or less, as stated by BAE Systems in a press release issued on September 7, 2010;
- ii) during its sea trials the said vessel achieved, more or less, a speed of 25.3 knots and completed turning circles in 3.5 ship lengths and a stopping distance of 3.7 ship lengths and;
- iii) the crew tested the ship's main platform systems, power and propulsion, and components of the combat system, including the guns and the main surveillance radar, which is vital in the fight against the illegal drug trade?

The Minister of National Security (Sen. The Hon. Brig. John Sandy):
Thank you, Mr. Speaker. Hon. Members are advised that during the period July to September 2010, the OPV2 vessel, which is among the three offshore patrol vessels, the purchase of which, was subsequently terminated in September 2010 by the Government of Trinidad and Tobago, completed its sea trial in the waters off the west coast of Scotland, and, from reports provided by the team witnessing the trials, they were deemed satisfactory with the exception of the combat system which yielded similar results to OPV1.

Based on information provided by the Trinidad and Tobago Offshore Patrol Vessels UK Project Office, OPV2 during the sea trials achieved more or less a maximum speed of 25.3 knots and completed turning cycles in 3.5 ship lengths and a stopping distance of 3.7 ship lengths.

Information provided also confirmed that the ship's main platform systems were demonstrated and included power and propulsion, and components of the combat system including the guns and the main surveillance radar. [*Desk thumping*]

Mr. Imbert: Is the Minister saying that in the sea trials off the west coast of Scotland, the combat system failed?

Sen. The Hon. Brig. J. Sandy: Mr. Speaker, hon. Members are advised that during the period July to September 2010, the OPV2 vessel, which is among the three offshore patrol vessels, the purchase of which was subsequently terminated in September 2010 by the Government of Trinidad and Tobago, completed its sea trials in the waters off the west coast of Scotland. From the reports provided by the team witnessing the trials, they were deemed satisfactory with the exception of the combat system which yielded similar results to OPV1. OPV1 results failed. [*Desk thumping*]

**Nicki Minaj “Localize Itt” Concert
(Details of)**

22. Mr. Colm Imbert (*Diego Martin North/East*) asked the hon. Minister of Sport and Youth Affairs:

How much money did the Ministry of Sport and Youth Affairs, or any other Government Ministry, state enterprise, statutory authority, or government-owned and/or controlled company/entity contribute towards, whether in cash or otherwise, or pay for, the hosting of the recent Nicki Minaj “Localize Itt” concert?

The Minister of Sport and Youth Affairs (Hon. Anil Roberts): Thank you, Mr. Speaker. It is indeed a privilege to answer this question for the second time in this honourable House. The first time was during a debate on a Motion. It does not matter because I know the Opposition is in disarray. So even though this question was filed at the same time as the Motion on the adjournment, I can see that the PNM no longer caucuses to get involved in teamwork especially since the Diego Martin North/East constituency is right next door to Diego Martin Central, and yet they could not get together.

Mr. Sharma: Very short on contempt.

Hon. A. Roberts: It is very short on contempt, but it is indeed a privilege to answer the question again. The Localize Itt launch in Trinidad and Tobago, which featured a concert headlined by the local superstar Nicki Minaj: the local fashion show—TT \$60,000; local culture and characters—TT \$26,000; local artistes—TT \$40,000; the Hilton Hotel, local hotels—TT \$60,343; Copyright Organization of Trinidad and Tobago (COTT) fees—TT \$32,383; the venue design—TT \$75,000; local advertising, local media—TT \$150,000; Nicki Minaj appearance fees, agent fees, management fees and travel—TT \$382,000; a total of TT \$869,000.

Thank you, Mr. Speaker. [*Desk thumping*]

Mr. Imbert: If the Member had read the question, he would see that it is quite different. Is the Minister saying that no state enterprises, statutory authority, government-owned or controlled company—as the question asked—entity did not contribute, whether in cash or otherwise, or pay for the hosting of the concert and that the expenditure referred to is all of the moneys spent by ministries, departments, state enterprises, statutory authorities and government-owned or controlled companies whether in cash or in kind?

Hon. A. Roberts: Mr. Speaker, I have answered the question for the Ministry of Sport and Youth Affairs. If the Member would like to ask of other entities, he can so ask.

Mr. Imbert: Mr. Speaker, further supplemental. The question is in English. It says other state enterprises, government-owned or controlled companies, et cetera. Is the Minister refusing to answer the question?

Hon. A. Roberts: Mr. Speaker, I would never refuse to answer a question and I would advise the Member for Diego Martin North/East to ask the other enterprises, because in this august House I have asked for information from my Ministry officials and I have answered your question.

Mr. Imbert: You are ducking.

Hon. A. Roberts: I am not ducking any questions, Sir. Any more supplemental?

LEAVE OF ABSENCE

Mr. Speaker: Can I seek your leave to revert to announcements? I have received communication from Dr. Amery Browne, Member of Parliament for Diego Martin Central. He has asked to be excused from today's sitting on account of ill health. The leave which the Member seeks is granted. You may continue.

DEFINITE URGENT MATTER

(LEAVE)

Minister of Works and Transport (Conflict of Interest)

Mrs. Paula Gopee-Scoon (*Point Fortin*): Hon. Speaker, in accordance with Standing Order 12 of the House of Representatives, I hereby seek your leave to move the adjournment of the House at today's sitting, Friday, December 10, 2010, for the purpose of discussing a definite matter of urgent public importance, mainly, the conflict of interest of the hon. Member of Parliament for Chaguanas West, the Minister of Works and Transport, in his ministerial capacity and that of

Definite Urgent Matter
[MRS. P. GOPEE-SCOON]

Friday, December 10, 2010

FIFA Vice-President, relative to the recent selection process of World Cup Host 2018 and 2022 and the resulting deleterious effect on the relationship between Trinidad and Tobago and the United Kingdom in particular, and also on our diaspora.

The matter is definite as it pertains specifically to the politically embarrassing and detrimental incident of the FIFA 2018 and 2022 selection process, involving a Trinidad and Tobago Government Minister wearing the hat of FIFA Vice-President.

The matter is urgent insofar as this situation has given rise to a serious conflict of interest which could impact severely on Trinidad and Tobago's standing in the international community and endanger our nationals' interest in the United Kingdom.

The matter is of public importance because it threatens the historically good relations that have existed between Trinidad and Tobago and the United Kingdom. This, Mr. Speaker, is the edited version of what I had submitted.

Thank you.

Mr. Speaker: Hon. Member, that particular matter does not qualify. I would advise you that, for instance, if you wish to raise that you can use Standing Order 11.

STATEMENT BY MINISTER

Human Rights Day

(Tribute)

The Prime Minister (Hon. Kamla Persad-Bissessar): Thank you very much, Mr. Speaker. I rise today to mark a very special day on the global calendar. The United Nations has designated today as Human Rights Day around the world. The theme this year, as you may know, is and I quote:

“Human rights defenders who act to end discrimination.”

Mr. Speaker, with respect, I must say that I find this a fitting theme given the People's Partnership Government's commitment to upholding the principles and tenets of human rights as stated and outlined in the legal framework of our Constitution and in the very spirit of our governmental policies.

If I may, Mr. Speaker, with your leave, use this occasion to remind us of my Government's various policies regarding human rights in Trinidad and Tobago. Our country and our population know or may need to be reminded that

we have ratified the United Nations Convention of Rights of the Child: of Individual Rights Concepts and their Significance for Social Scientists , and the People's Partnership is in the process of ensuring that all the rights we have ratified are implemented and upheld in our country. Indeed, this is a complex process since implementing the provisions of the said Convention to protect the rights of individuals in a practical sense is a multilayered process. The two main mechanisms that we can use will be legislation, and, of course, national policy.

In most instances, such a Convention will not be brought into force by one single piece of legislation, but rather by many new pieces of legislation. This is so because the Convention itself generally speaks to the protection of rights in the broadest sense and, as such, when distilled, what is needed will be various Acts which will seek to implement the array of issues covered by the one Convention.

As a result, I wish to highlight, with your leave, a number of relevant human rights issues affecting Trinidad and Tobago as they relate specifically to major International Human Rights Conventions and some of the efforts that are being made to implement these. This information is by no means exhaustive—it will probably take us several days in order to give an exhaustive list. What I will try to do is to raise and to summarize some of the main areas relating to the Human Rights Day.

The first one I would like us to be reminded of and pay attention to is the Convention on the Rights of the Child. This was signed on September 30, 1990 and ratified on December 11, 1991. It speaks to the protection of children's rights, youth development, access to education, access to early childhood, primary and secondary education. Mr. Speaker, may I say that a former UNC government ensured that there was universal access to secondary education. [*Desk thumping*]

Our thrust in the coming years is to ensure that there is also universal access to preschool education—that is what we know as early childhood education. So we will be moving towards universal preschool education and we are also moving towards tertiary education to increase the cohort that will go on to tertiary education. In that way, we will be honouring not just the Convention on the Rights of the Child (CRC), but will certainly be honouring our own children here in Trinidad and Tobago.

Mr. Speaker, the issue which relates to the CRC of which our Government has taken major steps is in respect to safeguarding the rights of access to health care by the creation of the Children's Life Fund.

Human Rights Day (Tribute)
[HON. K. PERSAD-BISSESSAR]

Friday, December 10, 2010

2.15 p.m.

In relation to access to education, efforts are being made to explore the possibility of expanding the GATE programme to include tech/voc forms of study. The provision, of course, of the laptop computers earlier this year, and continuing, to children in our high schools is an initiative implemented by your Government, that also supports the youth development and access to education. So, on several fronts, we are moving to comply with and to give effect to the Convention on the Rights of the Child.

Mr. Speaker, in addition, we have developed a national policy to draft legislation which seeks to criminalize the trafficking of persons, with particular focus on women and children, and that should be brought to this honourable Chamber very soon. Within the Ministry of the Attorney General, the Civil Child Abduction Authority was established to implement The Hague Convention on the Civil Aspects of International Child Abduction. This unit, I am advised, Mr. Speaker, facilitates the return of abducted children to and from Trinidad and Tobago.

So, Mr. Speaker, with respect to the Convention on the Rights of the Child, we are proceeding on several fronts to comply with the Convention, but, at the same time, to give effect and to honour the children of Trinidad and Tobago.

The second convention out of the United Nations is that which speaks of the elimination of all forms of discrimination against women. This is known as CDOR. This was signed on June 27, 1985. It was ratified on January 12, 1990, and what this convention seeks to do is to speak to maintenance of homes for battered and abused women. It deals with the eradication of violence against women, and in this regard may I really take this opportunity to compliment this Parliament, and the staff of the Parliament, for their efforts in putting out the video, the documentary on violence towards women. Mr. Speaker, I want to thank you and the staff of the Parliament. [*Desk thumping*]

The CDOR, Mr. Speaker, also speaks to gender equality and empowerment of women. It speaks of access to employment for women. It speaks of access to education for women and, of course, ensuring maternal health. In relation to these issues under CDOR, I would like to just list a few of the major pieces of legislation which seek to protect our women from violence and discrimination.

The first of these was passed and implemented during the last UNC term of office was the Domestic Violence Act, No. 27 of 1999. Thereafter, Mr. Speaker, we amended the Sexual Offences Act of 1986 by Act No. 31 of 2000, again,

under the last UNC administration. In addition, we moved to amend the Legal Aid and Advice Act, Chap. 7:07, which became Act No. 18 of 1999. I remember that Bill in the Parliament during the last UNC administration when we brought certain domestic violence issues under the purview of the Legal Aid Authority to allow access to legal aid lawyers and funding for persons, women especially, who would be impacted by domestic violence and abuse.

In addition, Mr. Speaker, in 1997, we brought forth the Public Assistance Regulations. In 1998, Act 4 of 1998, we brought the Maternity Protection Act, Mr. Speaker. You may recall again under the last UNC administration. In 1998, Act 30 of 1998, the Cohabital Relationships Act. I am very proud of that piece of legislation, which I had the privilege to work on, to come to the Parliament, because what it did was to take on the common-law status of women who would have been in cohabital relationships exactly as a wife, but, because they did not have the civil law marriage certificate, would have been deprived of benefits within such a relationship. That, Mr. Speaker, I think impacted upon thousands of women in this country. We are very proud of that piece of legislation as well. [*Desk thumping*]

In addition, you will recall we also brought into place the Equal Opportunity Act. There are several pieces of legislation, but that stopped from 2000; and so, Mr. Speaker, this Government will have to take further steps to comply and to enhance legislative, as well as administrative policies, dealing with the Convention with respect to elimination of discrimination against women.

Mr. Speaker, I know in the last administration there was a gender policy drafted but, regrettably, that policy never saw the light of day; and so, that is a policy that our gender affairs Ministry is looking at to improve upon, to enhance and have it brought for public discussion. I see our Minister in the Ministry of Planning, Economic and Social Restructuring and Gender Affairs is nodding, and so, I know that we are working on this policy which, for the past 10 years, never saw the light of day; that we put on the front burner, bring out for public consultation and, of course, comply with the UN conventions, but as well to ensure that our women have their rightful and equal place in Trinidad and Tobago. [*Desk thumping*]

Further, Mr. Speaker, another convention that we are signatory to is the International Convention on the Elimination of All Forms of Racial Discrimination, known as ICERD. Trinidad and Tobago signed on June 09, 1967; ratified October 04, 1973; and what it deals with is access to culture, protection of cultural heritage, elimination of xenophobic incidents and racial discrimination;

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the right to equal treatment before tribunals, political rights and the right to security of the person. They are all protected under this convention, Mr. Speaker, with regard to freedom from racial discrimination.

If I may point out, Sir, the labour law regime of Trinidad and Tobago and the various pieces of legislation seek to implement the protection of rights identified under this Convention. Again, the Equal Opportunity Act and the establishment of the Equal Opportunity Commission is a major step in the implementation of this convention as well. Also, under the Freedom of Information Act, citizens can now make applications to have access to information so as to be protected from any form of discrimination.

Earlier this year, I am advised that Trinidad and Tobago signed three UNESCO conventions which also seek to preserve cultural heritage in this country; and, as I close, there is one more convention I think is very important to mention. That is the International Covenant on Economic, Social and Cultural Rights. This was acceded to on December 08, 1978. It speaks to poverty alleviation; access to food; access to water and sanitation; access to employment; access to a decent standard of living; literacy development; improvement of the administration of education; access to health care; responding to chronic diseases; protection of the rights of the elderly and, of course, poverty alleviation.

Mr. Speaker, based on this list of rights covered by the Convention, I would like to indicate that legislative measures which will protect these rights would be an exercise in futility, as same would be incredibly long. And so, what we have to do is to take measures of public policy to seek to implement this convention, and they are very numerous, so no specific order of precedence should ensue, because they all relate, generally, to the promotion of a good standard of living.

Again, in this regard, the Ministry of the People and Social Development has been doing a tremendous job in conjunction with the Ministry of Housing—[*Desk thumping*] and with all the social service delivery ministries and line ministries; the Ministry of Health, the Ministry of Housing and the Environment, the Ministry of Works and Transport, and the Ministry of the People and Social Development, and other line Ministries, in terms of improving the standard of living and, therefore, again, complying with honouring these conventions to which we are signatories.

Mr. Speaker, assistance may be found in the recently approved national Budget, where specific measures can be identified which seek to improve the standard of living in various ways for the population of our country. These are

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just some of the measures that our Government is implementing and strengthening to ensure that human rights in Trinidad and Tobago a basic guarantee for all our citizens.

Mr. Speaker, I must stress, however, as I mention the legislation, that legislation alone is not sufficient. What is needed, respectfully, I say, is a fundamental commitment and paradigm shift in all of us to recognize the implementation of such policies begins with each one of us. And so, we will admit that human rights education is much more than a lesson in school for a day, or a theme for the day, itself. It must be a process to equip people with the tools we need to live lives of security and dignity.

On this day then, Mr. Speaker, International Human Rights Day, I say let us continue to work together to develop and nurture in future generations a culture of human rights to promote freedom, security and peace in all our nations. Our country is very blessed, Mr. Speaker, and I think we all accept and acknowledge that with many examples of national heroes who fought and continue to fight for human rights; and on this day, I implore all of us to remember their hard work and do our best that we can to emulate them.

As I close, may I remind us in this Parliament and the population at large of the words of the great American civil rights leader, Martin Luther King Jr. He said, and I quote as I close, "Whatever career you may choose for yourself; doctor, lawyer, teacher; let me propose an avocation to be pursued along with it. Become a dedicated fighter for civil or human rights. Make it a central part of your life. It will make you a better doctor, a better lawyer, a better teacher, a better human being. It will enrich your spirit as nothing else possibly can. It will give you that rare sense of nobility that can only spring from love and selflessly helping your fellow man. Make a career of humanity. Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country and a finer world to live in."

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

CHILDREN'S LIFE FUND BILL
Senate Amendments

The Minister of Health (Sen. The Hon. Therese Baptiste-Cornelis): Mr. Speaker, I beg to move,

That the Senate amendments to the Children's Life Fund Bill 2010 listed in Appendix II to the Order Paper be now considered.

Question proposed.

Question put and agreed to.

Mr. Speaker: Before you speak, Hon. Members, there are several amendments, and I would like with your leave if we can take, on the first page, amendments 4, 5, 9 and 10, and allow the Minister to explain and then we will pause for the Opposition to respond, then we will put the question for all those clauses and we will go to the next page the same way; the third page, the same way. Do I have your consent?

Hon. Members: Aye.

Mr. Speaker: Hon. Minister, before you continue, I will ask the Clerk to continue from 4(2) and let her go to clause 5, clause 9 and clause 10.

Clause 4(2).

Senate amendment read as follows:

Delete paragraph (b) and substitute the following:

“(b) facilitate the provision of specialist medical treatment to children suffering from life threatening illnesses for which the required treatment is unavailable at a local medical institution;”

Clause 5.

Senate amendment read as follows:

A. In subclause (2)—

- (i) in the chapeau, delete the word “eight” and substitute the word “nine”;
- (ii) in paragraph (a) at the beginning insert the words “a medical practitioner who is”;
- (iii) insert after paragraph (c) the following paragraph:

“(d) a senior public officer nominated by the Tobago House of Assembly;”
and renumber accordingly;
- (iv) in the renumbered paragraph (e), insert after the word “individuals” the words “who are not public officers”;

- B. In subclause (3) insert after the word "management" the word ",law";
- C. In subclause (4) delete the word "its" and substitute the word "their".

Clause 9.

Senate amendment read as follows:

- A. In paragraph (b) delete the word "international";
- B. In paragraph (e) delete the words "adhering to" and substituting the words "in accordance with";
- C. In paragraph (f) delete the word "approve" and substitute the words "review and where appropriate, approve";
- D. In paragraph (i), delete the words "and make payments of all" and substitute the words "the annual operating expenses including the";
- E. Delete paragraph (j) and renumber accordingly;
- F. In the renumbered paragraph (j) delete the word "international" and substitute the words "local and foreign".

Clause 10.

Senate amendment read as follows:

- A. In subclause (1) delete the word "or" and substitute the word "of";
- B. In subclause (3) delete the words "or (c)" and substitute the words ",(c) or (d)".

2.30 p.m.

Mrs. Baptiste-Cornelis: Mr. Speaker, I beg to move now that this House doth agree with the Senate in the amendments to clauses 4, 5, 9 and 10, and I will just justify the different reasons.

In clause 4, a more adequate description of the function of the Authority is to facilitate, so the provision of specialist medical treatment, rather than just to assist.

In clause 5 we increased the number of the Board members to accommodate the Tobago House of Assembly (THA) representative and to ensure that a medical practitioner is a member of that board of authority. And we tried to specify that individuals nominated by the Minister should not be public officers and the change to (f) was just a consequential amendment.

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In clause 5(3) we tried to broaden the spectrum of the fields of expertise to include law. In clause 5(4) we actually changed “its” to “their”, because the pronoun should have been plural.

In clause 9, there was no need to limit the authority to foreign best practices, because local best practice can be just as good a standard, so “international” was removed. We reworded it later, therefore, for clarity and we expanded the role of the board to that of reviewing applications and as such to ensure greater oversight by the board, and the change of the annual operating expenses provides a wider ambit to the board.

We continued changing to include local and foreign to allow for the Memorandum of Understanding to be entered into by the board with local institutions, whereby local institutions can provide post-operative care to the beneficiaries, and the others were just consequential amendments of the configuration.

In clause 10, there was a typographical error, which is the reason we put in “of”, and 10(3) was the consequential amendment, since a representative of the Tobago House of Assembly (THA) was now, we had to amend the letters. I beg to move.

Question proposed.

Mr. Imbert: Mr. Speaker, in the amendment to clause 4, the words, “assist in providing specialist medical treatment to children from families who are unable to afford such treatment” have been deleted and replaced with, “facilitate the provision of specialist medical treatment to children suffering from life threatening illnesses for which the required treatment is unavailable at a local medical institution;”.

Mr. Speaker, I would like the Minister to explain why the policy of this fund appears to have changed, because the policy in the original Bill—unless I have the wrong copy of it—clearly stated that “the Authority” would “assist in providing... treatment to children from families who are unable to afford such treatment;”. The words, “to afford such treatment” are gone. So that the policy that this fund was established to help people in need seems to have disappeared, and has been replaced with a policy—so it appears—that no matter what your income level is, you could be an extremely wealthy person, you would still be eligible to apply for reimbursement from this fund.

I cannot believe that that is the policy of the Government, that no matter what your income is you could qualify for money from this fund, and I would like the Minister to explain, why have you removed “from families who are unable to afford such treatment?”

Mrs. T. Baptiste-Cornelis: Mr. Speaker, it was advised during the Senate, which went into three o'clock the next morning, that it would have been unconstitutional for us to actually put a limit in terms of monetary, which we had the limit of \$500,000, which you would notice, was removed. We cannot do that because we would be faced with a possible lawsuit, and that was advised by the Senior Counsel and the members of—the lawyers we had from both the Opposition and the Independent Benches—that I had to remove it, and hence it was removed.

Question put and agreed to.

Clause 11.

Senate amendment read as follows:

11 Delete subclause (1) and substitute the following:

“(1) The Chairman, or in his absence, the Secretary may at any time convene an emergency meeting of the Board, upon receipt of a written request relating to an emergency matter, signed by at least three members.”.

Clause 15.

Senate amendment read as follows:

- 15 A. In subclause (2) delete the word “of” and substitute the words “not exceeding”;
- B. Delete subclauses (4) and (5).

Clause 17.

Senate amendment read as follows:

- 17(2) A. Delete the comma at the end of paragraph (d) and substitute a full-stop;
- B. Delete the words “who shall be appointed in accordance with section 24.”

Clause 18.

Senate amendment read as follows:

- 18(1) A. Delete paragraph (a) and substitute the following:
- “(a)receive applications for grants from a parent, legal guardian or medical social worker.”;
- B. In paragraph (c) delete the word “patient” and substitute the word “beneficiary”.

Clause 19.

Senate amendment read as follows:

- 19 A. Insert the word “and” after the semicolon at the end of paragraph (e);
- B. Delete paragraph (f);
- C. Renumber paragraph (g) as paragraph (f);
- D. In the renumbered paragraph (f) delete the words “referred to in paragraph (f)” and substitute the words “of his family”.

Clause 20.

Senate amendment read as follows:

- 20 A. Delete subclause (1) and substitute the following:
- “(1) Subject to subsection (3), a person who is eligible under section 19 may apply to the Life Unit for a grant through his parent, legal guardian or a medical social worker.”;
- B. In subclause (2) (a) delete the word “provide” and substitute the word “provides”.

Clause 22.

Senate amendment read as follows:

- 22(1) Delete the word “Board” in the first place it appears and substitute the word “Authority”.

Clause 23.

Senate amendment read as follows:

- 23 Delete the words “the asset management profession” and substitute the words “in asset management”.

Clause 24.

Senate amendment read as follows:

- 24 Delete the word “Board” and substitute the word “Authority”.

Clause 25.

Senate amendment read as follows:

- 25(2) A. In paragraph (b) delete the words “by persons and other associated bodies”;
- B. In paragraph (c) delete the words “persons, including national and” and substitute the words “persons, including national, foreign or international”.

Mr. Speaker, I beg to move that this House doth agree with the Senate in the amendment to clauses 11—25 of the Children's Life Fund Bill, 2010, which I will explain.

In clause 11 we changed it to allow the chairman, or in his absence the secretary, to at any time convene an emergency meeting of the board, and this would allow for a meeting to be convened even when the chairman is not available.

In clause 15 we changed the chief executive officer from being appointed to a term of three years to a term not exceeding three years, to allow flexibility in the term of office of the chief executive officer and as such the chief executive officer can be appointed for a shorter term.

In clause 15(4) we deleted where the chief executive officer may resign by giving the required written notice.

In clause 15(5) we deleted that the board may terminate the appointment of the chief executive officer by giving three months' notice, because the contract of employment will normally detail the manner of termination, and, as such, there is no need to legislate such.

In clause 17(2) we deleted, “who shall be appointed in accordance with section 24”, because clause 24 provides for the recruitment of staff volunteers and not employees, and, as such, this was erroneously included in the subclause.

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Clause 18(1), we have included that the Life Unit shall receive applications and grants from a parent, legal guardian or medical social worker, and this was done to include the medical social worker to accommodate those children who are in need of life-threatening surgery, who are wards of the State; also the subclause was reworded for clarity to include "beneficiary".

Clause 19, we included the word "and", and this preposition was deemed necessary to be more appropriate here, because, to be eligible for a grant, the person must meet all criteria from (a) to (e), which I think would address the Member for Diego Martin North/East.

Clause 19 continued. We deleted paragraph (f), and, therefore, to ensure equality under the Act, it was deleted. It was deemed by the Independents and the Opposition, and agreed to by our Government, because we always try to collaborate and agree with them. They wanted us to remove "the family whose income does not exceed \$500,000" and, therefore, we did that to ensure equality under the Act, and, of course, that resulted in the consequential amendment.

Clause 20 again was a consequential amendment; since medical social workers were included above, they had to be able there to accommodate children who were wards of the State.

20 (2), the verb should have been singular so we had to amend it to "provides".

22 (1), we had to change the word "Board" to "Authority", since this is the responsibility of an authority.

23, we reworded the work of the investment manager. This was done to make it legally clearer, and we reworded it therefore for clarity.

Clause 24, again the word "Board" was replaced by "Authority" because it was the responsibility of the authority and not that of the board.

Also, in clause 25, we deleted "by persons and other associated bodies", and we changed it to be, "sums arising from grants, covenants, donations and other receipts from persons including national, foreign or international bodies" to include all possible sources from which resources can thus be derived. I beg to move.

Question put and agreed to.

Mr. Imbert: Thank you, Mr. Speaker. Specifically with respect to the amendment to clause 19, the Minister indicated that the word "and" was inserted after paragraph (e) to make it clear that all of the criteria were applicable. Would

the Minister confirm, since there was no “and” after (a), that (b) would also be mandatory, and in that context, why 16 and not 88?

Sen. The Hon. Baptiste-Cornelis: Mr. Speaker, not being a lawyer, I think—but if this was done by the lawyers and the legal people, all have to be considered. The person, to be eligible for a grant, must be a citizen of Trinidad and Tobago, who is ordinarily resident in Trinidad and Tobago, and is unmarried and under the age of 18 at the time of the application, and has been referred by a medical specialist in the particular field of treatment required, and requires treatment that is unavailable at a local medical institution, and has been diagnosed with a life-threatening illness. I hope this explains. [*Crosstalk*]

Question put and agreed to.

Clause 27.

Senate amendment read as follows:

27 Delete the word “is” and substitute the words “and the Children’s Life Fund are”

Clause 28.

Senate amendment read as follows:

28(1) Delete the words “by the Auditor General in writing, for that purpose” and substitute the words “in writing, for that purpose by the Auditor General”.

Clause 29.

Senate amendment read as follows:

29 In paragraph (c) delete the word “by” and substitute the word “of”.

Clause 31.

Senate amendment read as follows:

31(1) Delete the words “No person, either directly or indirectly, shall” and substitute the words “Save as authorized by this Act, it is an offence for any person to”.

2.45 p.m.

Mrs. Baptiste-Cornelis: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments to clauses 27, 28(1), 29 and 31(1).

Previously in clause 27 we had “notwithstanding any law to the contrary, the authority is not subject to any tax”. We also included “and the Children's Life Fund” to ensure that the fund itself is not subject to any tax.

Clause 28(1), we worded it for clarity to be “in writing, for that purpose by the Auditor General”.

Clause 29, we were told that the preposition is more appropriate being “of” than “by”. It reads:

“quarterly reports on the operations and performance of the Life Unit and Children's Life Fund.”

In clause 31(1), we included:

“Save as authorized by this Act, it is an offence for any person to disclose any information obtained by him in the performance of his duties, powers and functions under this Act.”

This amendment affords protection to authorized persons and the employees of the authority.

Question proposed.

Question put and agreed to.

Schedule 1.

Senate amendment read as follows:

- A. In line 2 delete the words “(Parent/Guardian)” and substitute the words “Parent/Legal Guardian/Medical Social Worker”;
- B. In line 4 delete the words “Contact No.” and substitute the words “Contact details”;
- C. Insert after line 4 the following:
“Name of Patient.....”;
- D. In line 7 delete the words “Date of Birth” and substitute the words “Date of Birth of Patient”;
- E. In line 15 delete the words “Contact No.” and substitute the words “Contact details”;
- F. In line 17 delete the word “salary” and substitute the word “income”;
- G. At the end of the Form delete the words “Signature of Parent/Guardian” and substitute the following:

“Signature of Parent/Legal Guardian/Medical Social Worker

Date.....”.

Schedule 2.

Senate amendment read as follows:

Schedule 2.

Paragraph (a)

- A. In subparagraph (ii) delete the words “or dependency of the Republic of Ireland”;
- B. At the end of subparagraph (iv) insert the word “or”;
- C. Delete subparagraph (v) and substitute the following:

“(v) any country approved by the Central Bank, provided any such investment shall be of investment grade or better; and”.

Mrs. Baptiste-Cornelis: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments to Schedules 1 and 2.

In Schedule 1, instead of just “Guardian”, we had “Legal Guardian” and included medical social worker to accommodate children who are wards of the State. The contact details the name of the patient, the date of birth of the patient rather than just simply “Date of Birth”. All these things were amended for clarity. Of course, we included the signature to be both legal guardian and medical social worker, again to accommodate children who are wards of the State.

In Schedule 2, the wording was considered to be not necessary to include a dependency of the Republic of Ireland because we had referred to any Commonwealth country and we included any country approved by the Central Bank provided any such investment shall be of investment grade or better. Here we used the preposition “or” to indicate it could be from Trinidad and Tobago or any Commonwealth country or any member country of the Organization for Economic Cooperation and Development or the United States of America or state thereof approved by the Central Bank or any country approved.

Again we may be conditioned, provided any such investment shall be of investment grade or better.

Question proposed.

Mr. Imbert: Mr. Speaker, the Minister had said previously that this debate went into the wee hours of the morning, three o'clock, I think. We have just seen a situation where an "and" has been inserted into a subclause where there are seven of them. Six of them do not have "ands" and the middle one has an "and". That makes absolutely no sense. The Minister indicated that I should speak to the lawyers. Those lawyers are not well; but dealing with the schedule, it speaks to a patient.

I noted that in an earlier amendment we were dealing with today, the word "patient" was changed to "beneficiary". That made sense in a previous clause to change the word "patient" to "beneficiary". That is 18(c). You took out "patient"; you left "beneficiary", but you have left "patient" in the schedule. All I can say is that I understand both words. I do not think there will be any great problem. All I will say is that on the next occasion it is not a good idea to go until 3.00 a.m. because mistakes are made in those wee hours.

Mrs. Baptiste-Cornelis: I do not think any mistakes were made and I do not think you should cause pressure on us because we can perform at any hour of the morning. The fact is that in the schedule where we have the word "patient", we are referring to the patient. The patient can be six months old and we do not make out cheques or give money to six-month-old people. "Beneficiary" refers to the "institutions". It is much wider spanning than the word "patient".

Question put and agreed to.

BAIL (AMDT.) BILL

Order for second reading read.

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

That a Bill to amend the Bail Act, Chap. 4:60 be now read a second time.

There can be no doubt that crime is the number one problem affecting our country at the present time. The incidence of violence and heinous crime have crippled our beloved nation and instilled fear in our law-abiding citizens for far too long. We have had enough and I am grateful that my learned friend, the Member for Point Fortin, has finally come to the realization that crime is the number one problem.

This Bill is about taking our country back; it is about pulling the country back from the brink of the precipice in which the PNM left it; where they pushed it to. It

is about giving voice to the voiceless and saying to those who have suddenly found their voice that it is a bit too late.

This amendment to the Bail Act is the sister to the anti-gang legislation. We are under a duty to restore pride to our Constitution. Our Constitution is the supreme law of this country which speaks to fundamental guarantees which are enumerated in sections 4 and 5. Those constitutional guarantees comprise the bedrock of our fundamental human rights and freedoms which the State has guaranteed to each and every citizen.

When the supreme law of the land could be so eroded, undermined and emasculated, it means that the State no longer takes pride in its own Constitution. This legislative measure is a step in the right direction to reconcile and restore pride in our Constitution, the rule of law and to make it relevant to the realities that we face; the harsh and raw realities that we face in terms of crime on the ground. It is but part of a series of legislative measures and part of a comprehensive package of criminal justice reform proposals which will be brought to this House in due course by the hon. Minister of Justice, hon. Minister of Legal Affairs, hon. Minister of National Security and me. We are working on legislation with teeth that will bite hard into the crime problem that is facing this country. We cannot expect the police to solve crime unless we equip them by giving them the necessary legal freedom to be able to attack crime with full force.

For far too long our hard-working police officers who put their lives on the line on a daily basis to protect our citizenry have been themselves at the mercy of the bandits and the criminal element. For far too long they are fighting people who are armed to their teeth while they feel as though they have a slingshot in the face of a man with a submachine gun.

This legislation, Mr. Speaker, is about enhancing the State's ability to prosecute, detect crime, investigate crime and secure conviction. It is about restoring pride to the relationship and the social pact between the citizen and the State. That social pact is embodied and personified in the fundamental rights provisions that have been enshrined in our Constitution in sections 4 and 5.

The first among those rights is the right to life, liberty and security of the person and the right to enjoy your property. In this country, the State has for some time now been unable to actually guarantee those rights to citizens. No one feels safe in their homes so the right to use and enjoy your property is undermined. The right to security of the person has become virtually meaningless.

Bail (Amdt.) Bill
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Look at the newspapers. The newspapers have a report of a man killed by gunmen while he was protecting his praying wife. We intend to attack this problem. That is why you would have seen our new Commissioner of Police locked down John John and 75 persons were held in his taking-back-the-community plan. This is to help the Commissioner of Police and the police service not just take back the community, but to help us to take back the country.

Mr. Speaker, I think my learned friend, the Member for Point Fortin, wants to give a hug to the Commissioner of Police.

Mr. Speaker: Let us not go there, please. We do not refer to Members in that kind of way and I caution you not to do that. Continue!

Sen. The Hon. A. Ramlogan: Mr. Speaker, I am guided. I think it is a high-five. In empowering the police to investigate crime and enhance the State's ability to prosecute, we must also bear in mind the need to protect witnesses.

The concept of bail is predicated on the constitutional assumption that each and every citizen is presumed innocent until they are proven guilty. That is why you grant bail because the charge remains unproven and but an allegation until such time as the prosecution is able to prove its case beyond all reasonable doubt.

What happens and what has been happening in our criminal justice system is that the right to bail has been misused and abused and it is furthering the crime problem.

3.00 p.m.

We have to strike a balance, and the balance must be that innocent people must be sure they will have a fair trial by an independent Judiciary. Innocent people must be satisfied that they can walk free, if they are innocent and they are able to prove it; rehabilitation of those convicted must be possible; and social programmes and policies have been put in place to ensure that is so.

If in the face of all these social programmes and policies that are available to the citizens of this country to earn a decent living, to train themselves and educate themselves someone wishes to breach the social pact and contract with the State by committing crime and harming ordinary, law-abiding citizens, we say they must pay the price for doing that. [*Desk thumping*] That is why this is a single step in the right direction toward reformation of the criminal justice system. This measure is part of the grease that we will apply to the wheels of justice to ensure that they turn more efficiently, expeditiously and fairly.

Mr. Speaker, to understand the significance of this measure, one has to understand what happens when a defendant is granted bail. When a young man or any defendant is charged with an offence and he gets bail, the first thing is that he has to find money to pay a lawyer to defend him in court, and the first thing they do is commit more crime to get money to pay and finance their defence; legal fees.

You then have the bail system. They have to find money to pay for their bail or they have to find money to pay back those who would have loaned them money—mother, father, uncle or aunt—to get them the bail to come out, and that is an immediate debt that needs to be liquidated. So, what happens? The minute the defendant gets bail and goes back out, he slips further into the abyss of crime, because even if it is your first-time offence or second-time offence, once you are charged by the police, in the current crime culture, the criminal culture that is developing, it is like a badge of honour that you are charged and before the court.

You have elevated yourself one notch up in the ladder of crime; one rung higher. So that you are charged and before the court and you have a new brethren, a new fraternity, and they embrace you, because you are now one of them. They all have one common bond and that is they have matters before the court and, therefore, they have one common interest and that is to suffocate and stultify the administration of justice so that they will not be convicted.

Mr. Speaker, that is why the first thing that happens is that they aim to take revenge on the hapless and helpless victim of the crime who dares to stand and say, “I would stand with the police and you would be prosecuted.” It is a brave citizen and a strong citizen today who will stand in defence of the country and the society to say that matter should go forward.

When a victim of crime stands, it is not one person standing, but it must be understood that it is the entire country standing against the bandit. [*Desk thumping*] That is why in some jurisdictions criminal matters are entitled; “The people v X”; “The people v Y”. Mr. Speaker, this badge of honour where you are now charged and you are before the court is one that promotes and is conducive to recidivism, because you will commit more crime and worse crime so that you can finance your defence in court, and you can prove your worthiness to have joined the club, the same gang that we outlawed with the Anti-Gang Bill.

The next step, apart from intimidating the victim, is to hunt down and eliminate the witnesses, any witness who is strong enough to stand and say in the eyes of God; do onto others as you would have them do onto you. “If it happened to me I woulda want meh neighbour to stand up; if it happened to my son or my daughter while they were waiting

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for a taxi to go home after work, I woulda wanted the other man or woman who see what happened to come and testify.” It is that basic principle that the bandits are striking at, because they go after the witnesses for the prosecution. They intimidate them and sometimes harass, threaten and even eliminate the State’s witness.

Mr. Speaker, the buck does not stop there. Police officers, prison officers and everyone in the chain that is linked to the administration of criminal justice in this country is at risk. You see this kind of behaviour in the courts. When one defendant’s matter is finished, you can see other “fellas” waiting for him outside. “Wha happen ras? What scene play off dey?” You could see that they immediately embrace one another and a connection is made. So the society is put against the ropes. This is what is happening.

I do not think we understand the pain, the trauma and the anxiety of a victim of crime, who has to attend the Magistrates' Court and come face to face with his or her attacker. The matter is called and adjourned several times. There is an endless, perpetual cycle of perennial adjournments. What happens is that every single time the victim has to confront or pass close to and make eye contact with the bandit, they relive the trauma, and it weakens them and causes nightmares. They cannot sleep at nights. Many of them have to go on antidepressants. Whilst all of that is going on, the bandit passes with his newly found friends in the car and all he does is this: closes one eye and opens one eye and pulls a trigger at them with his finger. That puts them into an even deeper depression.

Mr. Speaker, rather than allow the bandits to render dysfunctional—to make our criminal justice system malfunction, we are saying that the time has come for us to stand as a nation and to say to the bandits and the gang leaders that enough is enough. [*Desk thumping*] We are ready to take this country back.

Mr. Speaker, this Bill is the sister to the Anti-Gang Bill; it is the natural complement to it. There is no point in criminalizing gangs, gang membership and gang-related activity if the police simply find that when they arrest the gang member he is out on bail the next day. If the gang member is out on bail the next day, the police themselves are up not against one gang member, but they are up against an army; a whole gang itself, and they themselves are at risk.

I remember being told in my early times in the court by a Judge, Justice Carlton Best, that “jail eh make to ripe fig”. Mr. Speaker, this measure will send a strong signal and message to the bandits and those who are intent on breaking the law that, as far as this Government is concerned, “jail eh make to ripe fig, watch it, we are coming after you.” If you intend to break the law, if you do the crime, you will pay the time. [*Desk thumping*]

Mr. Speaker, permit me to take you to the Bill before us. Clause 1 is the short title to the Bill and it is cited as the Bail (Amdt.) Bill, 2010.

Clause 2 says that the commencement date will be fixed by the President by Proclamation.

Clause 3 says that the Act is to have effect even though it is inconsistent with sections 4 and 5 of the Constitution, and I shall come to that shortly.

Clause 5 refers back and incorporates by express reference the definition of “gang”, “gang member” and “gang-related activity”.

Clause 6, which amends section 5 of the Bail Act, inserts new provisions and it reads:

“Notwithstanding any law to the contrary, a police officer may, without a warrant, detain for a period not exceeding five days a person whom he reasonably suspects of having committed an offence listed in Part II or Part III of the First Schedule...”

Mr. Speaker, this is about empowering the police. You have the balance, on the one hand, the citizen’s absolute right to liberty with the necessary intrusion into that right, and the exception when they breach that social pact. What is that social pact? The State will not interfere with you and will respect the peaceful enjoyment of your constitutional rights providing you do not break the law.

Law-abiding citizens have nothing to fear. Those young men—the rude boy and the bad boy—who are intent on a life of crime, and who think they can escape with impunity, this is about sending a message and saying there is enough time to change course. The police will now have the power to detain you for five days if they reasonably suspect you of committing a crime. We have a measure of proportionality for those crimes and they are serious crimes.

Possession of imitation firearms in pursuance of any criminal offence: there are many who do not have access to a real firearm in the gang, because when you are starting off there is a scale. You have grades and rank, like the army and the police. Some gangs have rank like the army and the police. So you are starting off at the lowest rung, and when you start off they do not give you access to the real gun sometimes. You have to prove your manliness, your killer instinct and your appetite for blood. So you might start off with an imitation firearm, and that is why possession of an imitation firearm in pursuance of any criminal offence is going to allow the police, if they find you with it, to detain you for five days.

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Larceny of a motor vehicle: people can no longer take their family out and park their vehicles in peace and enjoy a meal, a calypso tent or a chutney show. When you return, you are looking for your vehicle and you are not sure if it is there. You have to lock it up with the steering lock and gas lock. You have to try everything under the sun.

Perverting or defeating the course of public justice: that goes for the other gang members and their friends who want to come to the rescue of the bandit who is caught, because that kind of joint enterprise, we are going to look at it and see it for what it is.

Arson and receiving stolen goods: Mr. Speaker, if citizens do not purchase stolen goods there are going to be less incentives for the bandit to thief. That is why we are making receiving stolen goods so serious that the police could detain you for up to five days while they investigate what you say about where you get that gold watch, that big, thick gold chain and the Mercedes Benz emblem on your chest. We will detain you for five days to ascertain if what you say is true.

Mr. Speaker, gang membership, participation in criminal activity, possession of bullet-proof vest, firearm, ammunition for the benefit of the gang; harbouring or concealing gang members, and harbouring a child who is a gang member or recruiting a child to become a gang member, those are the kinds of offences that would allow the police to detain you for up to five days.

3.15 p.m.

Mr. Speaker, Part III, other offences:

“Violent Offences

- (a) manslaughter;
- (b) shooting or wounding with intent to do grievous bodily harm, unlawful wounding;
- (c) robbery, robbery with aggravation, robbery with violence;
- (d) assault occasioning actual bodily harm;
- (e) possession and use of firearms or ammunition with intent to endanger life;
- (f) possession of a firearm or ammunition without licence, certificate or permit;”

Permit me to pause here, Mr. Speaker, to send a message on that note to law-abiding citizens. There are some law-abiding citizens who feel compelled to get access to a firearm and because of the backlog in the Firearm User's Licence application process, they take the law into their own hands to protect themselves against the bandit. These are law-abiding citizens. When they buy an illegal gun and they do not have the licence, an FUL, a Firearm User's Licence, they are also breaking the law and it is a serious offence.

There are machine shops in this country that could make, and are making, illegal firearms; it is a big trade. That is an offence. We are making it so that the police will have the power to detain you for five days. So I want to urge those citizens who may be in possession of unlawful firearms, who may be otherwise law-abiding and who do not intend to use that firearm to commit any crime, but have it for a sense of security, to defend themselves and their families if they are attacked, that is not the way to go about it. We have to be careful.

The list continues:

- “(g) trafficking in a dangerous drug or being in possession of a dangerous drug for the purpose of trafficking;
- (h) rape;
- (i) grievous sexual assault.”

Mr. Speaker, you would see from the newspapers that rape is on the rise and it is a very heinous crime. If we cannot protect our women in society from the bandits and rapists, then something must be wrong with this country.

- “(j) sexual intercourse with female under fourteen;...
- (l) sexual intercourse with male under sixteen;...
- (n) sexual intercourse with an adopted minor;
- (o) sexual intercourse with a mentally subnormal person;
- (p) incest;
- (q) kidnapping;
- (r) kidnapping for ransom;
- (s) knowingly negotiating to obtain a ransom; and
- (t) an attempt to commit...”—any of these offences.

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When we had the spate of kidnappings, there were those who felt that, “I cyar do the actual abduction, but I could help negotiate the ransom”; it is a division and specialization of labour. “Every man have his wuk cut out for him.” The idea is that, “If I take a lesser role, I will somehow be taking a lesser risk, while sharing equally in the spoils.” Mr. Speaker, if they intercept you, if they find you trying to negotiate a ransom, the police will now be able to detain you for up to five days.

We feel that this law is one which will create a kind of holding bay, to allow the police to actually do the job we want them to. Once the police have reasonable grounds to suspect someone of having committed or attempting to commit one of these offences, then they would be entitled to detain you so they could check out and conduct enquiries to locate the evidence that is necessary. If they have to release you after holding you for a short space of time, the police themselves have no time to perform their duties.

Mr. Speaker, this Bill seeks to mandate the court to not grant bail; no bail. It is no bail for those serious offences. If the offence involves the use of a firearm or if it is one of those serious offences to which I have referred, then the court should not grant bail.

We have attempted to strike the right balance, so when a person is detained by a police officer, that officer must inform someone of the rank of superintendent and above of the fact that he has detained a citizen of this country on suspicion of one of these crimes and that they intend to detain them for up to five days. That superintendent or senior officer must now, within 24 hours, review the grounds for the detention and decide, within 24 hours, whether the person should be released or whether they should continue to detain them. That would obviously be done in consultation with the investigators.

Since this is part of the safeguard we have put in place, I want to pause here to send a strong message to the police service. As you know, I have fought many a case of police brutality when I was elsewhere. Senior police officers must understand the confidence and the awesome responsibility that we invest in them with this law. The responsibility they have is not to rubber-stamp that which is wrong, not to approve and endorse a misuse of this law, but to take an independent, genuine and fair critical analysis and look at the person's detention to ensure that it was proper, lawful and necessary. I want to tell the senior officers

that they must act rationally, reasonably, responsibly and fairly balancing the scales of justice, being fair to the person who has been detained and to the officer who detained them, with the available information and evidence that he had.

Far too often in this country, some of the senior police officers do not exercise that independence of judgment, discretion and authority. Whilst giving them a power to deprive a citizen of his or her liberty for up to five days, without preferring a criminal charge, there is an awesome responsibility that is attached to this law. I urge the police officers to exercise it responsibly and fairly.

If senior police officers abdicate their statutory duty and responsibility to act as an important barrier between the arresting and detaining officer and the citizen, if they do not understand their role to act as a fulcrum beneath the scale of justice at that point, because there is no intervention by the Judiciary, so that protection is not there—the only protection the citizen has is the police officer of the rank of superintendent and above—I want to make it clear that may be grounds for disciplinary action; so take a careful look at it. You are to fight crime, yes, and we are empowering you so to do, but we want to ensure that we protect the rights of the innocent citizen as well.

I say further, a gang member who is charged with those serious offences shall not be granted bail. We have put yet an additional safeguard in this Bill. When a person is denied bail, after they have been charged, subsection (9) says that if no evidence is taken within 120 days of the reading of the charge, the person is entitled to make an application for bail. That does not mean after 120 days the bandit “go get” bail. It means after 120 days he is entitled to make an application for bail, because the police may have good reason for not being able to lead evidence within the 120 days.

Witnesses may have been interfered with; they may not have been able to locate one; there may be good reason, so that is why we do not make it automatic, but it is a right to apply. If the judicial officer is satisfied there are good grounds for the bail application and there is no justification or lawful explanation as to why the State and the prosecution were not, in fact, able to lead evidence without 120 days, then the person may very well find he may get bail.

We have put in this Bill a five-year duration, so it will come up for review in five years' time. Of course, this is a measure that has been used before, when we amended the Bail Act previously. This sunset clause will allow the House to review this matter in the interest of balancing the rights of the citizen and the rights of the State.

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Mr. Speaker, this Bill requires a special majority vote of three-fifths of the Members of each House. There is a clear indication that the framers of our Constitution were cognizant of the fact that mechanisms must exist for it to adapt to the evolving needs of society. Accordingly, although the tenets of the Constitution must be treated with utmost respect, it is my respectful view that we cannot allow the fundamental human rights given to all citizens to be enjoyed by a select few who take advantage, exploit and hold to ransom the rest of the country.

The Constitution is not a grave or dead, but rather a living and growing instrument. It must be capable of responding, not just embodying, but also be capable of responding to the hopes, aspirations and challenges of our people. The challenge we are facing now to deal with crime is one that allows us to invoke and use the very Constitution to give us a weapon in the fight against crime. That is why we invite Members on the other side to support this measure without reservation.

For a Bill which is inconsistent with sections 4 and 5 of the Constitution to attain that three-fifths majority, of concern to each and every Member of this honourable House will be the criterion of whether it is reasonably justifiable in society, given the need to respect properly the rights and freedoms of the individual. This balancing exercise that is necessary to ensure that the legislative measure is reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual, is one that we say is met. This criterion is met. There is just cause in this country to interfere with the fundamental human rights of those who wish to interfere and take away altogether the fundamental human rights of law-abiding citizens. We cannot, as a society, countenance anymore being held to ransom by a minority in this country.

There is compelling justification for this intervention to impose some restriction and limitation on the rights of those who wish to exploit others. We think that denying bail to gang members and persons charged with offences involving the use of a firearm, ultimately strikes the right balance between the right of the individual and the right of the defendant. The overriding public interest to protect law-abiding citizens from repeat offenders and the onslaught of criminal terrorism in this society is one that we must act on. There is a clear and present danger posed by the tsunami of crime that will wash away all of us if we do not stand together now and speak with one voice.

3.30 p.m.

Mr. Speaker, public confidence in the criminal justice system is being eroded daily. Career criminals have been allowed to roam for far too long. Hard decisions and strong measures must now be put in place, such as this measure, or else our children will not forgive us for the society that they will inherit. This measure is one that I know will be welcomed by our police service. The police service has been trying very hard and if we do not give them the right equipment to go out into the communities to tackle and take on the bandits, then we are failing in our duty as a Parliament.

The legislative measure proposed today is a manifestation of our promise to rescue this country. As a people, we recognize that we are not just fighting for our own lives, but we are fighting for the lives and future of our children. Today, we say to the criminal elements in our society, enough is enough. Mr. Speaker, we will not allow our criminal justice system to be further manipulated and undermined. We would no longer exist in a life defined and ring-fenced by fear and terror. We will say today to the bandits, we are strong and resilient and justice will prevail. We are out to get you. Either you come on the right side of the law or you will face that full brunt of the law.

Mr. Speaker, I beg to move.

Question proposed.

Miss Marlene Mc Donald (*Port of Spain South*): Thank you, Mr. Speaker. I am happy to join this debate on the Bail (Amdt.) Bill, 2010, but I need to make a few comments on what my colleague, the Attorney General, has just said. I will just make a few. He said, “We want to take back our country from the criminals.”

Mr. Speaker, I want to say to the Attorney General, through you this afternoon, you are doing this despite the fact that there is a violation of the Constitution; there is a breach of our fundamental rights. Sir, I know that you know that this is incorrect, totally incorrect. You said you want to strike a balance because the right to bail has been abused. Well, I am asking the question, is that why the Government would wish to violate the Constitution of Trinidad and Tobago? [*Interruption*] You spoke about, “As soon as a person gets bail he goes back out and he commits more crime”. However, during my contribution I would certainly demonstrate and I would give you some recommendations, which I hope, at the JSC stage, the committee would look at and consider.

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Let me say from the onset to the Government, we have read this Bill and the Opposition, the people seated on this side, we are certainly not in agreement with it. We cannot support this measure in its current form. Certainly not! In my contribution we will demonstrate why we cannot support this Bill.

Throughout the Attorney General's presentation, I have not heard him discuss or put to this House the draconian measures of this Bill, talking about the fundamental rights of people being breached and I know that he is a human rights person, he is a constitutional attorney and I know that he knows that these measures here are totally draconian in nature, and certainly an offence against section 13(1) of the Constitution of Trinidad and Tobago. [*Interruption*]

Mr. Speaker, what is this Bail (Amdt.) Bill seeking to do? One, it is denying bail to gang members in two categories. It also seeks to give the court the jurisdiction to deny bail to a person who is charged for certain offences involving a firearm. This Bail (Amdt.) Bill, as well as the Anti-Gang legislation which came before the House last week, seems to be part of the Government's legislative tool for fighting crime, or more specifically, it is targeting the reduction in gang-related crimes. This raises a burning issue, and that is, if this Bill is part of the Government's plan to fight crime in this country, then I ask the Government this afternoon, what is the crime plan for Trinidad and Tobago? [*Desk thumping*]

What is your crime plan? You have been in office for six months and you have not enunciated how you are going to deal with crime. You have not done so! In your election manifesto, page 25 [*Shows manifesto*] you said:

“Economic progress on a sustainable basis and meaningful democracy are not possible unless crime is brought under control and there can be some assurance of human safety and security.”

You went on to say:

“The current government”—and at the time you meant the PNM—“neither has the will nor the competence to deal with the lawlessness and indiscipline pervading our society and which feeds the environment within which crime flourishes.”

Mr. Speaker, prior to May 25th there was a countdown on crime. You looked at every newspaper every day and you would witness how many murders, all of the heinous crimes and the countdown, it is 400; it is now 410; it is now 450 and

there is a projection, how much it will be in the next month, et cetera. Then crime went off the newspaper headlines. [*Interruption*] However, it is back on the front page. The honeymoon is over. Your honeymoon is now over! [*Desk thumping*]

Mr. Speaker, I want to share the cover story of this newspaper where I looked at the *Newsday*, “Dam vex Kamla goes after Gibbs in his office this morning. What are you doing about crime?” I find this downright ludicrous! You need to lead from the top. You rode into power based on the fact that you made a promise to this country that you are going to deal with crime, you are going to attack crime.

Mr. Warner: We did! We did! Look where he is.

Miss M. Mc Donald: I would not be distracted this afternoon. You have your own CAL business to deal with. All right, you have your CAL business, but I am going to help—I will help you with that one too. All right, I will help you, so do not interfere with me when I am speaking here. All right, Member for Chaguanas West, go back to sleep! [*Crosstalk*]

Mr. Speaker, after six months, no crime plan, but here we have the Government asking the new Commissioner of Police, somebody who has just taken up his job, his responsibility, only in September and coming from a jurisdiction outside, and here we are asking him, what is his plan? How could we do that? He is new to this job. You are supposed to lead from the top. The Government is supposed to prepare a plan and the implementation of that plan is supposed to be done by the Commissioner of Police. He can sit with the plan along with his deputies and other technocrats at his office and put some flesh on that plan, but you cannot now ask him and put the pressure on the Commissioner of Police to come up with a plan.

Hon. Member: They have none!

Miss M. Mc Donald: Mr. Speaker, I am asking Government this afternoon to garner the will and the competence that you said the PNM lacked and deal effectively and swiftly with the lawlessness pervading this society.

Mr. Speaker, if the Government had a crime plan I would have been better able to understand how this Bail (Amdt.) Bill, how the Anti-Gang legislation which we debated last week, how they would deal with and reduce the overall crime in this country. I do not know. I know it was part of some legislative agenda, but I do not know in what part of the plan, what is this—I need to see the

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bigger picture. I need to understand, well, this is what, this is the policy of the Government and this is how they are going to achieve it through their legislative tools. We do not have this. So, I ask the question again, when will the Government be providing this country with a crime plan?

Mr. Speaker, from the outset let me state that the proposed measures in this Bill infiltrate, they violate and erode the very essence of our Constitution. [*Desk thumping*] They are draconian in nature and they remove constitutional protections which are based on the fundamental premise upon which—and you know it too—the criminal justice system operates; [*Desk thumping*] that is, a person is presumed to be innocent until proven guilty. Attorney General, you know that! [*Desk thumping*] In other words, this Bail Bill and this Bail (Amdt.) Bill, 2010 is unconstitutional, it is oppressive and I will say, it is mischievous in its intent. [*Desk thumping*]

Mr. Speaker, allow me to go through because the Attorney General—I do not want to state, I have respect for my Attorney General—really did a flimsy job at trying to explain what is in this Bill, so I think that I would walk this House through our understanding of this Bill. [*Interruption*] I would not bother to go through the interpretation section with the definition of “gang” and “gang member”; we dealt with it under—because these are definitions imported from the anti-gang legislation. However, I want to highlight the gang-related activity. In gang-related activity, if we look at the Anti-Gang Bill, it says:

“‘gang-related activity’ means any criminal activity, enterprise, pursuit or undertaking acquiesced in...”

I take objection to how the court will interpret, Attorney General, “activity”, “enterprise”, “pursuit”, “undertaking”. Will the court interpret them in their broad meaning or would they do it with respect to only criminal activities? It is very broad. So when we looked at it we want to recommend, Attorney General, that we need to restate what gang-related activity, means, and we would like to say, “any activity, enterprise, pursuit, undertaking of a criminal nature”. In that case you are narrowing the ambit to avoid confusion and misinterpretation in a court of law.

Mr. Speaker, I want to look at the deprivation of rights. We are now looking at clause 6. One of the most troubling clauses in this Bill is clause 6, and, of course, all the subclauses, subclauses (7), (8) and (9), which seek to amend section 5 of the parent Act. Mr. Speaker, in discussion of the deprivation of rights and the implication of clause 6, I turn to the Constitution of Trinidad and Tobago. Part I of the Constitution, in 4(a), says:

“It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely —

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law”.

3.45 p.m.

Section 5(2) of the Constitution states:

“...Parliament may not—

- (a) authorise or effect the arbitrary detention, imprisonment or exile of any person;...
- (f) deprive a person charged with a criminal offence of the right—
 - (iii) to reasonable bail without just cause;”

Article 9 of the Universal Declaration of Human Rights says:

“No one shall be subjected to arbitrary arrest, detention or exile”

Article 9 of the International Covenant on Civil and Political Rights—and Trinidad and Tobago acceded to this on December 21, 1978. I quote:

“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

I look to the United Nations and the body of principles for the protection of all persons under any form of detention or imprisonment. This was adopted by the General Assembly on December 09, 1988, Principle 17. I quote:

“A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.”

Let us look at clause 6 to see how it violates the Constitution and these international agreements. Clause 6(6) says:

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“Notwithstanding any law to the contrary, a police officer may, without a warrant, detain for a period not exceeding five days a person whom he reasonably suspects of having committed an offence listed in Part II or Part III of the First Schedule without charging him for an offence and such a person is not entitled to be granted bail during that period of detention.”

Whenever one is considering the removal of constitutional rights, one must do so on the premise that all citizens are entitled to be treated fairly and not arbitrarily. One cannot see how this will actually assist in the reduction of crime and the eradication of gangs. Evidently, what we are doing here, Mr. Speaker, and through you to the AG, you are depending on the police officers to be efficient within a lengthened period of time.

Now, I am in no way prepared to attack or criticize our hard-working officers, but we are aware that in our law enforcement system numerous inefficiencies exist. According to my research, there is no piece of legislation which actually points to the amount of days or hours when the police can arrest an individual without charging him. However, it has been accepted that 48 hours is sufficient time for them to have found some sort of preliminary evidence, coupled with their tracing report, to establish some sort of evidence against the detainee.

Usually within this 48-hour period—the two days—we have experienced the inefficiencies of our officers. Many times they have not been given meals. You are aware of that. They have been questioned for lengthy periods of time without any rest; they have not been allowed to seek legal representatives, or, if they have done so, it is done after the police have drilled them; convinced them that they are guilty. Officers have even crossed the 48-hour period and still they have not done their tracing to see if any charges or convictions have been laid against the detainee. They are also beaten, threatened and forced by whom they are arrested, to inform them of other persons whom they believe are connected to other offences. All of this occurs within the usual 48-hour period.

The concern is that the justice system is to be accessed as promptly as possible. It is a constitutional right to be granted bail—to apply for bail—and with five days being engraved in legislation in black and white, it means that we have been provided more opportunities for arbitrary acts and the abuse of police power. Where a person's liberty is being deprived without charge, this means that there is insufficient evidence against the person at that stage and, by right, that person should be freed.

The Government must not broaden the power of the police against private citizens, against whom there is insufficient evidence to charge. You need to build

on the capacity of the police service; you need to build on their efficiency and you cannot go about it by depriving citizens of their rights and violating the Constitution.

Hon. A. Ramlogan: Was not Mastrofski doing it? That is why you hired Mastrofski.

Miss M. McDonald: When you are winding up you talk about Mastrofski.

Hon. A. Ramlogan: Eighty-three million.

Miss M. McDonald: Clearly, the issue here is one of the rights of the detainee and the fact that he should continue to be presumed innocent until proven guilty. One may argue—and I think this is what is on the Government's mind; that this is a war, as the AG made it out, a war against criminals. I agree with that; this side agrees, but we are not going to do so and breach our Constitution. We are law-abiding citizens too. We are not going to violate our Constitution, but we must not go down that treacherous road, Member for Chaguanas East. We must not go down that treacherous road of removing the constitutional rights to liberty without sufficient evidence to charge them.

Let me go “foreign”, as a youth will say, and let me bring some examples. Let us look and see what other jurisdictions do and in what time frame they would hold their detainees before they are actually charged. Let us look at the United States. Under the US Federal law, the maximum period of pre-charge detention is 48 hours. This limit derives from the Fourth Amendment to the US Constitution.

Let us look at New Zealand. In New Zealand persons arrested must be charged promptly. There is no fixed definition of the word “prompt” but case law on this question indicates that pre-charge detention of more than 48 hours would not be considered prompt. In Germany, the longest possible period of provisional police detention would be 48 hours. In Italy, the maximum period of pre-charge detention is four days. In Denmark, the maximum period of pre-charge detention in terrorism cases is three days; normal, 48 hours—two days. In Norway: 48 hours. These are examples of other jurisdictions and what applies in their law and this Bench would like to recommend that this existing 48 hours is enough time for the police to determine whether or not they have sufficient evidence to charge a private citizen.

Let me turn my attention to clause 6(7). If we look at it, it says:

“The police officer who made the detention under subsection (6) shall immediately inform the superintendent, or an officer of a higher rank, of the

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detention and the superintendent or officer shall, within twenty four hours of the detention, review it and decide whether to order the person released or continued in detention.”

Through you, Mr. Speaker, AG, this gives me no comfort, absolutely no comfort—

Hon. A. Ramlogan: Bandits give us no comfort either.

Miss M. McDonald: No comfort. I want to say, relative to this, it should be noted that if a detention is to continue after 24 hours, guidance could be taken from a similar piece of legislation in the United Kingdom.

If we look at section 42(1) of the Police and Criminal Evidence Act (PACE) of 1984, it identifies the relevant conditions. It says a senior officer of at least the rank of superintendent authorizes the suspect’s continued detention. Subsection (2) says the officer has reasonable grounds for believing that it is necessary to detain the suspect without charge to secure or preserve evidence or to obtain evidence by questioning the suspect. Subsection (3) says the investigation is being conducted diligently and expeditiously. Now, if we are to continue as it is stated, the officer will report it to the superintendent and within 24 hours it will be reviewed.

Subsection 43(1) says of the PACE:

“Where, on an application on oath made by a constable and supported by an information, a magistrates’ court is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it may issue a warrant of further detention authorising the keeping of that person in police detention.”

It goes on into 43(2) and 43(3).

The point I am making here, if the detainee has to be held for a period over 48 hours, we are recommending that an application be made to the magistrate wherein the detainee will appear before the magistrate with his counsel in order to plead his case. We are saying it is not just for a superintendent or somebody in the police service. There is something called collusion, and we know about rogue officers. We know about himself to himself. So we are saying, let us open it up and let us look at this piece of legislation out of England, the 1984 Act, and let us see if we can use it. It is just a recommendation, AG, through you, Mr. Speaker.

I turn my attention to clause (8)(a) which states:

“A Court shall not grant bail to a person who is—
 (a) charged with an offence...if the offence involves the use of a firearm...”

I want to believe that this is not a gang member here, but it also involves first-time offenders here. I think that is harsh to disallow this person bail, especially if he is a first-time offender. With that in mind, I just want to look at what was promised in the manifesto. It says here at page 27:

“We will re-engineer the justice system in consultation with all stakeholders to ensure swift justice from the point of arrest to the final determination of all criminal matters.”

It goes on:

“Overhaul the penal system so that prisoners have a real opportunity to turn around their lives reducing the revolving door syndrome of repeat offenders”

This manifesto and this promise—and I see this manifesto as a contract between the People's Partnership or the UNC-led coalition, whatever it is, and the people of Trinidad and Tobago, and I am asking—they have said one thing here in the manifesto; people read it; it is like a contract. This is like a contract; you made an offer; the people accepted. There are four main ingredients, I should say, to a contract: offer, acceptance, consideration and intention to create legal relations. This here is a contract. You have made an offer and there was acceptance by the people of Trinidad and Tobago; resounding victory on May 24. What is the consideration? [*Desk thumping*]

4.00 p.m.

Good! We will see how long you will keep that up. Consideration! What is the consideration? The consideration would be all the promises you made here for a better life, in this case, on crime, to reduce crime. That is the consideration. What is the intention to create legal relation? That is the implementation of your plan. What are you really doing? You said that you would deal with those offenders, you do not want this revolving door syndrome, but what are you doing here with this piece of legislation?

Mr. Speaker, clause 6(8)(b) states:

“a gang member”—no bail to a person who is a gang member—“who is charged with an offence”—if he committed one offence in 10 years and has two pending convictions against him, no bail for that person.

It goes on in subclause (9) which deprives a person, and let me read it:

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“Notwithstanding subsection (8), where a person is charged with an offence mentioned in subsection (8), and brought before the Court but no evidence has been taken within one hundred and twenty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.”

Mr. Speaker, this is arguably the most draconian and troubling aspect of all the subclauses. This subsequently allows for bail to be denied from the individuals who are gang members and also someone in category (a) who has committed an offence with the use of a firearm, denying them bail for a period of 120 days. Again, constitutional rights are largely affected here. It would mean that for four months while a case is being construed against an accused, he has no avenue to redeem himself, absolutely none!

Mr. Speaker, when we should be seeking to deal aggressively with inefficiencies in the police service, we are seeking at the same time to create an enlarged opportunity for inefficiencies to fester. So this clause gives the police a massive 120 days to put evidence before the court, justifying the charge in a circumstance where the accused person has no bail. This does not only create great avenue for abuse by the police, but it takes away the individual's right to make representation or to provide evidence to the magistrate or a judge on the strength of his bail application. It should be noted, that bail application serves an important purpose. The purpose is to give the accused an opportunity to be heard and that is being stripped from these people, from all the people who are caught in clause 6(8)(a) and clause 8(b).

There are some issues which are very important in bail applications and which the court would take into consideration in determining whether or not to grant bail. These are very important issues, in the first instance, ties to the community. That is what a magistrate would want to look at. The courts often feel more comfortable granting bail if they know that the defendant has the support of the community, and that he would return and stick around his community. Family members are encouraged to attend the bail application hearing to show that they are supporting the accused when he is released.

Mr. Speaker, the second factor is the strength of the prosecution case. If the police has overcharged the accused, it is clear that the case is not as straightforward as it should. This has to be determined by the court, not by some police officer. The age of the accused: if the person is very young or if the person is very old, those are factors that the court will look at. The work history and the current employment of the accused: if the person has a strong work history and is currently employed, those are factors that are important on a bail application.

The health issue is another critical factor. If a person cannot receive proper care when he is in custody, we need to look at that also. If a person has to get insulin on a daily basis or has to have some sort of dialysis on a weekly basis, can that person be sufficiently cared for in a jail cell? The answer is no, but you need to get some sort of medical report to bring before the court to say, “This is my circumstance and, therefore, I would like to be granted bail”. But all this, the Government is preventing the accused from going to court and trying to justify his bail application. This is a violation, an abomination to the rights enshrined under the Trinidad and Tobago Constitution, and we will not be supporting this piece of legislation. The accused will have absolutely no opportunity to raise any of these issues before the expiration of 120 days, and only where no evidence has been led.

Now the question I want to ask the Government—the Attorney General is not here, but I will ask—do you really want to take away the court’s discretion and make it mandatory that there is no bail upon being charged for these offences? Do you really want to do that? Mr. Speaker, when you look at Parts I, II and III of the Schedule, all those offences are now non-bailable offences and what they are in effect doing as in Part I, all these offences are saying that for murder treason and kidnapping, you cannot get bail. Now, granted this applies to murder charges, we are creating a whole wide berth because in clause 7 you are importing a lot of offences created under the anti-gang legislation.

Mr. Speaker, in accordance with section 5(2)(c)(iv) of the Constitution, I quote:

“(2)...Parliament may not—

(c)...deprive a person who has been arrested or detained—

(iv)...of the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful;”

All habeas corpus means is the right to have one’s detention reviewed by a judge. With this in mind, the Bill clearly purports a deviation and abomination of the rights enshrined in the Constitution. [*Desk thumping*] This Bill is unconstitutional.

Mr. Speaker, I looked at Jamaica which has one of the most rapidly rising gang membership in the Caribbean. I looked at it because it is almost similar to Trinidad. They are, in fact, debating their anti-gang and their bail amendment.

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Our neighbour within the region has been debating their own bail and anti-gang and there are many draconian measures being dealt with. Namely there is a proposal, and I quote:

“...an accused person may be detained for a period of 60 days without bail, but he must be taken before the court during this period.”

This proposal has come under fire from many within the legal and legislative circles.

Miss Jacqueline Samuels-Brown, an attorney-at-law said, and I quote:

“The law makes it very clear that bail is a constitutional right and any attempt to deprive a person taken into custody of the consideration of bail is unconstitutional and wrong and oppressive.”

Another legal officer attached to the Independent Jamaican Council for Human Rights says, and I quote, that:

“...the Judiciary is the most appropriate entity to determine whether an accused individual should be granted bail.”

These appeals have been voiced from those who reside in a country whereby gangs and crimes steadily increase day by day, but they are adamant that 60 days is far too long for an individual to be retained without bail. Within their clause, despite that, the detainee must be brought to court within this time frame, within that 60 days. So in fact, it is not as draconian as it seems. Nevertheless, it poses a violation to immediate access to the judicial system and his right to freedom.

Mr. Speaker, I want to state that this Bail (Amdt.) Bill should not only be reviewed, but it should be withdrawn as the legislation is not tightly drafted and it leaves itself open to mischief and oppression.

Finally, I want to state again as I started, this Bail (Amdt.) Bill is unconstitutional in nature.

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

The Minister of Trade and Industry (Hon. Stephen Cadiz): Mr. Speaker, I thank you for this opportunity to speak on this Bail (Amdt.) Bill, 2010. Five years ago I was affected in no small way by the murder of a friend of mine, and in 2005 I made a commitment to Trinidad and Tobago that, as a nation, we could not ever

continue to live like how we were living in 2005. We started a movement that we tried very, very hard to get the Parliament at the time to understand the seriousness of the situation, to understand that if something draconian was not done in 2005, that we would pay for it and we would pay for it in no small way. Outside this House, on October 22, 2005, we had a march—it was called the death march and people hated the name. Some at least on the other side hated the name. But the fact remains that what we were marching for was exactly that.

That year we had 385 murders in an island the size of Trinidad and Tobago, with a population of that size, and here it is in those days, those on that side who were on this side did absolutely nothing. [*Desk thumping*] Absolutely nothing! They sat here and saw the murders continue. In 2005 there were 386 murders and it moved to over 550 in 2008, and here it is today in Trinidad and Tobago we are looking at over 460 murders. Again, what does the other side expect us to do? Well, I will tell you it is not what they expect us to do but what the people of this country expect this responsible Government to do. They expect that this responsible Government will take the necessary measures to fix this problem because what the other side has done over the years was to sit and twiddle. [*Interruption*]

Dr. Moonilal: And protect the criminals.

Miss Cox: No difference!

Hon. S. Cadiz: Mr. Speaker, I commend this side, the Minister of National Security, the Minister of Justice, the entire Cabinet of this country led by none other than the Member for Siparia, the hon. Prime Minister, in bringing this legislation to the House because something has to be done. [*Desk thumping*] We used the term in 2005, “enough is enough”, the Attorney General used it again, “enough is enough”. How do they expect us to fix this thing when for eight years they just left it alone? [*Interruption*] “Dat is de man. Dat is de man. Dat is de decrease in de increase man.”

Mr. Speaker, in 1994 there were 143 murders in Trinidad and Tobago; in 2001, there were 151 murders; in 2002, 171 murders; and there it went from 171 to 509 murders in 2009. That is nearly three times. Here it is that the government at the time just sat and again did absolutely nothing, not for once recognizing what would happen.

Mr. Speaker, if we are not in this Government to bring the changes to the people we serve, the same people who have been crying out for justice, then why are we here? It is the responsibility of this Parliament to make the necessary changes, and changes there will be.

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Mr. Speaker, it is not as simple as announcing to the House how many gangs and how many gang members exist; and here it is we used to hear that talk of 500 gang members and 64 and 65 gangs and what have you. They knew it all the time, and yet again, fiddling while Rome burned. Every single year it was the same thing, and they have the audacity to come here and ask what is the crime plan. What is the crime plan?

Ms. Hospedales: You do not have one.

Hon. S. Cadiz: This, Mr. Speaker, is one part of the crime plan; one part. [*Desk thumping*] We are not going with “Baghdad” and “Big Snake” and whatever it is, and shutting down half the country, creating massive traffic jams to find criminals. That is not what we are doing here. We are going after the criminals and we are going to put them away because that is the only way we are going to start fixing this. It is the only way.

Every day you pick up the newspapers and you read about a man with 20 charges pending. What is he doing outside—a known criminal? What is this known criminal doing outside? How can that happen? How can a country this size—this beautiful Trinidad and Tobago—continue to accept the fact that the criminals have the upper hand on us? No, Mr. Speaker.

Mr. Speaker, we talk about the gangs and the big gang members. We even had the gentleman from San Fernando East who stood alongside this chair here talking about Mr. Big, and that is all they gave us. Talk, talk and more talk. Here it is you have a responsible Government now that is taking the action, is going after these criminals and, yet still, they sit there and bawl “Draconian”.

Mrs. McIntosh: That is responsible? Take responsibility.

Hon. S. Cadiz: What is responsible, Member for Port of Spain North? What is responsibility? It is dealing with the situation. It is recognizing what the problem is and then dealing with it. [*Desk thumping*] But here it is the other side again sat and did absolutely nothing. They alone know why they did not do anything, so I do not want to go there. Mr. Speaker, the anti-crime initiatives taken by this Government are very much in sync with what we stated on the platform during the general election. The population at that time was not interested in talk and more talk. What they were interested in was action, and hence the reason we are here today.

Mr. Speaker, when we read through the Constitution of this country, it talks about the fundamental rights. It talks about the rights of the individual and the rights of the person. I think that applies to me and it applies to everybody in this House, because we have rights. We have the right to life; we have the right to walk in the streets; we have the right to go in the grocery; we have the right to send our children to school; we have the right for our children to play in the yards of our homes; all of that.

Those are our rights, but there is a sector in this society that is hell-bent on taking away those rights from us, therefore, we have to take the action. This responsible Government is not going to sit on this side here, unlike the other side there, and just waste away, continue to see the murders going on, continue to see hell breaking loose in this country, war is declared and they just sit there and do absolutely nothing. This responsible Government is not going to be doing that.

Mr. Speaker, under our Constitution, and we are quoting plenty from the Constitution today, it states:

“Whereas the people of Trinidad and Tobago—

recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law...”

That is what our Constitution talks about, the rule of law.

It is high time that this country recognise that there are laws by which we have to live. It is high time that this country and the citizens of this country understand what it is, what their responsibility is, when they want to call themselves citizens of Trinidad and Tobago. They have a responsibility to obey the laws of this country, and for those who want to flout it, and for those who want to wake up in the morning and say, “You know something? I am going to rob; I am going to thief; and I am going to rape,” you are not going to be allowed to continue to do that. You will be put behind bars. You will be charged with the offence and the State will deal with you.

Miss Cox: That is draconian.

Hon. S. Cadiz: No, it is not draconian. Anything for them is draconian. The level of thieving was draconian, but they will not talk about that. [*Laughter*] Mr. Speaker, again, when we talk about the rights enshrined in our Constitution, the right of the individual to life, liberty, security of the person and enjoyment of

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property, and the right not to be deprived thereof, except by due process of law, people tell me that I am not a person they should be “liming” with. I say, “How could you say that?”

Well I know that I have had conversations with and I have had meals with—some of these people have come to my home and I have gone to visit their homes—six people. In my short life, I know six people who were murdered. How many people go through life knowing that? I know five people who were kidnapped for ransom. How many people go through life knowing that? And yet, you know, laugh. It is a joke for the other side.

Mrs. McIntosh: Oh no, no. I am not laughing.

Hon. S. Cadiz: How many people you know, women, who have been assaulted; you women over there? You are talking about draconian; about the rape and the violent assault of the women in this country, and you sit there and bawl “draconian”. That is a joke. Mr. Speaker, I had two motor cars—not one but two motor cars—stolen. My daughter recently had her car stolen, and yet still we sit there and bawl “Draconian”. We cannot own a car because they are going to steal it. We cannot own a house unless it is barricaded like a fort because they are going to break into it. We cannot walk on the streets of this country. We cannot, like the “fella” the other day pushing his little child in a pram, because we might get murdered. And they are talking about draconian?

Hon. J. Warner: You cannot sleep with your wife.

Hon. S. Cadiz: Member for Chaguanas West, I would not go into that. Mr. Speaker, the consequences; people have to understand that there are going to be consequences for their actions. It is very, very simple. And when we talk about draconian laws and 100 days, 120 days and five days being jailed before they can sort it out, and what have you, the fact of the matter is that we are at war; and the fact of the matter is, to bring this thing and to drag this thing over to the other side and to turn this country around, that is what we need. Those are the measures that this country is going to need to change this country. We cannot continue going on like that.

Mr. Speaker, another right enshrined in our Constitution is the right of the individual to respect for his private and family life. All of these rights are here, and yet still, every time, if we wake up in the morning—because for 462 people, they did not wake up the following morning, at least not in this year—but every time we are lucky enough to wake up in the morning, these are our rights. We

have the right to wake up in the morning to go to work and be entertained and go to school. That is our inherent right; a right enshrined in our Constitution; and anybody who wants to take away that right, they have to be dealt with in a particular way. [*Desk thumping*]

We go back to the Constitution and we read that:

“...Parliament may not—

- (f) deprive a person charged with a criminal offence of the right—
 - (i) to be presumed innocent until proven guilty according to law, but this shall not invalidate a law by reason only that the law imposes on any such person the burden of proving particular facts;
 - (ii) to a fair and public hearing by an independent and impartial tribunal”—we are not taking away that—
 - (iii) deprive a person of the right...to reasonable bail without just cause;”

We are not taking away that. That is not being taken away. But the fact of the matter is, again, you cannot just get up in the morning and decide you are going to abuse the rights of the rest of the population. That is not your right. Your right is not to do that, and you have to understand what the consequences of that are going to be.

So, Mr. Speaker, when they start talking about rights, we uphold this Constitution; and this Government will uphold this Constitution and will fight for this Constitution, but we are fighting for the majority of the people in this country; the 1.3 million however many people, less the couple who are hell-bent on creating mayhem in this country. Those people should not have the same rights as us. Those people have to be taken out and dealt with. We cannot live like that, Mr. Speaker.

I heard the Member for Port of Spain South talk about, according to her, what happens “in foreign”. What happens in foreign, Member for Port of Spain South? I will tell you what happens in foreign. In foreign, one of the largest cities in the world, New York City, there are about 10,000,000 people, and their murder rate as of today is 486 murders. You know what they did? They said, “Enough is Enough”; and Mayor Giuliani and the Commissioner of Police said, “Enough is enough. We are going to deal with it”, and they went ahead and dealt with it. That is how the murders from the most murderous city in the United States, and possibly in the world—that is how they were able to deal with the crime, because they said, “We are—

Miss Cox: That is draconian.

Hon. S. Cadiz: Not draconian? You figure it was not Draconian.

Miss Cox: That is right.

Hon. S. Cadiz: In 17 years, Mr. Speaker, the murder rate in New York City dropped by 72.4 per cent, because they went after the criminals. That is why it dropped. They decided, “We are going after them,” and that is what they did. We are talking about the foreigners. New Zealand and all the other places that the Member quoted—New Zealand, the United States, Canada and wherever; Germany, Italy, Denmark and Norway—that is their business. They do not have the situation that we have on our hands. Okay? We have to deal with it. We have to deal with it as Trinidad and Tobago.

We cannot say, if New Zealand releases you after 48 hours, that Trinidad is supposed to do that. How many murders do they have in New Zealand? How many people break the law in New Zealand? It is the same thing with Denmark and Norway. There are countries in the world where they have one murder for the year. Could you imagine living in Trinidad and Tobago where there is one murder for the year?

That is where this society has to come back to. That is how we have to deal with it. One of the ways, and there are numerous ways—I agree with the Member for Port of Spain South with that—it is not only about locking up and jailing people, and what have you. It is all the other problems. Those are the programmes that this Government is also putting into place, but the fact of the matter is, when you break the law, you have to understand, there is going to be a consequence to you breaking the law. One of the ways of dealing with it is the same Bail Bill.

Look at some of the offences that we are talking about, Mr. Speaker, in Part II and Part III? Larceny of a motor vehicle, again, me. Do you know what it is to walk outside your house—and say that the average car is \$100,000—and it is gone?

Miss Cox: What kind of car are you driving?

Hon. S. Cadiz: You cannot find it. It is gone. How many people in this country, again, are lucky enough to have full comprehensive insurance, and what have you? Could you imagine a man borrowing money to buy a foreign-used car for \$60,000, waking up in the morning and finding it gone? No, but the bandit does not care about that, because the bandit knows that he is going to be in and out. He is just going inside of there, doing whatever he has to do, organizing his business, he is gone, and he is not in jail. That has to stop.

When we continue with Part II, arson, receiving stolen goods, the Attorney General went through all of that. When we look at Part III, Mr. Speaker, of the offences—manslaughter, shooting, robbery with aggravation, rape, grievous sexual assault and sexual intercourse with a female under 14—they are bawling it is too draconian? Sexual assault—

Mr. Sharma: “You are not shame?”

Hon. S. Cadiz: Sexual intercourse with a male under 16—Mr. Speaker; do you know who was under 16? [*Interruption*]

Mr. Speaker: Order, order.

Hon. S. Cadiz: Mr. Speaker, do you know who was under 16? Akiel Chambers. Akiel Chambers was under 16.

Mrs. Gopee-Scoon: One case. One case.

Hon. S. Cadiz: No, do not bawl “One”. One is too much.

Mrs. Gopee-Scoon: You want to take away everybody’s life.

Hon. S. Cadiz: Member for Point Fortin, you could sit there and say the crime committed against Akiel Chambers was okay because it was only one?

Hon. Members: Shame, shame.

Hon. S. Cadiz: That is why you have a problem, and that is why you are over there, because for years, for years, we were begging for you to deal with it. [*Desk thumping*] What did you do? You sat there because you accept that the one rape of a male child is okay. That is not a problem. That is only one. [*Interruption*] She just said that. Do not tell me that. Member for Laventille East/Morvant, I could hear it from quite down there.

Mr. Speaker: Order, order.

Hon. S. Cadiz: Mr. Speaker, when we are talking about the type of offences, let us understand—this country today, in the newspapers, 260 rapes. Two hundred and sixty rapes for how many women on the other side?

Mr. Speaker: I think this is a good time for us to pause, and I would like to suspend this sitting of the House for tea, and we shall return at 5.00 p.m. This sitting is now suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Hon. S. Cadiz: Mr. Speaker, before we had the tea break, we were talking about the issues of the violent offences this Bill addresses. The violent offences are—as we were going through the list, in Part III—manslaughter; rape; grievous sexual assault; sexual intercourse with a female under 14; sexual intercourse with a female between 14 and 16; sexual intercourse with a male under 16; buggery; sexual intercourse with an adopted minor and all these absolutely horrible crimes that Trinidad and Tobago has witnessed over the last decade or so. The time has come, and, as the Attorney General said, we need to take back our country. We cannot, at any time continue on the same path that we were going.

Therefore, what we are looking at is, in fact, the full support of the other side. The other side knows what it is. The other side knows what has happened in this country. They know the extent of the criminal activity. They have been around. They boast that they have been here for 50 years, and therefore—not everybody on the other side. Member for Port of Spain South, I would not say that about you. The fact of the matter is that this thing has been going on for decades. We have had this criminal activity going on and it has to stop.

When they talk about the foreign countries and bail only being for 48 hours before you can be released, again I call all the names of countries that the Member for Port of Spain South called, what they have done is, they have been able to deal with their crime, and therefore, they have been able to “ease up” on some of the regulations and restrictions that they have on their citizens, but to deal with it, they had to deal with it. They had to get down in the trenches and do whatever was necessary to fix, because they could not continue to see this thing going up and up and crime increasing like that.

This is not one particular area of crime that has increased in this country, this is every single area. It is crime against the person and crime against our children. They are not selective. These criminals are not selective in who they choose to do this against. They just—again, “dey get up in de morning, we feeling tuh go and do dis, we feeling tuh go and do dat. Dey jus go and do and nobody is safe”. No neighbour is safe. No particular group is safe from these criminals. It is a constant barrage against the people of this country and the other side has to recognize that if what was done—they were in power for eight years? [*Interruption*]

Dr. Moonilal: Too long.

Hon. S. Cadiz: And if after eight years they could not control it, then surely they must understand maybe what was being done obviously has not worked, and, therefore, if we were doing it one particular way and it did not work, guess what, we have to change direction. We have to change direction when you are talking about dealing with crime. What we are saying is, for all the things that were done—they used to boast about “ah decrease in de increase.” Do you remember those famous statements and the previous Minister of National Security? But nothing, absolutely nothing, came out of it. Here it is, you have a responsible Government on this side, which understands the problem, understands what has to happen, and we are going ahead, and we are fixing it. I think it would be a wonderful thing for this nation—this Trinidad and Tobago, that has lived under the gun for so long—that the other side comes on board and says: “Yuh know something? We will all fix this crime. We are all suffering from it, and therefore, we want to be part of the fix. We want to be able to go to Trinidad and Tobago and say: even though we are in the Opposition, we are prepared. We want to fix this thing.” If you oppose it, you are condoning the whole issue of crime, and if you condone it, it will continue and you are going to be held responsible, and what you did not do for eight years you are still going to maintain that.

The other side cannot sit there and discredit this. They could call it draconian measures. They could call it what they want. The fact of the matter is, these bandits, criminals, rapists, murderers and people who go after two-year-old girls and two-year-old boys—these people who go after those children—have no right walking the streets of this country; no right whatsoever. They have to be incarcerated. You cannot be let out on bail, when you are talking about bail and these sorts of crimes. Enough is very much enough!

When we were talking about—again, they like to talk about what happened in other territories. I am just quoting. In Canada, the accused may even be denied bail, because the public confidence in the administration of justice may be disturbed by letting the individual, still legally innocent, go free, pending the completion of the trial.

Here it is, the so-called civilized developed countries in the world are still doing that, when they understand what the danger is for this person to be let back out into society. You have to take them off. You cannot allow these people to roam free. They must be incarcerated. The police, the Government, the Judiciary—the whole criminal justice system—has a responsibility to this country. The criminal justice system, yes, is there to ensure that the rights and

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freedoms of everybody, but we also—we the innocent people, which is the 1.3 million population of Trinidad and Tobago—have to be protected. When you start talking about letting them go—“ah man come in dey wid five gun charges pending and he is back out on the streets. What, he going tuh work in de morning to do ah work in ah office? No, he going to work tomorrow wid de gun in his waist to go and do exactly what he did the day before.” Therefore, they have to be taken out and have to be put behind bars. For too long this thing has been going on.

There is another aspect of this whole thing. The first one is our own personal security and the security of each and every citizen of this country. That is paramount. That is what this Parliament is about; to ensure that level of safety is there for us. There is the other side of it. The other side of it is when we are talking about the issue of trade and industry. If we do not take charge of the crime situation, something else is going to happen. Trinidad and Tobago will no longer be attractive to foreign investment, because when they start looking at the levels of crime—and it is already happening and it has happened for however many years.

When people come to invest in Trinidad and Tobago, they have a choice. It is not to say that Trinidad and Tobago is the only place on the earth where people can come and invest. They have a choice. When they look at the criminal statistics of this country and say: “Why am I going to subject myself to that? I did not come from a country that has that high level of crime and, therefore, I am not going to a country that has that level of crime.” Therefore, when we restrict the foreign investment coming into the country, then we have issues of employment and issues of well paid jobs. All of those are issues. So, crime is not only about the security of the person. It has a whole other effect on society that we have to understand.

Mr. Speaker, the Member of Parliament for Toco/Sangre Grande, the Minister of Tourism, looked at what has happened in Tobago. Look at the murders in the so-called quiet, idyllic, serene place that they call Tobago. Look at what has happened with murders. Do you think anybody in their right mind, “looking to plan ah vacation” is going to Google Tobago and the first thing that jumps out to them is eight murders for the year? That is “ah” place to go on holiday? You want to get away from that. That is why you go to Tobago. Crime has a huge effect on every single thing, every aspect of life, and criminal activity has an effect on it.

According to the 2010 Global Competitive Index, Trinidad and Tobago

possesses a competitive disadvantage in three main areas—the business cost of crime, because there is a cost to criminal activity to business. Out of 139 countries, this beautiful twin island nation of ours ranks 131. How could that be? When we talk about the reliability of the police services, out of 139 countries we rank 107th, but at least this side is not making and putting everything into place to make sure that, by next year, when this competitive index comes out, we would have improved our position.

Organized crime—imagine we are talking about organized crime in Trinidad and Tobago. When we think of organized crime, we think of those industrialized countries in the world with Mafia operations, and what have you. We have organized crime in Trinidad and Tobago? Out of the same 139 countries we rank 99th for organized crime? Organized crime does not happen overnight. Organized crime does not happen in months. Organized crime goes on for decades in building the Mafia-type operations. We rank 99th out of 139 countries.

When we talk about draconian measures, how do we expect to deal with organized crime, tell them stop doing crime? “It doh work so.” Ban crime? You cannot do that. You have to take these people out of a civilized society; a society that operates under the rule of law, where there are persons who refuse point-blank to recognize that there are laws in the country. Take them out. Put them elsewhere. Put them behind bars and it cannot be considered draconian.

Also from a list of 15 factors, stakeholders who were surveyed in this international survey were asked to select five problematic factors for doing business in Trinidad and Tobago and 18.3 per cent of the respondents, the highest percentage, identified crime and theft. People are fearful. When you ask people about setting up businesses in Trinidad and Tobago, they would say: “What? To get robbed? To get murdered?” They are scared. People are genuinely scared to do that in this country. When you leave the shores of this country and you go to a place that is considered crime-free—I am sure many of us have done that—all of a sudden, you just feel this whole thing lifted and it disappears and you walk around the place not locking your car or your windows wherever you are staying. “Yuh just feel easy. Yuh walking de streets like you is de boss and nothing cyah happen tuh yuh.”

Member for Port of Spain—that is the problem with the other side. They continue to accept the level of—*[Interruption]*

Dr. Khan: “Dey doh care.”

Hon. S. Cadiz: That is the norm. You all continue to think that is the norm. If the PNM could not fix it, then it cannot be fixed and that is how you all looked at it. You all were part of the cause, people; a part of it. For 10 years, you all sat on this side and saw this thing going down. You saw the children being raped and murdered and not one man or woman on this side stood and said: “Us on this side, we have to do something.” Not one single one of them stood up for the children of this country; not one. Then “yuh tell meh how that is utopia?” Yes, there are places you can call utopia in the world. “It have plenty place.” Tobago used to be a utopia. [*Interruption*]

Dr. Khan: Not again.

Hon. S. Cadiz: You could have gone to Toco. Toco was a utopia. You could have gone to La Brea. You could have gone and “limed” in La Brea. That was utopia. You could have gone to Point Fortin, that was utopia, but no longer, because the crime is in every single part of this country. PNM accepted that. “Dey say if we could not fix it nobody cyah fix it.” That is the problem with the other side.

5.15 p.m.

But, Mr. Speaker, when we can come back to the stats, and we are talking where the business cost of crime is 131 out of 139 countries, I mean, that is totally, totally, unacceptable.

So, Mr. Speaker, I hear so often of the complaints that this Bill is draconian, and I do not know what they consider non-draconian. I do not know—for them I say, as far as they were concerned, even “tiefing” however many—\$300 billion they may spend, they never considered that draconian. That is what I consider draconian. When you take \$300 billion of taxpayers’ money and waste it, that, to me, is draconian. That is organized crime of sorts. When we are talking about removing criminals from the streets of this country and putting them behind bars, you could never call that draconian. When you are talking about ensuring the safety of every single man, woman and child in this country, you cannot call that draconian. [*Interruption*]

Hon. Member: What you call the Crowne Plaza Accord?

Hon. S. Cadiz: Well, I am glad you brought that up, because that is how the other side wanted to deal with it. The other side wanted to deal with it, according to my friend from D’Abadie/O’Meara, “shrimps and scotch, okay—shrimps and scotch”. That is how they intended to deal with crime; and here it is, this responsible Government now is saying that is not the road we are going on. That

is not the road: “sitting down, shaking hand with criminals”? How you could fix crime doing that? You cannot. Instead of “shaking hand and kissing up and liming” with criminals, they should have been put behind bars. That is what should have happened under this same Bail (Amdt.) Bill. But again, I guess you cannot put them behind bars now, because I think every single person who went to that Crowne Plaza Accord is no longer, Mr. Speaker. So they have maybe other ways of dealing with it.

So, Mr. Speaker, as this Government, we are committed to ensuring that the people’s fundamental rights are protected, that is numero uno. That is the number one purpose on this side. We understand our responsibility. If we were interested in infringing the rights of the people, as the other side says, we would not have committed to sitting in committees, because we do, in fact, recognize that these Bills involve serious infringements of people’s fundamental rights to freedom of association and freedom of liberty; but we sit with them, unlike how they would react to the—or how they acted for 10 years when we were on the other side. “They ain’ want to hear nutten from us. All yuh ain’t know nutten.” And here it is this Government, knowing the seriousness of this Bill, we sit with them to understand—for everybody to understand—and that is how this Government operates.

This Government operates with dialogue, with conversation, not just shooting people down “jus so”, saying, “We doh want to listen to all yuh. All yuh doh know nutten.” And that is why for 10 years they sat there, they did not listen to anybody and “dah is why we end up in the mess” we have ended up in, Mr. Speaker. But not this Government; this Government will call the people in. We want to hear what you have to say. We do not have every single answer. We cannot be a hundred and ten per cent right all the time. So let us talk to people. Let us understand what it is.

So, Mr. Speaker, it is not our intention to bulldoze our way through this Bill by any means. It is the intention of this Government to talk to the people, not only on the other side, but to talk to the people of Trinidad and Tobago; the citizens who have put their confidence in this Government to do the right thing; and that is what this Bill is, Mr. Speaker.

So we will sit with the Opposition. We will work out these pieces of legislation to ensure that we effectively address the problems of gang violence in particular. Mr. Speaker, I ask that the other side reconsider their position where they have already said that they will not support it because of the draconian measures. I think they are very wrong. I would like to tell the population of

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Trinidad and Tobago, please understand what we are doing here. Please understand, we have listened to what you, the population, have said, and this is the right way to deal with this. You need to take action. The wrong way is to sit and do absolutely nothing. That is the wrong way. Mr. Speaker, I thank you. [*Desk thumping*]

Miss Alicia Hospedales (*Arouca/Maloney*): Mr. Speaker, I thank you for the opportunity to contribute to this debate on the Bail (Amdt.) Bill, 2010.

Mr. Speaker, today this nation is faced with a matter of urgent public importance, and that matter is crime. What we have seen over the last few weeks is some of the most brutal crimes that have ever been committed or recorded in the history of Trinidad and Tobago. Many of these crimes have been committed by gang members. In the northern division alone there have been recorded approximately over 67 murders that were committed through gang murders between the ages of 17 to 45 years. [*Interruption*] I want you to listen. You will learn. What we have seen over the last few weeks is an increase in homicides. And, Mr. Speaker, what has occurred over the last few weeks is not a decrease in the homicides but rather an increase in homicides in Trinidad and Tobago.

Mr. Speaker, Members on the opposite side frequently confess that they will control crime, they will turn things around in this country and surely they have been doing a good job. Do you know why I want to say that? Because what they have been doing—[*Interruption*—yeah, a good job in inverted commas, Mr. Speaker—they have dismantled the security services, cancelled the OPVs and we still have not gotten the answer from them: who cancelled the OPVs? They have grounded the blimp. They have dismantled an intelligence agency and we have not heard: where are the SIA files? We have not heard answers to that. You know what has been happening? Nobody seems to know, and they have been passing the blame one onto the other, passing the ball one to the other.

Mr. Speaker, this is not what responsible governance is all about. The hon. Attorney General—where is he?

Hon. Member: Home.

Miss A. Hospedales: The hon. Attorney General said they are taking the country back from where the PNM left it, but let me inform the Member, because I believe he is acknowledging that they have failed. Let me inform him. Mr. Speaker, what has occurred under the People's National Movement? Under the People's

National Movement there was a 63.6 per cent decrease in gang-related murders. [*Desk thumping*] Let me repeat it if they did not know before, because they are quick to cast blame—a 63.6 per cent decrease in gang-related murders.

Hon. Member: The decrease from the increase.

Miss A. Hospedales: Mr. Speaker, if this record is what the hon. Attorney General is stating he is taking back from the People's National Movement, then he has to acknowledge that the non-existence of their plan, the non-existence of their vision, the non-existence of their strategy to combat crime has not been of benefit to this country. They have surely turned things around, not in a positive way. Certainly, they turned it around in a negative way. [*Interruption*]

Mr. Warner: Can the Member give way?

Miss A. Hospedales: No, hon. Member for Chaguanas West. They have surely turned things around in a negative way, because we have now moved from a decrease in gang-related murders to an increase in gang-related murders. That is where we have moved. [*Interruption*]

Mr. Speaker: Hon. Members, I would like to listen to the Member for Arouca/Maloney, and I would like your cooperation so that she can be heard in silence. You may continue.

Miss A. Hospedales: Thank you so very much, Mr. Speaker. At least I am sure that we have Members on this side—gentlemen—and one speaker who is a gentleman, and who is listening to what I am saying.

Mr. Speaker, as I said, they have turned things around. They said that they will be turning things around; they are grabbing crime; they are taking ahold of crime and they are going to reduce it, but they have turned things around in this country in a negative way, and there is now an increase in gang-related murders in this country.

Mr. Speaker, another area that significantly decreased under the People's National Movement was kidnapping. But again, we see that they are turning things around, and, as a result of their inaction, there is now an emanation of this type of crime again. We are yet to see the manifestation of their promise to reduce crime. We are yet to see it. The Member for Port of Spain South made reference to their manifesto and all the things that they would have written in their manifesto about reducing crime, combating crime in 120 days, reducing it

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in six months; you know, drastic reduction in six months. Mr. Speaker, we have not seen any of those things. All we have heard are nice words but have seen no action. It is the duty of the Government to respond to the problem of crime and to put measures in place to ensure public safety and security.

The hon. Attorney General and the Member for Chaguanas East failed in their contribution to establish the link or the correlation between gangs and the drug trade. What do they intend to do? I really want them to answer us. You know, when the Attorney General gets on his feet again, please tell us what do you all intend to do about the drug trade. How do you intend to reduce the supply of drugs in this country? Mr. Speaker, these are questions for which we need to have answers.

Once again, we on this side know the answer. They have no answer. They have nothing. They have no plan. They have no vision, no strategy. They have nothing to tell us, because they do not even know exactly what they intend to do. It is like the blind leading the blind; Government that rules by “vaps”. That is what they are. [*Interruption*] Yes, that is what—Government that rules by “vaps”, because they have no plan. They do not know their head from their tail, Mr. Speaker. I am not sure if they are aware that gang members use weapons to protect their contraband.

I am not sure if they know that gangs, drugs, weapons and the human trafficking trade are all linked. I am not sure if you are aware of that. What do you all intend to do? That is the question that we are asking. What do you all intend to do about it? We have heard nothing. I am not sure if they are aware that gang members also intimidate users and competitors, and threaten anyone who seeks to infiltrate their turf. What are they going to do about the drug trade? I am asking one more time.

Mr. Speaker, the PNM understood that a comprehensive approach was needed to address this issue. Remember, and again I really want them to know—if they didn’t hear before—that there was a 63.6 per cent decrease in gang-related murders under the People’s National Movement. Under the People’s National Movement the anti-kidnapping unit was established [*Desk thumping*] to address the issue of kidnapping. And do you know what happened? There was a significant decrease in kidnappings in Trinidad and Tobago. The Homicide Bureau was established; the Citizens Security Programme was established; SAUTT was established, and, Mr. Speaker, all of these units together with the intelligence units were all established to combat crime; to combat, to counteract, to control and to prevent crime.

Mr. Speaker, apart from these things, our comprehensive plan sought to protect the borders of Trinidad and Tobago. We had established 360-degree radar and we were acquiring the OPVs. We also looked at rehabilitation with regard to the prisoners. We established programmes to prevent reoffending, and there was a significant investment in social services in Trinidad and Tobago. All these measures were to bring about or work collaboratively to bring about a reduction in gang-related homicides, kidnappings and other crimes.

The hon. Attorney General went through a very long discourse to indicate that the Bail (Amdt.) Bill is inconsistent with sections 4 and 5 of the Constitution. Mr. Speaker, what the Member failed to say is, once measures of a Bill are inconsistent with sections 4 and 5 of the Constitution, the Bill should be put up for public comments. That is what he failed to say. And do you know why I am making reference to this, Mr. Speaker? They have frequently said that, “We will consult with the people, we will consult with the people, we will consult with the people”, but they never had the intention of consulting with anyone. [*Desk thumping*] They have not consulted with anyone about this Bill. [*Desk thumping*]

Mr. Speaker, their modus operandi is to do what they will, when they want to, to whom they want with no conscience or remorse. Their main aim is to simply fool the people, fool the people, fool the people. [*Desk thumping*] That is their main aim. But guess what? They fail to realize that the people of Trinidad and Tobago are very intelligent people, and they are seeing through or beginning to see through the missing SIA files. They are seeing through the receipt of the award for reducing crime and poverty. They are seeing through the cancelling of the OPVs. They are seeing through the reasoning for firing Fazeer Mohammed and so many others and, Mr. Speaker, they are beginning to see through the falsehood that is being perpetrated by this Government. They are beginning to see through it. [*Desk thumping*]

5.30 p.m.

Mr. Speaker, the Member for Chaguanas East took issue when the Member for Port of Spain South said that the Bail (Amdt.) Bill had measures that were draconian. In 2008, when there was a debate on the Bail (Amdt.) Bill and that particular Bill was looking at measures with regard to not issuing bail to persons who are engaged in kidnapping, this is what Members of the Opposition, who are now seated on the opposite side, had to say:

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“The measures in the Bill were draconian, dangerous and repressive, undemocratic and uncivilized.”

This Bill is no different. The Bill speaks to not giving bail to members who are in gangs. They said to the PNM government that they did not believe that legislation alone could solve the spiralling crime wave and the increase in lawlessness which we have been experiencing.

They noted the importance of management, workable systems of administration, new and transparent processes and the provision of proper support services that needed to be established. That is what they said, but today the Member for Chaguanas East is arguing that the Member for Port of Spain South was wrong to say that the Bill has draconian measures. The Member for Chaguanas East needed to have done his research to find out—if Members on the opposite side were not speaking to you, you needed to have read the *Hansard* and I am sure you would have been able to pick up on your Government's position with regard to the unconstitutionality of sections 4 and 5 of the Constitution when it comes to measures put in Bills.

The Member for Chaguanas East also talked about “Baghdad” and Operation—he called it Big Snake; we know it was “Operation Anaconda”. At least we had a plan. We were working that plan. As a result of that plan, over time we began to see the results. We are still waiting. Let me tell him, while sitting here and listening to him, we had Operation Baghdad and Operation Anaconda. Their plan is Operation Ground Zero and Operation Dismantle. That is what they have been doing over time, Operation Ground Zero and Operation Dismantle. That is the plan. That is what they have been doing over time. That is the only suggestion they have been making.

Mr. Speaker, the only suggestion that we heard from the Member for Chaguanas East for the afternoon is: “take them out! Jail them!” That is all he had to say. Put them in jail! For one moment I wondered if he was talking about dogs. I could not believe he was actually talking about human beings.

For the information of the Member for Chaguanas East, you are no longer—I sometimes wonder if they are still in a dream; if they are still in denial that they are actually in Government. They stand here and continue to campaign and it is time, Member for Chaguanas East, to stop the blame game. The campaign is over. It is time for you to assume responsibility for what is taking place in the country. Tell us what you intend to do and begin to implement it.

The Bill before us today includes the use of firearms for the commission of an offence and states that gang members charged with an offence under Part II or Part III of the First Schedule will not be granted bail. Additionally, once charged with the offence listed and convicted of at least one such offence in the last 10 years prior to the current charge, bail will also not be granted.

Mr. Speaker, in trying to understand what the Bill is saying, I went back to the *Hansard* and I got this very simple example that was used by an Independent Senator. I have rephrased it because I do not want to plagiarize as was done by another Member of this House.

Let me provide the example. In order for members of the population to understand what we are talking about, a Member, say Mr. A., a known gang member, robbed Mr. J. with a firearm 10 years ago. The person would have been charged for being a gang member, for possession of ammunition and for robbery with aggravation. This would have been his first offence.

Say then, Mr. A. was released after seven years or so and basically he got employed and after about a year he physically assaulted someone. What would happen is that Mr. A. would be charged for the offence and not granted bail.

My concern is that, if the granting of bail is denied for a specified period, if it is not managed properly, a person may explore the loopholes in the law enforcement and legal environment that may result in the guilty person not being convicted for the offence and basically that person would be set free.

What happens is that some Members would explore the loopholes in the system. We are asking Members opposite, in putting forward your recommendation, it is important that you look at this particular issue because, as we said, if this aspect of not granting bail is not managed properly, the person can actually be set free.

I do not want to be long on this Bill. [*Interruption*] I have a lot to say, but I hope that the Members on the other side are not using this as another one of their public relations gimmicks, but they are serious about addressing the issue and they will take into consideration that some of the measures are draconian and they need to take a critical look at some of those measures and make significant amendments. At the end of the day, we are talking about the constitutionality of the Bill and not seeking to violate people's human rights.

We hope that the Members will not grab at straws but seek to be guided by what Members on this side have to say. I would not prolong the debate and ask

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them to consider sending the Bill to a joint select committee for further examination so that the clauses can be critically examined and comprehensive amendments made.

They can also consider posting or issuing the Bill for comment because, as a government, they have claimed that they will consult with the people. They have brought three similar Bills that seek to infringe people's human rights and they have not consulted with the public. They said that this is what they will do. We are saying that if they truly are sticking to their promises, we hope that they would post the Bill so that the general public can comment on it and be part of the process.

Mr. Speaker, thank you.

Mr. Nileung Hypolite (*Laventille West*): Thank you kindly, Mr. Speaker, for the opportunity to join this debate. I listened to the Member for Chaguanas East who made mention that we on this side met with, as he put it, criminals and shook hands with them. May I say that, as far as I understand, we met with community leaders. That is what was published. While we would have met with community leaders at Crowne Plaza, here it is, on September 15, 2010, the Minister of National Security indicated to this House, and I quote from the *Hansard*:

“I”—being the Minister of National Security—“met a youngster on Independence Day in St. Barb’s. I am advised that he is responsible for quite a number of murders in the area.”

This is the Minister of National Security indicating that to this House; but the Member for Chaguanas East is having problems with we on this side having had a meeting with community leaders.

Mr. Speaker, on September 16, 2008, in the other place, an Opposition Senator—and I am certain you know him quite well—was probably the first person who started the whole talk about draconian laws pertaining to the Bail (Amdt.) Bill. Let me quote that particular Member:

“Mr. Vice-President, the measure before us today is draconian, dangerous and repressive. It is undemocratic, uncivilized and barbaric in both form and content.”

Mr. Speaker, sounds familiar? This is in 2008. So the Member for Chaguanas East is indicating that we on this side talk about draconian, but this particular Opposition Senator, a present sitting Member of this House, is the one who indicated that.

Hon. Member: Who is it?

Mr. N. Hypolite: Mr. Speaker.

Mr. Speaker, allow me to put my contribution in a context, a very brief context, which will indicate that before we reach the point of bail, one must be able to breach or break a law. That must happen before one can reach that point of having to request bail. He or she must have breached the law, broken the law or done something that would have caused them to be arrested by the law enforcement agency. Mr. Speaker, the context in which I would like to put this is along the lines of lack of education, unemployment and poverty, lack of proper infrastructure and antisocial behaviour.

5.45 p.m.

To date, we are looking at an unemployment rate of somewhere around 7.5 per cent. In the first quarter of 2009, under the People's National Movement, the unemployment rate was 5 per cent; in the second quarter, 5.1 per cent; in the third quarter, 5.8 per cent; and in the fourth quarter, 5.1 per cent. Now we are looking at an unemployment rate of some 7.5 per cent, if not more.

Mr. Speaker, we all know that when an individual is not working and he is unemployed, one of the first things that he will do is go outside there to find ways and means of getting what he wants or getting what he needs; whether it is to do pickpocketing; whether it is to steal; whether it is to kidnap; and whether it is to—as they are doing right now—get involved in murders.

Hon. Member: And you endorse that!

Mr. N. Hypolite: Mr. Speaker, we on this side condemn activities like that, but we also condemn the fact that the Government of the day is sending home people. They are dismissing people. They are sending people home who would have been working for the past two, three, four or five years. One of the first things that they did when they came into office was to sack some 50 PNM litter wardens as they say. I do not know how they will identify who is a PNM warden or not a PNM warden, but that is what they said—50 PNM litter wardens got sacked. How can that happen?

Mr. Speaker, here it is, the Prime Minister indicated that there is no job loss. The Prime Minister indicated that on Friday, October 12, 2010; no job lost.

Dr. Rambachan: Member for Laventille West, could you give way for one question?

Mr. N. Hypolite: The Member for Toco/Sangre Grande wants to hear about URP, and I will tell him about URP. Under URP, the Member for Pointe-a-Pierre is doing a fantastic job; he is doing a good job. He is trying to assist individuals in maintaining some form of employment, but while he is trying to do that there are other Members—

Mr. Speaker: Members, I know today is the last day before we go into a little recess. Could we allow the Member to speak in silence? Continue Member.

Mr. N. Hypolite: While the Member for Pointe-a-Pierre is trying to assist all, because he understands fully what employment is all about; being an ex-trade unionist, he understands that you just do not go outside there and fire Tom, Dick and Harry just like that. All right! [*Crosstalk*]

But may I share with the Member for Pointe-a-Pierre that while that is so—and these individuals who have gotten letters indicating that they would have to resign or they get their letter of dismissal and, in so doing, they would have to get one month's salary—. I am advised that a number of them got paid, but they would not have received their one month's salary. Maybe what we have to look at is, this is Christmas time, as the Speaker just indicated, and people would want their money. So it is something that we would probably need to look into. [*Crosstalk*]

Let me also share with you, Mr. Speaker, that while we are sending home people—while they are sending home people—you also have councillors, UNC councillors, who are taking up these positions as personal development officers and as engineering assistants. So, you are sending home people on the one hand, while you are taking on people on the next hand. Not only that, Member for Pointe-a-Pierre, but I am certain that this Parliament is responsible for fixing and taking care of Members of Parliament's offices, and I am certain that URP was not designed to pave car parks for Members of Parliament.

Hon. Member: What?

Mr. N. Hypolite: So it is something that we also need to look into, simply because it is things like these that will cause people to go on the other side of the law.

Mr. Roberts: Call name! Which car park?

Hon. Members: Call the names!

Mr. N. Hypolite: Which car park? [*Words ordered expunged*]. All right!

Miss Cox: The two councillors' names.

Mr. N. Hypolite: The two councillors, Mr. Speaker, Member for Pointe-a-Pierre, check and see whether or not the councillor for Moruga and the councillor for Princes Town/St. Julien, are part and parcel of the organization, because really and truly I remember once upon a time—

Miss Cox: Those two!

Mr. N. Hypolite:—the programme was in the hands of the regional corporation, and there could be a conflict of interest when we look down the road.

Mr. Speaker, as I move on, in the area of infrastructure and antisocial behaviour, in Laventille West, one of the things that keep the young people out of trouble is sport; a simple thing as sport—football and basketball—and the people in Laventille have been asking for their recreation ground to be upgraded.

Under the People's National Movement, we had a \$300 million accelerated initiative programme, and that programme dealt with the whole need to upgrade recreational grounds and to build and upgrade community centres, but since the Government of today took office, none of these things have been taking place. I am speaking specifically to Laventille West. I know for a fact that sport in Laventille—I am certain the Member for Chaguanas West can support me on that—and a simple thing like football in the Laventille community can assist in keeping the crime rate of Trinidad and Tobago down. What we are asking for is the Member for D'Abadie/O'Meara—instead of talking and talking—to get to work and start to deliver to the people of Trinidad and Tobago—deliver to the people of Laventille and give us our recreation ground. Come in and upgrade our recreation ground.

To the Member for Naparima, let us get these community centres completed. These same young people tend to go into these community centres. The Beetham Community Centre is almost completed; 90 per cent completed.

Mr. Baksh: Mr. Speaker, on a point of order, Standing Order 36(5).

Mr. Speaker: Members, I have observed that whenever a Member rises on a point of order—the Standing Orders are very clear—you take your seat immediately and let the Member point out the point of order and I would either sustain that point or overrule the point, but you cannot have two Members standing at the same time, particularly when a Member stands on a point of order. Once you hear a point of order, any Member must take his seat and allow the Member to pursue his point of order, and then I would rule accordingly.

Mr. Baksh: Standing Order 36(5). The Member was imputing improper motives that I paved some private car park and so on. Let him repeat it.

Mr. Speaker: The Member is claiming that you are imputing improper motives. If you are doing so, I would ask you to refrain from that, and if you have said anything offensive to him, I would ask you to withdraw it.

Mr. N. Hypolite: Mr. Speaker, I thank you. As I was saying, the Beetham—

Mr. Speaker: No, no. I am saying that the Member has claimed that you have said something equivalent to imputing improper motives. I will call for the *Hansard* and I will then rule on that matter. If you have said anything that borders on imputing improper motives to the character of the Member, I am asking you to withdraw. If you have not said that, you can proceed. I will ask for the *Hansard* and then I will rule. So, let him continue and I will rule later on. Get a copy of the *Hansard*.

Mr. N. Hypolite: Thank you kindly, Mr. Speaker. I was speaking about URP. I am continuing, and I am now speaking about community centres; the Beetham Community Centre which is 90 per cent completed with 10 per cent to go again, I am certain that community centre can engage young people in Beetham by getting involved in community activities; getting them out of mischievous acts. I am now asking the Member for Naparima to assist the young people in Laventille by completing the community centres. There is one in the Beetham and another one in Pelican Extension. While that is so, the Minister of Sport and Youth Affairs, as I said, if we can get these young people into something that can keep them off the streets, then they will not get involved in criminal activities so as to get bail.

The last point is the lack of education. I want to thank the Minister of Education for getting some work started at the Morvant/Laventille Secondary School, which is in a challenged area. I also want to thank the Member for Moruga/Tableland because he went at that school which was closed for the past two months.

6.00 p.m.

It was only because of the Member for Laventille East/Morvant communicating with the Minister of Education as well as the Member for Laventille West, [*Crosstalk*] not forgetting the parents who went to the media and spoke out on the fact that the school was closed for the past two months, [*Interruption*] keeping the students at home, which, at the end of the day, could have gotten them into trouble. That would have surely caused some kind of activity contrary to the law take place, and then we would have had to face getting bail once again.

Mr. Speaker, while we have other programmes to keep our young people active such as MuST, HYPE, YAPA and all these other programmes, they keep our young people off the streets. They will assist in keeping the crime rate down.

Crime and poverty is linked—[*Interruption*]

Mr. Warner: “Are”.

Mr. N. Hypolite:—and are challenges which break crime reduction and strengthen antisocial behaviour. Enforcement of the Bill and compliance with the law must be ensured. [*Desk thumping*] Breaches will lead to increased anti-law attitudes. Working with communities to change the environment is the key to crime reduction. Poverty is not crime, but poverty can result in poor choices by human beings in need. The needs of the communities must be addressed. This is where the Member for D'Abadie/O'Meara should get involved and stop sitting there and talking and talking and talking.

Mr. Speaker: Do not deal with the Member for D'Abadie/O'Meara. Let me deal with him.

Mr. N. Hypolite: We all know that he loves to talk.

The needs of the communities must be addressed. The inadequate services in challenged communities are at the root of antisocial behaviour. Again, this is where the Member for Naparima should come in.

Mr. Baksh: “Yuh want all ah we come.” [*Interruption*]

Hon. Member: Use your best speech! [*Laughter*]

Mr. N. Hypolite: Diana Mahabir-Wyatt was quoted in the *Sunday Express* of October 20, 2010. She said:

“I think there has definitely been an increase in violence, says children's activist Diana Mahabir-Wyatt, who also heads the Coalition for Domestic Violence. Among females 25 years and under, we see more criminal and gang violence. These girls are often babies' mothers for gang members, so they become very loyal and do whatever they have to do to keep their children's father.” [*Crosstalk*]

We are seeing an increase in violence, gang warfare and an increase by the females of this country in violence and crime.

Mr. Speaker: Order!

Mr. N. Hypolite: Mr. Speaker, I will like to end—[*Desk thumping*] [*Laughter*] It is Christmas time and this is a Christmas present for those on the other side. [*Laughter*] A holistic approach in a crime plan is needed. Special programmes must be included, must be monitored and must be affirmed. With that we shall see a significant decline in gang and gang membership. This is what the people of Trinidad and Tobago deserve.

I thank you.

Mr. Sharma: I thank you.

STRATEGIC PLAN QUESTIONNAIRE

Mr. Speaker: Hon. Members, before I call on the Member for La Horquetta/Talparo, I just wish to bring to Member's attention the following. The Parliament is about to embark upon the development of a strategic plan for the years 2011—2016. We are seeking to redefine the vision for the Parliament and we are seeking, as Members of Parliament, your input, because the Parliament belongs to you.

We are getting the support of the United Nations Development Programme in this particular exercise and we have drawn up a questionnaire with their support. We are seeking your cooperation. The deadline for submission is December 17. I ask Members to go through this questionnaire very closely, while you are in the Chamber. It is like a multiple choice, you tick. You can pass it on to the Clerk of the House or the Clerk of the Senate.

I would like Members to pay particular attention to this questionnaire which requires your input.

BAIL (AMDT.) BILL

The Parliamentary Secretary in the Ministry of Legal Affairs (Mr. Jairam Seemungal): Mr. Speaker, I rise to speak in support of the Bail (Amdt.) Bill 2010 which, in effect, amends the Bail Act, Chap. 4:60 of the laws of the Republic of Trinidad and Tobago.

Since assuming office, the People's Partnership Government has adopted as its mantra of governance the words of our hon. Prime Minister, "Serve the people, serve the people, serve the people". This Bill fits into this kind of

governance, where the People's Partnership Government seeks to strike a balance between good governance for all the people of this country and the protection of the individual rights of citizens.

On the reading of this proposed amendment, it is clear that we have achieved that objective. Before I examine the details of the legislative changes which we wish to make in the provisions of this Bill, it would be helpful to place in context why these amendments are necessary.

Mr. Speaker, this thorn in the flesh of our nation, gangs, gang activities and gang violence, developed when those on the other side of the House were entrusted with the security of the entire society. They were so preoccupied with holding onto office and its trimmings that they were prepared to consider making deals that allowed persons in society to destroy the very fabric of this land.

Once more we are before this House to address the failures of the previous government. In spite of the overwhelming evidence of what was required, they failed us all by not recognizing the threat posed to the citizens by the development of gangs and gang related activities, and to treat with them in a timely manner. This amendment has become necessary as this Government, in its comprehensive way, continues to confront the issue of gang violence, which has become prevalent in our society today.

They have encouraged gangs. They have encouraged gang activities and they have encouraged gang violence in this society. They were warned since 2002 by many persons in society that their conduct would lead to dire consequences for this society, but they continued in their wicked ways.

I only have to quote the concluding words of the *Express* editorial in its last publication for 2002 in which they wished the country greetings for the coming year. From the *Trinidad Express* newspaper of December 31, 2002, I quote:

“Well, if Mr. Manning persists in making deals with gang lords, & Howard Chin Lee persists in his general cluelessness, and & MPs like Hinds persist in parroting platitudes instead of coming up with some real ideas to solve our social problems, divine intercession may be T&T's best hope. Happy new year.”

Mr. Imbert: Who wrote that?

Mr. J. Seemungal: May I extend this reference of cluelessness to Mr. Martin Joseph, the successor of Mr. Howard Chin Lee, as the Minister of National

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Security. Not only were they warned by journalists in the society, there were pronouncements from the High Court of justice of this country about their behaviour.

Many in our society have speculated why the previous administration embraced gang leaders rather than outlaw them. Some have gone as far as suggesting that it was part of their election campaign or election machinery. Some have speculated that they wanted to intimidate citizens so they would flee this country to Canada, the United States and elsewhere, so they would vote against them. Others have said that they were in a league with the criminal element. I only have to allude to the now infamous Abu Bakr affidavit. I shall not encourage such speculation in this honourable Chamber, but rather I shall present the evidence to you of their incompetence and cluelessness to recognize and address the problem of gang activities and gang violence.

One of the major reasons the citizens of this beloved country voted in record numbers for the present Government, with its leader, the hon. Prime Minister, hon. Kamla Persad-Bissessar, was because they recognized and admired her fearlessness and stance against all those who wished to destroy the very fabric of this country.

In the famous case of Lennox Phillips, aka *Yasin Abu Bakr v Attorney General*, Privy Council 30/2008, Lord Carswell stated, I quote:

“The essence of the agreement between the Prime Minister and Mr. Abu Bakr on behalf of Jamaat was that certain advantages would be given to the Jamaat out of State property, in return for securing voting support for the Prime Minister's political party. In the opinion of the Board this was corrupt within the meaning and intendment of section 3 and each party to the agreement was acting in contravention of the section. It is quite apparent...”—[*Interruption*]

Mr. Imbert: Mr. Speaker, a point of order.

Mr. Speaker: A point of order.

6.15 p.m.

Mr. Imbert: Point of order, Standing Order 36(1).

Mr. Speaker: Member, please link your contribution, do not keep it wide. Just link your contribution. Okay!

Mr. J. Seemungal: Thank you, Mr. Speaker. I continue:

“The latter may, depending on the facts, be justifiable as a illegitimate public purpose. But the whole purpose of this agreement was to obtain electoral advantage for one political party, the PNM, by means of using State property and, as such it was clearly illegal.”

Mr. Speaker, by the presentation of the Anti-Gang Bill, this Government has sought to signal the major change in governmental policy. Let it be recorded in *Hansard* for all to read that this Government, led by our esteemed and fearless Prime Minister, will not be inviting gang leaders to Ambassador Hotel and Crowne Plaza for its MuST programme or the famous Crowne Plaza Accord, [*Desk thumping*] or as a matter of fact, Mr. Speaker, invite any gang leader anywhere at any place at State expenses.

I want to take this opportunity to assure the Editor of the *Express*, and by extension the general public, that this Government, led by our fearless Prime Minister, will not be making deals with gang lords.

Hon. Member: He said that already!

Mr. J. Seemungal: Mr. Speaker, we are determined to confront the gang through empowering our criminal justice system so that, together, we will eliminate this scourge which has turned our communities into a virtual war zone.

Mr. Speaker, it is simply to understand that the pretrial detention of certain persons involved in gang-related activities is necessary in this country. If witnesses are to be protected and communities are to be spared of the horror of living in virtual war zones, pretrial detention is not a punishment, but it is recognized in most societies as being a required safeguard to the criminal justice system to ensure the effective trial of persons accused of criminal behaviour. This amendment being sought to the Bail Act is a companion to the recently debated Anti-Gang Bill, 2010.

The previous government has always demonstrated a willingness to deny rather than to confront the issues of gang-related activities in the society. The cluelessness of the previous Minister of National Security to deal with gang violence in this country is demonstrated by a look at the amendments sought by the Bail Bill subsequent to the *Express* editorial of 2002. This cluelessness, I shall demonstrate in the course of my contribution to this honourable House.

Mrs. Gopee-Scoon: You heard what you just said?

Mr. J. Seemungal: Mr. Speaker, even since former Chief Justice, Sir Hugh Wooding, Gerald Furness-Smith and Mr. Tajmool Hosein, fought the PNM on the floor of the Queen’s Hall for the guarantee of a minimum standard of protection

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for citizens, one of which was the right to bail while awaiting trial for criminal offences, we have had the history on this side of the House of respecting it.

This Bill is no exception. In fact, that respect is maintained by the internal safeguard that we have included in this Bill. The Bail Bill was passed in 1994 to regulate the rights of citizens in this country to pretrial, release, while awaiting trial for criminal offence. The Act categorizes offences into three categories: the first category being those where the real risk of persons charged with these offences would abscond and not face trial. The statute made them non-bailable and they were murder, treason and piracy. The second category is where they were habitual offenders and, that you had committed one or more offence in the Act while out on bail. The third category, you were entitled to bail once the court is satisfied of certain circumstances.

If I may, Mr. Speaker, in itemizing these criteria that the judicial officers would consider, were not reinventing the wheels but were simply codifying the common law system, the common law roles in which the judges have over the years expressed.

Mr. Speaker, what was done in codifying these roles is that the Judiciary now had a simple and more organized manner in which to grant or deny bail. Since the passage of the Act of 1994, there has been an upsurge in crime and criminal activities in this country. There have been five amendments to the 1994 Act brought before this honourable House: the Bail (Amdt.) Act, No. 32 of 2005; No. 30 of 2006; No. 10 of 2007; No. 25 of 2007 and No. 17 of 2008. Between these years 2005—2008 five amendments to the Bail Act have been brought to this honourable House. One has to ask the question, what was happening in society? What was driving this legislative agenda by the former government or, to put it differently, was it that they had no clue as to what was taking place in the society? We had a PNM government in place that had been reacting and passing additional legislation before the ink on the last legislation went dry.

They were ineffective in dealing with the changing nature of crime in this society. One only has to examine the series of legislation passed over the past three years by this House to make the point that the PNM government did not have a clue as to how to address the issues of criminal acts in this country and they were groping in the dark, passing legislation which could not address the issues of society. On the evidence presented, I would have to agree with the Editor of the *Express* when he or she described the previous Minister of National Security as clueless.

Let me point my contribution—they passed Act No. 32 of 2005. This prohibited persons charged with kidnapping for ransom from being granted bail. Mr. Speaker, you may have recalled that the PNM government had brought Act No. 21 of 2003, the Kidnapping Act, to address the issue of kidnapping. Since 2003 they appreciated the fact that kidnapping was a very serious issue in the criminal activities in society. They did not have the foresight to address the corresponding issue of pretrial detention of persons charged with the offence of kidnapping until the last quarter of 2005.

Almost two years after the passage of the Kidnapping Bill, when it had become obvious that the Kidnapping Act had failed to stem the scourge in kidnapping in this country, they came to the House with piecemeal legislation for the amendment of the Bail Act so as to prevent persons charged with kidnapping from repeating that offence, and therefore having multiple charges pending before the court, inflicting severe hardship and harm on law-biding citizens. During the two-year delay they allowed kidnapping to continue to inflict severe harm on this country.

Mr. Speaker, one only has to examine the offence of kidnapping to understand that kidnapping for ransom by its very nature is gang related. In other words, in order to kidnap you need more than one, two or three persons pursuing criminal purposes. [*Interruption*] In fact, I am reliably informed by legal practitioners who practice in the criminal arena that kidnapping has three specialized gangs.

- The first gang which abducts the citizen.
- The second gang which detains the citizen, and
- The third gang which negotiates the ransom.

Mr. Speaker, the three gangs work autonomously from each other. They work in autonomy of a cell. So when you bust one of these cells you do not have evidence as to identify the other two. Mr. Speaker, just read the record of the kidnapping of Vindra Naipaul and you would have an understanding of what I am describing here that kidnapping is gang activity. We also know that the second area of gang acts is in the realm of drugs, narcotics, arms and ammunition. Everybody in this country knows that drug trafficking has two related criminal acts: arms and ammunition and murder.

Mr. Speaker, those notorious criminals involved in drug trafficking hire their private armies, arm them to the teeth and use them as enforcers of their own code of conduct and their own notorious acts. So that is why trafficking in drugs carries

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with it murder and ammunition related offences, so their enforcers would eliminate witnesses. That is why Act No. 32 of 2005—the PNM government had attempted to make drug trafficking, perverting the course of justice and the like activities of possession of arms and ammunition offences for which the magistrate or judicial officer would not grant bail to repeat offenders.

Act No. 32 of 2005 represents true PNM style legislation, where you treat the symptoms and leave the disease to fester. In other words, they were treating the symptoms of gang acts but taking gang leaders into hotels, Holiday Inns, et cetera, and sitting and dining at the State's expense. They were “palancing” all through the country saying that they were making deals with drug dealers, commonly known as the Crowne Plaza Accord.

So, Mr. Speaker, Act No. 32 of 2005 had a sunset clause. In fact, the sunset clause gets a life of one year. The then government had attempted to convince the country that this was a passing phase that this was under control. So rather than admit the truth, they thought that they would hoodwink the population. That is why they put the sunset clause of one year, because they felt that they could convince the country that they could end the wave of kidnapping by the end of 2006.

But, Mr. Speaker, the history of amendment records of the Bail Act for this period show that in November 2006 the then government, the PNM government, cap in hand, reeling under the pressure of rising crime activities in this country, had to come back to this honourable House with Act No. 30 of 2006 to extend the sunset clause.

6.30 p.m.

The reason is twofold. On the one hand, they had no solution for criminal activities that were taking place, and on the other hand, they wanted to fool the population into believing that they have a legislative lacuna that was to be blamed for the criminal activities in this country. Far from being the truth, it was the failure of the previous government to recognize the issue of gang violence in the country and to take steps, both preemptive as well as long-term solutions, to stop the spread of gang activities. Instead, they allowed it to fester under their noses. How else can the action be described as clueless?

In 2007, they again brought Act No. 10 of 2007 and asked for a further extension of three months to the Act of 2005. They again came back to this honourable House with Act No. 25 of 2007 and asked for an extension for a further one year. In 2008 they introduced another Act, Act No. 17 of 2008 to

extend the life of Act No. 32 for a period of five years. What a waste of legislative time; what a waste of time in this honourable House. That is why this Government has taken a completely different approach to the previous government, because we are in touch with that is taking place in society.

This Bill that we have brought to this House harmonizes the substantive offence and regulates the pretrial detention of suspects. What we have struck in this Act is a proper balance between regulation of pretrial detention of persons charged with criminal activities in this country and the assurance on the other hand that there would be no abuse of the process of the pretrial detention so as to cause unnecessary detention of persons not involved in the conduct that is a great menace to the society.

So a police officer who detains a person must immediately inform his superintendent in charge at the station within 24 hours of the detention, and that officer must review the detention and make a decision whether to release or detain the said person. So that given the nature of gang-related activities, we have a position where a person is a suspect in an ongoing investigation by police into gang activities and there is good ground to detain him but the charge has not been formulated, or persons involved have not been arrested, the police officer does not have to go to an open court to justify the detention of the detainee. Instead, what we have permitted them to do is to have an internal control mechanism to prevent an abuse of the person's liberty by requiring the arresting officer to go to his superintendent or higher officer to justify the continuing detention of that suspect.

Once we have gotten past the stage of investigation and the person has been charged, then that person goes before the court and it is there that a formal application may be made for bail, and when such is done, if the accused is charged with an offence against the anti-gang legislation, the court must deny bail. Of course, the state of affairs does not continue indefinitely. If a person is denied bail in custody for 120 days and the trial has not yet commenced, he may make an application to the judge for bail.

The amendments sought in this case are in three sections of the Act, the first being section 3, the second section 5 and section 7. I shall address each of these proposed amendments in turn to show that they are both necessary and they also reflect a proper balance between the right of the accused and the need for society to properly protect itself from the criminal purposes of gang and gang-related activities.

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We all accept that the police in this country have a very difficult task of dealing with gang-related violence. Its cost to this society are both financial as well as it robs society of productive young sons and daughters in the prime of their youth. It turns them into persons who prey on the earnings and goodwill of productive members of society. This is our responsibility, to control crime as much as possible and we have to empower our police officers with the legislative tools to achieve this goal.

It is in this light that we seek to amend section 3 of the Bail Act, Chap 4:06. It is in the definition section of the Bill that the definition of “gang”, “gang members” and “gang related” are as contained in the Anti-Gang Act of 2010. This truly caring Government recognizes that we cannot allow gang activities to continue to destroy the very fabric of the society in which we live and we have a responsibility in this House to regulate this activity. This People's Partnership Government has the foresight to recognize that we must not only outlaw gang activities, we must empower police officers with certain investigative tools so that they detain and charge suspects with committing these offences.

We are not about platitudes, as the editorial of the *Express* accused certain members of the last government; we are about serving the people; serving the people and serving the people of this loving country. The only true way you can serve the people is by providing effective solutions. For the protection of all the people of this lovely country of ours, we have taken the bold step of introducing legislation to outlaw gang activities and now we are following up with this legislation to help in the regulating and investigation of these offences.

By expanding the definition section of the Bail Act, we establish the relationship between the offence on the one hand and the investigation of it on the other hand. We then go into the new clause 5(2) whereby we place an objective test on the investigation. By this test it is not what the gang or its membership defines itself as that is important; what is important is to look from an objective standpoint of what does the evidence point to; if the evidence points to gang activities and violence. How you call yourself or not is irrelevant to the investigation being concluded by the police. It takes a sensible government to recognize this. That is why it is only now we have such legislation being brought to this House to deal with the issues of gang violence and to replace the platitudes of the past regime.

We are not unmindful of the necessity to protect the accused from abuse. That is why we have placed a high standard on the police in the threshold of evidence

that they must have in their investigation before they detain someone. The standard is a very high one.

When we conduct criminal investigations there are two benches of proof placed on the prosecution. One is called the legal bench of proof and the second is the evidential bench of the burden of proof. The former is based on the maxim: he who alleges must prove. The second is the responsibility to establish certain facts in issue in a trial.

The standard of proof of the latter varies in criminal trials. Here we have planted on the investigating prosecutor the highest such burden that we can place upon the prosecutor. We cannot seek to invoke a special power given by this legislation until we are sure that the accused has committed an act prohibited by this clause. In other words, we have built in the Bill legislative safeguards for the protection of the accused from the inception of the Bill. It is only the People's Partnership Government that can bring such balanced legislation to this House, because we are translating dynamic leadership into real legislative solutions to the problems felt by the society.

The next substantive amendment sought is section 5 of the Bail Act by introducing the new subsection (6). To understand this amendment we must appreciate from the practical standpoint how a criminal investigation proceeds. The accused is arrested and taken into the police station into custody. He must then be charged within a reasonable time with an offence. What is reasonable time is judged by the circumstances of each case. Two common events that cause delay are: the investigation is incomplete and the accused has given information, the truth of which needs to be verified. For example, if he gives an explanation of his whereabouts at the time of the alleged offence, the police can detain him without charging him until they have verified the truth of that statement. His right to come before a magistrate and prosecution having to justify his continued detention or a bail hearing only comes about after he has been charged. So that during his detention there is no one supervising his detention.

What is being done by this subclause is requiring the investigating officer to report to an officer of the rank of superintendent or higher immediately after the detention. This is unprecedented in the introduction of the protection of persons arrested for criminal offences, in that, from the time that he is arrested, his detention is supervised by a high ranking officer of the police service. So that the

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investigating officer is constantly being called upon to have at the back of his mind that he has to justify continuing detention. What is also significant about this provision that works in favour of the detained person is that, while a bail hearing is adversarial, this amendment is inquisitorial.

6.45 p.m.

Mr. Speaker, at the bail hearing for pretrial detention before a magistrate both parties appear and are represented by various attorneys and they argue their cases back and forth before the magistrate. The most important part of this is that there is no way of determining the strength of the prosecution's case. In fact, once the prosecutor informs the magistrate that he has a good case, that is the end of this aspect of the inquiry until trial of the matter. What is being proposed by this amendment allows the superintendent to look at the investigator files and have a first-hand idea as to the evidence gathered, and to determine whether continuing detention is justified.

Now, this actually allows a more informed decision to be made as to continued detention, or the superintendent to ask the investigating officer for clarity, some aspect of investigation which may allow the detention officer to inform the view that those formal charges ought not to be laid against the accused. Without the safeguard, the investigating officer would simply lay the charges and allow the court to make a decision of guilty or innocent in this format of protection for the accused, and the detaining officer is entitled to instruct the investigating officer not to charge because there is insufficient evidence, and as a result the accused may not be charged. So despite what the Opposition is trying to lure us to do, there are built-in safeguards for the protection of the accused to ensure that their rights are protected as a result of the strict balance between the rights of the society and the rights of the accused.

So in conclusion, Mr. Speaker, I ask the Members on the other side to support this Bill since it is in the interest of all in society and it is in the interest of all their supporters, and to make this country a better place for all of us.

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

Mr. Speaker: Members, before I call on the hon. Member for Laventille East/Morvant to make her contribution, I did indicate to Members that I would seek a copy of the *Hansard* based on a remark that the Member for Naparima claimed that the Member for Laventille West imputed. I have gotten a copy of the *Hansard* record and it is clear to me that what has been said here does, in fact,

violate 36(5) of the Standing Orders in which the paving of some car park is alleged to have taken place, and the Member for Laventille West indicated which car park and then went on to say, "Ask the Member for Naparima. He will tell you which car park is being paved".

Now, that is a clear imputation on the personal character of the Member. You are imputing improper motives in that regard, hon. Member. We know under Standing Order 36(5) you cannot impute improper motives and if you wish to bring a substantive motion to deal with the conduct of the Member, you have the right under 36(10) of the Standing Orders to do so. So I would kindly ask you to simply withdraw the remark and let us proceed because I think it is a bit out of order to impute improper motives.

Mr. Hypolite: Mr. Speaker, is it that I said the Member paved the car park?

Mrs. Persad-Bissessar: Well, what were you saying?

Mr. Speaker: Member, I am not arguing with you and I am not asking you. I am saying to you that from my reading of the *Hansard*, you are imputing improper motives under 36(5) and I am simply asking you to withdraw. Do not argue with the Speaker, just withdraw.

Mr. Hypolite: I would never argue with the Speaker, but nevertheless, I will withdraw my statement of the URP paving the car park. I so withdraw.

Mr. Speaker: Member, this is double jeopardy. You have already indicated something that has offended the Standing Order. You are qualifying your withdrawal. I have not asked you to withdraw and apologize, you know. I have simply asked you to withdraw the statement, full stop. I do not want any further addition to the same matter that you have raised that I have said you are in violation of 36(5). So could you kindly simply withdraw and let us move on, please.

Mr. Hypolite: Withdraw.

Mr. Speaker: Thank you very much.

Mr. Baksh: Mr. Speaker, can I have this expunged from the records?

Mr. Speaker: Yes, we will expunge that from the record. I now call on the Member for Laventille East/Morvant.

Miss Donna Cox (Laventille East/Morvant): Thank you very much, Mr. Speaker. I rise to contribute to the Bail (Amdt.) Bill, 2010. At the outset, I should like to place on record that which will not be spoken of in this place this evening.

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Mr. Speaker, as I made my way to the House this afternoon, I was certain of one thing: the Government will appropriate this Bill as their own creation and continue the charade now firmly established that all that is being done now is their own crime plan initiative. I have done my research and the *Hansard* does not lie. This particular legislative measure is but the most recent in a series of amendments to the Bail legislation, all of which was conceived and carefully put in place by the People's National Movement, [*Desk thumping*] and this took place in the teeth of virulent opposition by Members opposite, led by the Member of Parliament for Siparia.

Our friends opposite, have absolutely no shame, and I am happy that the Member of Parliament recognizes the importance of this legislation as stated in the *Newsday*, December 06, but it is a pity that such good legislation is recognized so late. Mr. Speaker, they approached your Parliament in irony without disclosing to the people of Trinidad and Tobago that they were wrong and obstructionist in the past. On each occasion when this type of legislation was brought, they objected, they protested they shouted and they decried us as being a totalitarian and undemocratic government bent on trampling the fundamental rights of the citizens.

Mr. Speaker, you might recall being present yourself, together with the Member for Siparia, at the so-called crime summit held at the residence of the then Prime Minister. I believe that it might have been in 2004/2005.

Mrs. Persad-Bissessar: Office.

Miss D. Cox: In government, we could not tell the population what was taking place behind those closed doors. We needed their support for this legislation and for other enactments involving the reform of the police service. They threatened to withhold that support from us. They demanded changes to the Constitution and the reform of the Criminal Injuries Compensation Board including the implementation of new bands to compensate the victims of serious crimes.

The country was in the midst of a crime rate without precedent in Trinidad and Tobago at that time. People were being snatched from their cars, homes, boyfriends, girlfriends, everywhere, and they held the proverbial gun to the heads of the then government in respect of this legislation to further their own interest. Opposition is a place where those who are irresponsible, like the Members opposite, can exert powerful pressure on a government, in particular one which

commanded a slim majority as we did at the time and the majority that we did not abuse. I really thank God for *Hansard*. It will tell the tale of our attempts, while in government, to halt the kidnapping industry, which we did over the most trenchant and vitriolic opposition from Members opposite.

Mr. Speaker, we had to keep quiet on national security matters while in government. We could not tell the country at the time what I have said here this evening, because we were afraid of alienating our friends opposite, afraid that the people of Trinidad and Tobago would suffer if we did not get their cooperation in our efforts to destroy the kidnapping for ransom industry. Kidnapping for ransom was only eradicated in this country because we invested in technology [*Desk thumping*] some of which I will not, even in Opposition, speak of. We brought experts quietly from overseas to help us, and we studied how the industry worked. We discovered that attorneys and bailors were key players in the industry. Persons who were charged with the offence of kidnapping for ransom would appear before a magistrate and not be granted bail; then they would go to prison, get bail within days, sometimes within hours, and be back on the streets hunting our citizens to get ransom money to pay their lawyers and to satisfy their bail money.

The kidnapping industry was not broken by accident. A responsible PNM government took responsible operational steps. We needed to gain intelligence on how the industry worked and who were the main players in the industry. We invested in resources to allow us to get that intelligence. It was not cheap. As with all organized crime, there were powerful economic interests at work. We pleaded with the population, we asked for time, we were given that time by the population and we invested in systems and in technology.

There were ministerial statements made in this House when we brought the first Bail (Amdt.) Bill. The then opposition screamed and shouted with a notable exception of Gillian Lucky. Nevertheless, we eradicated the offence of kidnapping for ransom [*Desk thumping*] in the teeth of the most strident howling from Members opposite on each occasion that we brought the legislation. I heard the Member for La Horquetta/Talparo as well as the Member for Chaguanas East saying that we did nothing about crime, and that is really not true. You know that, so I would not even go on. I would not even talk about that.

Mr. Speaker, I gave the background and the legislative history of this measure for two reasons. One, I want to put on record that it is the People's National Movement that first introduced a host of measures, beginning in 2005—2006, to allow for pretrial detention of persons to treat with the offence of kidnapping for

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ransom. Secondly, I need to let the population see the hypocrisy of the Members opposite who first screamed at us when we moved to attack kidnappers, but are here today with our concept of pretrial detention [*Desk thumping*] to attack the phenomena of gang-related activity.

You see, the *Hansard* is a permanent record, and those who hold positions of authority in this country must act on the basis of principle. If you do not, the *Hansard* lays your sin bare for the population and your peers to judge you.

Mr. Speaker, the Bill itself seeks to veto the right to bail, which as you know is explicitly recognized in section 5(2)(f)(iii) of the Republican Constitution of 1976. This is the conjoint effect of clauses 6 and 7 of the Bill. Having gone to great lengths to put on record our long-standing position on measures of this type, we would be guilty of the very hypocrisy which Members opposite immersed themselves in were we to say that we do not support the underlying philosophy of this legislation, but we have some urgent and pressing concerns with some of the measures which are placed in the Bill.

As a responsible Opposition, we must put these concerns on record. The rationale of this Bill is to remove the entitlements to bail for those persons who are described to be gang members and to those on firearms-related charges. Additionally, if that gang member is charged for an offence listed in Part II or Part III of the first Schedule of the current Bail Act and has previous convictions for a similar offence within the last 10 years, they are also denied the right to bail. Subject to certain partial exceptions, the Bail Act currently provides that a person is entitled to be granted bail, and this is in accordance explicitly with section 5 of our civil rights.

Mr. Speaker, in an opinion rendered by a Queens Counsel given to the Government on February 10, 2010, he stated that he is unhappy and considers unsatisfactory the definitions used in this Bill as they relate to the expressions of “gang member” and “gang-related activity”.

7.00 p.m.

What we have before us, Mr. Speaker, is simply a part of the continuing charade of the Government jumping up and down, pretending to be concerned about crime, while destroying the agencies which are attacking crime, such as SAUTT and other intelligence agencies; [*Desk thumping*] pretending to be interested in rooting out gang related activity, while destroying our operational ability to secure our borders properly by cancelling the delivery of our OPVs, and so feeding the gangs by increasing their take from the drug business.

In fact, Mr. Speaker, there are persons who can ask themselves the serious question, is the Government really serious about crime? Are they really serious about gangs? Are they serious about eliminating the drug elements? I continue, Mr. Speaker. Clause 6 amends section 5 of the existing Bail Bill by inserting after subsection (5):

“...a police officer may, without a warrant, detain for a period not exceeding five days a person whom he reasonably suspects of having committed an offence listed in Part II or Part III of the First Schedule”—of the Bail Act—
“without charging him for an offence and such a person is not entitled to be granted bail during that period of detention.”

Mr. Speaker, I note that this clause is placed to aid the ongoing task of the police to diminish crime; however, with the best will in the world, how can anyone support this particular measure in its present form?

Mr. Speaker, no State which has a respect for the rule of law should introduce such a measure without appropriate checks and balances to minimize or negate abuse of its citizens. It places the liberty of every subject at the will of the police who, without prior and appropriate methods of investigation and analysis, can simply lock up a person and throw them in jail for five days; not three days, Mr. Speaker, but five whole days, which is one whole week. At common law, the police can detain for 48 hours without charge.

Mr. Speaker, the Constitution is premised on the common law. Even the most draconian provisions enacted in the developed world to treat with the terrorist threat do not adopt such a low detention threshold. We support the philosophy of the legislation, but we ask the Government to avoid holding this country up to international ridicule on the altar of political expediency. [*Desk thumping*]

Mr. Speaker, the Bill goes on. The police officer who made the detention in subsection (6) is required to inform the superintendent or one of a higher rank within 48 hours. That officer might review the detention and decide whether to order the person released or continued in detention. Is this an attempt to oust the jurisdiction of the court with respect to the protection of the rights of citizens, Mr. Speaker? If these provisions are left as is, this Bill would fail any test of constitutionality.

You cannot have police playing judge and jury. These are judicial functions which are being taken up by the Executive; and not just any executive; an Executive that has placed the police service in the trusted hands of a card-carrying

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foundation member of the COP who must remember that he is not above the law; an Executive that hired a foreign chief of police, the ultimate boss of the police service, on a million-dollar contract; and his deputy also.

Mr. Sharma: What foolishness are you speaking? Speak intelligently.

Miss D. Cox: By the way, Mr. Speaker, since the Government has no crime plan, where is the Commissioner of Police's crime plan? His plan has to play an important role, as this Bill should be highly correlated to this Government's national crime plan. Again, I ask, where is his plan? Did he not know that as part of his job requirement, even as he was being interviewed, he needed to research the crime situation in Trinidad and Tobago? So I want to know which crime plan he would have quoted when he was being interviewed.

Mr. Speaker, he comes to this country and, after a couple of months, states that he is disturbed by the crime situation. Would you believe that? The Commissioner of Police is stating that he seems to be surprised and disturbed by the crime situation. This is quoted in the *Trinidad Express* of November 24. Exactly what job was he interviewed for then? Was it in the tourism industry? [Laughter] He is disturbed, Mr. Speaker. So are we much more disturbed because he is disturbed and he is the Commissioner of Police.

Mr. Speaker, I do recognize that our law enforcement authorities have a major role to play in the upholding and execution of the mandates of this Bill, but this is a shifting of responsibility by the Government, and every citizen of this country must worry at some of the measures contained in this Bill. It is not the gangs that I am concerned about, but ordinary law-abiding citizens from whom the Government proposes to remove the protection of the law, the right of the courts to adjudicate and to deprive persons of their right to liberty.

By placing this amount of power in the hands of the police without judicial supervision, the Government cannot pretend that only gang members will be affected. They have advised that the definitions of "gangs", "gang members" and "gang-related activity" used in the companion Bill, the Anti-Gang Bill, are unsatisfactory. Mr. Speaker, the Bill also increases the length of time that a person can be held in custody, after being charged, to 120 days for relevant gang activity. This is indeed a cause for concern, however, the logistics concern us on this side.

My question is, how does the Government intend to facilitate the increase in prisoners in the nation's prisons on this 120-day plan? What are the physical infrastructure and manpower systems to facilitate this increase in an already overcrowded prison? What steps are being put in place for matters to be

expeditiously and conclusively dealt with in the courts? Further, Mr. Speaker, I want to know in relation to this increase, how many persons are being held on the current Bail Act and how this affected the Government's expenditure towards the prison service and, in particular, the prison service's rehabilitation programme.

Mr. Speaker, I want to make it known that measures were in place to expand and upgrade our prisons at Golden Grove, Port of Spain, Carrera and even in central and Tobago. I would like to know if this is still on stream, of course. Do we have adequate prison officers to man these expanded and upgraded prisons which are supposed to be done soon, bearing in mind that an incarcerated individual can learn a trade in 120 days if proper systems are in place?

Mr. Speaker, in the amended clause 7(c)(h), which specifies offences with regard to the possession of bulletproof vests for the benefit of gangs, and (i), which relates to harbouring of gang members, I have expounded at length on the attempt to introduce the possession of a bulletproof vest as an offence in the anti-gang legislation. My sentiments have not changed, Mr. Speaker. Bulletproof vests should be placed as an item of kit for the protective services and other investigative agencies. Only then can it be inserted into this Bill or any other bill for further efficacy.

With regard to the harbouring or concealing of gang members, which is a specified offence which renders ineligible a person's right to bail, I have already addressed this issue in the anti-gang legislation but I want to reiterate a point I made clear in my contribution, and a point which is duly necessary for this clause. You cannot revoke a grandparent's or parent's right to bail for harbouring or concealing a gang member whose whereabouts they have no knowledge of, and, more often than not, they have little or no control over. Clearly, you cannot hold a parent responsible for an adult child.

Mr. Sharma: What are you really saying?

Miss D. Cox: Finally, Mr. Speaker, I refer to clause 8 that refers to the duration of the Act that shall continue in force for a period of five years from the date of its commencement. Mr. Speaker, well this is referred to as a sunset clause, and such clauses are given within amendments to assess the relevance and efficacy of an amended Act, but that is not where the crux of my argument lies. Permit me to refer to the former Member for Princes Town North who was then in Opposition and who is now the Leader of Government Business in the Senate. In his contribution to the debate on the amendment to the Act in 2008, he stated:

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“We have sunset clauses, not only because...legislation is draconian, but because we want to make sure that we monitor the Government; As a result”—we have sunset clauses—“three months, six months and 90 days. That is why we had sunset clauses.”

Now, Mr. Speaker, in staying true to form, they have added a sunset clause. Are they then conceding that this amendment is draconian and that they need to be monitored?

Mr. Speaker, I am putting them on notice that this clause will not save this Bill from being held to be unconstitutional. Additionally, it is for a period of five years. Five years. How ironic. That just happens to be the ordinary length of a parliamentary term. Is it that, now they are in Government, they have conveniently forgotten their statements and actions as they relate to sunset clauses? They were proposing three months; six months.

Mr. Speaker, these time frames are a far cry from five years, which amounts to 70 months, one thousand, eight hundred and twenty-six and a quarter days. What makes the Members opposite so special is that, even when they assumingly invoke the measure of a sunset clause, they allot to themselves five years to assess amendments to the Bail Act.

Mr. Imbert: That is a long sunset.

Miss D. Cox: Is it that they have to allow the nation, persons targeted and persons unconstitutionally targeted, to be numb to the fact that their right to bail has been infringed upon? Mr. Speaker, I implore Members opposite to recover from their convenient amnesia and adhere to their own suggestions of a shorter period for a sunset clause. [*Desk thumping*]

In summary, therefore, I urge Members to, one, reconsider the definitions of “gang”, “gang member” and “gang-related activity” as urged by counsel from Trinidad and Tobago, and even Members on this side. Ensure effective checks and balances are in place as they concern police officers executing their duties in relation to this amendment by placing judicial functions in judicial hands so as to avoid the taint of Trinidad and Tobago being referred to as a police state. Tell the nation where and what is happening with regard to the Commissioner of Police’s crime plan. What are they doing to expedite improvement to the judicial system, and tell the nation the figures? How many persons are currently being held under the current Bail Act?

Consider making illegal the possession of a bulletproof vest other than by persons of an exempted class, and enact the necessary legislation to make the possession an offence. Stop politicizing the war against crime. Recognize that this war cannot be won in Parliament alone, but must be waged on the streets by our crime-fighting agencies as well as our citizens. Reconsider the time frame of the proposed sunset clause. Stick to your proposed ideas of such clauses. We on this side, Mr. Speaker, are willing and able to assist through joint consultation. After all, whether we are on this side or we are on that side, the welfare of this nation is of first and paramount importance to us.

Mr. Speaker, in making amendments to such significant legislation as the Bail Act, we are mindful of the balance between community safety and the rights of the individual. We believe that this Bill addresses the issues of serious crime, more so, gang-related activity; however, we see it as our profound duty on behalf of all the people of Trinidad and Tobago to ensure that this proposed amendment is fair to all in its entirety.

It should not fall victim to the haphazard way this Government has been doing business; a Government which appoints aligned politicians to posts in the administration of the Police Service, gives the police carte blanche judicial powers of review, fires efficient crime fighters, hires their friends and scraps the purchase of vessels designed to protect us, leaving our coastline the preferred choice for drug barons who can no longer penetrate Barbados' and Jamaica's defence systems. [*Desk thumping*] Mr. Speaker, we urge the Government to consider their proposal of collaboration whereby both sides contribute to legislation, and not using majority rule to silence opposition. The words of Hamilton Mabie, a famous American lecturer, come to mind. "Do not be afraid of opposition. Remember, the kite rises against—not with—the wind." [*Interruption*]

You know, I want to say something. I am here and I am listening to everyone on the opposite side, and everybody talks about the PNM and the PNM. That reminds me of being in a relationship with a man. Six months down the road and you are still talking about the ex-woman. [*Desk thumping*]

Mrs. McIntosh: Yes.

Miss D. Cox: What is the story? [*Laughter*] That is for you to leave him out. You know? Six months and seven months down the road and you are still talking about the ex. I mean, that is not a man to stay with. You all are in power all this time only talking about PNM, PNM, PNM. Let me hear what you are doing. PNM, PNM, PNM, crime, PNM. Everything is PNM. [*Desk thumping*]

Mrs. McIntosh: There is no other plan.

Miss D. Cox: Please, where is the plan? [*Desk thumping*] I am getting fed up of that, and it is the same way I would have gotten fed up of that, man. I am tired of hearing about the ex. All right? We urge the Government to accept the reality that the election has come and gone. It is time to govern the country and stop casting blame on the PNM for your current problems. Note well, your current problems. A house built on sand cannot and will not stand, a notion endorsed by Jesus Christ himself in Matthew 7:26. This Government must serve this nation. I am talking about the entire nation, not parts, but the entire nation, efficiently and effectively [*Desk thumping*] because you were voted in based on that promise of serving this entire nation. Stop fooling the people. Serve the people.

I thank you. [*Desk thumping*]

The Minister of Legal Affairs (Hon. Prakash Ramadhar): Thank you very much, Mr. Speaker. [*Interruption*] All right, listen to this. We may speak of the ex because you have hurt us so badly. You betrayed us. You have been so dishonest with the people for so long and the stain of your relationship is with us all the time. [*Desk thumping*]

7.15 p.m.

Today, I want to say now to my dear friends on the other side that there is no absolute right; there is none. Every right that a man may be born with is circumscribed by the very fact that he is born unto the earth and he shares the space with each other. I hear this arrogance now with the great protectors of the Constitution when they sat silently, when the very Constitution that they now seek to protect was being undermined by their very leader at the time. But, I welcome your newfound vigour. I welcome the new vanguards to the protection of our rights, therefore, you are People's Partnership material in waiting.

I want to suggest that we look clinically at what we are dealing with. I am hearing that this is such a draconian Bill; legislation to deny bail not just to deny bail, but to deny bail for a period of time. Let me remind you, that we speak to the rights which are circumscribed. We have an offence called murder. Do you remember that? You should, because in 2000, something happened politically in this country. The number of murders was 118; 118 souls. I do not want to harp more on it. We all know what the facts are. Let me remind you of what the facts are.

Let us start with 118. By 2009, those numbers had risen to the 509th person dead by murder. The point I am building to is not just the rot and neglect that allowed that to have happened, but to the very clinical understanding that when you are born in the society, no right is absolute, because if you kill, the very State, the Constitution, our very laws, provide for the State to take the life of the killer. When you are charged for murder, there is no bail, even in the face of the presumption of innocence. So, let us get rid of the fallacy that there is a divine right to bail. There is none.

But, then I am so grateful to the lovely representative from Laventille East/Morvant. [*Ms. Cox leaves Chamber*] Please, you will come back. I look forward to your return. Let me deal with my dear friend of long-standing from Port of Spain South. For a moment, I thought that this People's Partnership Government—in fact, I started to wonder: “My God, what have we done that we would want to bring legislation that will say no bail?” However, if evidence is taken in 120 days, then you may apply for bail. You condemned that severely. Did you not? Let me understand for a moment, the query is not that you do not have a right to bail, but that you do not have an immediate right to bail. Then I return to my friend from Laventille East/Morvant who reminded us of Act No. 32, of 2005. If it is a grievous abuse of the Constitution to deny an immediate access to the courts for bail, then what do you make, my dear friend from Port of Spain South, of Act No. 32 of 2005? I am trying to remember, who was in government then? Who? [*Interruption*]

Hon. Members: Them.

Hon. P. Ramadhar: Our friends on the other side. Very quickly, if you would permit me, this is a section of that Act, to read it:

“5A(I)A Court shall not grant bail to a person charged with the offence of kidnapping for ransom under the Kidnapping Act, 2003”

“Shall not grant bail”, passed by whom again? [*Interruption*]

Mr. Sharma: Shameless, PNM!

Hon. P. Ramadhar: No, please. That was good law, because there was an awful need, with a terrible crime, and you took some responsibility by passing law. But let me finish this section. It says:

“Notwithstanding subsection (1), where the person charged with the offence of kidnapping for ransom is not brought to trial within sixty days of the charge, that person shall be entitled to make an application to a Judge in Chambers for bail.”

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The issue of delayed access to the court has been accepted in our law, under your rule. So, please, do not then make it as if it is an atrocious deviation from the norm. We have dealt with murder and there is no bail. Under the kidnapping—under your guidance and your control, you passed laws that avoided access to the courts.

When the greatest condemnation also comes that five days in custody is an awful long time, of course, it is an awful long time, but the common-law as you reminded us, allows for a person to be kept in custody for 48 hours without charge. So clinically the issue is not that as you are arrested you should be brought to the court or charged. The issue is about the length of time. Change in circumstances requires change in modus and change in responses to it. You have heard—I congratulate my young brother, the Attorney General, for what I consider a most brilliant and articulate pronouncement on all the salient issues. I really do compliment you for that. Your understanding of how it works in the real world should have put pause to anyone who wished to stand in the way of this legislation.

Do you know what the old trick is “in police”? You have a suspect in custody, you have not yet gotten all the evidence upon which you could lay your charges, but you are working feverishly towards it. The time comes, 48 hours, you may not be released, but if you are, as you walk out—do you know if it really is a fallacy—“dey bring yuh back in and start de clock all over again.” We do not want those kinds of game play. Police say: “Yuh want it? We give it tuh yuh under law.” That is what this Government is about. The five-day requirement, in the scheme of things for the gravity of crime and the nature of the savagery, is really no—you cannot balance both with what our society is faced. You cannot do that.

This Government does not do things in isolation, because as we attempt to shackle criminality and the crafty and totally evil person, we do not create just one obstacle to them, we create a chain that we will wrap around crime and criminality and we will ensure that every link is strong, because no chain is stronger than its weakest link. Legislation today comes as one part.

Mr. Warner, I remember we had spoken about the necklace of terror when you connect the dots. [*Interruption*]

Mr. Sharma: “Yuh sound like ah Christmas sermon.”

Hon. P. Ramadhar: Thank you very much. This will be a chain of redemption because in it, little bits and pieces, little drops of water and little grains of sand make the mightiest oceans and the greatest lands, and as we create that legislative landscape, that will put fear into all criminally-minded persons, to allow them to change their ways, we will continue to work and stand for the large number of our citizens who are law-abiding and totally afraid to live in their own homes and in our streets.

We did not just stop with that. For everything, Member for Diego Martin West, there must be checks and balances. Today, I spoke to the Director of Legal Aid. Member for St. Joseph, I want to congratulate you in your choice for director of the Legal Aid and Advisory Authority, because this gentleman was a junior to me and I have known him for many years. He is a ferocious fighter for the independence of the Judiciary. He is a fighter for the rights of persons, Mr. Chaitram Sinanan. I congratulate you, Member for St. Joseph, for that choice.

I spoke with him today and the Legal Aid Advisory Board is in the process of hiring 17 new lawyers to have them on 24/7 call, so that anybody in custody can have access to a lawyer to ensure that their rights, which we are all very concerned about, are protected. It is not just that we throw you in there and—I know the old tricks that the police used. They would put you in one station and in a few hours they move you, so when your family comes to this one, they would say that you are gone on enquiries, and they have you all over. All sorts of abuses occurred, but we have considered that and that is why—you would remember in the anti-gang legislation when we said any police officer or person from protective services. It is a premium—if they are found guilty of any criminal act, there is a reason for that.

7.30 p.m.

There is a reason for that, because you have to put responsibility where you give greater power. And to put it to rest, if at all there is any query about this, the right of habeas corpus is the most powerful tool known in our legal system. Habeas corpus gives a judge the authority to call for the body of anyone to be produced, and for anybody who has that person in their custody to show cause why they have them there. So that if you are in any way concerned that your client—as an example, the legal aid lawyers—they can go to a judge for habeas to find out if there is reasonable cause or reasonable grounds. These things are all thought out. This is not Government by “vaps”. *[Interruption]*

Miss Thomas: It is.

Hon. P. Ramadhar: “The only vaps dey getting is vap, vap, vap on de criminals”, [*Desk thumping*] and we are coming, because we have taken a stand. [*Desk thumping*] When our population cried, when they cried for somebody to protect them, you know, on December 13—ask your former leader—a delegation from the Congress of the People went to White Hall. He did not want to see us, he sent an underling, and we, however, gave over a crime plan to him, to your Government, to institute basic things—

Mr. Samuel: That is right.

Hon. P. Ramadhar:—none of which—you remember that, brother from Arima. You were there. In the rains we stood and waited and waited till we gained audience to say, “This is our contribution. If you do not know what to do, we will tell you.”

Mr. Samuel: That is right.

Hon. P. Ramadhar: You have the resources. In 2007, oil was how much, Minister of Energy? [*Interruption*] Not a single one of those plans has been put into effect. You ask what we are doing; what the crime plan is?

Miss Thomas: What is it?

Hon. P. Ramadhar: You know what the crime plan is? To get rid of criminals; to give the police the legislative tools necessary; to create the capacity. You think you could just order the vehicles; you could just order the electronics and they will just “land up” in your SkyBox the day after? No. The capacity is being built as we speak, and I do not want to disclose much. The plan is being created—sorry; the capacity is being created to give effect to the plans, so that, when it comes together, that shackle we spoke about, the only persons who will condemn the laws are those who the laws have come to condemn. [*Desk thumping*]

We must understand that it is no easy task, and when we vacillate here—and every week, you know, I wonder, have we truly amnesia that when we come with the Intercept Bill, then we come with “Anti-Gang”, and then we come with “Bail”, I hear the same arguments every week. I am not one to silence anybody, but, please, when you speak in Parliament, this is extremely valuable time; it is the highest office in this land, we must be very economic with our words and very, very, very strong in our actions.

These are the things that have troubled our people. When I heard my charming friend from Arouca/Maloney speak about the drop in serious crime, 63 per cent, what period was she speaking about? My friend—what period was she speaking about? It was from May to last month. That is my understanding. If I am wrong I stand to be corrected. And there has, in fact—you know, when our silent leader of the past—San Fernando East—rose three weeks ago, it was around that very time that we saw an increase in criminal activity. To put it in context, you may very well remember the looseness of words, the allegations that were thrown, the mud that was flung hoping it will stick. These are the disrespects that the people look upon, and the criminals say, licence. If in the Parliament they could do these awful things, I have licence to go out and do my dirty work.

You must understand the potency of what leadership is all about. That has been lost to many. You know, they have always said, my brother from Moruga/Tableland, that the fish rots from the head first.

Miss Thomas: Oh Lord, let us [*Inaudible*] out that “nah”? God.

Hon. P. Ramadhar: No, please, we have to accept these things. But there is a new—and every week I speak I always compliment the new approach; yes, and we will work together and we will find the things. If you have a problem with the sunset, I myself, five years—because I am sure within two this country will see a completely different life on the streets. [*Desk thumping*] I am hopeful that within six months it may happen, but, knowing how hard and how hurtful and how damaging your hurt to our people has been, I say maybe two years, Diego Martin West.

Mr. Imbert: North/East.

Hon. P. Ramadhar: I keep—why do you—move your tag. Yes, I beg your pardon, Diego Martin North/East. So I am very, very hopeful and very optimistic, because this Government is giving the resources to the police. This Government is giving the resources to National Security. This Government is not just giving resources, but we are ensuring that the resources are properly focused, properly spent and that we get benefit. Value for money is critically important. That is a new paradigm. It may sound surprising to many, but that is a basic thing—all of us in private life knew but this country got nothing for money in the past, and we will reset that.

You know, I heard one of my colleagues across there utter something about when legislation was brought, Opposition Members condemned it and speak about dictatorship and everything else. [*Crosstalk*]

Miss Cox: Check the *Hansard*. Check the *Hansard*.

Hon. P. Ramadhar: No, no, you might be right, and they were right. Let me tell you why. You judge a person not only by what they say but what they do. So that, if Opposition Members were fearful and concerned that you would abuse powers, there was evidence to support that.

Miss Thomas: But the concern is here now. We are concerned now. [Crosstalk] [Interruption]

Hon. P. Ramadhar: You want me to remind you? The Chief Justice—once again it seems we have forgotten; the amnesia that I spoke about—where the Chief Justice Sharma was threatened by a Prime Minister. [Interruption]

You really want me to enumerate that and bring back the bad memories and the hurt? [Interruption] You are not ashamed? You are not ashamed?

Miss Thomas: All the PNM people are being victimized. They are afraid. They are afraid. [Crosstalk]

Hon. P. Ramadhar: You remember the name, Glen Ashby? Who here remembers the name, Glen Ashby? Let me tell you what happened in this country under PNM rule. [Interruption] Glen Ashby was sentenced to death. [Interruption]

I pay all respects to you. Maybe I should not expect any in return; but I will do what I have to do. I am here and I shall speak. Glen Ashby was sentenced to death. His matter was before the Court of Appeal. For those who do not yet know, listen to the awful legacy of a PNM administration; an abuse, if ever there was one; an illegal execution at the highest levels. While the matter was being heard and to be determined, lawyers overnight were working.

Miss. Thomas: “What you all doing? All you doing is PNM.”

Mr. Speaker: Please, please, please. Member for Port of Spain North/St. Ann’s West, please, please. [Crosstalk]

Hon. P. Ramadhar: There was an undertaking that there will be no execution. If I am wrong check it and correct “mih”. When they took a break, the Registrar of the Supreme Court of Trinidad and Tobago went up to the prison, hanged Glen Ashby, knowing full well that the Court had not finished its determination, came back down, when the Court reconvened itself thinking that

there were matters still to be heard and the matter be called, they were then informed that a citizen—whether guilty or not is not the issue; this is the attack on the system—and on the Constitution—to be told then that the man had been hanged until he died, and the Court was waiting to determine this. [*Interruption*]

Mr. Sharma: And the Parliament was sitting.

Hon. P. Ramadhar: Who? Sorry?

Mr. Sharma: Sobion. [*Interruption*]

Hon. P. Ramadhar: So be it?

Mr. Sharma: Sobion. [*Interruption*]

Hon. P. Ramadhar: Sobion. I beg your pardon. I would have thought in any law-loving and law-abiding nation that serious consequences would have flowed for this, but I want to—let me just spend one moment to trace, not just to past, but the path of how you are promoted in this nation under PNM rule. A lawyer, a Registrar of the Supreme Court, knowing full well his responsibilities, knowing the gravity of taking the life of a citizen, where the court was seized of jurisdiction to determine whether he should hang or not, having authorized it, permitted it, condoned it, executed it, came back—the Court, of course, little it could do then. But you know that Registrar, you know where he ended up?

Mr. Sharma: Promoted.

Hon. P. Ramadhar: As Chief Magistrate in this country.

Mr. Sharma: Imagine that. Imagine that.

Hon. P. Ramadhar: And not just Chief Magistrate. You all remember the fiasco I was just spoke about with the Chief Justice who was threatened, where, on a Friday, carloads of police officers with machine guns turned up at the entrance of a sitting Chief Justice—

Miss Thomas: Speak well of the dead.

Mr. Sharma: Imagine that.

Hon. P. Ramadhar:—and you then attempt to arrest this man. He is taken to court based upon the evidence of whom? You all remember? Who had connections with whom? Was it the treasurer of your party? And there is a dark cloud hanging over that very sordid affair. I do not want to go into it, except to say—

Mr. Sharma: Say it, say it, “doh ‘fraid”.

Hon. P. Ramadhar: —that this is a nation, until now, where nobody could have trusted the institutions. [*Desk thumping*]

Miss Thomas: That is not true.

Hon. P. Ramadhar: And we have come here—[*Desk thumping*]

Miss Thomas: That is not true.

Hon. P. Ramadhar: We have come here—[*Crosstalk*]

Mr. Sharma: That is not true? Shame on you.

Hon. P. Ramadhar:—to restore law and order to this land, to restore respect for institutions, to strengthen the very Constitution, because I will tell you something, the Constitution, as you rightly said, my friend for Port of Spain South, is a contract with the citizens. And you know, that visit we paid to the Prime Minister’s office on the 13th, I gave this message. I said, “Please, tell our Prime Minister that having regard to the terrible state of crime”—because remember, this was 2007; there was an election in November. We did not succeed then. In the face of all the awful things, we did not succeed then, but crime was at its highest—well, its highest many years. When you think it could not get worse, it just got worse.

Miss Thomas: What happened from May?

Hon. P. Ramadhar: And then, within that month, there was an awful orgy of murders and robberies and rapes, and I sent the message to the Prime Minister to tell the Prime Minister, “Please, Sir, having regard to the fact that the duty of a government, the first duty of any government is the protection of its people, that you have broken the social contract, and, therefore, the citizens are entitled to call for an election, even one month after a general election.” And this Government understands that its first duty is to protect its people.

I remember, years ago I did a case before Justice Deyalsingh, and I was arguing the most esoteric of human rights and constitutional provisions, and the judge said, “Mr. Ramadhar, are you aware that we have a First-World Constitution in a Third-World country?” And the gravity of that statement up till today is still seeping in, because, although we have all of the imagery of institutions, an institution is only as strong as those who man it.

I remember your words, my friend from Diego Martin North/East, when you said, laws do not change people, it is a change of heart that will determine how institutions are run. [*Crosstalk*] These are the things that we are now doing to transform this nation, to ensure that we do not just mouth things; we do not just

bring laws for the sake of doing it. And by brother from Lopinot/Bon Air West, I told him I will take this line from him; you were content to have plans on paper, so all you were interested in were paper and ink. The paper and ink are important as a first step, but you do not take a first step in life. A first step is to allow you to take the second step, which you never did, but we are doing. It may be slow, but it is sure. And as the capacity builds—[*Laughter*] Laugh, laugh, because you know, after how many billions in national security, you built no capacity that mattered on the ground.

You know, my friend from Laventille East/Morvant, I had the good fortune, together with the Attorney General, the Minister of Justice and some others, to view a video taken from a helicopter chasing a supposed drug-running boat. They chased it for miles on the open waters until the boat came onto shore. And guess what? The guys just got up, “jump out de boat and run away.” So all your OPVs you are talking about could not catch “dem fellas”. You need—to fight a battle—[*Interruption*]

No, I am talking about capacity. You were laughing just now, unfortunately, when I spoke about building capacity. You do not fight a ground war on the water. You do not fight a ground war in the air. You fight the fight where it has to be fought, which is in the streets, in the villages, in the communities, in the cities and in the entire nation.

Hon. Members: Drugs and ammunitions.

Hon. P. Ramadhar: And if you all wish to consider yourself representatives of our people, then you will sign up as soldiers in that battle. Do not be afraid. Do not be afraid—the battle to save this nation. Do not be afraid. We are here for you also.

I am stunned when I hear the contributions and I ask myself, which areas, which constituencies are the true hotspots for crime in this nation? I am not going to identify them. You know.

Miss Cox: That is why the measure is draconian.

Hon. P. Ramadhar: You see? And there, out of the mouth of my friend from Laventille East/Morvant, it is draconian if it affects your constituents.

Miss Cox: No, no. “Yuh ain’ ketch mih point.”

Hon. P. Ramadhar: Therefore, it would not be draconian if it affected persons who may not vote for you. I ask—and let us be totally, brutally, frankly honest here—match it; see the hot spots, check the hot spots, and ask yourself why.

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My friend from Laventille West, you were quite right when you spoke—*[Crosstalk]*—when you spoke—*[Interruption]*—and who was there in the last election, my friend from Diego Martin North/East? Who was in Enterprise? Even in Central, that had always been historically, almost, you know, I would not say crime free, but not as bad. Who was in Enterprise until this year? My friend from Chaguanas East is now there.

7.45 p.m.

Miss Mc Donald: Mr. Speaker, I listened; I know this is my long-standing colleague, but 36(1), please. Tighten it! Tighten it!

Hon. Member: Relate it to the Bill.

Hon. P. Ramadhar: I take advice; I will keep it tight. *[Laughter]* I do not really have much to say. In addition—you can laugh; you can do what you want, but the reality is that we are here to stay. We are here to protect the people so I would have many other occasions to possibly repeat myself.

I want also to remind you my friend, Member for Laventille West, you made some points about employment, about the safety net. Maybe we are not understanding as much, but this Government is completely committed to all of this country to raise the economy, the benefits to our people and it is a holistic package. I am just trying to wind up. Forgive me for not being as tight. I am unwinding here.

When we speak about courts, what have you done in the last eight years to improve the capacity of the courts? In very few courts are there electronic recording. I, as a practitioner in the courts, will tell you that where you have that, every lawyer and judge wants to be there. You can do five times as much work than where you have the old handwriting thing. Why have we not put that in every court by now, knowing year after year—I say “we” because we are the people and we voted for you and gave you the authority to do what you did or did not do. You knew there were hundreds of thousands of tickets clogging the courts. Did you do anything to remove it? No.

The Attorney General has told us that in a very short time we are bringing law here to remove—you know, after you get a ticket, you have 14 days to pay? We understand that people sometimes do not get paid and do not have enough money so we are moving it to 30 days—small things that make huge differences. Liquor

licence applications, things about collecting money—*[Interruption]* You all are more interested in the parang than the people? I am not understanding this. You want me to stop talking about the law and the thing to protect to go and parang? I do not want to keep you.

Mr. Speaker: Order! Order, please.

Hon. P. Ramadhar: Through you, Mr. Speaker, I do not want to keep my friends from partying. When I stand here, I say party over; time for work.

Thank you very much.

Mrs. Patricia McIntosh (*Port of Spain North/St. Ann's West*): Mr. Speaker, I am privileged to make this contribution this evening on the debate on this Bail (Amdt.) Bill.

When the sitting first commenced, the hon. Prime Minister addressed this honourable House about the preservation of human rights in commemoration of Human Rights Day, which is today. As the afternoon progressed, I listened to various hon. Members of her Government defend a Bill which proposes to erode those very fundamental human and constitutional rights of individuals. How ironic!

I was amazed and then I heard the Member for Chaguanas East in his contribution state that these people must not have the same rights as us. I was appalled. Then I heard my dear friend, that pleasant gentleman, the hon. Member for St. Augustine, with his fire, brimstone and condemnation. Mr. Speaker, we are about to adjourn for the Christmas season, the birth of Christ, the very Christ who died on the cross between the murderer and the thief, whom he forgave. I am not saying we have to forgive, but at the same time that fire and brimstone condemnation that I am hearing here, I wonder whereour society, our country, is going.

Yet, I commend the Government for trying to create new ways to battle the crime in this country because we have to admit that the current crime situation needs tougher legislation. We are there with you all. I want to say again, when we put forward our points, it is not that we are objecting and we are opposing for the sake of opposing. We want to collaborate so that when legislation is enacted in this honourable House, we get the best possible legislation for our citizens, in particular, and our country in general. We want to work with you all, but we have to be the check and balance and the voice to give recommendations. Do not be annoyed with us.

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I commend the Government, but more than tough legislation, I feel we need more creative solutions. While I commend the Government for seeking new ways to deal with the crime, I cannot laud them for any creative solutions because such creative solutions just do not extend to the current amendments in the Bail (Amdt.) Bill.

I am most decisively a keen advocate for any legislation that would enhance the lives of our citizenry, but I must emphasize that I am not an advocate for any legislation that would infringe, trespass or trample the constitutional and legal rights of any member of our citizenry. The legislation which, if passed, will do so is this Bail (Amdt.) Bill.

PROCEDURAL MOTION

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, pursuant to Standing Order 10, I beg to move that this House continues to sit until the completion of this matter; until the completion of the Bail (Amdt.) Bill, the Interception of Communications (Amdt.) Bill, the Motion dealing with the Standing Orders, until the completion of the Private Bill and until the completion of the matter on the adjournment and then we may adjourn.

Question put and agreed to.

BAIL (AMDT.) BILL

Mrs. P. McIntosh: Thank you, Mr. Speaker. Where is the hon. Member for St. Augustine? We have the capacity to work. We do not party when we have work to do. We party when it is time to party.

I must consider this Bill within the context of the Constitution of the Republic of Trinidad and Tobago. Chapter 1 of the Constitution speaks to the recognition and protection of fundamental human rights; the same fundamental human rights and freedoms that the hon. Prime Minister was speaking about this afternoon.

I would like to draw to the honourable House's attention "Part I, Rights Enshrined", sections 4 and 5 of the Constitution. Section 4 states as follows:

"It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely—

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;...
- (d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;”

Section 5 states as follows:

“(1) Except as is otherwise expressly provided in this Chapter and in section 54, no law may abrogate, abridge or infringe or authorise the abrogation, abridgement or infringement of any of the rights and freedoms hereinbefore recognised and declared.

(2) Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not—

- (a) authorise or effect the arbitrary detention, imprisonment, or exile of any person;
- (b) impose or authorise the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained—...
 - (iii) of the right to be brought promptly before an appropriate judicial authority;
 - (iv) of the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful;...
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right—
 - (i) to be presumed innocent until proved guilty according to law...
 - (iii) to reasonable bail without just cause;

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- (h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.”

These rights are enshrined in our Constitution and serve to protect us from doing injustice even to ourselves. This Bail (Amdt.) Bill puts these rights at serious risk.

The proposed Bill reads as follows under clause 6:

“Section 5 of the Act is amended by inserting after subsection (5) the following subsections:

‘(6) Notwithstanding any law to the contrary, a police officer may, without a warrant, detain for a period not exceeding five days a person whom he reasonably suspects of having committed an offence listed in Part II or Part III of the First Schedule without charging him for an offence and such a person is not entitled to be granted bail during that period of detention.

(7) The police officer who made the detention under subsection (6) shall immediately inform the superintendent, or an officer of a higher rank, of the detention and the superintendent or officer shall, within twenty four hours of the detention, review it and decide whether to order the person released or continued in detention.’”

8.00 p.m.

Clause 6(8) says:

“A Court shall not grant bail to a person who is—

- (a) charged with an offence listed in paragraph (b), (c) or (d) of Part III of the First Schedule if the offence involves the use of a firearm or in paragraph (e) or (f) or Part III of the First Schedule; and
- (b) a gang member, who is charged with an offence listed in Part II or Part III of the First Schedule,
and who has, in relation to the offences listed in Part II or Part III of the First Schedule—”

Mr. Speaker, I ask for your indulgence please, because I am speaking to the public. They can read, but I would like to educate the public.

Mr. Speaker: You are speaking to me.

Mrs. P. McIntosh: To the Speaker.

- (i) “been convicted of at least one such offence within the last ten years, whether the conviction was for an offence arising out of separate transactions or a combination of offences arising out of a single transaction; or
 - (ii) at least two pending charges for such offences, but the offences shall have arisen out of separate transactions, and not from a combination of offences arising out of a single transaction.
- (9) Notwithstanding subsection (8), where a person is charged with an offence mentioned in subsection (8), and brought before the Court but no evidence has been taken within one hundred and twenty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.”

This proposed amendment Bill, 2010 purports to subvert the presumption of innocence that is afforded to all members of our citizenry. This is quintessentially a Goliathian point of law that should not be floored by a whimsical slingshot. [*Desk thumping*]

Mr. Speaker, may I respectfully remind this honourable House that the presumption of innocence is a legal inference that holds the fundamental principle that a person may not be convicted of a crime unless the State, while prosecuting the persons for the alleged crime, can satisfy the requisite standard of proof; proof beyond a reasonable doubt, and this without the burden shifting to the accused to prove his or her innocence. The Constitution embraces this fundamental dynamic.

Mr. Speaker, I would like to examine the power of the police. This Bail (Amdt) Bill focuses on police officers with the power to detain persons belonging to gangs. Ordinarily, members of the police service are guided by the Police Service Act, subsidiary legislation and other regulations. The Common Law provides that a person can be detained by the police without a charge being brought against him for a period not exceeding 48 hours. This proposed Bill seeks to extend this time from 48 hours to five days, which is a maximum of 120 hours. In other words, a citizen in this country could be detained for up to 120 hours without being brought before a court of law. This is in direct contravention to his or her rights under section 4 of the Constitution. We just cannot contravene the Constitution as we wish.

The Bill even goes further. It proffers an unfettered discretion to a superintendent or a superior officer to determine whether the person can be released or continued in detention. Such legislation is an affront to the spirit of

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sections 4 and 5 of the Constitution of the Republic of Trinidad and Tobago. [Crosstalk] I am hearing the Member for Oropouche East talking about a parang band, but I am working and he is playing. [Desk thumping]

Mr. Speaker, the deprivation of a person's freedom can only be achieved by due process of law; a process whereby all accused persons shall be brought before the court in an expeditious manner. The matter of promptitude with regard to this Bill is being called into question, because this Bill is bereft of expedition.

This Government seems to presuppose that democratic freedoms can be easily dispensed with. How can a democratic society of advanced individuals propose the detention of a person's freedom from 48 hours to 120 hours without a plausible explanation and propose that this is buttressed by statute?

Let me re-emphasize that a police officer under this Bill holds a discretion that is unchecked. Just by his review, he could arbitrarily restrain a person's freedom for 120 hours. This is teetering on being monstrously iniquitous to our citizenry.

I would like to examine the role of our police service. Our police service is meant to be an agent of the state to investigate and garner information expeditiously, to allow the courts to be furnished with such information so the courts can properly implement the due process of law.

The police service is not meant to exercise an unchecked discretion, especially with regard to the deprivation of a person's freedom, a discretion which I respectfully contend should remain with the Magistracy and the Judiciary.

In this very regard, I wish to pose two questions: does a police officer have the legal training on the principles of law germane to the Constitution or human rights? If not, why then does the Bill purports to give this discretion to a police officer? Mr. Speaker, another alarming aspect is the court's power in relation to bail in this said Bill. It would appear to me that the court's discretion is usurped by this Bill.

When I referred to clause 8 of the Bill earlier, I mentioned the court shall not. On this reading, it can only be construed that the court's power is mandatory or fixed whereby the court cannot exercise its discretion which it was afforded under the Bail Act, Chap. 4:60 under sections 5 and 6.

Mr. Speaker, there are certain factors which the courts take into account for allowing bail, and these may be summarized as follow:

- whether the persons might abscond from the jurisdiction on the evidence put before the court for a bail application;

- whether the person is a first-time offender;
- if he were a previous offender, the court will consider whether he complied with bail conditions set by the court; and
- the court will look at the person's social ties with his/her immediate community such as:
 - whether the person has a fixed place of abode;
 - whether he is married;
 - whether he has children; and
- whether he is a known troublemaker.

They will also look at other factors such as:

- employment status;
- responsibility of maintaining gainful employment;
- whether the person is willing and able to voluntarily submit to bail conditions such as surrendering his or her passport and reporting to the police station, periodically; and
- other special factors, such as medical condition, will also be considered.

All of these factors are eliminated by the Bail (Amdt.) Bill proposed by the Government. It is unjust, unfair and indeed draconian. [*Desk thumping*] It seems that we are in a parody. This Bill is paradoxical regarding the freedom of the accused in that:

- A police officer of no judicial training is permitted to constrain a citizen's freedom without due process for up to 120 hours under clauses 6 and 7.
- The court that possesses the requisite judicial training to exercise discretion in permitting freedom cannot do so because of clause 8.

Mr. Speaker, again, I say, this Bill is an affront to the spirit of the enshrined rights of our Constitution. [*Crosstalk*] Mr. Speaker, I have no time—

Mr. Speaker: I am listening very intently to the Member for Port of Spain North/St. Ann's West. I seek the cooperation of all Members to allow the Speaker and the *Hansard* recorder to listen and record. Thank you very much.

Mrs. P. McIntosh: Mr. Speaker, when you are speaking sense, and they do not want you—

Mr. Sharma: I want you; I want you. [*Laughter*]

Mrs. P. McIntosh:—and you are speaking to the public, they try to derail you. Mr. Speaker, I want you to tell the Member for Fyzabad to stop derailing me.

I move now to clause 6(9) of the Bill which further provides for the defendant to apply to a judge for bail after the 120 days or four months, providing that the prosecution has not gathered or found any evidence against the accused. This would seem like a reprieve, if you would want to call it a reprieve, since I must respectfully remind this honourable House that up to this time the accused person has only had the charge read to him but the opportunity has yet to be afforded him to challenge the charge for his freedom. Again, I say that the presumption of his innocence is severely eroded by this Bill.

Mr. Speaker, administratively, this High Court remedy will not only crowd our already cramped system, but presents an uncertain avenue for the accused who has already been in custody for four months. It is only at this juncture, after the 120 days, that judicial discretion takes life. The judge under this Bill has the ability to use his or her discretion in deciding whether or not to grant bail after four months, which is such a long period of time. What if he decides, based on circumstances presented to him, that bail is revoked? How long does the accused remain in detention?

We must also look at the culture of police officers. I have to say, in my opinion, our police officers are trying very hard to effectively and efficiently perform their duties to serve and protect. [*Desk thumping*] I meet them all the time—when I come down the steps in the road in front of the Parliament—and they are polite and helpful, but we have to admit that, in some cases, there is much to be desired.

We must have regard for the culture of our police officers. We must take into consideration that they are expected to comprehensively and expeditiously investigate matters before them. I have had the opportunity to be in court recently and, currently, officers still return to court at frequent junctures stating why they have not completed their investigations and request leave to extend the time for the next court date or have some excuse why certain procedures were not followed. What happens then to the accused? Will he be made to go without bail for yet another extended period? Is this fair and just to him, especially if he is innocent?

This Bill does not furnish us with a cut-off point or time-frame whereby bail must be given to an accused. Is it that this Bill is allowing the courts to have an extensive discretion? In the final analysis, the public at large would be affected by such unforgiving legislation and will be concerned as to what this present Government is trying to purport and tolerate.

It is noteworthy to consider that the accused may lobby for an appeal on the basis that, his constitutional rights were infringed and, precisely, they were. What sense does it make to preserve his rights today and tomorrow ruthlessly snatch them from under his feet? We might as well put him in prison without a trial.

8.15 p.m.

Mr. Speaker, Great Britain, the seat of parliamentary democracy, rejected such infringement on an individual's constitutional rights since the 10th Century via the Magna Carta. We are in the 21st Century, why are we peddling backward so very fast and in the wrong direction?

If this Bill becomes law, the issue of cost to the State and to the taxpayer must be considered. Currently it costs the State approximately \$10,000 per day per prisoner in terms of food, accommodation, medication, transportation, security and legal aid. If we detain an individual for the maximum period of 120 days, as proposed in this Bill, we are speaking here of \$1.2 million per prisoner.

One year ago statistics revealed that there were 450 inmates in remand year. If we apply this \$1.2 million over the maximum period of 120 days, we would arrive at the extraordinarily exorbitant sum of \$.5 billion. In one year, or 365 days, the State would have to spend \$1.5 billion if every suspect, as this Bill intends, is sent to remand yard. If we envisage an increase in inmates to 1,000 persons, which is a practical estimate given the intent of the Bill, this would amount to a cost of \$3 billion per annum to the State. This is more than the budget allocation for many Government ministries, including the Ministry of National Security. Where are we going to get all this money from? What would this mean to the taxpayer's pocket?

We are in an \$8 billion deficit. I think I heard the hon. Minister of Finance, my dear friend, and a dear man, say that we are going to borrow another \$8 billion from the IADB. We have already collected \$900 million, if I am not mistaken, from what I read in the newspapers, and we are seeking to approach the International Monetary Fund (IMF). Is this Government trying to carry us down—I cannot say a black hole in terms of financial concepts—a red hole of no return? [*Crosstalk*] [*Laughter*]

Mr. Sharma: What colour hole?

Mr. Speaker: Please, please.

Mrs. P. McIntosh: The remand yard is already overcrowded. [*Crosstalk*] Are we going to construct additional facilities? From the intent of this Bill, the increase in inmates would be significant. Where are we going to get all this money? The female facilities are very restricted. Are we going to build new facilities for the females too?

I would like to look now at compensation for abuse.

Hon. Member: Oh God!

Mrs. P. McIntosh: In the *Express* newspaper of August 4, 2010, there was an article about a prisoner who was awarded \$100,000 as compensation for being a victim of a prison beating in 2006. In both the *Guardian* and *Express* newspapers of October 26, 2010, there appeared another article about another inmate being awarded \$150,000 as compensation for the same thing, being a victim of a prison beating in 2007.

Mr. Speaker, how many more cases like this would surface, given:

- (a) the elongated stay in remand yard that this Bill proposes; and
- (b) the probable increase in the number of inmates?

Where are we getting all this money, given our precarious financial situation and our scarce economy? How will we be able to afford all these additional costs?

Very often, when this Government brings proposals and these Bills to this honourable House, many times there is good intent. They are good in essence, but I do not feel they are well thought out and well planned out and this is worrying. This is what we are here for, to help you plan them, think them out and flesh them out.

Mr. Warner: No help. [*Crosstalk*]

Mrs. P. McIntosh: Mr. Speaker, if this Bill is to be amended, we need to look at the improvement of the justice system. We need to fill all vacancies in the Judiciary. We need to set up a court to expedite old cases, bring them forward and try them. [*Crosstalk*] This was a campaign promise of this UNC-lead coalition. They promised to set up a court to try the old cases quickly.

“We must establish a night court to expedite trials.
We must allow for a fixed time frame for a charge to be laid.”

Currently what is accepted is two days. Even if we go to three days, we are willing to bend, but not five days, and this should be made clear in legislation. We must force the police to function efficiently within that period. A longer period would aid in fostering a wider prospect for police abuse and misuse of their power. We on this side totally agree with the five days for a charge to be made.

We must clearly affirm the number of days which should pass whereby bail must be granted, whether or not the police have completed their investigations. We must include that the accused either report daily, at the magistrate's discretion, to the nearest police station or undergo a series of drug abuse monitoring if necessary. We should release minors into the care of parents or guardians, where possible, holding the latter accountable. They should be assigned a mentor or counsellor to aid in citizen development within the time of bail.

A curfew requirement should be enforced which could be attached to the bail. Accused persons could be electronically tagged in order to monitor their whereabouts and we should require the accused to participate in community service, for example, cleaning up or beautification programmes. This Government loves beautification programmes. [*Interruption*]

These recommendations must be considered before this Bill is amended because they would serve to aid in fostering a better individual while he is out on bail and lessen the chances of him or her absconding or committing another offence while outside of the prison walls. [*Interruption*]

Mr. Sharma: Member, would you give way?

Mrs. P. McIntosh: These recommendations would also remedy the amount of criminal activity which currently exists. These are simple recommendations, rather than being so draconian and suppressive. [*Interruption*]

Mr. Sharma: Before you finish, could I ask a question, please?

Mrs. P. McIntosh: Mr. Speaker, we exist in an authentic world, where real people possess real issues; therefore, the inherent suffocation of an individual's constitutional rights under this legislation and the locking away of an individual for a prolonged period of time, without the prospect of having a voice, can only provoke the minds of criminals and interfere with the still apparent peace, despite everything that we still enjoy in Trinidad and Tobago.

I would like to take this opportunity to wish every single citizen of Trinidad and Tobago, and more so my believed constituents of Port of Spain

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North/St. Ann's West, and the hon. Members on both sides of the House, God's richest blessing for a holy and happy Christmas and a bright and prosperous new year.

I thank you, Mr. Speaker.

Mr. Sharma: That is the best part of the speech.

The Minister for Tobago Development (Hon. Vernella Alleyne-Toppin): Mr. Speaker, it is indeed a pleasure and privilege to address this honourable House on the occasion of Human Rights Day. We are discussing such an issue today that is fitting tribute to the need for human rights in this whole beautiful world that we are trying to spoil in Trinidad and Tobago.

I must talk about Tobago; I must talk about the global village and I must talk specifically about crime in Trinidad. I want to repeat that: I must talk about Tobago; I must talk about the global village and I must talk specifically about crime in Trinidad.

Maslow's hierarchy of needs identifies security as one of the needs of the human being. The security of the person is important to healthy living.

Hon. Ramlogan: Good point; good point!

Hon. V. Alleyne-Toppin: Therefore, as we sat here and talked and bantered about crime and its affect on human beings and people in our society, I received a text message. I will read parts of it for you.

"Dear Minister Toppin, I just want to inform you that a friend of mine who owns a villa here was broken into, robbed and raped last night. This was at Riseland. Her passport was one of the things that was taken and she is a Canadian citizen, but a resident of the UK so this will go down very well with the Canadian Embassy as they have already stepped up their warnings about the incident in Bacolet and the two ladies who were raped in Trinidad.

I responded:

"I am sorry, what responses has she had so far? I offer every resource at my disposal. Can I see her or perhaps speak with her?"

Thank you."

Mr. Speaker, she wrote her response which I want to share with this august House on this International Human Rights Day. I am talking about a Canadian citizen who has come to Tobago for holiday:

"The response from the police has been very good. She had her house phone and cell taken so had to run down the road heading for the police station when

a man stopped in a car. Seeing that she was in an awful state he took her to Grange police and they took a report and also took her to the hospital. The fingerprint people have been there, but they could not find any.

I have someone with her at the moment and will be going to pick her up to take her home with me in about an hour's time. I will ask if she is willing to talk to you, but I am not sure if it would be today as I am not sure just how much more she can take at the moment. She has had no sleep.

The hospital is giving her drugs in case the guy is HIV positive and also antibiotics in case he has other diseases. However, as you would probably realize, she would not know for certain another six months as to if she has HIV.

We need more police and the joint task force back to back this island. There are so many crimes leading up to Christmas and it is just getting worse. I have also just been told that two masked men with cutlasses were seen last night round a villa in Courland. The police were called but the guys ran off.”

She made an arrangement to see me; she does not even know that I am in Trinidad. She thinks I am in Tobago. Draconian crimes called for draconian times. [*Desk thumping*] Crime in Tobago, the capital of paradise, is rising. Crime in Trinidad is totally out of control. We have started locking up innocent people and setting criminals free.

Hon. Ramlogan: Well said; well said.

Hon. V. Alleyne-Toppin: Therefore, we have a witness protection programme where the person who is the victim has been locked up. I can tell you of some, because I know some of them. They had to change their identity. They had to change all their family ties; change names; become a completely different person; forget that they even had O levels, A levels and degrees and all of that; invent a whole new personality and live in a different country, no longer able to visit any relative anywhere in the world, because we who are responsible for treating with crime and for running our society in a proper way, are too soft to stand up and say, “What you are doing is wrong.”

In Trinidad, I am especially embarrassed by the black-on-black crime, and I say it without any apology.

8.30 p.m.

I am especially grieved by black-on-black crime. Black-on-black crime is when black people are killing black people. That is black-on-black crime. I lived in the United States of America for some time and there are times when a society

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comes to a point where it is so grieved that it implodes rather than explodes. This is what is happening in Trinidad at this time. Disenfranchised people sometimes implode and consume themselves and that is what we call black on black crime. You understand me, Member for Point Fortin? *[Interruption]*

This is a syndrome of the system of dependency that the previous government has scourged our people with. Therefore, people are not empowered. This People's Partnership Government is going to move Trinidad and Tobago to a place where people are empowered, where people realize themselves as human beings, where people take their place in the society as responsible citizens. We would move in every possible way to remove crime. This Bill is only one of myriad measures that we have devised. We cannot say the same for the PNM. We cannot say the same *[Interruption]* for 10 years of climbing crime. *[Crosstalk]*

Somebody is talking about the Commissioner of Police is disturbed. He has a right to be disturbed. *[Crosstalk]* He has a right to be disturbed. When we are talking about murders. We are not talking about some kind of game on a Nintendo or on a Playstation. We are talking about the life that is sacred to every creed and race. *[Crosstalk]*

I live in a place called Government House Road, very close to the President's house. On our street last week—*[Interruption]* Member for Port of Spain North/St. Ann's West, I want you to pay attention.

Mrs. McIntosh: Yes, Ma'am.

Miss Cox: Chandresh is disturbing her.

Hon. V. Alleyne-Toppin: Last week on that road where the President lives, where I live, two bodies were found in shallow graves. The whole neighbourhood is now traumatized. I am telling you because I live there.

Tobago is considered clean, green, safe and serene. *[Interruption]* We are a tourist economy and we are depending on tourism for our sustenance. The more crime pervades Trinidad the more we have less tourists. You understand what I mean by that? The more crime pervades Trinidad, the less tourists we get. We have started to wonder if to disaggregate ourselves now from the Trinidad and Tobago statistic so that tourists would be attracted to Tobago. However, we have found that there is a creeping, seeping of the criminal activity from Trinidad into Tobago and it is coming—we know. You could see it. It comes on the ferry. *[Interruption]* We have seen it. If you want to keep a lawless society, you have to stand the consequences of it.

So, you would find in Trinidad every house is built with burglar proofing, everybody is locked down behind wrought iron. In Tobago it is optional, but it is fast becoming mandatory. I went to Tobago last week after Parliament and we got home. We realized when we got home to Tobago that we had not brought any keys with us, we had left all the keys to the two houses in Trinidad, the reason being, we are not accustomed to locking the house, so we are not accustomed to having keys.

Hon. Member: “Do not say that loud nah. Do not say that loud.”

Hon. V. Alleyne-Toppin: I am “saying it loud”. Now everybody in Tobago has started to lock up their houses because of what is happening—because you are not thinking keys, you all understand, we are not accustomed to this car thief and house thief. We are not accustomed to it but it is creeping. I want to tell you that crime is not collateral damage. Rising crime is a result of a government and the People's Partnership will be extremely strong on crime. [*Desk thumping*]

Let me tell you a bit more about New York City, and last week I had a conversation with the Minister of National Security. I said to him, you know when we lived in New York and there was a crime committed, especially a homicide in the neighbourhood—in the hood—helicopters circled that area and police cars locked down that area and nobody could move. You had an all-points bulletin, nobody could move.

Trinidad and Tobago is a place—Trinidad especially—of traffic jams, you cannot get anywhere when you want to get there. I took nearly one hour to go across Independence Square, up Henry Street, across Queen Street and come here, nearly one hour in a car. I could have gotten here several times and back walking. Yet we cannot find a man who shoots somebody in Trinidad and gets in a car and drives away. We cannot find the man at all. We cannot find him then, we cannot find him the next day, we cannot find him the next year; we could never find him and everybody is standing there watching and we cannot find him.

We, as a Government, have to get serious about crime. We have to talk like, Member for Diego Martin North/East—we have to talk about GPS, global positioning systems. We have to put bracelets on repeat offenders who come through that revolving door. He said that last week.

Mrs. Gopee-Scoon: Make sure it is not yellow.

Hon. V. Alleyne-Toppin: We have to get together as a Government and the People's Partnership Government is sure—surely will sit with you and make good plans.

Mr. Imbert: I agree with you.

Hon. V. Alleyne-Toppin: You must agree. You are doing some intelligent work, Member; very intelligent work. [*Desk thumping*] I want to say that maybe you should be on this side if that is at all possible—

Hon. Member: Nooo!

Hon. V. Alleyne-Toppin:—because on this side we are well constituted legally. We have some of the best brains in the legal business in Trinidad and Tobago. [*Interruption*]

Let me start with our Attorney General, Anand Ramlogan. [*Desk thumping*] Does anybody in Trinidad dispute that?

Hon. Member: No.

Hon. V. Alleyne-Toppin: When we say in Tobago, “anybody bother yuh yuh say, I go get Anand Ramlogan”—[*Desk thumping*] the hon. Prime Minister, Kamla Persad-Bissessar.

Hon. Member: Yeah, yeah. [*Desk thumping*]

Hon. V. Alleyne-Toppin: The hon. Minister of Legal Affairs, Mr. Prakash Ramadhar; the hon. Justice Volney.

Hon. Member: Oh yeah. [*Desk thumping*]

Hon. V. Alleyne-Toppin: The hon. Jairam Seemungal; the hon. Dr. Roodal Moonilal. [*Continuous desk thumping*] You want more lawyers than that?

Hon. Member: “All yuh have Chandresh Sharma”.

Hon. V. Alleyne-Toppin: Hon. Chandresh Sharma, you want more than that? [*Laughter and desk thumping*]

[*Miss Mc Donald stands*]

We have Miss Marlene Mc Donald. [*Laughter*]

Miss Mc Donald: You know, I was going to allow you to go on but when you called the Member for Fyzabad, I got scared so I have to use 36(1). [*Laughter*] Mr. Speaker, 36(1), “tie it up nah, tie it up nah”, relate it to the Bill. I know you cannot relate the Member for Fyzabad to the Bill. Relate it. Member for Fyzabad, please! [*Crosstalk*]

Mr. Speaker: All right! Yes, now do not be disrespectful. Please! Please! Hon. Minister of Tobago Development, link and let us go. [*Crosstalk*]

Hon. V. Alleyne-Toppin: The hon. Member for Port of Spain South. So between us, this country is waiting for us to make proper legislation and we would take some of the teacher's recommendations. [*Interruption*]

Carrying a firearm—if you do not have the legal right to carry a firearm, you are already outside of the law. So, if you are outside the law and we lock you up without bail for a few days until we sort you out, we are acting inside the law. In our jurisdiction people are considered innocent until they are proven guilty. In most jurisdictions in other places, people are considered guilty until they are proven innocent. We are making sure that we have a society where we ourselves cannot live. We cannot continue like that.

Hon. Member of Parliament for—“where you from boy?”—Chaguanas East spoke about New Zealand. I have lived in New Zealand. My family lived in New Zealand. I lived all about. When you listen to the news in the night in Trinidad and Tobago, crime, crime, crime; one thing after the next, murder. You pick up the papers, a mother and son, they do not know where to live, they are afraid. They are in the hospital and they still want to kill them—all kinds of things.

I have lived in New Zealand and when they are looking for news in the night—one night they came, a cat got up on a roof and the fire service had to take it down. [*Laughter*] The next night an otter got away from the zoo and they were looking for the otter. The next night—well they have 60 million sheep and three million people—the next night a snakeskin was found and the whole place shut down and everybody was looking for the snake. One specialist said it was such and such kind of snake and for three weeks everybody “in clutch” shutdown. Then they found out it was a snakeskin from a Halloween costume, an artificial snakeskin, because New Zealand has no snakes.

I am telling you, I live in Tobago and we call it the capital of paradise because we want to sell it. If I had to call somewhere a capital of paradise, I would say New Zealand is one of the capitals of paradise in the world. You want to buy your newspaper, you pick up the newspaper and you put down your money there if you want and you go. People live a civilized life in some countries, and we used to live like that and we could still live like that.

I want us as a responsible Government to remember, security is one of the major needs in Maslow's hierarchy of needs. I want to make a few recommendations for when the people who are doing this deliberating—sexual offences, for one, should be notifiable. A repeat sexual offender should have his

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or her name published in a place where you know that is an offender. [Interruption] That person is supposed to report to wherever, once a week, twice a week and we are also supposed to do like the Minister said and tag them.

We must not allow the revolving door to keep revolving and killing us. Whose constitutional rights are you protecting when you talk about protecting the constitutional rights of the—

Mrs. McIntosh: Everyone! Everyone!

Hon. V. Alleyne-Toppin: We have organized ourselves in such a way that our victims have now become the victors, or victims have now become the people who have the most trouble. When you go to a police station with a rape story, you are the person who is under siege, not the rapist. [Interruption]

I am telling you about these two bodies in my neck of the woods on North Side Road. The day that the little girl disappeared—she was 12 years old and she disappeared a day in August, early in August, and I saw it on the news. I went the very next morning to her house, to her mother and her stepfather and I sat with them and talked with them and the grief in that house—she had been gone a few hours and the grief in that house and the *Bible* on the side—I mean, I felt I could cry—and talked to the mother and I saw that there was something inside of her belly—if you are a mother you would understand what I am saying—that she could not contain.

I called the ACP, the man in charge of police in Tobago “one time”. I said to him, “A 12-year-old girl is missing and we have to hunt for her.” He said, well, they got the report and they started. I said, “Why can’t you bring a tracker dog or two and find this girl? She is 12 years old.” They said, “Well, we doh have no dogs in Tobago.” I said, “Why can’t you bring some dogs from Trinidad? We need to look for that girl.”

I want to make this long story very short. I called him no less than 20 times between August and last week and they told me all kinds of things, “She ran away with a boyfriend.” I say, “If a 12-year-old girl runs away with a boyfriend, find the boyfriend and lock him up.” “She ran away from the stepfather.” I say, “If she ran away from the stepfather and you find something, find the stepfather and lock him up.” I am saying it out all now. I said, “We must not allow adults to contribute to the delinquency of a minor. That is on offence.”

8.45 p.m.

If the parent is the delinquent adult, the parent must stand the consequence of the actions of the child, and if we sit together we could come to a point where this country will begin again to have the kinds of values that will make all of us safe.

Teacher, I have to get back to you, because when we teach, we teach attitudes and values, and this is so important. I say the social studies teacher—you are a teacher, Member for La Brea, always a teacher. A social studies teacher could hold this country and make it into something very worthwhile, because when you teach you must teach attitudes and values, by your attitude and through your values and we have national attitudes and values, in any case.

I am talking about the little girl. They started to say she had run away and she was living with some adult and I kept saying, “Find the adult and get the little girl back.” When school was opened and she did not go to school, I said, “ACP, why can you not find this child? Little girls like to go to school. If she is somewhere else”—they kept telling me she is alive; she is somewhere; people have seen her. You understand what I am saying?

However, last week there was this foul smell coming from one of my very close friends’ house near to my house and the foul smell turned out to be a senior lady, 71 years old, who lived in the neighbourhood, who had gone to this shop, and when they were looking for that scent—what was causing the scent—they found this body of this 71-year-old woman and very close to that body they found the remains of the 12-year-old girl. She was found mere yards away from her house, and I said, had we had some tracker dogs, seeing that we knew she had gone to the shop, we could have found her the first day.

Hon. Member: So if you get the tracker dogs, what will happen? [*Crosstalk*]

Hon. V. Alleyne-Toppin: I do not know how you feel but I know the family. I am like my Minister here.

Mr. Indarsingh: You are laughing at this—

Mrs. McIntosh: We are not laughing.

Mrs. V. Alleyne-Toppin: You say, “What the tracker dogs could have done.” You sympathize, but you do not empathize. Perhaps you sympathize but you do not empathize.

Mrs. McIntosh: Member for Tobago East, I empathize.

Mrs. V. Alleyne-Toppin: Because the mother is going to have, any day now, a funeral and the funeral will be one where she cannot even see the child. Let me tell you why. The state of decomposition was so bad. But further to that, somebody said to me last night, they cannot find the head. You understand? The story is as horrible—I am hoping the mother is not looking at me now. The story is a horrible one. I am not going to talk about all of the other stories because everybody knows a story, but I am saying, rather than trying here to have a debate where you win or I win, let us come to the point where we understand. It is time to save those young criminal minds themselves—save them from themselves—because if we grow the children up in the way they should be, they will never depart from that way when they are older.

If we at all say anything that seems to condone the fact that we are going to be soft on the child, it is simple: spare the rod and spoil the child. So if as a Government we want to be soft on heinous crimes, how can we be soft on heinous crime? What kind of Government are we? I am talking about the People's Partnership, PNM; we are all the Government of the Republic of Trinidad and Tobago, and the people who should be most concerned about crime in this country are the people who are sitting opposite us, because there is a clear, clear indication, when you look at the map from elections, the very, very—most problematic crime areas, those seats are held by Members on the other side. But you have a responsibility. [*Interruption*] I am talking statistics.

Hon. Member: What does that mean?

Mrs. V. Alleyne-Toppin: Some Members on the other side—[*Interruption*] Let me explain myself—

Mr. Jeffrey: You are not correct. Incorrect!

Mrs. V. Alleyne-Toppin: Let me explain myself. I could bring the statistics. [*Crosstalk*] Let me explain myself.

Mr. Speaker: Member for Tobago East, let us—I do not think she was imputing improper motives. She made a general statement and she is going to explain herself if we just be silent. Could you continue, Member for Tobago East?

Mrs. V. Alleyne-Toppin: Thank you, Mr. Speaker. Member for La Brea, I am not imputing anything. There are areas in Trinidad and Tobago where I dare not tread. You understand? There are areas in Trinidad and Tobago where many people will not go, and Trinidad and Tobago has to face that reality. I have a choice in Tobago to live in certain areas and there are areas I will not live, high-end areas where I will not live. I am not talking about low-end areas; I am talking

about high-end areas as well, where crime is seeping in. Member for La Brea, when I talk, I talk from, what we say, empiric—I am talking from experience, and I have lived all over Trinidad. I am not talking about La Brea, if that will make you feel better.

Mr. Jeffrey: Thank you.

Mrs. V. Alleyne-Toppin: I can bring all the statistics to show you what is happening, and I have taught all about. I have taught in schools where the people—I have taught at Bishop Anstey; I have taught at Trinity; I have taught at QRC; I have taught where people sit and listen to you and learn from what you are saying, and I have taught in places where nobody can listen at all because all kinds of other things are in their heads, and you know what I am talking about.

So I think as a responsible Government the People's Partnership Government will show you the way. We will support all this legislation with all kinds of other social measures to make sure that our children and our society are well served. I am actually considering whether the time has come for all of us to be carrying firearms, because since I have got this job they have asked me if I want to carry a firearm. What kind of society are we breeding?

I think that in fairness to all of us we must sit together and decide whether we have a Bill that is too tough and, where it is too tough, we sort it out, but we must never appear to be going into something too soft, otherwise we lose the privilege to be free, and if you give up your principles for your privilege, you will soon lose both.

Today, in the newspapers, we have where the Mayor is thinking about shifting down the sale of alcohol after midnight on Ariapita Avenue and in St. James. So what we are doing some more, we are sending everybody on a self-imposed or maybe an institutionalized curfew. This should never be. A person should be free to enjoy the right of safety to the person. You could drink what you want or do not drink what you do not want. There are many people whose livelihoods are served by those same places where people go for a social drink; people who have jobs—

Mrs. McIntosh: At three in the morning?

Mrs. V. Alleyne-Toppin: Whatever time they want. Maybe that is the time they have. This is a country where you are free to associate with whom you want and when you want.

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So when we look at the Bill, let us look at the Bill in terms of protecting ourselves from the elements in our society that would destroy us. I think investment in Trinidad and Tobago is down and part of the reason is the criminal activity. I am not only thinking, I know, Member for La Brea. Investors from all over the world are coming to me. The British government has imposed a tax on the airline so that people do not want to come to Trinidad and Tobago. The French people are now moving to it; the Germans are moving to it.

What do we have to do? We have to wait until—

Hon. Member: You all are in power.

Mrs. V. Alleyne-Toppin: Because we are in power—[*Interruption*] You know, sometimes I do not know whether she is serious or she is joking. Sometimes I try to follow your reasoning and I think maybe you are joking. I understand the banner of the politics, but, you know, sometimes I am blown away. [*Crosstalk*]

Mr. Speaker: Order! Order!

Mrs. V. Alleyne-Toppin: I just want to make sure that I have all my little points, because I had not intended to speak at all. I did not come to speak, but I was nagged. It keeps nagging me and then the Leader of Government Business, maybe he was feeling that nagging and he came and he said, “I want you to speak.” [*Desk thumping*]

I am telling you, one of my prayers every day is, “God, do not let that happen to me.” I do not know how a mother could have a child disappear for months or weeks. Since I am sitting here my own children have said, “Aye, hello, we are home; we are here”; text. I do not know how a mother could deal with that and I do not know how we could sit here and not protect the women in our society and the children in our society.

Your child goes to school. A little eight-year-old girl disappears. When you have children—maybe you do not feel it, some of you, and men feel it in a different way from women—when you feel it; the child disappears and then months pass and they find the child dead, you cannot—

Miss McDonald: She did not come to talk?

Mrs. V. Alleyne-Toppin: She wants me to stop talking?

Hon. Members: No, no, she cannot do that.

Mr. Indarsingh: She cannot determine that. You continue.

Mrs. V. Alleyne-Toppin: Listen, the child does not just die and the thing goes away, you know. When the child dies the child is lost to you forever. When a person dies, the person is lost to you forever in your natural lifetime.

Miss McDonald: Penance!

Mrs. V. Alleyne-Toppin: She does not bother me at all, at all. She is looking very beautiful in the corner there. She does not bother me at all. I am trying to explain what happens inside of the belly of the mother and the father.

So let us, as a responsible Government, show that we are responsible; show that we are serious about the fight against crime; show that there is no merit in bringing our country to 400-odd murders. Who has been murdered? Suppose somebody murdered 400-odd people in this room. Which one of us will be left alive? If it comes to the point where the statistics are so heavy, it is going to affect every one of us at some time. So when we get into our vehicles and we may have some protection, other people are out there vulnerable.

I was talking to a friend over the weekend about crime, and this young woman said “You know what you all should do as a Government? When people commit a crime”—Member for Port of Spain South, my friend said, “When people commit a crime, you know what you all should do as a Government? You all should cut off whatever part of the body they use to commit the crime.”

9.00 p.m.

You are talking about draconian. The people out there are more draconian in thinking about how to deal with crime than we are, and they are wondering why we are not protecting them. So let us move together as a Government to protect—Member for Port of Spain South, I will give you the honour of not hearing me talk any more. We will talk together by ourselves because I want to understand how you understand this thing, and why I understand it so differently from the way you understand it. There must be something fundamentally different between us.

So the Bill seeks to give the court the jurisdiction to deny bail to the person whom we consider in society a menace to society. I think, and I am quite sure, that when we finish all our deliberations, we will come out with the very best recipe for the protection of human life and limb in Trinidad and Tobago.

I thank you. [*Desk thumping*]

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. [*Interruption*] “De longer all yuh get on, de longer we go here, you know.” I had intended to talk for 75 minutes, but as the evening went on I revised that estimate

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down to 60 minutes, and as the evening went on I revised that down to 45 minutes, but as we continued I revised it down to 30 minutes and I can now assure you, Mr. Speaker, I will be less than 30 minutes.

Now, Mr. Speaker, a number of speakers opposite have misunderstood the purpose, intent and effect of the legislation before the House. Some have done so possibly intentionally, others have just done it because they have had some bad experiences and a lot of emotion came into play. That is a fact. We have had a lot of discussions in the Parliament this evening about the crime of murder, but this is a Bail (Amdt.) Bill and murder is already a non-bailable offence. We are not changing the legislation to change the fact that you do not get bail for the offence when you are charged with the offence of murder. We are not changing that. We are changing other things. I understand the Government is going to take it before a joint select committee—this is my understanding—to put it with the other Anti-Gang Bill, so that the two will be considered together. What this Bill seeks to do is to erode the presumption of innocence that gives rise to the bail.

Now, there have been a lot of emotional talk here this evening, but I think it is necessary to understand where this whole idea of bail came from because that point has not been made, and you, Mr. Speaker, made a very important point when you were Sen. Mark. You are no longer Sen. Mark, Mr. Speaker, but Sen. Wade Mark, speaking in a debate on the Bail (Amdt.) Bill, September 16, 2008, made a number of points. One of them was recited by the hon. Member for Laventille West, where you had indicated the Bail (Amdt.) Bill, 2008 was draconian, dangerous, et cetera. I will not repeat that, but one of the very important points Sen. Wade Mark made in September 2008, which I agreed with, and I quote—the language is a bit hyperbolic:.

“We shall not be party to any attempt by this Government to undermine, subvert and overthrow the independent Judiciary in our country. Traditionally, the Judiciary has the power to grant bail. We believe that should be maintained. I do not want the hon. Prime Minister...to influence any police or to tell the policeman if to grant Sen. Wade Mark bail. I want to go to an independent tribunal where you have independent-minded people to hear my case. I do not want any politician to determine whether I would have bail or not.” [*Desk thumping*]

Now those words as I said, uttered by Sen. Mark, are a bit hyperbolic, but the point is made in the words that we believe that the Judiciary should maintain the power to grant bail, and this strikes at the very heart of what we are trying to do here.

The Bail Act—Member for Chaguanas East, I will forgive you. You were not here—was amended by the last PNM in 2005, it was amended in 2006, it was amended three times in 2007 and it was amended in 2008, and on each occasion incursions were made into the whole question of the presumption of innocence. If I go to the Bail (Amdt.) Act No. 10 of 2007, which really was the substantive amendment, this Act in 2007 made the offence of the kidnapping non-bailable and in this Act it says:

“5A. (1) A Court shall not grant bail to a person charged with the offence of kidnapping for ransom or unknowingly negotiating to obtain a ransom under the Kidnapping Act, 2003.”

At the request of the Opposition, I believe it was Mr. Panday and also the Member of Siparia who would have been sitting somewhere around here, this section was introduced in 2007:

“5A. (2) Notwithstanding subsection (1)”—that is the one I just referred to which made kidnapping a non-bailable offence—“where a person is charged with an offence mentioned in subsection (1)”—this is kidnapping—“and brought before the Court but no evidence has been taken within sixty days of the reading of the charge, that person is entitled to make an application to a Judge in Chambers for bail.”

So it was at the request of the UNC Opposition that we agreed to introduce a 60-day time limit, that if a person is charged with the offence of kidnapping or negotiating to obtain a ransom, that if no evidence was proffered by the police within 60 days, that person could go and apply for bail. That was a request coming from the Opposition. It was perfectly reasonable because what this Act did, it encroached on the whole concept of the right to liberty and the presumption of innocence.

Now this is not something to be taken lightly. I was talking across the floor to the Member for Oropouche East and I told him a king lost his head over this whole bail thing. He asked me which king, so I checked. It is King Charles I.

Mr. Warner: You could have asked me.

Mr. C. Imbert: I could have told you.

Mr. Warner: You did not ask me.

Mr. C. Imbert: All right! I forgot you were a history teacher of repute. But King Charles I in the early 17th Century ordered his noblemen to issue him loans. In other words, he got up and said, “I want money. Give me money.”
[*Interruption*]

Mr. Warner: 1648.

Mr. C. Imbert: Yes, correct. Those who refused were imprisoned. Five of the prisoners filed a habeas corpus petition arguing that they should not be held indefinitely without trial or bail. They were not given any bail and in the Petition of Right, 1628, the Parliament argued that the king had flouted the Magna Carta by imprisoning people without just cause.

Now, this unjust act of this unjust King Charles I led to a series of events. Eventually, with his execution where they cut off his head—because the actions of this king in refusing bail was seen as the tyrannical behaviour of an absolute dictatorial monarch, they cut off his head eventually. He continued with this sort of thing. Eventually, they got tired of him and the Parliament determined that he should be killed. But out of this came the English Bill of Rights, 1689.

Now the English Bill of Rights is the forerunner of all human legislation in a common law jurisdiction that follows the Westminster system, and in the English Bill of Rights the part that is pertinent to what we are doing is the section that says that—well they called themselves by fancy names in those days:

“...the Lords Spiritual and Temporal, and Commons”—that is the parliamentarians—“pursuant to their respective letters, and elections”—they recognized that they were elected by the people—“being now assembled in a full and free Representative of this Nation...”

So this is parliamentarians enacting one of the Bill of Rights, asserting their ancient rights and liberties declare, and this is the one:

“That excessive bail ought not to be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted;”

This 1689 Bill of Rights is the foundation for the whole concept of bail. It found its way into the eighth amendment of the United States Constitution which adopted more or less the provisions of the English Bill of Rights. In the eighth amendment to the United States’ Constitution, again, they recited the fact that no excessive bail should be required and so on, and the whole concept of the right to bail was introduced into the United States jurisprudence.

Now a lot has happened since then. Many jurisdictions have amended their legislation, many of them have made certain exceptions to bail and that is what we were doing in 2007. We were making an exception to bail. We were saying that persons who are charged with the crime of kidnapping, or charged with trying to obtain a ransom should be denied bail. First you had murder, treason, very heinous crimes of that nature and we added kidnapping. What this Parliament did—because as I say it was legislation that was passed with the support and agreement of the Opposition—was brought in the concept of repeat offenders. Those of you who travel to the United States would be familiar with the three strikes law.

So what we did as well was to introduce a section which required that persons who had two previous convictions for a number of serious crimes—they are all recited in the Schedules to the legislation—would be denied bail. So it was your third strike. So you had been convicted of possession of a firearm, imitation firearm, larceny of a motor vehicle, perverting justice, arson, et cetera, et cetera, two convictions and you are now charged for the third time, what we in this Parliament of Trinidad and Tobago decided was persons with that record would be denied bail.

What this legislation does—that is why I said, Mr. Speaker, as I was listening I started to reduce my time—is makes a further, and as far as we are concerned, a completely unjustified incursion in the right to liberty because the whole purpose of bail—why do you have bail? It is threefold. You want to make sure that the defendant appears in court, so there is an incentive for him to appear because his bail will be forfeited if he does not appear; he also may wish to protect the community, so you give the juridical officer, the magistrate, the judge, the discretion to establish whether this person is a violent offender, a danger to the community and whether you should deny bail; then you have the whole idea of the persons who are not just, maybe, a danger to the community, but are repeat offenders who are violent. So persons like that, the court would always exercise its discretion in dealing with violent offenders. So those are the three purposes of bail.

Now it is recited in many places, in many different ways, in our own laws, that you want to ensure the person's attendance; you want to make sure they do not go back outside and commit the same crime over and over again—as soon as they get outside they commit the same crime—you want to make sure that someone who is a very violent person and has 10 convictions for wounding or whatever it is, that a person like that is detained.

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What does this legislation do? First thing it does, it moves the common law precedent of detention for 48 hours to detention for five days. I have not seen that in many other jurisdictions. I do not think it is appropriate. I think what the Member for Port of Spain South has indicated is appropriate. The United Kingdom precedent, where after 24 hours the police officer gets in—we could make that 48. We could modify it to suit our circumstances—but after a short period of time a senior police officer comes in, he or she could extend the period of detention for another 12 or 24 hours, and after that the person should be allowed to go to a magistrate, as occurs in England, together with their attorney. Because what you are really doing is that you are going against the whole grain of the concept of innocent until proven guilty—[*Interruption*]

Mrs. McIntosh: That is right.

Dr. Moonilal: [*Inaudible*]

Mr. C. Imbert: Yes. We decided that we should make that exception. This Parliament decided that the crime of kidnapping was so heinous, just like murder, that even though the person had not yet been found guilty, they should be deprived of bail.

9.15 p.m.

What does this thing do? This legislation before us not only stretches the period of detention from the current common law period of 48 hours to five days; it gives the police the authority to get involved. That does not make sense, because all of the people who will be involved in detaining this person from five days will be police officers, so you are giving the police a power which we, respectfully, do not think they should have. We think the Judiciary should get involved much sooner than this five-day period. We agree with the statements made by Sen. Wade Mark that it should be up to the Judiciary to establish whether a person should get bail or not. We do not agree that the discretion of the Court should be removed in this way.

The other thing that bothers me with respect to this legislation is clause A 6(8) because it says that:

“A Court shall not grant bail to a person who is—and this is (b)—“a gang member, who is charged with an offence listed in Part II or Part III of the First Schedule...”

How does one become a gang member? How do you establish if somebody is a gang member? I think you would have to convict them first.

So, if somebody is a convicted gang member, how can they be committing a crime? Does this mean that once you are convicted as a gang member—you can be convicted at age 18 as a gang member—when you are 58 years old, 40 years later, if you are charged, simply charged, with one of these offences, you have not been found guilty—and let me look at some of the charges here that you could be charged with: larceny of a motor car, receiving stolen goods, possession of a firearm without licence. You are simply charged for it. There is no presumption of guilt. If you have been convicted for a gang-related offence, then, for the rest of your life you are going to be in big trouble when it comes to this legislation. This really needs some tightening up.

In our judicial system, I am told that after 10 years your record is wiped clean. That is what I am told. Any lawyer on the other side could correct me if I am wrong. But this legislation seems to have you there in perpetuity, that you have served your time, you have done your time, 10 years have elapsed, but with this legislation you are going to be subjected to this very severe incursion into your liberty. So what this Bill does is it goes beyond kidnapping and takes you into a series of offences—possession of a firearm; larceny of a motor vehicle—and I am sorry the Member for Chaguanas East is not here, but the way he was talking, he was talking as if the people were already guilty.

Mr. Sharma: That is not true. That is not true.

Mr. C. Imbert: No, I said the way. I am not speaking to you. You are distracting me. He was speaking as if the persons who are going to be charged have already been found guilty.

Mr. Sharma: That is how you understand it? Not true.

Mr. C. Imbert: Mr. Speaker, I am satisfied—I am satisfied that legislation of this nature will not be tolerated by the courts. The courts are very, very serious about deprivation of liberty. They will tolerate no bail for kidnapping; they will tolerate no bail for persons who have two previous convictions and are charged for a third offence.

Mr. Sharma: Do not speak for them.

Mr. C. Imbert: And even when we were doing the Bail Bill of 2007, we were advised that we were on shaky ground. We were advised by persons who are familiar with our jurisprudence that we are already taking that to the edge of the line where a Court might start considering that you could strike down the law

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because it offends section 13 of the Constitution. I am certain that what we are doing here, we are reducing it from two previous convictions to one. That is what one of the clauses of the Bill does.

It means it is no longer two convictions and the third strike. It is now the second strike and you get no bail, and then it is introducing a whole series of offences, some of which we really have to look at very carefully—the whole question of what is a gang member—because now, if you are a gang member, you will be denied bail. That is what this legislation does.

I am very, very glad that this legislation is going to a Joint Select Committee. We want to say on this side that we do not wish to give the impression for a minute that this Opposition is not in favour of measures to deal with the criminal element in society. We are, but it is our duty and our responsibility to make sure that good law is put on—where is your—[*Interruption*]

Dr. Moonilal: We have to respond to you.

Hon. C. Imbert: No, but where is your AG?

Mr. Sharma: I am here, man. You continue.

Mr. C. Imbert: No, no. I will keep talking until he shows up.

Mr. Sharma: We are here. Your level of intelligence we could match. We do not need the Attorney General to deal with your level of intelligence.

Dr. Moonilal: You could wind up.

Mr. C. Imbert: All right, if you say so. Mr. Speaker, we want to make it very clear on this side that it is our duty and our responsibility to ensure that good law is put on the statute books. It is our duty and our responsibility. We recognize that when we deal with matters like this, a lot of emotion comes into play. A lot of emotion comes into play.

Mr. Speaker, a lot of the debate on this measure has simply not dealt with the clauses in the Bill, because it is all very well to come and talk about murders and kidnappings, and so on, but this legislation does not deal with that. This is what the Government has to understand; the Government members who were so passionate today. I listened to the Member for Tobago East who spoke about capital crimes. This legislation does not deal with that. That is already a non-bailable offence.

Mrs. Alleyne-Toppin: That is where it comes from.

Mr. C. Imbert: It is quite all right. It is quite all right. You see, that is the problem.

Mr. Sharma: According to you.

Mr. C. Imbert: That is when you start creeping towards a police state, because, what legislation like this does—*[Interruption]*

Mr. Sharma: You are talking nonsense; arrant nonsense.

Mr. Speaker: Please, please.

Mr. Sharma: You are a know-it-all.

Mr. C. Imbert: With all the “ol” talk, I am very aware of the fact that the Government recognizes that we have to do surgery on this legislation. We have to do surgery on it because it encroaches on fundamental rights and freedoms, and as the former Sen. Mark said, very eloquently—

Mr. Sharma: Stop playing games.

Mr. C. Imbert:—in 2008, I read again.

Mr. Sharma: Stop hiding.

Mr. C. Imbert: It states:

“...it is clear to us on the Opposition Benches that this Government is seeking, not only to breach sections 4 and 5 of the Constitution, but it is also breaching section 54(6) as it seeks to alter the Constitution. In altering the Constitution, we are of the view that a two-thirds majority is required.”

I could not have put it better myself.

Mr. Sharma: What is your point?

Mr. C. Imbert: The statements made by Sen. Mark are very, very instructive. The point is—

Mr. Sharma: That is the only good point you make.

Mr. C. Imbert:—that there is no point in the Government believing that because it has 29 seats—

Mr. Sharma: Oh Lord. The same thing again.

Mr. C. Imbert:—it can pass this legislation with a three-fifths majority. It might somehow get a three-fifths majority in the Senate, I doubt, but then when the legislation is assented to or proclaimed, it is immediately challenged by the first person who is denied bail under this new legislation and it will be struck down in very, very short order.

It is our responsibility in this Chamber here tonight, Mr. Speaker, to understand that we have a responsibility. We have a responsibility in this Chamber here tonight to make sure that we put good law on the books, and we cannot draft legislation based on emotion. We cannot—

Mr. Sharma: You are beginning to repeat yourself.

Mr. C. Imbert: I am winding up. We cannot draft legislation based on emotion. We must be very, very careful of what we do in this Parliament. The reason is that there is an underlying assumption that all of us in this Parliament are trying to achieve the same objectives. One assumes that with the Bail (Amdt.) Bill and the Anti-Gang Bill, and the fact that the Government has already signalled that it wishes to take these two pieces of legislation to a Joint Select Committee to work on it, and the comments made by the Member for St. Joseph about the whole question of arbitrary detention when he spoke on the Anti-Gang Bill—the whole concept of detention without being charged, and so on—there is clearly an understanding on that side that there has to be work done on this.

The last thing this Parliament would want to do, Mr. Speaker—

Mr. Sharma: You said that already.

Mr. C. Imbert: I am going to say it for the last time. The last thing that this Parliament would want to do is to waste all of this parliamentary time, all of this intellectual capacity, all of the work that went into the drafting of these Bills, to create bad legislation that will simply be struck down by the Courts; and the whole objective of dealing with gangs and criminal gangs in this country, repeat offenders, violent offenders, will be defeated by imperfect and defective legislation.

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

The Minister of Foreign Affairs (Hon. Dr. Surujrattan Rambachan): You better get your blankets and pillows, and so on. Thank you, Mr. Speaker. Thank you very much. Mr. Speaker, I join this debate because I think that there are certain points that have to be emphasized or re-emphasized. I heard the hon.

Member for Diego Martin North/East speak about allowing emotions to come into the debate, but I would like to put forward to the hon. Member for Diego Martin North/East, how would he feel if he had a member of his family, female member of his family, raped.

Mr. Imbert: I would not feel good.

Hon. Dr. S. Rambachan: Good. How would you like to read that a member of your family is one of the 263 rapes for 2010?

Mr. C. Imbert: I would not feel good.

Hon. Dr. S. Rambachan: You would not feel good. How would you feel if you were that husband and your wife was praying, the bandits are there and they want to snatch her and you were the one to throw your body on to that woman's body in order to save your wife? That is what exists in Trinidad and Tobago today.

Mr. Sharma: He will not do that. He will run.

Hon. Dr. S. Rambachan: It is in this context that we must understand what we are bringing before this Parliament in terms of the People's Partnership Government. [*Desk thumping*] We must come back to reality. The laws are required in order to suit certain circumstances. The hon. Member for Diego Martin North/East and hon. Marlene McDonald made some good points and they ought to be considered.

This is a Government that considers good points. This is a Government which the Prime Minister said is not going to use its constitutional majority to ride roughshod over the population. This is not a Government that is not going to listen to what you are saying. This is a Government that is prepared to listen; but, at the same time, we must not run away from the fact that what is going on in this country is despicable and it is an affront to human dignity in terms of how citizens are being attacked in their homes and what is happening to them.

When you read that there were 360 rapes—356 reported incidents in the year 2009, from the *Daily Express* of today—and there are 260 cases—already reported, then you must understand that the population of Trinidad and Tobago is looking on at us tonight, and perhaps they looked on with a bit of disgust when they saw the giggling and the laughing on that side of the Parliament when matters relating to life and death were being discussed by the Member for Caroni East and by the Member for Tobago East.

Mr. Sharma: Chaguanas East.

Hon. Dr. S. Rambachan: Chaguanas East, sorry, and Tobago East—that the Member for Tobago East had to stop and say, “Are you people concerned about what is happening in this country?” And she had to make a distinction between whether you sympathize or whether you empathize.

I was disgusted, personally upset, to see in particular the Member for Laventille East/Morvant, a former Minister in the Ministry of National Security; one who had gone to the prisons on several occasions and who would have had more intimate knowledge about what the criminals in prison do, she was there giggling for the better part of this afternoon when matters were being discussed. I thought she would have had more respect for what was happening in this Parliament in terms of this debate and I felt disgusted. I felt really disgusted.

I was taken aback when the very distinguished and hon. Member for Point Fortin could not see that one case of Akiel Chambers was enough. Member, I was disappointed. I have a great deal of respect for you, but at that point I felt that you were more concerned about how do I attack the Government and maybe get back into office. You were more concerned about office rather than the rights of citizens and what is happening in this country. [*Desk thumping*]

Therefore, I had to stand here tonight and make these points because I am very respectful of the points. The Member for Diego Martin North/East made good points and the points have to be considered, but when in that kind of behaviour you descend to that level where you become—and you lack emotion and you lack feeling about the people of this country, then the people should never, ever return you into office. [*Desk thumping*] You should remain in Opposition forever, because that is what you deserve and that is why you were sent there.

This Government came into office on a mandate to deal with crime. One of the Members rose on that side—I believe it was the Member for Port of Spain North/St. Ann’s West—saying, “You were elected to deal with crime and you promised X, Y, Z in your manifesto.” Yes, we did, therefore, if we have to bring laws to this Parliament to be debated which appear to be draconian, but which will have the impact on this country, then we must be prepared to bring those laws and stand by those laws and debate those laws. At the end of the day, in the mix, we are going to have good laws.

Mr. Speaker, the debate in the Parliament is in part about rights, the rights of decent citizens to enjoy freedom of movement, to enjoy safety, to enjoy security, but it is also, in the view of the Opposition and in the view of many, the rights of

those who violate those laws or violate the rights of law-abiding citizens to defend themselves in accordance with the laws which this Parliament will pass in accordance with the mandate of May 24, 2010. That is, to me, important.

We won an election based upon our promise to deal with crime, and we must deal with crime. That is why we have come to this Parliament to debate what appears to be a draconian law, but let me say that, when you have criminals like you have in Trinidad, you cannot be sympathetic. You have to deal with them on their own turf and you have to deal with them decisively; and if laws and institutions have to be strengthened to deal with that while we ensure that they have the protection of the courts and the institutions in the country, and that they are given every opportunity to defend themselves, then we must pursue those laws in this country and we must do so vigorously.

Mr. Speaker, the question of decent, law-abiding citizens, we have to ask this question. This is the question: whether the rights of decent law-abiding citizens are less important than the rights of criminals. Whose rights are more important, the rights of decent, law-abiding citizens, the ones who obey the law, the ones who are God-fearing, or the ones who are the criminals, who do not care about laws and who are not God-fearing?

Mr. Speaker, societies operate on the basis of the rule of law and, when you decide to live in society, you agree to subscribe to the rule of law. If you do not, then you must bear the consequences. That is what we agree to as a society. That is why we have a parliament. That is why we have laws, and we are here tonight to ensure that we pass legislation that achieves two things: one, that it discourages lawbreaking; and, secondly, it removes the criminal from society where they are affecting the rights of others who are decent, law-abiding citizens.

This is what this country wants. This is what this country is asking for and this is what this Government came into Parliament with in terms of its mandate, a constitutional majority which we will never abuse, but which we must always remember that the people out there are crying out for safety. They are crying out for safety. You would never know, Member for Point Fortin. You will never know, even as a mother. You will never know the feelings of the mother of the 12-year-old, or of Pixie Lakhani from way down in La Brea Trace. You will never know unless you lose a child or you lose someone to crime.

Mrs. Gopee-Scoon: Why me? Why are you using me?

Hon. Dr. S. Rambachan: I am using you as an example because you seem to have some level of compassion so I think you will understand what I am talking about.

Mr. Sharma: I am not sure about that.

Hon. Dr. S. Rambachan: You will never know. You really have to be a victim of crime to understand the feelings of those whom the Member for Tobago East and the Member for Chaguanas East were talking about. Mr. Speaker, you know, had the other side been concerned about the citizens of this country, they would have taken a different attitude, not one of seeming obstruction, but one of genuine cooperation that achieves balanced law.

I repeat again tonight, I was disgusted, honestly disgusted at the giggling and laughing and the obstructionist attitude at a time when people want strong laws. Maybe all of you should take example from the distinguished Member for St. Ann's East, [*Desk thumping*] who kept her composure and who was respectful of everything that went on in this Parliament in terms of debate. Not for one moment did I see her engage in the frivolity that was happening on that side while the debate was taking place.

Hon. Members: That is right.

Hon. Dr. S. Rambachan: Not for one moment. [*Desk thumping*] I commend her. I say again, this Government was elected on a mandate to attack crime, and we have a duty to bring to this Parliament—and fulfil our objectives. The Member for Port of Spain North/St. Ann's West spoke about contract with the people, and she is right. She is right.

Mr. Sharma: Port of Spain South.

Hon. Dr. S. Rambachan: When people vote, they do not elect a government; they hire a government. Port of Spain South, sorry; I cannot see from here very well. It is a contract with the people, yes, but it is a contract based on expectations. Do we set out the expectations? You are right. I am happy that you are following the manifesto of the People's Partnership. You know why? Because you will keep us on our toes and you will also remind us of what we promised.

We are very vigilant about our manifesto. That is why we were not afraid to bring it in here and make it public policy and put it down as part of the parliamentary records of this country, so we know that this is what we are

committed to do and what we are committed to achieve. So we have a contract with the people and we know that we are going to face the electorate in four and a half years, and we are going to win the next election because we are going to win the battle against crime by bringing laws like this and doing what we have to do.

This is why you are seeing a level of success in this country against drugs. In the case of marijuana, for the first time, \$165 million of marijuana was removed from the forest, and another \$60 million or something removed again. I ask the question tonight, Mr. Speaker, during the time that the PNM was in office and the blimp was up in the air and the helicopters were all over the place, how come they were not able to see where the marijuana plantations were? How come they were not able to do that? Why is it that we had the low level of prosecutions taking place under the PNM, that people continued to suffer as they did in the country?

Mr. Speaker, as a result of the lack of prosecution in this country, we have lawlessness—lawlessness. You know what has happened? That lawlessness is now seeping down to a level that is going to affect the future of this country if we are not going to do the things we have to do, and do them seriously. We have bullying in schools now, so little children feel, “The criminals are not being prosecuted so we could get away with it too.”

Hon. Member: And 10-yr-olds in gangs.

Hon. Dr. S. Rambachan: Yes, the picture is on the newspapers today. You have young people in gangs in schools. I want to say to this Parliament that discipline is an act of love. It is not something you do against your child. It is something you do for your child. [*Desk thumping*]

Mr. Sharma: Well said.

Hon. Dr. S. Rambachan: And sometimes discipline is also a matter of sanctions and we all practise sanctions. The Member for Arouca/Maloney, you would know that when you did something wrong you were sent to the back room, and in the old days sometimes they had a grater and they used to make you kneel on the grater as punishment. They used to do that in the homes. Member for Tobago East, you know about that? Mr. Warner knows about that.

Discipline is a matter of sanctions. Why are we afraid to bring sanctions, strong sanctions, against indiscipline and lawlessness in the society? [*Desk thumping*] We must do it. We have to do it. That does not mean to say we are not going to ensure that the rights of those who are to be prosecuted are not protected. We are not saying that at all. The Member for Diego Martin North/East referred to one suggestion made by the Member for Port of Spain North/St. Ann’s West, which is in England, and we have to look at all of that.

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There is one point I want to take up made by the Member for Port of Spain North/St. Ann's West, the cost of keeping people in prison. She talked about the high cost of keeping people in prison. I ask the question tonight, is the cost to society of keeping people in jail more important than dealing with the pain of the person who has been violated by criminals? Mr. Speaker, the Member for Diego Martin North/East spoke about the Bail (Amdt.) Act of 2007 and referred to kidnapping as a non-bailable offence.

The very Opposition, they boast now about the fact that they were able to bring down kidnapping, but I say to you tonight, did this law in which kidnapping was made a non-bailable offence not help to bring down kidnapping? Did it not help bring down kidnapping? If it did, do you not see also the importance of this law that we are proposing now in terms of some of the offences that you talk about in helping to curb, also, these offences?

Mr. Sharma: Very good point.

Hon. Dr. S. Rambachan: Because I say to you, you know, the problem that affects this society right now is guns, small arms and ammunition—guns, Mr. Speaker.

Mrs. Gopee-Scoon: That is what is needed to protect the coastlines.

Hon. Dr. S. Rambachan: That is what most of the crimes are being done with. Mr. Speaker, I rose to make these few points, but, in closing, let me say that Tobago, for example, depends on tourism. It is painful for me, as the Minister of Foreign Affairs, to read on a weekly basis the travel advisories that are being sent out by countries on which Tobago depends for tourism, that discourage people from coming to Trinidad and Tobago. It pains me to know the loss of jobs and the reduction of people to the poverty line as a result of lack of tourism in Tobago.

I am worried that, if we do not do something about this criminal situation, our strategy of economic diversification that requires foreign direct investment could, in fact, be affected. I want to say in closing that all of us here, we have a responsibility to the future to strengthen the institutions and laws to enhance the investment climate, but, more importantly, to enhance the environment in which we, the citizens of Trinidad—the decent, law-abiding ones—have to live. We have a responsibility to the future.

Remember this, the mark of a society and the mark of a man is not what he inherits from the past but how he adds value and the condition in which he bequeaths it to the future. I thank you.

The Attorney General (Sen. the Hon. Anand Ramlogan): Thank you very much, Mr. Speaker. My task in replying has been made immeasurably easier by the rebuttals that have come from my colleagues on this side of the House.

Mr. Sharma: You must come to the House more.

Sen. the Hon. A. Ramlogan: Mr. Speaker, this is about a difference, a sharp divergence in political philosophy and the approach to governance and solving what is a major problem in this country. What is that philosophical difference? On the one hand, for eight years, the former administration allowed crime to flourish, gangs to multiply and reproduce, and for gangs to mushroom all over the country. They now hold this country to ransom.

Their political philosophy was to treat them as community leaders; to take them to Crowne Plaza and sit and have breakfast with them while Special Branch officers stood watch over them.

Mr. Sharma: They gave them contracts too.

Sen. the Hon. A. Ramlogan: That was their philosophy. Their philosophy was to take them into the process of governance and give them contracts in the URP. That was the philosophy. Our philosophy is far different to them. Our philosophy is to say, "Look, there must come a time when a society must stand up and speak with one voice. We must draw a line in the sand that separates that which is lawful from that which is unlawful."

Mr. Speaker, this anti-gang legislation and this amendment to the Bail Act, these pieces of legislation target not the law-abiding citizens; they target those who wish to violate the law and those who wish to bring harm to society. It was the great jurisprudential philosopher, John Stewart Mills, who said that the whole concept of a legal system is predicated on the one simple principle that you should be free to act and do as you please, just as long as you do not cause harm to another human being. This legislation is predicated upon that same simple philosophy in principle.

9.45 p.m.

Our young men in society, they have options before them. When you go to school you can either listen and learn; you can participate in sports; you can have your adolescent time, track a young girl, get a boyfriend; you can grow up, experience life the right way; or in the school, you can be a bully, you can join the

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rude boys and bad boys and you yourself can start the gang culture by being part and parcel of what is called a clique in school. Normally a characteristic and feature of the clique is that they prey on the weaker ones in the schools. It starts from there.

When you fail, or if you do not perform well in your exams, this is a country and a society that gives the young man and woman a second chance. You have a multitude of programmes: from evening classes, YTEPP, HYPE, you name it. You name it, they have it and this Government intends to keep it, expand it and strengthen it to make available to young people a decent path, an honest path; to make a decent living and make something out of themselves.

If you do not take that second chance that society gives you; if you choose, in how you dress, how you act, what you say; if you chose to wear your pants, not on your hips but beneath the buttocks; if you choose to go for a “bling” culture and rob someone because there is a concert coming up; if you choose to break into people's car and “tief” it, not knowing that they “buy” that car, mortgaging their house; they “buy that car to work taxi” and if you steal it and it is just third party insurance you are not “tiefing” the man's car, you are “thiefing” his car, his land and house; you rob him of his entire livelihood and family life.

If you chose to rob law-abiding citizens to get money to buy a ticket to go to fete; if you choose the “bling” culture and the sneakers culture; if you choose to laugh at the fellow who is wearing a “Bata dog”, not to study hard and to reach somewhere, but you want to wear a Puma and Nike with air shocks; if you choose that and you did not choose it by dint of your hard work and sacrifice, then the time has come for society to set our youth straight, on the right path, and that is what this legislation is about.

If you choose a life of crime instead of a life of honest, hard work, we are here to say: then you will choose a life of time in prison. When my learned friends on the other side say that there is a right to bail in the Constitution, there is no right to bail. It is a fundamental misconception. There is the right to apply for bail. There is no automatic right to bail. You can apply for bail and a judicial officer will determine whether or not you are entitled to it.

When they speak about this “five days” and they criticize the police—I heard my learned friend, the Member for Port of Spain South say: what about the police? Are they sufficiently trained? The senior officers in the police service right now have always been the ones we interpose between the arresting officer who detains a citizen and the citizen's liberty.

That is presently the procedure, that the senior officer is the one who will be able to review the file, speak to the arresting officer and decide whether or not that person should be released. I heard my learned friends say that the law is that you can arrest and detain someone for 48 hours. That is not correct. There is no such law in this country, and permit me to clarify that for those who may have heard that and will then act upon it.

The law is that the police, if they have reasonable grounds to suspect a citizen of committing a crime, can arrest and detain that citizen for such time as is reasonable, having regard to the surrounding facts and circumstances. What is reasonable could be an hour, 48 hours or five days. This type of violent crime where you have previous convictions, where you have chosen and have a proven life of crime, requires serious measures from the elected representatives of the people.

Just to illustrate the point, if they suspect that your vehicle is stolen because the engine is not the original for a 120Y or B13, the police could arrest you and take you down to the station. If you call your wife and say: "Bring the receipt where we buy this engine"; whether it is from Neal and Massy or from the neighbour next door who has a garage; once you bring that receipt after that hour, the police, on a reasonable ground for suspicion, may dissipate and it is no longer reasonable to hold and detain you. They may release you. The idea that they have the power to detain you for 48 hours is not correct. They have power to detain for such time as is reasonable in the circumstances of the case.

Let me allay the fears of my learned friends. The Constitution gives you the right to apply for a habeas corpus. That is a right to bring the body of the man before the court. If perchance there is any suspected abuse or misuse, you will have to make an application to the court before the five days and a judge will have to adjudicate on whether or not that person's detention is lawful and should continue or not. That remains the case. We have not ousted the habeas corpus provision in the Constitution.

I heard my learned friends speak about depriving citizens of their right to liberty and the unconstitutionality of the measure. May I say, Mr. Speaker, as the learned Minister of Foreign Affairs has just said, the rights of the citizens must be balanced on both sides of the scale. For far too long, John Public has been saying to us that the system itself has an inherent bias whereby too much emphasis is on the right of the accused and not so much on the right of the victim. This is about

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rebalancing and revisiting the scales of justice to put an ounce more on the side of the innocent and law-abiding citizen to equalize it. It is about retaking our society and achieving some form of social and legal equilibrium in the system.

Mr. Speaker, there is little or no regard for the rights of the victim. When I spoke about the difference in political philosophy and approaches, for eight years, many of us on this side stood and watched. I only saw a government minister under the former administration visit the home of a victim of crime once in eight years. That was former Minister of National Security, Howard Chin Lee, who visited the home of the Sabgas when their son was kidnapped. That is the only time I ever saw a PNM minister visit the home of a victim of crime. Not a single kidnap victim, not a single murder victim; not young Tecia Henry; not young Radha “Pixie” Lakhan; not a single victim of crime did they make 5 minutes to visit except that one.

When they talk about their community and their constituency as if they care, let us get the facts right. They did not visit their own constituents when the crimes occurred. They have created a fatherless generation. A fatherless generation is coming to hit us like a tsunami. Every time a man is killed, that is a breadwinner and a father. Every time a mother is murdered or raped, that is a breadwinner and a mother and the crime that is inflicted and the statistics are not confined to the one person who is the victim. The whole family is a victim because the daughter who remains without a mother or a father is aimless; lives life drifting rudderless, looking for solace and comfort and ends up on the wrong side of the law nine out of 10 times, unless the grandmother or aunt accepts the responsibility to bring up the child.

It is draconian, yes, but we make no apologies for it. That it affects your constituency, no. I tell you it affects all our constituencies and I would not want to individualize it like that, Member for Diego Martin North/East. It is not about if it affects your constituency or the constituency of the Member for Port of Spain North/St. Ann’s West or Laventille West. This is a matter that affects the constituency of Trinidad and Tobago—one constituency!

They speak about it affecting their constituency with such manufactured anger, with such artificial pain and horror. The People’s National Movement has ruled this country for almost half a century, from 1956-1986; three decades of uninterrupted rule and, thereafter, for two terms—almost half a century. That is older than I am. If they want to talk about crime and they are so concerned about

their constituents, if a political paternity test is done on their constituency, the father of it is the PNM. So do not cry crocodile tears for the poor people. Cry crocodile tears for the nation because the nation's heart is bleeding. The very soul of our nation has been ruptured by crime. You created and facilitated the gangs, from 500, when you said you would hunt them down. You facilitated the multiplication and mushrooming.

I heard the hon. Member for Port of Spain South draw reference to the fact that in Denmark they do not allow people to be detained for this time. What the hon. Member did not tell this House is that Denmark does not have this problem of crime like we have. The pace of justice in Denmark is far quicker than it is in Trinidad and Tobago. They are not eliminating witnesses. They are not harassing and interfering with them and intimidating them. They do not have that problem, but they cited Denmark.

Mr. Speaker, when they talk about presumption of innocence, my learned friend—and the Member for Port of Spain North/St. Ann's West, coined the lovely phrase, "the monstrously inequitable" legislation—as entertaining as it is, I say to my learned friends, on the presumption of innocence, I want you to tell that to Debbie Ali, Tecia Henry, to the prison officers and police officers who have been killed in the line of duty. I want you to tell their innocent children about the presumption of innocence.

I want to say today that the presumption of innocence applies also to the law-abiding citizens and the little children whom we are trying to protect. We want to capture that presumption of innocence before the children enter the gangs. We must instil fear and a strong deterrent so that they would not want to go into a gang. We must criminalize the gangs and deny them bail. If they decide to join the gang, we will send a strong message and signal that crime does not pay; gang life does not pay.

When my learned friend spoke about the suffocation of constitutional rights and the innocent being locked up, today the law-abiding citizens are the ones gingerly peering from behind the iron bars. They have now barricaded themselves into their homes and we are here to talk about the suffocation of constitutional rights?

For far too long law-abiding citizens have been slowly strangled because of an ineffective policing and legal system and because our laws do not empower the police service. For far too long the criminals have been laughing and sneering.

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They are getting bail and coming out and committing more crime. I wish to say, in all of the opposition to this Bill, one common thread is that my learned friends were able to agree that crime is a major problem that affects all of us.

10.00 p.m.

Mr. Speaker, that is the only light I saw; the only silver lining I saw, but I am happy that it emerged and peeped out, because we want to give the Opposition a second chance. I want to give them a second chance to reconsider their position on this matter. I want them to be able to contribute and collaborate with this Government on this important piece of legislation, because the issue of crime does not affect PNM, UNC, TOP, NJAC or MSJ, it affects Trinidad and Tobago. We want to give you a second chance. I wish that the Opposition Members will join us in a joint select committee to examine this Bill and reconsider their position and let us engage in meaningful and genuine dialogue to be fair to the citizens of this country, who brave the onslaught and terror of criminal activity on a daily basis. There are one or two points that may be worthy of consideration and we on this side are prepared to listen, listen, listen, because we are here to serve the people, serve the people, serve the people.

Mr. Speaker, it is my recommendation that this Bill meet its brother, the Anti-Gang Bill, before the same joint select committee, so that we consider the complete package of legislation which ought not to have been directed in the first place, but we did so to facilitate my learned friends on the opposite side, and that the both meet before the same joint select committee so that we can thrash out whatever differences we may have, in the interest of Trinidad and Tobago.

In closing, I join with my colleague from Port of Spain North/St. Ann's West, in wishing this nation and all Members of this House and the Chair, not just a happy and holy Christmas—people in Trinidad and Tobago no longer wish you a happy and holy Christmas, they also have a further word that they have added to the political lexicon and that is I wish everyone in this country a happy, holy and safe Christmas. Thank you very much.

I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Sen. The Hon. A. Ramlogan: Mr. Speaker, I beg to move that this Bill be referred to the joint select committee which has been established to consider and

report on the Anti-Gang Bill, 2010 and that this committee be further empowered to discuss the general merits and principles of this Bill, along with its details, and be mandated to report on this Bill also within three months' time.

Question put and agreed to.

**JOINT SELECT COMMITTEE
(APPOINTMENT OF)**

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

Be it resolved that this House appoint the following six Members to serve with an equal number from the Senate on the Joint Select Committee established to consider the Anti-Gang Bill, and the Bail (Amdt.) Bill. The Members are: Mr. Prakash Ramadhar; Mr. Stephen Cadiz; Mr. Jairam Seemungal; Mr. Herbert Volney; Miss Marlene McDonald and Mr. Colm Imbert.

Question put and agreed to.

INTERCEPTION OF COMMUNICATIONS (AMDT.) BILL

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

That a Bill to amend the Interception of Communications Act, 2010, be now read a second time.

It was a few days ago this House passed a historic and landmark piece of legislation entitled the Interception of Communications Act, 2010. Just a few days ago, in discussing the amendments from the other place, the Opposition alerted us to what we consider to be a very valid observation; that the Order that the Minister was making pursuant to the Act, that Order was without any qualification and without the ability of the Parliament to oversee or supervise the actions of the Minister.

I just wanted, in a few minutes, to indicate that on that day, the Prime Minister, on behalf of the Government, made a commitment that it was a valid observation from the Opposition, and the Prime Minister undertook on that day, a few days ago, that the Government will indeed consider such an amendment. The Prime Minister indicated that we will do so within four months of the passage of the Act; the Parliament will reflect and consider such an amendment.

I am extremely pleased to say that before this Parliament goes for our brief recess for the Christmas holiday, within seven days—one week—not four months,

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not three months, not two months, not one month, the Prime Minister and the Government are extremely pleased that we do have an amendment before us today.

It is an amendment to the Act. The amendment is a very brief amendment. It states at clause 20:

“The Interception of Communications Act, 2010 is amended in section 26 by inserting after the word ‘Order’ the words ‘subject to negative resolution of Parliament’”.

The effect of this is to bring any change or alteration in that Order done by the Minister, subject to the scrutiny of the Parliament, and it allows the representatives of the people to file the relevant and appropriate Motion that will engage the Parliament and trigger a debate on any adjustment and changes to the Order.

In the other place, as you may know, it was already approved on Tuesday last, a couple of days ago. All that is left is for us to consider this and I believe that the Opposition should not have a word to utter on this, since they themselves initiated this.

Mrs. Persad-Bissessar: Wishful thinking.

Hon. Dr. R. Moonilal: Mr. Speaker, I beg to move.

Question proposed.

Mr. Colm Imbert (*Diego Martin North/East*): Mr. Speaker, I would try to be less than 60 seconds. The amendment before the House arises from a situation where the Government did not have the requisite 26 Members in order to do the special majority division. There was this flaw in the clause. [*Interruption*] No, no, that is what we were told. There was this flaw in the clause. We pointed it out. The Prime Minister gave the assurance that we would come back within four months. It is in fact just about four days. I wish to thank the Government. I wish to compliment the Prime Minister for sticking to her word.

The Prime Minister (Hon. Kamla Persad-Bissessar): Mr. Speaker, I should also be very brief. As indicated by our Leader of Government Business, on last Friday, I gave the undertaking that we will consider the amendment and bring it back to the House. We are very pleased we have kept that undertaking. We gave our word and we have kept our word and we delivered on this particular Bill. But, with due respect, Member for Diego Martin North/East, I do not recall, and I want to place it on record, that the reason we gave the undertaking was not as alluded to by my good friend, to say that we did not have the 26, because we have them,

but we always took the position on this side that we did not want to pass this legislation only with the votes from this side; that we wanted all the votes. The *Hansard* would bear us out, I am sure, because we did take the division. It is because we recognize—we always say we listen and then we lead—that it was a valid observation and that is why I gave the undertaking, let this Bill go through. Those were my exact words. I remember I said it would not be appropriate for us to say to you, Sir, that we will allow the Bill to go through, but we gave the undertaking. I think you asked for three months and my colleagues said six and I said: “Okay, let us cut it” and we said four months. Because it was such a simple amendment and because the Office of the Attorney General and the Attorney General work very hard, we were able to get it done within four days, take it to the Senate and bring it back and have it passed today.

I want to thank everyone and place that on the record. Thank you.

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, what is left for me to do here? I would make one observation. It is a fascinating observation that, even when my friend from Diego Martin North/East would speak for 60 seconds, he still has this uncanny ability to mislead; in 60 seconds. There is also something admirable about that. In 60 seconds, you can mislead the Parliament.

Mr. Speaker, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

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

House resumed.

Bill reported, without amendment, read the third time and passed.

10.15 p.m.

**ECCLESIASTICAL COUNCIL OF SPIRITUAL BAPTIST CHURCHES
OF TRINIDAD AND TOBAGO (INC'N) BILL**

Question put and agreed to, That a Bill to repeal and replace the National Ecclesiastical Council of Spiritual Baptist Churches of Trinidad and Tobago and

provide for the Ecclesiastical Council of Spiritual Baptist Churches of Trinidad and Tobago, be now read a second time.

Bill accordingly read a second time.

Bill referred to a special select committee of the House appointed by the Speaker as follows: Dr. F. Khan (Chairman), Dr. L. Douglas, Mr. R. Samuel, Mr. F. Jeffrey, Miss D. Cox.

Mr. Speaker: This Committee is to report to this House by the end of February, 2011.

STANDING ORDERS COMMITTEE

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

Whereas Article (8) of the Trinidad and Tobago (Constitution) Order in Council, 1961 provided that...“the Governor shall make and cause to be laid before the Senate and the House of Representatives, respectively, when they first meet such Standing Orders with respect to the matters mentioned in article 26 of the Constitution as appear to him expedient to enable the Senate and House of Representatives to commence the transaction of their business in an orderly manner, but any such Orders may be amended or revoked by the chamber to which they relate”;

And whereas the Standing Orders of the House of Representatives were made by the Governor in 1961 pursuant to the said Article and laid before the House of Representatives on December 29, 1961;

And whereas there has never been a comprehensive review of these Standing Orders since they were enacted;

Be it resolved that the Standing Orders of the House of Representatives be referred to the Standing Orders Committee for consideration and report within the current session.

Mr. Speaker, the matter before us, at this hour, is a Motion that requires the Standing Orders of the House of Representatives to be referred to the relevant committee for consideration within the current session. It is unquestionable that the Standing Orders within which we operate in the Parliament, there have been many points of criticism that these Standing Orders are archaic and anachronistic. There are several areas that require review, possible amendment and reform to the conduct of our business.

A comprehensive approach is required, but also an integral approach that links the reform of the Standing Orders to other initiatives being undertaken by the Parliament and, in some cases, by the Government to ensure that the efficiency of the Parliament is enhanced for all Members, the manpower requirements, the human capital and the type of equipment and facilities and so on.

Mr. Speaker, in the context of the Motion, this really triggers a full enquiry, investigation and review the Standing Orders, and it is our hope that the relevant committee will report to the House and bring forward updated and modern Standing Orders that would properly reflect the requirements of a modern Parliament.

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

Question proposed.

Mr. Colm Imbert (*Diego Martin North/East*): Mr. Speaker, the Standing Orders were comprehensively reviewed in the 2002—2007 period. In fact, a report of the Standing Orders Committee comprising approximately 100 pages was laid in this Parliament in 2007, however it was very close to the end of the five-year term and the matter was not considered by the Standing Orders Committee before the Parliament was dissolved.

There are many areas in the Standing Orders that need to be looked at: the question of privilege, the question of speaking time, and the question of points of order. Many of the Standing Orders are completely anachronistic and archaic, and we welcome this opportunity to review the Standing Orders. I am told they have not been looked at since Independence, in other words, for almost 49 years. We definitely need to look at them in a holistic manner and deal with them so that we have modern Standing Orders in keeping with a modern Parliament.

I thank you.

Question put and agreed to.

Resolved:

That the Standing Orders of the House of Representatives be referred to the Standing Orders Committee for consideration and report within the current session.

ADJOURNMENT

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move that this House do now adjourn to a date to be fixed. We anticipate that date may well be in the early part of the new year. I beg to move.

Adjournment

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Mr. Speaker: Before putting the question to the House, there is a matter on the Motion for the adjournment in the name of the hon. Member for Diego Martin North/East. I now call on the Member for Diego Martin North/East to raise his Motion.

**Caribbean Airlines Limited
(Purchase of Aircraft)**

Mr. Colm Imbert (*Diego Martin North/East*): Mr. Speaker, thank you. The matter before the House is as follows: the confusion, uncertainty and potential for serious economic loss to Trinidad and Tobago that would result if Caribbean Airlines does not proceed with the purchase of nine turboprop aircraft from Avions de Transport Regional or (ATR).

Mr. Speaker, this matter has been in the public domain as recently as today. If one looks at the newspaper, we learnt today that the Caribbean Airlines Board has issued a press release indicating that statements made by the hon. Minister of Works and Transport were inaccurate or even false.

The Minister had indicated that is one board of a state enterprise that does not report to him and does not send their minutes, and it is implied that it does not follow his instructions or take directions from him, and the board responding by essentially saying that was not true and that they have met with the Minister and they have sent their minutes and so on.

The crux of this matter is an agreement between Caribbean Airlines and ATR for the purchase of nine Turboprop Aircraft to be used to replace the ageing Dash 8 fleet which services the interisland route, provide some service to Venezuela and Barbados and also to provide aircraft that are required for the Air Jamaica operation since Caribbean Airlines have acquired Air Jamaica.

On September 27, 2010, this year, ATR issued a press release which essentially states that they have won an order from Caribbean Airlines for nine ATR 72-600 aircraft with delivery starting in late 2011. The order is valued at US \$2 million, which is TT \$1.2 billion.

My understanding of this situation is that the management of the airline, in the absence of a board, made a recommendation to the Minister of Works and Transport that Caribbean Airlines be given the authorization to proceed with the acquisition of these nine turboprop Aircraft. My further understanding is that the Minister accepted the recommendation of the management and took a note to Cabinet recommending that Cabinet approve the purchase by Caribbean Airlines of these nine ATR aircraft.

It is also my understanding that Caribbean Airlines had been looking for aircraft for approximately one year, and the recommendation made to the Minister was after many months of analysis of the various aircraft that are available internationally that would suit and serve the needs of Caribbean Airlines, both in its existing form and for its future plans.

My understanding is that the Minister of Works and Transport took the matter to Cabinet, and the matter was sent to the Finance and General Purposes Subcommittee and it was comprehensively reviewed—there were arguments for and against—and, at the end of the day, the Cabinet accepted the recommendation of the Minister and authorized Caribbean Airlines to proceed with this acquisition. Following that Cabinet decision which was somewhere in September—I believe the Cabinet Minute was confirmed on September 16, 2010, if my memory is correct—the airline was given the instruction to proceed with the acquisition. A heads of agreement document was signed and a down payment of some US \$1.8 million or thereabouts was made to ATR and, therefore, all the conditions for a contract exist; offer, acceptance and consideration. I am of the view that there is now a binding contract with ATR.

Subsequent to this Cabinet decision and subsequent to this instruction given by the Minister—I must congratulate the Minister for taking the precaution of seeking the support for approval of the Cabinet and not proceeding with this matter on his own. So this matter has the backing of the full Cabinet of the Republic of Trinidad and Tobago—a new board of Caribbean Airlines was appointed and if you would allow me to use this term, all hell broke loose. We saw a very public fight between the Minister and the new Chairman of Caribbean Airlines and, essentially, the Minister reported to the national community that the Board of Caribbean Airlines was not following his instructions; they had dismissed the CEO of Caribbean Airlines on spurious grounds and without informing and seeking a comment from him.

Mr. Speaker, speaking on my own behalf now, having been a member of a Cabinet for 12 years and participated in thousands of Cabinet decisions, I have never seen a situation where a board of a state enterprise, appointed by the very Cabinet, has sought to flout, reverse, revisit or overturn a Cabinet decision. As far as I am concerned, that strikes at the very heart of governance in this country. You cannot have a situation, no matter what the reason is, where a board of a state enterprise is completely disrespecting its line Minister and is attempting to override a lawful Cabinet decision.

Caribbean Airlines Limited
[MR. C. IMBERT]

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Before I conclude, just to deal with some side issues that have come into the debate on this matter, there have been all sorts of “mauvais langue” and “ol' talk” outside there about the suitability of this aircraft. One can only assume that this is rearguard action of the board in an attempt to defend its abominable behaviour. There are all sorts of stories about this aircraft being unsafe and involved in a number of crashes and so on.

Mr. Speaker, I have done some research and I have discovered that it is true that ATR aircraft have been involved in crashes and there have been a number of accidents with this type of aircraft, but it is also true that the aircraft that is allegedly preferred by the board, the Bombardier Dash 8, has also been involved in a number of accidents.

If you would allow me, this is not a visual aid, but it is just a clipping from the *Montreal Gazette* dated September 30, 2010, not very long ago, and it is headlined: “3rd Bombardier plane crash-landing in 5 days”. It says:

“For the third time in five days there has been a crash landing of a Bombardier regional jet.

After two Bombardier regional jets crash landed in the past four days in the U.S. when their landing-gears collapsed, yet another landing-gear failure caused a third crash-landing Thursday in New Zealand.”

So, there are problems with the Bombardier aircraft as well. I can tell you that Scandinavian Airlines had taken a decision back in 2007 to completely retire its fleet of Bombardier aircraft because they were having all sorts of problems; multiple accidents and so on. So there are problems with all sorts of aircraft.

There is nothing sacrosanct about a Bombardier plane and there is nothing sacrosanct about an ATR plane. They all have to comply with the same safety standards, the same regulations, and they are all subject to pilot error and things of that nature. So, I am saying that I am not satisfied that the Bombardier planes are any safer than the ATR planes; both aircraft are involved in accidents.

10.30 p.m.

Finally Mr. Speaker, it is also my information, and this can easily be established from a quick Internet search, that the average cost of an ATR aircraft is somewhere in the vicinity of US \$20 to US \$22 million and the average cost of a Dash 8-Q400, the alleged preferred aircraft of the board, is somewhere in the vicinity of US \$27 million to US \$32 million. So it appears there is a price differential between the ATR aircraft and the Dash 8 aircraft of somewhere between US \$7 to US \$10 million.

I am also told that the ATR aircraft consumes much less fuel, 30 per cent less, and they are a much more efficient aircraft in terms of operating costs. Therefore, I can see no reason why the board of Caribbean Airlines would want to defy the Minister, would want to override a Cabinet decision, would want to destroy the whole system of corporate and Cabinet governance in this country, unless they could show that there is some fraud involved, but based on technical grounds it is a judgment call.

There is no compelling reason why the Cabinet should reverse its decision, unless somebody could show somebody got a bribe or there was some fraud involved. On purely technical considerations, this is all a pack of foolishness and the Government must put its foot down and deal with this errant board that is seeking to destroy the very fabric of Cabinet governance in this country.

The Minister of Works and Transport (Hon. Jack Warner): Mr. Speaker, at present from Port of Spain, Caribbean Airlines operates five Bombardier Dash 8 turboprop aircraft on the airbridge route, as well on the route to Caracas and Barbados. These five aircraft must be replaced as soon as possible, as a result of poor operational efficiency due to the age and attendant high maintenance costs of these aircraft.

Based on justification provided by the management of Caribbean Airlines, under Chief Executive Officer (CEO), Ian Brunton, and a management of 240 years, collective experience, the Cabinet of Trinidad and Tobago agreed that Caribbean Airlines would enter into an agreement with Avions de Transport Regional (ATR)—the French might not be so good—for the purchase of nine ATR 72-600 turbo aircraft and these nine aircraft would be for cars, domestic and regional operations on the terms outlined in the heads of agreement.

Mr. Speaker, it was intended that the nine ATR 68-seat aircraft would be operationally allocated as follows: five of them for the Trinidad and Tobago domestic service, the airbridge between Tobago and Trinidad, for which the Tobago House of Assembly (THA) has been begging, almost weekly; one ATR 60-seat aircraft for the Eastern Caribbean regional service of Trinidad and three ATR aircraft for a Jamaican and domestic regional service.

On the instructions of the Cabinet, the heads of agreement between the intended buyer, Caribbean Airlines Limited, and the proposed seller, ATR, was signed on September 13, 2010. Upon signature, a commitment fee came due and was paid in the amount of US \$200,000, totalling US \$1.8 million. Based on the heads of agreement commitment fee, this amount was to be credited towards the first down payment upon execution of the sale agreement.

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[HON. J. WARNER]

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The issue cited specifically by the Member for Diego Martin North/East, I quote:

“The confusion, uncertainty and potential for serious economic loss to Trinidad and Tobago that would result if Caribbean Airlines does not proceed with the purchase of nine turboprop aircraft from ATR.”

That “confusion, uncertainty and potential for serious economic loss” are better placed in the context of the need for Caribbean Airlines to replace its aging turboprop fleet.

The type of aircraft should be based on the judgment of experts in the field who have done a proper analysis of the intended routes and the airline's strategic plans. The experts in the field have so advised.

The other issue is one of time for delivery. The acquisition of an aircraft can have a lead time of up to two years for delivery; two years for delivery. Therefore, it is always important that you get the correct slot so you would be able to get your aircraft in time. As such, delays in the procurement process can result in the loss of slots and a substantial time delay amounting to even years.

In this context, the referenced “confusion, uncertainty and potential for serious economic loss to Trinidad and Tobago”, are related to the time line for procurement and the cost which may be incurred from one continued use of an aging fleet, the lack of replacement aircraft on the Jamaican internal routes—jets are being used on these routes at present—and any legal remedies which may be taken by ATR.

I do agree that the situation does open the country to negative publicity—no sense hiding that—in respect of the manner in which business has been undertaken, and this is not helped by the present scenario being played out in the public domain between the CAL board and the line Minister.

The information given on the Bombardier was also correct—and I will not go into all the details—but it is a more expensive plane. Of the 200 planes in the Caribbean and the Americas, there are no Bombardiers whatsoever, I have been advised, therefore the planes in the Caribbean and the Americas are, in the main, ATRs. There are 200 of them and my advice is that not one of them is a Bombardier. I have also been advised that because of the vision of the aircraft—it would be able to incorporate Liat eventually—that, of course, the ATRs are the best buys. It was against that background all of this was made.

I apologize for the inaccurate press release from the CAL board today. It is inaccurate; I was never given any minutes; I found them on my desk this morning.

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It is indicative of the relationship between the board and the line Minister, and I apologize for that.

However, following a meeting of the Cabinet yesterday, a process has been initiated for resolving the matter. Consequently I am of the view that in the fullness of time, hopefully, CAL will be able to recover from whatever negative publicity, confusion or uncertainty which currently exists, and definitely from any potential serious economic loss to Trinidad and Tobago.

I am also aware of the public statements made by the Member for Diego Martin North/East. Many of the points he has raised are correct, but I want to give the assurance to this House that I am convinced that like a pregnant mother with a foetus, and where there are some birth pains, that in the end when the birth finally is delivered there will be smiles at the end of the day. [*Desk thumping*] As the perennial optimist I am, I believe that in the shortest possible time this matter shall be resolved and all the fears which presently exist shall dissipate.

Mr. Speaker, I thank you.

Christmas Season Greetings

Mr. Speaker: Hon. Prime Minister, in the spirit of the season, I call on you to say a few words, as we bring this sitting to a close for the Christmas period.

The Prime Minister (Hon. Kamla Persad-Bissessar): Mr. Speaker, the hour is late and so I thank you for nonetheless affording us this opportunity as we proceed, as of later tonight, on our recess for the Yuletide season, the holy season. Allow me to express to you, good Sir and your family firstly, the staff of the Parliament, our colleagues on the other side and, indeed, to the entire population on my own behalf, on behalf of all my colleagues and of all the people of Trinidad and Tobago, may you have a very holy, blessed Christmas with your family.

I think Christmas is one of the most beautiful seasons of the year for all of us, regardless of religion, creed and race. It is not just a festival, but a holy time of the year when every citizen participates and enjoys this very blessed season. From all of us, I say to you and those listening to us, may you have a very safe, a very holy and very blessed Christmas 2010.

I thank you.

Christmas Season Greetings

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Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. [Interruption] [Crosstalk]

Hon. Members: “Dat is de real leader! De new leader, boy! De new Leader of the Opposition.”

Mr. C. Imbert: Mr. Speaker, for us Christians there has been some debate as to which of the Christian festivals is the most important. On a previous occasion, I had indicated that in my opinion the celebration of the birth of our Lord Jesus Christ was the most important Christian festival on the calendar.

At that time we had two former priests and almost priest with us in the Chamber and they quickly corrected me and told me that Easter, the resurrection, is the most important Christian festival, to which I countered that you would have to have a birth in order to have a death, in order to have a resurrection. But the whole point is, I could not argue with the two priests, they were right.

The celebration of Christmas is one of the most important events in the calendar, not just for Christians, but so many people celebrate Christmas. It is a time where I know, speaking as a Catholic, that you see people in church who you have not seen for 12 months. In fact, the Member for Chaguanas East would bear me out on this one. [Laughter] [Interruption] No, no, the Member for Chaguanas East is a regular churchgoer. Do not be so jumpy.

The point I was making was that as a regular churchgoer, as am I—we, in fact, go to the same church—he would know that Christmas time is the only time some Catholics go to church. In fact, in my parish they now have two evening masses on a Sunday, in recognition of this fact.

Mr. Sharma: “It is greetings, make it short.”

Mr. Speaker: Please, please.

Mr. Colm Imbert: It is a time when people feel that they should renew their views, renew their religion and go to church. Having said that, on behalf of the PNM and on my own behalf, I wish everyone in this Parliament, all the Members of the Government, the Members of the Opposition, to you, Mr. Speaker, the Parliament staff and, by extension, the national community, a happy, holy and safe Christmas. Thank you.

10.45 p.m.

Mr. Speaker: Hon. Members, I too would like to join with the hon. Prime Minister and the Member for Diego Martin North/East in extending Christmas greetings to all hon. Members of this House.

Even as we approach this holy season, which is intended to commemorate the birth of one of the world's greatest prophets, we as leaders of our country must pause and reflect on the true meaning of Christmas. Christmas is a time for giving and it is always a time for forgiving. It is a time for peace, love and goodwill to all manner of men and women. We who serve our country in this esteemed Chamber, must always ensure that this spirit of Christmas permeates all of our deliberations, not only at Christmas time but throughout the entire year.

Hon. Members, on behalf of my family and on my own behalf, may I wish you all, and all members of your families, a very happy, holy and peaceful Christmas and even a brighter and prosperous 2011.

May I also take this opportunity to extend Christmas greetings to the hon. President of the Senate and his family as well as each Member of the Senate and their respective families.

I would also like to extend to His Excellency, President George Maxwell Richards and Mrs. Jean Ramjohn-Richards, best wishes for a holy and happy Christmas. The Clerk of the House will dispatch an appropriate letter to His Excellency on your behalf.

May I also extend to the staff of the Parliament, the police officers who have provided yeoman service to us all, the Marshal, Hansard reporters as well as members of the media, a happy, holy, joyous and peaceful season.

Finally, hon. Members, may I take this opportunity to remind you all that upon the adjournment of this sitting, even though the parang band has left, [*Laughter and desk thumping*] we will all assemble in the Members' Lounge to partake in the true spirit of Christmas in a more tangible and substantial way.

Question put agreed to.

House adjourned accordingly.

Adjourned at 10.47 p.m.