HOUSE OF REPRESENTATIVES

Friday, January 19, 2011

The House met at 1.30 p.m.

PRAYERS

[MR. DEPUTY SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Deputy Speaker: Hon. Members, I have received communication from the hon. Winston Dookeran, Member of Parliament for Tunapuna. The hon. Member has asked to be excused from today's sitting of the House. I have also been informed that Mr. Patrick Manning, Member of Parliament for San Fernando East, has asked to be excused from today's sitting of the House. The leave which the Members seek is granted.

FIREARMS (AMDT.) BILL

Bill to amend the Firearms Act, Chap. 16:01, brought from the Senate [*The Minister of National Security*]; read the first time.

Motion made, That the next stage of the Bill be taken on Friday January 21, 2011. [*Hon. Dr. R. Moonilal*]

Question put and agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Tobago Regional Health Authority for the year ended September 30, 2006. [*The Minister of Housing and the Environment* (*Hon. Dr. Roodal Moonilal*)]

2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Tobago Regional Health Authority for the year ended September 30, 2007. [*Hon. Dr. R. Moonilal*]

3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Tobago Regional Health Authority for the year ended September 30, 2008. [*Hon. Dr. R. Moonilal*]

   Papers 1 to 3 to be referred to the Public Accounts Committee.

4. Annual audited financial statements of Petroleum Company of Trinidad and Tobago Limited for the year ended September 30, 2009. [*Hon. Dr. R. Moonilal*]

5. Audited financial statements of Palo Seco Agricultural Enterprises Limited for the financial year ended September 30, 2009. [*Hon. Dr. R. Moonilal*]

Papers 4 to 5 to be referred to the Public Accounts (Enterprises) Committee.

ORAL ANSWERS TO QUESTIONS

Dr. Keith Rowley (*Diego Martin West*): I rise on a point of clarification, Mr. Deputy Speaker. Notwithstanding the public statements of the Government, there are four questions for written answers: Questions Nos. 15, 16, 17, 18 and today question No. 31. Questions Nos. 15, 16, 17 and 18 were due for answer as far back as December 08, and the Government did put on *Hansard* that all questions were answered. No effort on my part has met with success. I have no idea where these answers are. I checked with the Parliament. The answers are not in the Parliament, and I would like to know where the answers for these questions are since December. And today's question No. 31 is due for answer, and again, I want to know where the answer is. And I hope that you can assist me and ask the Government to tell us where we can find these answers, Mr. Deputy Speaker.

Dr. Moonilal: Mr. Deputy Speaker, we were very clear with the Opposition to indicate that we are answering all the oral questions. The Order Paper is now clear of oral questions. Mr. Deputy Speaker, could I indicate to the Member that given the nature of these questions anyone reading them will see the length of detail that has been asked. The Minister of Public Administration is at this time producing extremely heavy and voluminous documents, including CDs with the information being asked for several questions. Later in the proceedings, I will update you on some of the other questions that do not require voluminous answers.

Dr. K. Rowley: Mr. Deputy Speaker, this is the first time that we are hearing that there are questions which were due for answer, written or oral, which the Government has not answered. I was labouring under the misconception that the Government had answered all questions. I am grateful to hear now that the Government has the answers, but I did not know that there were questions unanswered. We were told that all answers were available, and that is why I was searching all last week to find the answers. Had he said that before, I would not have wasted my time. The answers are due.

Dr. Moonilal: Mr. Deputy Speaker, let me reiterate that we have answered all the questions for oral answers. We are in the process of compiling the answers for these written questions. These questions, one answer is about 800 pages of documents; one answer is a CD, which we are compiling now, and we will have it

for you. I cannot tell you if we will have it today or on Friday, but we will have it in the very short course of the proceedings.

There are, Mr. Deputy Speaker, a few questions that do not require voluminous and extensive writing, and those answers, I will communicate later in the sitting, because it is my information that those answers are prepared. We will have them circulated. But there are a couple questions, which we will have to get a trolley and a wheelbarrow to bring in the answers in this House for Members opposite.

Dr. K. Rowley: I crave your indulgence, Mr. Deputy Speaker.

Mr. Deputy Speaker: Make it short.

Dr. K. Rowley: Mr. Deputy Speaker, as a Member of this House I recognize the Standing Orders. There are questions that are oral and written. When the question is filed, the reason that it is filed as a written answer is in recognition that it requires a bit more detail, but the Standing Orders provide for the same period of time—21 days—so I do not know what he is talking about, whether it is oral or written.

Mr. Deputy Speaker: Thank you very much, gentlemen. Leader of the Opposition, Leader of Government Business—[*Interruption*]

Dr. Moonilal: Mr. Deputy Speaker, question No. 19 is available.

Mr. Deputy Speaker: What I would like to suggest is that the Chief Whip and the Leader of Government Business get together and discuss this matter and bring it to some sort of conclusion.

PERSONAL EXPLANATIONS

Clarification on National Quarries Company Limited (Member for Diego Martin West)

Dr. Keith Rowley (*Diego Martin West*): Thank you very much, Mr. Deputy Speaker. I thank you for the opportunity to make this personal explanation. And, in fact, as I am on my legs, I will indicate that I thank you for the opportunity to make two explanations.

Mr. Speaker, at the sitting of the House, which took place on Friday, January 14, 2011, the Minister of Education informed the House that I, a former General Manager of National Quarries Company Limited was charged for some offence, and I had to appear in court on the said matter, and had to be defended by legal counsel with whom he is familiar.

The hon. Minister of Education said, and I quote:

> "You were charged with National Quarries as well. My wife"—as you know, an attorney-at-law—"had to defend you in National Quarries..."

He further stated:

> "I am telling this House that there was a matter that Dr. Rowley, the Member for Diego Martin West was involved with…National Quarries, and he had to go to court to have that matter sorted out."

Mr. Speaker, I categorically deny that at any point in my life have I ever been charged for any offence. The damaging statement made by the hon. Minister of Education, now recorded in *Hansard*, is totally false and malicious, and by his own admission, was meant to exact revenge for matters referred to by me in my contribution. The Minister, in presenting his allegation, said, and I quote:

> "Do not try to attack me. I would come back at you with vengeance."

He repeated, I quote:

> "I would come back at you with vengeance."

Mr. Deputy Speaker, his declaration that I was a defendant in a matter brought by National Quarries Limited against me, requiring the involvement of his wife as my defence attorney is totally false. I have never retained his wife or any legal counsel for that matter, in any litigation brought against me by National Quarries Limited, since National Quarries never brought any matter against me.

While I have hitherto engaged the services of the law firm, Gopeesingh, Martineau, Edwards and Company in civil business, it had absolutely nothing to do with any criminal action or charge brought against me by National Quarries Limited. Therefore, Mr. Deputy Speaker, the statement by the Minister of Education has absolutely no basis in truth and fact. Under these circumstances, Mr. Deputy Speaker, I request that the Member would follow the dictate of the practice of this House and offer an apology for his misleading statement. That is the Minister of Education.

Construction Project
(Bayshore)

Dr. Keith Rowley (*Diego Martin West*): I thank you, Mr. Deputy Speaker, for providing me with the opportunity to respond to the Member for D'Abadie/O'Meara.

Mr. Deputy Speaker, at the sitting of the House, which took place on January 14, 2011, the Member for D'Abadie/O'Meara, the Minister of Sport and Youth Affairs, made detailed reference to a construction project in Bayshore, in the

constituency of Diego Martin West. He alleged that ministerial approval was granted by me in 2003 in my capacity as Minister of Planning and Development. He further stated that I, as Minister of Planning and Development in 2003, overruled the officials and technocrats of the Town and Country Planning Department and the Environmental Management Agency (EMA), and granted approval for 15 storeys where only three or four storeys were reasonable.

Mr. Deputy Speaker, in his contribution, the Minister identified the owner of the project as former Minister, John Rahael, and accused me of improperly using my office to favour my party colleague. The Minister of Sport and Youth Affairs, the Member for D'Abadie O'Meara stated, and I quote:

> "...on November 07, 2003 someone got approval for 15 floors against the advice of all technocrats and the public servants."

Mr. Deputy Speaker, the Government records will show that I served as Minister of Planning and Development from December 24, 2001 to November 2003, and that the processing of the application in question commenced in 2002 and was only concluded in 2005. In his attempt to accuse me of improper conduct in the matter, the Minister said, and I quote:

> "Joseph Rahael, son of John Rahael, was given permission against the advice and recommendations of all...public servants and the EMA. He was given approval for the Renaissance Towers by ministerial intervention. Now the question is: who was the Minister in 2003? Who was the Minister of Planning in 2003? I answer it, it was the hon. Member for Diego Martin West. He do not want to give poor people hamper, but he is giving his friend and future chairman of the party an ability to earn hundreds of millions of dollars, going against the advice of all the public servants, all the recommendations. Ministerial approval by former Minister of Planning, Mr. Pious, Mr. Attack Tunapuna, Mr. Know All, Mr. Do Good...We read the point and here it says, the outline planning approval was granted Reference No. 2236/2002-7/11/03 by Town and Country Planning Department only after ministerial intervention. Who intervened?...Member of Diego Martin West."

Mr. Deputy Speaker, the Town and Country Planning records will show that under the UNC administration of 1995 to 2001 prior to my ever serving as Minister of Planning and Development, a UNC Minister of Planning and Development had changed the policy, as he was empowered to do, and had granted outline approval for 13 storeys to be built on that particular site. Subsequent to this, under a new application of 2002, the new owner/developer,

worked with Town and Country Planning Department over a three-year period, as the records will show, and in 2005 they settled on the number of floors to be built as per the grant of final approval.

Mr. Deputy Speaker, I categorically deny that I overruled any decision of the EMA and Town and Country Planning Department in this matter. The following pieces of correspondence, which I will make available to the media and the Parliament Library, demonstrate ongoing discussions between the acting Director of Town and Country Planning Department and the developer in 2004/2005—long after I had left the Ministry in November 2003. I quote from a correspondence of November 2004, Mr. Deputy Speaker.

Application T1J2236/2002—Shorelands. I quote:

"I refer to the...matter and our meeting of October 12, 2004."

By that time, Mr. Deputy Speaker, I had been in the Ministry of Housing for one year.

"I refer to the...matter and our meeting of October 12, 2004. We are doing some final checks on concerns with the project and shall shortly advise you as to whether consideration will be given to the additional 4 floors."

Signed—[*Interruption*]

I would like to speak in silence, please.

Mr. Deputy Speaker: Member.

Dr. K. Rowley: Signed;

"Ag. Director.
Town and Country Planning."

I quote from another document dated February 15, 2005, and it reads:

"Reference is made to your application T1J 2236/2002 in which you sought agreement for a 19 floor apartment building inclusive of 2 floors of car park...at the basement and ground level...a recreational area for the residents.

Having considered all the issues and impact of the development I have been instructed to advise you that favourable consideration will be given to the proposal."

Mr. Deputy Speaker, I remind you, the date of this letter is February 15, 2005. I left the Ministry of Planning and Development in November 2003.

"You are invited to submit an outline application for the proposed development with the conceptual design.

Ag. Director
Town and Country Planning"

This communication to the developer is taking place over a year after I left the Ministry of Planning and Development, and clearly, the decision-making process being discussed here cannot, by any reasonable person, be ascribed to me, who at the time held the portfolio of Minister of Housing with no involvement whatsoever in this matter.

The following correspondence dated August 24, 2005 is the text of the final approval containing eight specific conditions and the following notification:

"(1) Your application is approved...

This is dated August 24, 2005.

"subject to strict adherence to every arrangement and detail appearing therein. Should any alteration or alterations be required, including amendment or amendments by any government department or agency or local authority, a new application must be made.

(2) Failure to observe any condition herein, renders the party responsible to the penalties under the Town and Country Planning Act, section 35:01; and

(3) Grant of planning permission indicates only that the development permitted has the Minister's approval for the purpose of the Town and Country Planning Act.

This planning permission could be lawfully implemented only if you satisfy the requirements of all other laws applicable to the implementation of the development permitted, and grant of planning permission is not necessarily an indication that you would be able to do so."

This approval was granted in 2005, almost two years after I ceased to hold the position of Minister of Planning and Development. It is, therefore, preposterous and wholly malicious for a Cabinet Minister in the Government of Trinidad and Tobago to state, as the Minister has done, that I was involved and that I overruled the EMA and personally granted approval to my friend. Under these circumstances, if the honour of this House is to be upheld, it follows that the hon.

Minister, without any prompting from any quarter, would take the opportunity to stand in his place, and make the necessary act of contrition in the form of an appropriate apology so as to relieve—[*Desk thumping*]—the already overburdened Committee of Privileges of its obligations. I thank you, Mr. Deputy Speaker. [*Desk thumping*]

The Minister of Education (Hon. Dr. Tim Gopeesingh): Mr. Deputy Speaker, in the cut and thrust of heated debates in this august Chamber, I made some statements attributable to the Member for Diego Martin West. I wish to withdraw those statements, and do hereby humbly apologize. Thank you. [*Desk thumping*]

DATA PROTECTION BILL

Bill to provide for the protection of personal privacy information, [*The Minister of Public Administration*]; read the first time.

CUSTOMS (AMDT.) BILL

Bill to amend the Customs Act, Chap. 78:01 to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise and for related matters, [*The Minister of Finance*]; read the first time.

ELECTRONIC TRANSACTIONS BILL

Bill to give legal effect to electronic documents, electronic records, electronic signatures and electronic transactions, [*The Minister of Public Administration*]; read the first time.

MISCELLANEOUS PROVISIONS (MINISTRY OF JUSTICE) BILL

Bill to amend certain enactments to provide for the vesting of functions and powers in the Ministry of Justice, [*The Minister of Justice*]; read the first time.

MISCELLANEOUS PROVISIONS (REMAND) BILL

Order for second reading read.

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

That the Bill entitled, Act to amend the Summary Courts Act, Chap. 4:20 and the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, be now read a second time.

Mr. Deputy Speaker, I rise to speak on yet another important legislative initiative of this eight-month old People's Partnership Government, which is aimed at improving the criminal justice system in Trinidad and Tobago. As you

know, Mr. Deputy Speaker, improving the criminal justice system has been one of the key elements of our fight against crime. There is no point putting more police officers, investing more resources into the investigation of crime, if at the end of the day the criminals are allowed to make a mockery of our criminal justice system.

Mr. Deputy Speaker, permit me to quote from page 27 of our manifesto, the manifesto of the People's Partnership—which is entitled, "Overhauling Criminal Justice" system. And I quote:

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

Implicit in that policy statement of the People's Partnership, was a deep-seated recognition that the fight against crime must be fought at different levels. And one of the most important weapons in the fight against crime was a well-oiled and efficient system of criminal justice that can deliver criminal justice in a fast and effective manner.

Mr. Deputy Speaker, I think it is no secret that criminals, over the years, seem to have no respect and no regard for our criminal justice system in this country. They do not fear it, they do not respect it, and they do not participate in it. In fact, they manipulate it.

For example, when a criminal is granted bail, it is an open secret that whilst out on bail they become emboldened, and they become encouraged by the fact that they have committed a crime, but still can roam the streets freely. So what happens is they commit further crimes so that they can get fees to finance their defence. They are introduced into gangs, because you are now branded as someone who is a defendant with a matter before the court, and that somehow gives rise to a new status on the streets, and that new status is almost like a matriculation, entry requirement that you have fulfilled or have satisfied to be part of a new brotherhood and club, which comprises other criminals who have matters pending before the courts, or who have had some taste of the criminal law.

Whilst on the outside the matters are being called and repeatedly adjourned and what happens, the witnesses, the victims of the crime, are forced to go to court time and again. The witnesses—the system frustrates them, and it begins to wear them down bit by bit. Eventually, many witnesses lose faith in the system. They see it as an exercise in futility, and they, in fact, seem reluctant or unable to

give evidence. This, in turn, frustrates the police officers, the hard-working prosecutors who would have spent many long hours taking statements, doing the necessary paperwork to bring this matter before the court and to launch a prosecution, only to find three, five, six years down the line that the witnesses are no longer prepared to testify, because they themselves have lost faith in the system, and then they eventually walk free.

Mr. Deputy Speaker, I am fed up of seeing criminals who emerge from the Hall of Justice and the Magistrates' Court in this country bearing a grin—wearing a smile or a grin on their face, as they walked out in the full knowledge that they could have predicted their release and the dismissal of the matter, because witnesses were either intimidated and harassed, eliminated and murdered, or the system somehow sabotaged, because they interfered with jurors, their family, judges or their loved ones, or the police officer, or his loved ones. The time to stand up against this kind of nonsense that makes a mockery of the rule of law and our system of criminal justice is now. And that is why several initiatives have been brought forward by the People's Partnership thus far on the legislative agenda for this honourable House that will increase the pace of criminal justice in this country.

Mr. Deputy Speaker, for example, many persons come before the courts when they are charged, and they come without a lawyer. Oftentimes, because of the serious nature of the charge, fairness to the accused requires that the judge will give an adjournment to facilitate the accused person getting legal representation. But the brand and calibre of lawyers who are willing to do legal aid, especially in the Magistrates' Court, that is a dying generation in the legal profession. This problem is more pronounced and acute in our rural areas, because most of the attorneys flock to San Fernando and Port of Spain, where they are the main hubs of activity around the lower courts. But in the rural areas and around the Magistrates' Courts you will find a mere handful of lawyers being left to service the needs of the defendants, and this results in an endemic problem of an endless cycle of adjournment after adjournment in our courts.

2.00 p.m.

Mr. Deputy Speaker, it is not that there are not enough citizens in this country who are willing and prepared to become lawyers; who are willing and prepared to defend persons who are accused, so that we would not have this problem of delay. That is why you will find that the entrance examination into the Sir Hugh Wooding Law School is oversubscribed and for years students who have studied

and pursued their London LLB degree have been virtually shut out from the law school part of their qualification so that they cannot be admitted to practise law in Trinidad and Tobago.

One measure we are putting into place is that we will open the southern campus of the University of the West Indies. The southern campus of the University of the West Indies will be located in Debe, south Trinidad, having regard to the demographics of the student population at the University of the West Indies. [*Interruption*] It is demographics and your politics because you represent the constituency from south and I accept the fact that you are congratulating us. [*Desk thumping*]

I want to inform you that there are many of your constituents from Point Fortin who would have studied for the LLB degree but, under four administrations, could not get into law school to qualify. What this People's Partnership administration will do, we will open a southern campus of the University of the West Indies. The sod-turning ceremony is in less than two months' time and, at the southern campus of the University of the West Indies, we intend to offer the LLB degree programme and also open a branch of the Sir Hugh Wooding Law School so that we could offer the full qualifications to all persons who wish to qualify to become lawyers. For far too long we have shut out citizens who have spent long arduous hours pursuing their LLB degrees with the University of London and cannot get into the law school.

Next week, I leave for Antigua where I will meet with my regional counterpart to discuss the treaty and the Council of Legal Education matters that will allow and facilitate Trinidad and Tobago being able to offer its own full time LLB three-year degree programme at the University of the West Indies and, as well, expand the Sir Hugh Wooding Law School and take it to south Trinidad so that we can have all those students who qualify and become lawyers, admitted to practise law so that the poor people who need representation in court—that they claim to want to represent—we will give them that representation in court and we will ensure that the wheels of justice are greased so that they will turn faster to deliver justice.

Whilst they may scoff at the idea and the vision of opening a southern campus of the University of the West Indies, I know from personal experience the trouble my parents went through to send me to the St. Augustine Campus to complete my LLB degree; and after to Barbados. After I graduated from the Pleasantville Senior Comprehensive and was admitted to do law, it was very difficult financially to find the money to pay the rent for my accommodation. Many, many poor people

who have children who have studied and done well fall into that category; but if you come from south Trinidad you are in that position. That is your predicament because your parents would have to find the money.

I am pleased to say that a survey would show that many students who are forced to undergo that expense and many students who have not been able to start their university education because they cannot afford that accommodation and the attendant cost of living to go to the St. Augustine Campus and then to Barbados for two years, I want to tell you, we will bring relief to them and the Sir Hugh Wooding Law School expansion to south Trinidad will accept non-UWI LLB holders. So if you have your LLB from London, you will get into the Sir Hugh Wooding Law School—no entrance examination—and we will make it possible for them to realize their dreams, hopes and ambitions to become an attorney at law. That will help us in the criminal justice system because there is a shortage of lawyers in the Magistrates' Courts.

Mr. Deputy Speaker, in keeping with the resounding mandate given to this Government by the people of Trinidad and Tobago, I stand here before this honourable House to keep the faith with the people as we continue the shared journey in our efforts to improve the lives of all citizens.

Today, I have the honour of piloting the Miscellaneous Provisions (Remand) Bill, 2010. This Bill seeks to increase the period in which a magistrate can remand an accused person. The measure before this House is an important measure and one that is integral to the administration of justice.

High crime continues to be our major challenge. It is having serious deleterious effects on the safety, security and well-being of our people and it is affecting the very psyche of our nation. Women are afraid to take certain jobs because they feel unsafe to travel after a certain hour to get home. Our lifestyle change is such in this country that there are people who are too scared to get up at 4.00 a.m. and 5.00 a.m. to jog or take a walk, which they used to enjoy in the past. They are scared a car may pull up, abduct them, put them in the trunk and take them to their home to get their bank cards to take them on a little trip to the bank so that they could punch in their pin number and withdraw their hard-earned savings.

As I said before, Mr. Deputy Speaker, even the jargon, even the way we speak to each other has changed in this country. It used to be that when someone left home and a family member came to visit, when they were leaving they would say: "God bless, we will 'sight' up. See you again; we will meet next week." Give

them a bounce. Now, you put your hand on the person's shoulders and say: "Reach home safely. Call me when you get home." We are not sure if that person will make it home alive and we panic if they do not call when they reach home.

I call my loved ones every day to ensure that they have completed dance class and have reached home on time; they have completed work; whatever they are doing—studying. [*Interruption*] Even those in need of piano lessons; even those who cannot play the piano, if they are taking piano lessons, we should check on them as well. [*Interruption*] I would rather mention a piano than a teacup, Sir.

The high crime rate continues to be a serious challenge and the Government recognizes that the implementation of certain administrative and legislative measures are urgently needed to reform the criminal justice system; to treat with discipline, crime and justice and to improve the ability of the State to treat with the undesirable levels of criminal activity in Trinidad and Tobago.

In our short period in government, numerous amendments and legislative measures have been introduced before this honourable House with a view to plugging loopholes and tightening the system of criminal justice to make it function better. We are not just tightening the system of criminal justice, but we are actually trying to give the police the tools and equipment they need to fight crime. That is why I had the honour to pilot the Anti-Gang Bill, which seeks to make provision for the suppression of gangs established for the commission of crime, to engage in criminal activity and for unlawful purposes.

That Anti-Gang Bill makes it a serious offence with a different and higher penalty if you recruit persons close to a school. These are measures we need to rescue and save our society. The Bail (Amdt.) Bill, 2010 sought to confer upon the court the jurisdiction to deny bail to a person who is a gang member and we have included substantive offences under the Anti-Gang Bill. If you belong to a gang and intend to terrorize law-abiding citizens in this country, then rest assured that you will be caught by that legislation. There will be no bail. You will be tried expeditiously and you will feel the full weight and brunt of the law. You will pay the maximum price and penalty possible. On that note, the maximum price and penalty possible includes respecting the death penalty, which is part of the laws of Trinidad and Tobago.

The Constitution (Amdt.) (Capital Offences) Bill, 2011 will seek to incorporate a law that was passed with the support of my friends on the other side when we sought to categorize murders. That support was given because it was recognized as being necessary that should we categorize murder, it may soften and cushion

the indiscriminate application of the death penalty and solve some of the problems people have because there may be situations where it might be appropriate.

We have now incorporated that into the Bill and sought to plug all the loopholes with respect to the delays, with respect to the procedure for obtaining a pardon.

Mr. Imbert: Mr. Deputy Speaker, point of order, Standing Order No. 38(1).

Mr. Deputy Speaker: Standing Order No. 38(1) says:

> "It shall be out of order to anticipate a Bill by discussion upon a motion dealing with the subject matter of that Bill."

Overruled.

Sen. The Hon. A. Ramlogan: I am trying to put this legislative measure in the context of the full panoply and array of measures that we have introduced in this Parliament because it is but one rung in the ladder of legislative measures that we are bringing to this honourable Parliament so that we could climb and rescue this country and take it to higher heights. Where we met it is where they left it; down below in the gutter. The death penalty is a most serious penalty; it is the maximum penalty you can inflict.

Mr. Imbert: Standing Order 38(3). That Bill is already before this House. The Member is debating. He is anticipating the debate.

Mr. Deputy Speaker:

> "In determining whether the discussion is out of order on the grounds of anticipation, regard shall be had by the Chair to the probability of the matter anticipated being brought before the House within a reasonable time."

I will allow the Member to continue because he is putting it in the context of a total.

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, I am grateful.

Mr. Deputy Speaker: I will caution the Member to try to not go into the meat of the Bill.

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, as I provide the conceptual framework for this package of legislation, I will not delve into the detail of the legislation, but I must, in putting the conceptual framework forward, put the parameters to show what we are doing to ring-fence the criminal elements in our

society by the series of legislative measures we are bringing to this House to ensure that they do not escape the noose and long arm of the law.

The Evidence (Amdt.) Bill, 2010 will seek to revive the common law doctrine of recent complaint.

Mr. Imbert: Mr. Deputy Speaker, point of order, he is now anticipating another Bill that is on the Order Paper, the Evidence (Amdt.) Bill. Everything he is doing is anticipating Bills.

Mr. Deputy Speaker: [*Inaudible*]

Sen. The Hon. A. Ramlogan: I am grateful, Mr. Deputy Speaker. I am afraid I will have to ignore that rather short intervention.

It also proposes to extend the use of video recorded evidence to encompass all criminal proceedings and to allow for the admissibility of the video recorded statements of both accused persons and witnesses even where the witnesses are absent at the trial.

The Firearms (Amdt) Bill: we have sought to increase all the penalties on average by 50 per cent for offences involving the use of firearms. The Bill would make unlawful possession of any firearm or ammunition, a strict liability offence, and place the burden of disproving the mens rea on the defendant.

Mr. Deputy Speaker: Hon. Attorney General, I have to now agree with the Member for Diego Martin North/East. The Firearms (Amdt.) Bill is coming on Friday. Try to stay away from it.

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, apart from the Firearms (Amdt.) Bill, we have the Miscellaneous Provisions (Bail and Kidnapping) Bill, and the Securities Bill. We also have the procurement legislation and, of course, the Interception of Communications Act. All these legislative measures in the short life of this People's Partnership administration are geared towards dealing with the issue of crime, whether white-collar crime, political corruption or raw bandit activity on the ground.

In dealing with this measure, we have not ignored the social aspect of crime in this country. The background to this Bill: under the Summary Courts Act, Chap. 4:20 and the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, a magistrate is empowered to remand an accused person without his consent for a maximum period of eight and 10 days respectively.

In other words, when the case comes up, the magistrate remands the person in custody and the person must be brought back to court every eight or 10 days. The magistrate cannot allow the person to remain in prison for a longer period of time.

The person must be brought back. Over the years, it has become evident that this time frame is woefully insufficient because the prosecution cannot be ready in eight to 10 days with your case to try it.

What you have is a system whereby prisoners have to be brought throughout the length and breadth of Trinidad and Tobago to all the courts at great cost to the taxpayers. When they are brought before the court, the magistrate has to spend the first half-day of his morning going through the remand prisoner listing to actually call the matter and simply have them go back to come again in another eight to 10 days.

It has been an unnecessary waste of precious judicial time and it took us eight months to bring this measure to free up that system and to dynamite the logjam. This measure and the benefits of it are not as simple as meets the eye. There are non-bailable offences. There are offences which require the input of the Forensic Science Centre. So a man who is on a non-bailable offence cannot get bail. You require testing of the drug to confirm whether or not it is cocaine. You know that the Forensic Science Centre will not be ready with the result. Without the result, you cannot start the case. Every eight and 10 days, the person still has to come back to hear what they already know; that is to say that the prosecution is not ready.

The far more practical and reasonable method of approach would be for the court to have the power and flexibility to adjourn the cases for these periods so that the time of the magistrate could be better utilized. The flexibility which this time period brings will allow the magistrates to fix their list with a degree of certainty and to allow for more time to actually try cases.

The endemic backlog that exists in the Magistrates' Courts, in order to tackle it properly and remove it, it is necessary to introduce some form of case flow management in the Magistrates' Courts. The hon. Minister of Justice and the hon. Minister of Legal Affairs are working assiduously and are near completing a pre-trial system in relation to indictable offences. It is in this context—the time period to have prisoners on remand—that this Miscellaneous Provisions (Remand) Bill, 2010 has been prepared and brought to this honourable House.

The main purpose of this Bill is to increase the period of time in which a magistrate can remand an accused with regard to both summary and indictable matters and, in both instances, we wish to increase the time period to 28 days, so that, in effect, the prisoner would now need to be brought before the court every 28 days instead of every eight and 10 days.

The number of court hearings will be decreased. The number of times the prisoner has to be taken to and from the jail to the court will decrease and, of course, the daily transportation costs will go down. This measure is conducive to a more efficient system to manage prisoners and their cases and to allow for the magistrates to have more time to do their work. Thus the measure will amend the Summary Courts Act, Chap. 4:20, to increase the remand period from eight to 28 days; to amend the Indictable Offences (Preliminary Enquiry) Act, Chap 12:01, to increase the period of remand from 10 to 28 days.

I turn now to the provisions of the Bill. Clause 2 of the Bill seeks to amend section 66(3A) of the Summary Courts Act, Chap. 4:02 by deleting the word "eight" and substituting in its place the words "twenty-eight".

Section 66 of the Summary Courts Act gives the magistrate the power to adjourn matters before his court. Perhaps I can summarize that power for ease of reference. At any time before or during the hearing of a matter, the magistrate is empowered to adjourn the case to a specified time and place in the interest of justice. Before he does so, he must do so in the presence of the defence and prosecution and, where a defendant is on remand and unable to attend court, for example because he is ill, had an accident or for whatever reason, the magistrate has always had a discretionary power in the absence of the defendant to remand them for such further term as he considers just. That is what we have presently in subsections (1) and (2) of section 66.

I would like to set out the verbatim of subsections (3) and (3A) of section 66 because these two subsections bear directly on the Bill before us. These two subsections were introduced by the Summary Courts Act by the Third Schedule of the Bail Act, 1994.

> "(3) Subject to section 5 of the Bail Act, the Court may, upon any adjournment, remand the defendant in custody by committing him to prison or to such other safe custody as it thinks fit and the time fixed for the resumption of the trial shall be that at which he is required to appear or to be brought before the Court in pursuance of the remand.
>
> (3A) A committal made under subsection (3) shall be for a maximum period of eight days unless a Court is not held within that time, in which case the defendant shall be brought before the Court on the first day on which the Magistrate holds Court at the place where the Order was made."

Subsections (4) and (5) of section 66 provide that if on the adjourned date one or both parties to the case fail to attend, the court can hear the matter; but if the

complainant is absent the magistrate may dismiss the matter and, if the defendant is absent, the magistrate can issue a warrant for the arrest of the absent defendant.

Mr. Deputy Speaker, this power to assist the magistrate in managing criminal trials is a well-intentioned one, but it is capable of misuse and manipulation and oftentimes yields a result that is not necessarily in the best interest of justice.

The non-appearance of either party to the matter can have very drastic consequences. If the prosecution is absent, the magistrate can dismiss the matter and if the defendant is absent, as I indicated, he can issue a warrant for his arrest. Police officers are overworked. The system is overburdened and when they have to juggle their investigative duties, their police station duties and they have to juggle that with coming to court, it poses a serious problem. Oftentimes you can sympathize with a police officer who knows that the matter will not be ready for trial because he knows that the forensics have not come back with their results and that some other matter is not fixed for trial. The point is that he knows the matter will be adjourned and the accused remanded into police custody. That police officer may choose sometimes not to attend that day's hearing in court. The matter is not ready to start. The prosecution is now ready and that is known to him. What does the defence lawyer do?

It has become common practice in the Magistrates' Court in this country for defence counsel to indicate "ready to proceed". They do so regardless of whether they are ready to proceed or not, in the full knowledge that the matter cannot proceed. Why do they do that? They do that because the fly sheet of the court file can reflect that on four or five occasions previously, the defence was always ready to proceed.

It is not that it did not want to proceed; it was unable to proceed, but when the prosecution comes up again and the police officer is absent, the defence counsel makes an application to say that they have been ready to proceed; the matter was called five times and we are asking you to dismiss the matter. Sometimes it actually succeeds. So there is no determination of the crime by reference to the merits, the admissible evidence and the facts of the case. What you have is the manipulation of the system to get away on a technicality.

For far too long this has been allowed to happen and in part it is fuelled, caused and contributed to by the eight and ten-day remand rules. This does not augur well for the rule of law and the respect for law in general by citizens. This Government must adopt measures to promote the rule of law, equity and justice for all citizens and to inspire and restore public confidence in the administration of justice.

It is a double-edged sword because sometimes you may find a defendant who is out on bail and may have a good reason for being there. Eight days to 10 days is a short time. If a person genuinely wants to change and he is charged with an offence and gets a job; if someone is compassionate enough to give a young man a second chance and hire him, these adjournments sometimes come so soon, the time off, the length of the case, the amount of time off, after five times they are ready to dismiss the employee. It takes too much time.

Mr. Deputy Speaker, we are trying to create a process by which the accused will attend court with his lawyers when the trial is ready to proceed and to minimize the delays and the court attendances that will be necessary for them.

2.30 p.m.

Mr. Deputy Speaker, there is a monetary benefit to this measure, an immediate monetary benefit. The escalating cost of transporting prisoners has been a burden on the taxpayers of this country. Bear in mind we have Magistrates' Courts as far as Mayaro—all parts of this country—and those prisoners are being transported from one point to all courts in the country.

In November 2009, the Ministry of National Security revealed that the private security firm, Amalgamated Security Limited, which has the responsibility and contract for transporting prisoners—I dare say they did a good job with it so far—was paid a total of TT $98.4 million from 2002 to 2009. Almost $100 million spent on physical transportion of prisoners in a country as small as ours and that, in part, is because of the duplicity, the multiplicity of hearings because you have to remand prisoners for eight to10 days and bring them back.

Mr. Deputy Speaker, this measure, I am hoping, will result in a monetary saving to the people of this country because there will be less need to transport prisoners so frequently to bring them before the court. That figure represents an average of almost $12 million per annum. Budgets are shrinking and the task of ensuring public safety, while transporting the accused from prisons to courts, hospitals and even training facilities, take police officers away from their core job of providing protection, law and safety.

Mr. Deputy Speaker, it is not just the transportation—that is the cost you pay to the company. When the prison vans pick up prisoners, you need to have the police escorting each van throughout the length and breadth of Trinidad and Tobago until they reach the courts. Then, you have Court and Process Branch police officers who are assigned to take possession of the prisoners when they arrive at the court, and put them in the cells. The Court and Process Branch

officers would have to look after the prisoners whilst they are there. They would have to search them; they would have to make sure that they behave properly; extra diet and so on.

This has been a virtual nightmare, Mr. Deputy Speaker. In the San Fernando Magistrates' Court, for example, the cell was not designed to accommodate the number of persons that we have to bring down because they have been remanded to reappear on that particular date. What happens? In the recent past, many prisoners, while awaiting their turn to go upstairs to appear before the Magistrate, you would have seen that they slashed another prisoner.

In the *Daily Express* of January 14, 2010:

"Prisoner stabs cop

A police officer who refused to purchase doubles for a prisoner was stabbed in face by the suspect…

PC Judson Mohammed…"

This is what happens. It breeds violence. If we can lessen this, it will redound to the overall benefit of the criminal justice system.

Mr. Deputy Speaker, I will give way to my learned Friend from Diego Martin North/East.

Mr. Imbert: Mr. Deputy Speaker, I thank the Attorney General for giving way. You said something a little while ago which appears contradictory. A person who is out on bail, that person is not remanded in custody. Why, then, would the person have to come to court every eight days?

Sen. The Hon. A. Ramlogan: If you listened carefully, you would see that I said the process, the number of adjournments. I was not referring to someone out on bail having to be remanded, no.

Mr. Imbert: I just wanted to be clear.

Sen. The Hon. A. Ramlogan: That is fine.

The situation I was dealing with is not someone who is remanded into custody, but I want to point out to you that if you are jointly charged with someone and you are able to make the bail, the person who is your co-accused, who is remanded in custody, you have to appear every eight to 10 days to meet your co-accused. So that even if you are out on bail you may still have to come back every eight to 10 days because of your co-accused, who was part of the joint enterprise—just like the joint enterprise to uplift your status, on that side.

Mr. Deputy Speaker, the permutations are endless. Each year the astronomical cost incurred by the Ministry of National Security for court transportation is something this measure, I hope, will reduce.

As of 2010 we have been looking at bringing that cost down, not just by this measure, but by introducing video-conferencing technology. Ultimately, my vision for the criminal justice system in this country is that the prisoners should never have to leave the prison at all, but that they should have video-conferencing facility set up in the prison so that they can appear via video-conferencing, link to the judge in San Fernando, Port of Spain or wherever the court is, so that we eliminate the cost of the transportation and save those millions of dollars.

It is my fervent hope that with this measure, with the savings we realize, we will be able to employ more magistrates and, perhaps, build a few more courts. [*Desk thumping*]

I dare say, the magistracy will welcome this measure and breathe a sigh of relief. For far too long they have had to do what we call "clear their list" before they could start real work in terms of dealing with a trial. It is a vicious cycle because you have to call up all the prisoners on remand and you have to adjourn and adjourn. The paperwork is endless and it takes up the resources of the clerk and Court and Process Branch police officers to escort the prisoner transportation vehicle. Then you have the prosecutor who also has to take a note of everything; whilst, at the same time, remember he has a trial to do just afterwards.

Mr. Deputy Speaker, just to give you an idea, this vicious cycle which has resulted in this continuous backlog of cases, and gross delays in the delivery of justice in the Magistrates' Court—in the contribution to the budget debate, in September 2008—the Prime Minister pointed out that in 2008 there were 471,000 cases listed in the various Magistrates' Courts in this country—471,000 cases. If that statistic is not, in itself, reflective of a country in crisis, because of the criminal elements, I do not know what else is.

Mr. Deputy Speaker, the statistical data collected by the Judiciary and set out in table 37 of the annual report for 2008/2009 shows that for that period—just 2008/2009 alone—90,000 new cases were filed in the various magisterial districts. So, whilst you are not able to clear the backlog, more layers are being piled on. So the system is creaking beneath the sheer weight and volume of the cases. If we do not act innovatively and bring some ingenious measures to bring immediate relief, I dare say, it could very well collapse.

This has been a problem that has existed in our jurisdictions for decades. I wrote about it, I spoke about it as a private practitioner, and it is beyond me why

such a simple measure, that could dynamite the logjam, was not brought before this honourable House.

Mr. Deputy Speaker, the hon. Chief Justice has long noted and complained about the burnout of judges and judicial officers. They are making a superhuman effort to tackle the backlog, but it is like the wellspring of water keeps filling it back up, because the crime is continuing. Justice delayed is justice denied, and the justice is denied to the victim and to all law-abiding citizens when people are able to make a mockery, manipulate the system and exploit loopholes to their benefit while they laugh and ridicule you.

Mr. Deputy Speaker, there is nothing more humiliating and traumatic than a person who is a victim of crime having to pass and confront the person who robbed them, raped them or brutalized them; and they are grinning, "skinning" and laughing at you in your face in the court when they are leaving because the matter is adjourned for the tenth time. Each time you have to come to court, as a victim, you have to relive the nightmare and painful trauma of that experience. You are raped again; you are kidnapped again. The couple of days before the court date you cannot sleep because you are breaking out in cold sweat and reliving the traumatic experience. The court is not user-friendly. You are scared, you are nervous, and we subject the victims of crime in this country to a system that keeps them on a treadmill where we sometimes increase the speed—we increase the incline—but they go nowhere. It is a treadmill system of criminal justice. We may increase the speed of the treadmill, we may increase the incline, but at the end of the day, the poor victim of crime continues to run until they eventually burn out, they stop and say, "I will have none of this anymore."

I wish to commend the hon. Chief Justice, with whom I am in regular consultation, for the measures that he has agreed to allow us to implement to be able to tackle this backlog in a meaningful way.

Mr. Deputy Speaker, we are seeking new accommodation to house the administration of the Judiciary so that we can provide more courtroom spaces to accommodate more judges so that we can convene more courts.

We are discussing, at the moment, the possibility of raising the ceiling for the petty civil court jurisdiction which is presently at the level of $15,000. That, too, would bring some measure of relief on the High Court.

There are many other measures, Mr. Deputy Speaker. The video-conferencing system set up in Tobago to bring relief to our Tobagonian brothers and sisters

who would have had to make that long journey to come to Trinidad, is working perfectly. No complaints, no glitches and it has brought about a certain measure of relief to all those who are concerned with persons in Tobago who are before the Courts.

Mr. Deputy Speaker, clause 3 of the Bill seeks to amend section 14(3) of the Indictable Offences (Preliminary Enquiry) Act, Chapter 12:01, by deleting the word "ten" in the two places it occurs in this subsection and substituting the word "twenty-eight".

Section 14(3) of the Act deals with the power of an enquiring magistrate to grant an adjournment on proceedings during a preliminary enquiry. Preliminary enquiries are only conducted in relation to indictable offences and the issue of guilt or innocence of the accused is not an issue for the determination of the magistrate, per se.

Essentially, the magistrate is concerned with whether a prima facie case is made out and whether there is sufficient evidence to allow this matter to go forward to full trial before judge and jury.

Mr. Deputy Speaker, section 14(3) of the Act states:

> "Unless the person remanded and the prosecutor consent, an adjournment shall not be for longer than ten clear days, but where no Court is to be held within the ten days then the adjournment may be fixed for the next day on which the Magistrate holds a Court at the place where the order is made."

Mr. Deputy Speaker, we intend to increase this period to 28 days for indictable offences as well. The parties may agree to a longer period, by consent. Permit me to say that even in our present system a number of accused persons tell the magistrate, through their counsel, and consent to say, "Look do not bring me back in 10 days' time"; they can consent and get a longer adjournment, even as things stand.

There are many prisoners who actually ask their attorneys to do that. Why? The prisoner is subjected to a journey from Port of Spain to Mayaro in a van that has him standing up—claustrophobic heat, sun hot—being navigated on some rough roads going down the road, only to reach to hear the magistrate say, "Go back and come back in the next 10 days." So, prisoners now, themselves, knowing that there is no hope of their matter starting, prefer to say, "Look let us take a longer adjournment." So that, too, is happening. That, in itself, underscores the farcical nature of what we have inherited in terms of a criminal procedure, and it creates many problems.

Mr. Deputy Speaker, people manipulate the adjournment date because they want to meet their partner who is in a gang. The partner is not close to them, or may not be in the same jail facility, but they so want to meet that partner to talk about the case; to find out "if yuh squeal on me" or "I eh squeal on you". So, what do they do? They try to manipulate the system by getting an adjournment date to coincide with the date of the other prisoner's adjournment date. They will agitate and find all sorts of excuses—this day bad, that day bad. They may have a particular date in mind because they want to reach in the cell below "to meet a partner so we could talk business."

These are the kinds of challenges we face. This is the raw reality. You would not read about this in textbooks, but this is what is happening there on the ground.

Mr. Deputy Speaker, there are prisoners who seek to coordinate their case, and have case management—personal case management—so that they would end up in that cell with someone else. The next thing you know, they stab another prisoner because they are contracted to do that or he had something to do with his own case.

This measure—by reducing the frequency they could all find themselves in one cell—would eliminate a very grave security risk that the prisoners and the police officers, and, indeed, the courts face.

We have had cases where prisoners are emboldened, encouraged and spurred on by the fact that they have met their fellow gang members. They have openly threatened magistrates in this country; pelted faeces at them; pulled out things and launched at them in court.

Mr. Deputy Speaker, the magistrates in this country have been doing yeoman service. I wish to pay tribute to the hard-working magistrates of this country, because they carry the bulk of the work in the criminal justice system. They perform their duties quietly, efficiently and without complaining about the system they have to function in.

I remember, in my time at San Fernando Magistrates' Court, the place was leaking and the fan which should have provided a little breeze—Mr. Deputy Speaker, it is better they had taken up that fan and done so; [*Demonstrating with his hands*]—one could have held it and literally fanned the man; he would have gotten more breeze. That was the state of the fan. The fan was more of ornamental value than fulfilling any utilitarian function of providing breeze.

I know the hon. Prime Minister fought and stood up for many persons; that is what we confronted. We are now going to equip and outfit the credit union building in San Fernando to try and bring a new Magistrate's Court facility to San Fernando.

Mr. Deputy Speaker, the magistracy in this country has been neglected for far too long. That is why I wish to pay special tribute to the magistrates of this country who have had to function under such conditions for so long in this country. [*Desk thumping*]

This Bill resonates with the constitutional rights of citizens. It is consistent with them because in this country, the Privy Council and the Court of Appeal have both ruled that our Constitution, unlike others, does not provide one with a constitutional right to a speedy trial. One has a right to be brought, promptly, before the appropriate judicial authority soon after one has been charged. Once you have been brought before that appropriate judicial authority then the system will melt slowly and the roller coaster ride will take its course.

Mr. Deputy Speaker, this has been recently reaffirmed by the Privy Council in the case of *Maraj Naraysingh v the Attorney General and the Director of Public Prosecutions*, Privy Council Appeal No. 0108 of 2009. Furthermore, in 2008 the case of *Hilroy Humphreys v the Attorney General of Antigua and Barbuda*, the appellant had challenged the constitutionality of an act which had abolished the preliminary enquiry system by claiming that it had deprived him of a fair trial. I cite this because it is of relevance to our own legislative agenda in this People's Partnership Government.

Section 15(1) of the Constitution of Antigua and Barbuda provided for a right to fair trial. The Privy Council accepted their argument that a preliminary enquiry must be conducted fairly, but it rejected the argument that abolition of the preliminary system would somehow deny an accused person the right to a fair trial.

This is what the judicial committee of the Privy Council had to say at paragraph 9 of its judgment:

> "In the Board's opinion it is a mistake to argue that because the old system provided a fair hearing, the change or abolition of some element of that system results in the new system being unfair. Systems of criminal procedure may differ widely without being unfair."

Mr. Deputy Speaker, we intend to bring to this honourable House, a bill to abolish preliminary enquiries from the criminal justice system in this country. [*Desk thumping*] If we do that we will immediately take away half of the workload of the Magistrate's Courts.

The previous administration, when they spoke about this matter, always talked in terms of building new courts and having new judges and magistrates. That is

necessary to some extent, but what is also, necessary and, perhaps, more so, is to examine the system to see where the pressure points and logjams are and to clear those logjams; to dynamite those log jams.

Mr. Deputy Speaker, the preliminary enquiry serves no useful purpose. They have abolished it in St. Lucia, for example. If we abolish it, all these cases we have had before the Magistrate's Courts for six, seven, eight, nine, 10 years—they have not reached a judge and jury as yet—would be cut out and could go straight to case flow, case management and then conduct the trial. That bill would be coming before his honourable House very shortly. I am glad to see that the Privy Council has already ruled that it does not, in any way, interfere with the right to a fair trial.

The Privy Council also said, in paragraph 10:

> "By the same token, virtually any feature of criminal procedure (a requirement of unanimity in jury for example) verdicts, would become constitutionally protected. It is unlikely that the framers of the Constitution intended to introduce such rigidity in the law."

This is an important change to the criminal procedure in the country. It is not a change that would affect substantive rights of the accused. We are simply changing the procedure and the process in the criminal justice system.

I read that paragraph because it may very well be that we need to give active consideration to the need to effect more changes and bring about more innovative changes in the criminal justice system to examine whether a jury trial is always necessary for all types of offences. A tremendous amount of resources are devoted to jury trials. We are taking a critical look at it, and, of course, would consult with the necessary stakeholders, including the Criminal Bar Association and the Judiciary to ensure that what we arrive at is acceptable to all stakeholders in the administration of justice.

Mr. Deputy Speaker, permit me to summarize the benefits of this simple legislative measure. The first is less transportation, as I mentioned, and its cost. The money that is saved can be redirected to the fight against crime.

More police time would be available to fight crime, because the police who escort the vehicle—the Court and Process Branch officers—will now be free of that burden so they can concentrate on fighting crime.

The paperwork, Mr. Deputy Speaker. When the prisoner comes to the Magistrates' Court—many of you may have noticed that at six or seven o'clock in the evening the prisoner transport van is still parked outside the Magistrates'

Court. In San Fernando we see it all the time. The reason is that for each prisoner a warrant has to be done up. The jail will not be able to receive that prisoner without that warrant. That warrant has to be manually written up for each prisoner. That system has plagued us. Not only is it there, but when you reach the jail, prison officers now have to receive the prisoners, search them, process each warrant for each prisoner before they can let them back into the cell. So, that we have a bureaucracy and layers, upon layers of bureaucracy. We are now cutting that red tape and all of that time will be saved.

Mr. Deputy Speaker, section 130B of the Summary Courts Act states that where a prisoner has filed an appeal the magistrate or judge should give, within 60 days, the reasons for their decision and the notes of evidence, the appellant and respondent should be entitled to obtain a copy of the statement with the reasons. Oftentimes, the reasons are an appendix to the notes of evidence, so they come as one document.

That law is observed more in breach than in actual practice because magistrates simply do not have the time to sit to write reasons. Sometimes you find that the system breaks down because magistrates are preparing reasons today for cases that they did two and three years ago when they may have sometimes forgotten or the recollection may not be as vivid as they would have been.

So if we free up the magistrates' time by virtue of this measure, then they would be able to spend more time to prepare their reasons in a more timely fashion which, in turn, will help the appellate process to move faster and smoother. The clerks would then have more time, as well, to type the notes of evidence to help us attack that backlog. We would cut out a lot of red tape, basically.

Mr. Deputy Speaker, in tandem with this measure, we are putting in place measures to reform the prison system. We recognize that prisoners will now be spending more time in prison and we need to guarantee that the prison itself is able to handle this; because one of the benefits of coming before the court so regularly would be the right to complain to the judge.

We recently appointed Mr. Daniel Khan, in accordance with section 19 of the Prisons Act, Chap. 13:01 as Inspector of Prisons. This Inspector of Prisons, under section 20, is required by the prison rules to inspect and exercise any and all of the following powers:

> "examine any person holding any office or receiving any salary or emolument in the prison;
>
> call for and inspect all books and papers relating to thereto;"

And, most importantly:

> "examine every prisoner or other person whom he finds in the prison and thinks fit to examine, either alone or in the presence of such other persons as the Inspector thinks fit."

Mr. Daniel Khan is a young, bright attorney-at-law. We all know his father, Mr. Israel Khan, Senior Counsel. Mr. Daniel Khan, young, bright and experienced at the criminal bar, will be able to robustly protect the rights of the prisoners. I am saying this so that we will be comforted—because we are increasing the period of remand—to know that we have the system in place and we would have someone keeping watch over any possible abuse in the prisons.

3.00 p.m.

Mr. Deputy Speaker, one of the measures to which our objectives to a more efficient and effective system of justice would be accomplished is through, also, the replacement of the existing prison rules. The prison rules in our country were made under the West Indian Prisons Act, 1838; 1838.

Mr. Sharma: That is when Imbert born?

Hon. A. Ramlogan: Mr. Deputy Speaker, 1838 prison rules; archaic, outdated, and it is the kind of rules that have fuelled litigation. These rules have fuelled litigation against the State for possible breaches of people's constitutional rights and fundamental human rights. So we are reviewing those prison rules. We have completed the review and the hon. Minister of Justice will bring to this honourable House and tell us more about what those new reformed prison rules will do to modernize the prison system and to give better and meaningful effect to the fundamental rights and freedoms.

Mr. Deputy Speaker, in concluding, I wish to say that this Bill is a small but important step in the right direction. Most private practitioners will tell you of the horrors that both the accused and the prosecution face in our present system. Mr. Deputy Speaker, there is no point in bringing a prisoner before the court if there is no realistic possibility that the progress of his case is going to be meaningfully advanced. Unless there is a realistic prospect or possibility that the progress of his case is going to be meaningfully advanced then, quite frankly, the prisoner is better off not undertaking that arduous journey and the State is better off saving that money and eliminating the potential security risk that is posed by that.

Mr. Deputy Speaker, this measure will be of immense value to the administration of justice. It will save us time, it will save us money but, most importantly, it will send a strong message to the criminals that the People's Partnership Government is serious

about creating an effective and functioning justice system that will deliver criminal justice in a faster pace of time, and we are going to eliminate all of the delays and the logjams. Mr. Deputy Speaker, that is the intention of this Government and we are sounding a warning to the criminals that they will no longer be able to take this excursion and adventure for granted that they will come to court every 10 days and meet their colleagues in the cell and plot and conspire to commit more crime, but what they will find is that they will wait 28 days in the jail, come back after 28 days and we will see what is happening then.

Mr. Deputy Speaker, this measure is necessary in our society and it is an integral part of the comprehensive package to reform the criminal justice system in our country. I wish to move that this Bill be now put before this House for the support of Members on both sides. If the Opposition and my learned friends on the other side are serious about the responsibility entrusted to us by the people of this country—they have elected you to serve and seek their interest—then they will see that this measure is one that needs and requires their support in every possible way, and the only lament would have been the fact that they took so long for it to actually be brought before this honourable House.

Mr. Deputy Speaker, I beg to move. [*Desk thumping*]

Question proposed.

Mr. Sharma: Oh Lord, look at what we reach to.

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Deputy Speaker. The last three or four presentations made by the Attorney General in this House would have attracted a mark of one out of 10, because on previous occasions, he did not deal with the substance of the legislation before us.

Mr. Sharma: Do you know the difference?

Mr. C. Imbert: Today I will give the Attorney General a mark of three out of 10. It is still a fail, but he is improving. He did, in fact, deal with the two clauses in the Bill.

Mr. Sharma: In 20 years, you have made no mark.

Mr. C. Imbert: A two-clause Bill. But—and before we begin, Mr. Deputy Speaker, the Member for Fyzabad has started his usual uncouth behaviour. I will seek your protection at the beginning from the Member for Fyzabad.

Mr. Deputy Speaker: You have the protection of the Chair.

Mr. C. Imbert: Thank you. Now, Mr. Deputy Speaker, it is intriguing that persons such as the hon. Attorney General and the hon. Prime Minister, Member

for Siparia, came into this honourable House—well, into Parliament, because the Attorney General is a Senator—on the altar of human rights. If you read the records of the courts, you will see that both the Member for Siparia, the hon. Prime Minister, and the Attorney General have quite a record in championing, or so they say, human rights of accused persons, disadvantaged persons, and so on.

It is interesting that they came into this House on the altar of human rights and now that they are in, now that they are in Government, every single piece of legislation that they bring tramples on those very human rights. It gives one the impression, Mr. Deputy Speaker, that the posture they adopted in Opposition was simply hypocritical and populist in order to fool the people, fool the people, fool the people. [*Desk thumping*] But be that as it may, Mr. Deputy Speaker—

Dr. Browne: Find the piano, find the piano, find the piano.

Mr. C. Imbert:—we on this side cannot support this legislation. I want to make that clear on the outset. We cannot support it. And yes, my honourable colleague from Diego Martin Central says, "find the piano, find the piano, find the piano." But be that as it may—

Mr. Warner: Joke boy.

Mr. C. Imbert: Yes, well you were not here. You did not realize that the joke was on you. Mr. Deputy Speaker—

Hon. Ramlogan: Buy the piano, buy the piano, buy the piano. That is what it is.

Mr. C. Imbert:—since the hon. Attorney General did not properly explain what this Government is seeking to do, it falls to us to do so. The reason, Mr. Deputy Speaker, we cannot support this legislation, is that the Government is making no distinction between summary offences and indictable offences. I would like the Attorney General to tell us in his winding up: why are you increasing the period for remand to 28 days in the case of both summary offences and indictable offences? I would also like to tell the Attorney General that we on this side have had discussions with judicial officers, persons involved in the administration of justice, and they are not in favour of increasing the period for persons charged with summary offences to 28 days.

Hon. Ramlogan: Would you just give way?

Mr. C. Imbert: Certainly.

Hon. Ramlogan: Yes, thank you. Mr. Deputy Speaker, my learned friend from Diego Martin North/East—

Dr. Rambachan: Learned friend?

Hon. Ramlogan:—is stating as a fact that the Judiciary of this country has adopted an official position in respect of this legislation. Mr. Deputy Speaker, I think he owes it to this honourable House to disclose who in the Judiciary he met with and when that official position was made known to him, because such an official position is certainly not what was communicated to us on this side of the House. I think he owes it to the Government and to this honourable House to disclose publicly who in the Judiciary he had conduct with, and did they speak for the entire Judiciary and whether this was the official position of the Judiciary.

Thank you.

Mr. C. Imbert: Mr. Deputy Speaker, I do not think I could give way again. I realize that English is not the first language of the hon. Attorney General. Okay? English is not your first language. [*Laughter*] I said we have spoken to persons involved in the administration of justice. [*Desk thumping*]

Hon. Ramlogan: You said they are judicial officers.

Mr. C. Imbert: I said we had spoken to persons; judicial officers. Now, the singular is not the plural, and the plural is not the singular. As I said, I realize that English is not your first language. I never said that we had spoken to the entire Judiciary and we had an official position from someone speaking on behalf of the Judiciary. I said we had spoken to a judicial officer. As I said, English is not your first language. But anyway, Mr. Deputy Speaker, let me deal with—

Dr. Douglas: He tried to pull a fast one.

Mr. C. Imbert: No, Sir. Let me deal with the matters that the Attorney General conveniently did not tell us about. This is why you got three out of 10. It is still an increase. You are getting better. Now, Mr. Deputy Speaker, I wish to read into the record some of the offences that are covered under the Summary Offences Act. Before I go there, what the Attorney General also did not tell us is what is the difference between an indictable offence and a summary offence.

Why would you want to treat persons charged with summary offences differently to persons charged with indictable offences? Because certainly, with indictable offences, where, for example, someone may be charged with possession of cocaine or trafficking in cocaine, let us say, certainly you have to go and test the substance and establish whether it is, in fact, cocaine and not salt, or something like that.

Certainly, with certain crimes, the question of bail is far more complex. In fact, we have matters before the courts now where the question of bail is extremely complex. I would not go into details, but certainly, there are certain matters where persons have been charged for indictable offences where the question of bail has engaged the attention of lawyers and judicial officers for months. So that certainly with the indictable offences, you have the whole issue of settling bail and whether someone should be allowed bail, and so on. And certainly, as I said in the case of drug offences, you would want to test the substance to determine whether it is, in fact, drugs.

With summary offences, a lot of these problems do not exist, so I would like to read into the record, Mr. Deputy Speaker—because a summary offence is considered to be, by and large, a relatively minor or trivial matter. These are some of the summary offences:

"• Larceny

- Larceny in dwelling house
- Stealing sugar, cocoa
- Stealing animals
- Stealing livestock
- Unlawful possession of animals
- Killing or wounding pigeons."

Now, that is a good example. That is item 17 in the Summary Offences Act.

Hon. Ramlogan: How would you know if it is a pigeon?

Mr. C. Imbert: Killing or wounding pigeons. So a man who has been charged for wounding a pigeon is going to be treated in exactly the same way as a "fella" who is charged for trafficking in psychotropic substances or a "fella" charged with some violent crime. That is why we on this side cannot support this legislation in its entirety. Let me make a qualification. We cannot support it in its entirety. [*Desk thumping*]

Dr. Douglas: Because you are being ridiculous.

Mr. C. Imbert: Mr. Deputy Speaker, I have the echo behind me who also disturbs me. I would like protection from the Member for Lopinot/Bon Air West. You have this one in the back and that one in the front. So I am seeking your protection, Mr. Deputy Speaker. Can you quieten down that echo in the back, please?

Mr. Deputy Speaker: He is quiet.

Mr. C. Imbert: Thank you very much. Another summary offence, Mr. Deputy Speaker; unlawfully taking fish. So someone who is charged with the offence, he passed by the market and he grabbed a piece of carite and he runs down the road and they hold him—I see you are laughing. You realize how absurd it is. Somebody charged with unlawfully taking fish would now be subjected to the 28-day period between appearances in the court and given the same treatment as someone charged with a serious criminal offence, Mr. Deputy Speaker. Somebody charged with shooting—

Hon. Ramlogan: But they may get bail.

Mr. C. Imbert: Well, we are coming to that. We are coming to that. So here is another summary offence, Mr. Deputy Speaker:

"• Stealing and damaging trees

• Stealing and destroying fences

• Stealing and destroying cultivated plants."

Mr. Warner: Stealing a piano.

Mr. C. Imbert: Yes. That too. [*Laughter*]

"• Stealing agricultural produce

• Injuring trees

• Unlawful possession of trees or parts of fences

• Unlawful possession of farm animals."

These are all summary offences, Mr. Deputy Speaker. I go on:

"Idle and Disorderly Persons."

They "ketch" a fella in a drain, a stale drunk; he went out, he got drunk and he fell in the drain; the police come to shake him, he is drunk, so he quarrels and thing, they say, "All right, charge you for being idle and disorderly." "Rogues and Vagabonds", Mr. Deputy Speaker. Rogues and vagabonds. That is section 46 of the Summary Offences Act, Mr. Deputy Speaker.

Dr. Douglas: We have two.

Mr. C. Imbert: Mr. Deputy Speaker, can you?

Mr. Deputy Speaker: Yes, Member for Lopinot/Bon Air.

Mr. C. Imbert: My respect for you, Mr. Deputy Speaker, will go up tremendously if you can silence the echo in the back of me. Ten out of 10 for you.

"• Violent or obscene language or disturbance of the peace

• Indecency, lewdness and insulting acts in certain places

• Being found drunk in a public place

• Drunkenness and riotous conduct"

Well they have some persons who may be close or associated with this place who might find themselves charged for indecency—

Dr. Moonilal: Arnold Piggott.

Mr. C. Imbert:—lewdness, or being found drunk in a public place, and they will have to deal with this 28-day thing, Mr. Deputy Speaker.

Dr. Moonilal: Arnold Piggott.

Mr. C. Imbert: It goes on:

"•…gambling or disorderly conduct in public houses."

Mr. Deputy Speaker, let me give you another one:

"• Offences in streets

• Slaughtering animals

• Goods on a footway."

If you have goods on the footway—a footway is a sidewalk or a footpath, pavement as we call it. Goods on a footway, that is a summary offence, hanging clothes on the window of a shop front, that is a summary offence, Mr. Deputy Speaker. Naked children, this is all in here, you know. This is all in our law. Naked children, that is a summary offence.

"• Illegal signboards, street lamps and bells.

• Bonfires."

If you light an unauthorized bonfire, that is a summary offence, Mr. Deputy Speaker.

"• Depositing goods in streets.

• Obstruction (of) streets

• Throwing stones or other missiles."

So in the Summary Offences Act, Mr. Deputy Speaker, there are, in fact, 129 categories of offences. "Flying of kites prohibited in Port of Spain or any borough or proclaimed area;" these are all summary offences.

"• Bathing in the Maraval River."

Well I have to watch out because that is in my constituency, so some of my constituents may be at risk of being charged for bathing in the Maraval River.

Mr. Warner: Even you.

Mr. C. Imbert: Even me, yes.

"• Washing clothes or the discharge of a noxious matter into a stream or pond

• Inciting dogs to attack others…

• Cruelty to animals"

Et cetera.

Hon. Ramlogan: You see the Member for Diego Martin West "watching you hard" on that matter?

Mr. C. Imbert: Which one is that, Attorney General?

Hon. Ramlogan: The "Rott".

Mr. C. Imbert: Oh, okay then.

"• Fireworks in towns

• Fireworks outside towns

• Uniforms not to be worn without authority

• Misuse of telephone facilities and false telegrams

• Holding of public meetings."

And that affects all of us in this House, Mr. Deputy Speaker. Holding of a public meeting without the requisite authority is a summary offence and liable to a charge under the Summary Offences Act.

"• Public Marches and Processions."

Marching without a permit is a summary offence, and again, Members inside of here and persons outside of here could quite easily—in fact, there are persons in the other place who have been charged for marching without a permit, right

outside this building. I am aware of that. One of the Government Members, who is a Senator now, was charged for that. "Restriction on the use of loudspeakers," that is an offence, and so on and so on, Mr. Deputy Speaker.

So, the Summary Offences Act has, as I said, 129 sections listing a number of, in the main, very trivial offences. As I said, wounding pigeons or being drunk and disorderly, and so on, Mr. Deputy Speaker. If this legislation is passed in its current form, those persons who just need a night to sleep it off and, you know, if they come back to court within the eight-day period, they could be released on their own recognizance or their own bail. The matter could be dealt with, they could be reprimanded and discharged, and so on, Mr. Deputy Speaker.

Dr. Moonilal: Killing a pigeon.

Mr. C. Imbert: Those people now are going to face 28 days in the prison between court appearances, Mr. Deputy Speaker.

Dr. Moonilal: Do not bathe in the Maraval River, that is all.

Mr. C. Imbert: Very funny. Mr. Deputy Speaker, in our discussions with persons involved in the administration of justice, the view is that it is not a good idea to increase the period between appearances in court for summary offences from eight to 28 days, because many persons who are charged with these minor offences plead guilty. Many persons plead guilty because they do not want to get into the prison system. And I will explain that in a short while, Mr. Deputy Speaker, why they do not want to get into the prison system.

So that in that first eight days or second eight days, many persons plead guilty and pay a fine and they leave. They do not have to go through this process of being exposed to the inhumane conditions in the remand yard for extended periods, Mr. Deputy Speaker. Again, the Magistrates' Court has the authority, and on many occasions will set bail for persons charged with minor offences, such as the one that our colleague in the other place was charged with, marching without a permit or going on a footpath without necessary authority, or whatever he was charged with. Persons like that, I think the Court has the ability to set bail at a very low level and allow those persons again to come out of the prison system.

I listened very carefully to the Attorney General, and he said that the main reason, or one of the main reasons for this measure is to save money. That is what he said. And he went into a long dissertation on the cost of transporting persons to court every eight days, and he said the cost involves the cost of the prisoner transportation itself, the processing of these persons when they come to the court, and he said it is inconvenient to the prisoners.

But, Mr. Deputy Speaker, there is an institute of criminology named at the university. They have been studying these things for years. And it is long established, and I am sure the Attorney General knows this, that it costs far more to keep prisoners in prison than to bring them to court—far more. Common sense will tell you that.

Because in a prison, you have to create an entire infrastructure. You have the prison building itself. You have the utilities associated with the prison: electricity, water, telephone system of some kind. You have maintenance of the building involved. You have medical facilities within a prison, because if you are keeping people in confined spaces, from time to time, they are going to require medical attention, so you have to have doctors, you have to have an infirmary, you have to have medication, you have to have the capability to perform minor procedures, and so on. All of that is required within a prison.

You have to feed the prisoners; you have to provide them with meals; you have to provide them with clothing; you have to hire prison officers or turnkeys, as the Member for Pointe-a-Pierre might know them, you know, rather than prison officers. You have to have a complete administration for the prison. The management cost of a prison, Mr. Deputy Speaker, the direct cost in terms of maintaining that infrastructure and all of those facilities is far more.

I would invite the Member for St. Augustine, because I noticed he pulled the Attorney General out of a little dark place that he had found himself in, and I will talk about that in a little while. That was quite amusing. But I would invite the Member for St. Augustine to look at some of the publications by Prof. Ramesh Deosaran over many years, and you will see it has long been established that Trinidad and Tobago is not unique. All over the world, it has been long established that it costs far more to keep people in prison than to bring them to court. So the argument about saving cost is a fallacy. Yes, you may—

Mr. Roberts: Would the Member give way?

Mr. C. Imbert: Sure.

Mr. Roberts: I thank the Member for giving way. Are you suggesting that when you transport a certain percentage of prisoners to the Magistrates' Court, that the direct cost of maintaining an overall institution diminishes?

Mr. C. Imbert: Not at all. Mr. Deputy Speaker, from what we have been told, and as I said, it makes practical common sense—I just went through it, but I will repeat it. If it did not sink in, I will repeat it. No problem. What we have been

told, and those who deal in the criminal court system and deal with the Magistrates' Court, is that many of the matters can be dealt with expeditiously. As I said, persons will plead guilty and persons will be let out on their own bail.

So the more opportunities a prisoner has to approach the court to let the magistrate know that they wish to plead guilty to wounding a pigeon—let us use that ridiculous example. I did not even know it was an offence. Let us say a "cuss case". That is a more pertinent example. Persons who may be charged for obscene language or being drunk and disorderly, or whatever, may be quite willing to plead guilty; to take a little $500 or $2,000 fine and leave, rather than being incarcerated. Somebody may be reprimanded and discharged because this would be their first offence and they have a good clean record and the magistrate will just give them a warning and let them go.

In addition, the magistrates have the power to let people out on their own bail. There is no requirement for bail with a surety. There is no requirement to bring other people into the system and let somebody come with a deed to a property for these minor offences. So that the more frequent a prisoner appears before the magistrate, the more opportunities that the prisoner—sorry, the accused person, I should not use the word "prisoner"—the accused person and the magistrate have to work the thing out and get that person out of the criminal justice system.

The faster you can get people out of the criminal justice system, the lower the unit cost will be to keep these people in the prison. Obviously, there is a cost associated with bringing the person there. That is obvious. But the objective is to get them out of the system, and that is why we on this side are having grave difficulty in agreeing to increasing the period for summary offences—as I said, "cuss case" and drunk and disorderly—from eight to 28.

The Attorney General spoke about policemen missing court dates. That happens often in Trinidad and Tobago. It happens a lot.

Dr. Browne: Deal with them.

Mr. C. Imbert: A person might miss—a policeman might miss three, four, five or six dates for whatever reason. He may not even wish to come to court. The police officer may have realized that, look, this case makes no sense. Maybe when the person uses obscene language, the policeman gets vex, or something like that. I am being hypothetical but he may not wish to pursue the matters. He just does not show up or he may have some other duty. He may be on shift somewhere and he cannot make it to court, but once you increase the frequency from eight days to

28 days, if the policeman misses three times, it is now three months that the person is in jail instead of 24 days if he misses the first three eight days. So you have to look at this thing in its totality.

The Attorney General has admitted—I will give him that; he has admitted that prisoners are going to spend longer in jail with this measure. He said so. I took notes. He said so. He said prisoners will spend longer in prison and have less opportunity to complain to the court about prison conditions, you know, that they are being abused in the prison or that they are not getting good food, or they are not getting proper medical attention or they are being denied their religious practices, or whatever complaint a prisoner might wish to make. [*Interruption*] I am coming to that. I am coming to the whole question of the conditions in remand.

The Attorney General, speaking on behalf of the Government, has admitted that this measure will cause persons to spend longer in jail than they do right now, and I have given you the reason. Because if you have less opportunities to appear before the court and get out of the system, either, as I said, by pleading guilty or getting bail and coming out, then purely on the basis of statistics, they are going to spend longer—the average person is going to be incarcerated longer than at the present time where it is every eight days. Yes, the matters are routinely adjourned, that is true, but in speaking to persons in the system, although that is true, several matters are also dispensed with because the person has entered a plea and agreed to plead guilty, or whatever.

Mr. Deputy Speaker, I want to quote the hon. Member for Tabaquite, is it—Dr. Rambachan? Tuesday, March 08, 2010.

Dr. Browne: You are quoting Rambachan?

Mr. C. Imbert: Yes, I am quoting Rambachan, believe it or not. Thursday, March 18, 2010, *Newsday*:

> "Leader of Opposition Business in the Senate, Dr. Suruj Rambachan, on Tuesday called for the construction of a Remand Court, close to the Remand Yard at the nation's prisons in order to improve efficiency in the country's prisons and justice system.
>
> In his contribution to the debate on the Prisons Amendment Bill 2010…Rambachan referred to statements made at the opening of the 2004/2005 law term by then Chief Justice…about the 'subhuman conditions' which existed at the Remand Yard.

> Claiming that it was deplorable conditions in the country's prisons which were fuelling crime within the prison system, Rambachan said: 'What are we doing? We are talking rehabilitation. What kind of person is going…back out there unless we correct the conditions under which they are faced in the prisons?'

And he closed by saying:

> "'I would like the Minister of National Security and the Attorney General to explore the possibility of creating a Remand Court in close vicinity to the Remand Yard."'

Again, that is all in furtherance of the objective of getting people out of the system; people in remand. And why do we want to get them out of remand? I will read into the record now, Mr. Deputy Speaker, a *Guardian* article, Saturday, October 04, 2008; and the headline is:

> "Judge condemns remand yard…Prisoners in pain."

And they have a picture of the judge, Justice Gobin. It is written by Francis Joseph, who I believe is now working for someone in the Government.

3.30 p.m.

Mr. Deputy Speaker, I quote:

> "High Court judge Carol Gobin has described the remand yard of the Port-of-Spain State Prison as 'a hell hole' where prisoners, who are presumed to be innocent, are deprived of the basic needs for survival—air, light, sanitation, hygiene, exercise and food.
>
> She said the level of pain and suffering inflicted during a prisoner's detention was 'unsatisfactory and unacceptable'. She added that the treatment meted out to prisoners makes a mockery of the presumption of innocence."

And that is another relevant point, persons on remand are not on trial; they are not convicted and they, therefore, are presumed to be innocent.

The article continued:

> "'The executive needs to be reminded that the treatment at the remand yard,...cannot continue, not only because it is treatment which is debasing and dehumanizing to prisoners and to prison officers who are duty bound to participate in the process, but because it is treatment which, if after having been exposed, it is allowed to continue, threatens to redefine us as a people, the judge said.

In a 37-page judgment delivered in the Port of Spain High Court yesterday, Gobin ruled for murder accused, Colin Edghill, who had filed a constitutional motion seeking a declaration that the conditions in the remand yard were not fit for human beings.

Gobin said Edghill's rights were infringed and that he was entitled to damages in the sum of $75 a day for nine months ($24,0000) he spent in the remand yard before he was moved to Golden Grove in 2004.

This case also created some history as the court visited the PoS Prison to get a first-hand look at the conditions."

The judge went on to say:

"'We stand side by side with more developed countries in achievements in fields of sport, music, art, literature...

We are known for our creativity in our Carnival..."

The judge questioned why we could not have better prison conditions, when we are so excellent in these other areas. The judge said:

"...if the Government did not do something about this, then the court would have to intervene and dictate the pace.

...the issue of prison conditions was raised ten years ago in the case of convicted killer Darrin Thomas..."

And the judge continued to condemn the situation in the remand yard.

These were the complaints from the prisoner:

"12 prisoners were kept in one cell.

No sleeping accommodation for prisoners.

Heavy odour emanating.

Air vents were clogged,...

Kept in cell for 22 hours each day.

All faecal matter were thrown into an uncovered pail… Sometimes when the target was missed, deposits of faeces would remain lying in the corridor...

Cells infested with cockroaches."

That is the remand yard in the Port of Spain prison.

The Attorney General has admitted that this legislation will result in prisoners remaining longer in the conditions I have just described. That is why we just cannot agree with that. These things have to be done holistically.

One of the things I was particularly disappointed with in the Attorney General's presentation was that he did not deal with the whole question of time limits for persons who were charged. In the Prosecution of Offences (Custody Time Limits) Regulations 1987 in England and Wales, there are time limits. Let me read for you Regulation 4 of the Custody Time Limits Regulations in the United Kingdom (UK):

> "Except as provided in paragraph (3) below, in the case of an offence triable either way the maximum period of custody between the accused's first appearance and the commencement of the summary trial or, as the case may be,...
>
> (a) in the case of proceedings instituted in the county of West Midlands, 98 days; and
>
> (b) in the case of proceedings instituted elsewhere, 70 days."

This is a feature of developed countries; they do not have you in remand for years. We in this country have to deal with that problem.

We are trying to bring developed country standards into our judicial administration with the extension from eight to 28 days, but we are not bringing with it the concept of a time limit. If you are going to try and ease up the persons within the administration, the clerk who has to fill out the thing in longhand, or whatever the Attorney General was telling us about, the person typing the notes—and you must ease them up—you also have to balance that with the rights of the accused.

I would like to know why the Government is not bringing a motion to set appropriate time limits between the time of the first appearance of the accused person in the Magistrates' Court and the commencement of his trial. In some countries it is 50 days, in some countries it is 60 days; in some countries it is 70 days and in some countries 100 days, but there are limits. So if the whole system knows—the accused person, the magistrate, the person in the prison—that the maximum period of time that a person can be detained without commencement of his trial is, let us say, 60 or 90 days, then there is no issue with increasing the court appearances from eight days to, say, 12 days, 14 days or whatever the case may be, because there is a cut-off point. So whether it is eight days or 18 days, once you reach the maximum time limit, you have to start a trial or there are consequences.

I find that this Government is just chopping and choosing and taking bits and pieces out of the modern judicial system in other countries, but you are not

adopting a holistic approach. How can you, in all conscience, come to this Parliament and admit that this legislation will result in increased periods of incarceration for persons who are accused of minor offences, as I said, of being drunk and disorderly or of obscene language? They now would have to wait one month, between court appearances, where they would be able to get off on a simple basis, either pleading guilty or getting bail. How can you, in conscience, increase the period in which a person is going to be incarcerated, in these very appalling conditions, to which both Minister Rambachan and Justice Gobin have referred.

I know that former Justice Volney, Member for St. Joseph, is well aware of the conditions in the prison system. I do not have to tell him, he knows that the conditions in the remand prison are unacceptable. How can you, in all conscience, knowing that, increase the time so they will spend longer in jail and you will also increase the prison population.

The other thing I am hearing is that we have some 400,000 pending matters. Is that correct, Member for Laventille East/Morvant, and there are 90,000 new matters every year or every two years? How does this measure deal with that? Because you are increasing the time between appearances; you have these hundreds or thousands of accused persons, where are you going to find the space for all of them?

One of the things bothering me too is that the solution to all these problems, the things that have been referred to here: the foul odour, the faecal matter, the 12 prisoners in one cell, et cetera, et cetera, is one man, a "fella" called Daniel Khan. Now, I do not have any problem with Daniel Khan; I do not even know Daniel Khan. I know his father, Israel Khan, and I have tremendous regard for him; so if he is anything like his father, he is a good man, but that is not the point.

How could one man, one person, Daniel Khan, deal with the issues relating to thousands and thousands of prisoners within our penal system? That is the absurd solution that the Attorney General has offered up to us in this Parliament today, that recognizing this legislation is going to increase the prison population and increase the length of incarceration for persons, he is going to hire one man as Inspector of Prisons. He would go around and deal with the thousands and thousands of prisoners and would fix everything in the remand yard. He would wave a magic wand and everything is fixed: the cockroaches go away, the floor gets clean and the ventilation system is fixed one time.

Come on Members of the Government, you have got to be more serious in these matters. That is why I say we on this side are not supportive of this

legislation in its entirety. We cannot support the same treatment for a prisoner charged with a "cuss case" as a prisoner charged with a violent crime, a violent assault on someone. You cannot treat these people the same.

The magistrate does not want to keep these people in prison. For your basic "cuss case", unless the person has been extremely offensive and unrepentant, a magistrate will not keep this person in prison. They want to get them out of the system, because the magistrates are well aware of the overcrowding problem and the complaints, and after this 2008 judgment there was a fear this was going to open the floodgates, and it may. I cannot say that it will. This is a first instance judgment; I cannot say it is a precedent. It may well very well create opportunities for lawyers to bring all sorts of applications, complaining about the fact that now that accused persons have to wait one month before their matters are heard, rather than eight days, that too is inhumane, unfair and is a trampling of their human rights. You have the majority; you can do whatever you want, but I will urge you to rethink your position with respect to summary offences.

We have a different view on indictable offences. We feel that you could increase that to maybe 15 days. That is something we could see some kind of movement with you, but we cannot see your position at all on the summary offences and the minor offences matter.

I heard the Attorney General say "I bathing in the Maraval River"; it is a summary offence, and now we have to wait 28 days. [*Interruption*] Yes, and letting out a noxious substance into the river, a summary offence.

I heard the Attorney General say that he was more or less doing the accused a favour, and this was how his comrade to the back of him saved his skin. He said that he was doing the accused a favour, because an accused person might be doing a job, working on a project—[*Interruption*] I not getting into that. What did you say, that the Member for St. Augustine is the successor to the present AG? "I not getting into that kind of kankata." Member for St. Augustine, I did not say that. [*Laughter*]

The fact is that the Attorney General said this Bill would be doing the accused a favour, because he may be working on a project and it would be inconvenient for him to come to court every eight days, not realizing that if you are outside, you are not inside. I mean, that is basic science. If you are outside the prison, you cannot be inside the prison, and this Bill deals only with remanding persons into custody. So a "fella" who is working on a project, is out on bail. He is not

required to attend court every eight days. "So this notion about this Bill doing de man a favour because de fella out on bail and he have to come to court every eight days", is just not true; silly.

The Member for St. Augustine gave him a little "tack back", by saying, "Just say that applies only to the person who is jointly accused with another man who is inside the remand;" nice "tack back". Good one, Member for St. Augustine. The initial statement that this was doing the accused a favour is nonsense. There will be some accused persons who may not wish to come to court every eight days, but I think those will be far and few in number.

A court appearance gives the accused person an opportunity to, at least, see their family and give their family an opportunity to see them. They can just look at them; they cannot really talk to them, because there is a big fence, a gate, all that kind of thing. I do not know if Members opposite are aware what happens when persons are brought from remand. The family is there: the mother the sister, the brother, the girlfriend, whoever and, at least, they get a chance to look at the accused person and he at them. He could send a message or whatever. They could see whether he is in good health or whether he is being abused in the prison. So there are many reasons why most persons on remand would want to come to court every eight days.

They want to come to court because they want to get out of there, because of the conditions that Justice Carol Gobin has found inside there. They want to come to court, because they want to plead guilty on a small charge, and take a little $500 or $1,000 fine and get out of there. They want to come to court because they want to get bail. In these summary offences, bail is not a difficult thing for persons who are charged with minor offences. So your average accused who is in remand is glad to go in the jail van and stand up through all "dem" winding corners, because, at least, he is getting out of the remand and he is getting the opportunity to be released, Mr. Deputy Speaker. So the argument is fallacious. It is not acceptable, it is not applicable and we on this side certainly cannot accept it.

3.45 p.m.

Mr. Deputy Speaker, if you go and look in the literature—I would not detain the Parliament too much longer—I have here the Criminal Procedure Act of the Republic of Ireland, and this is their provision: "The court shall not remand a person for a period exceeding eight days except, where this section otherwise provides." So that is the Irish as of now, today, 2010; that is what obtains in the Republic of Ireland, a developed country. They have the same eight-day situation unless certain intervening circumstances are present.

Let us look at the UK; the Magistrates' Courts (Northern Ireland) Order 1981—Northern Ireland is part of the United Kingdom: "The period for which the accused is remanded in custody shall not exceed in the case where the accused is before the court and he consents or the court has previously remanded the accused in custody for the same offence."

The accused is already detained under custodial sentence, so they are giving conditions. The man is already convicted and in prison, he has already been remanded for the same offence, et cetera, and he consents, the period is 28 days, and it goes on to say: "In any other case"—which would be the vast majority of cases. So that is the situation in the United Kingdom and that is the situation in Ireland. The situation in terms of the deplorable conditions in remand courts is not confined to Trinidad and Tobago. Before I close, I will read into the record a document from Ghana and this is from the Modern Ghana News, Accra, September 28:

> "The Commission on human rights and administrative justice on Wednesday, asked the Attorney General and the Minister of Justice to take steps to ensure that the cases of about 750 remand prisoners at the James Ford Prison were dealt with expeditiously. The Acting Commissioner of Human Rights was launching the annual inspection of prisons and prison cells at the James Ford Prison and said some of the inmates had been detained for over six to seven years without a single court appearance and some were mentally ill."

Six to seven years in Ghana without a court appearance. What happened there is that they ordered that the Government take immediate steps to bring those 750—

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Ms. M. McDonald*]

Question put and agreed to.

Mr. C. Imbert: Mr. Deputy Speaker, I would not take the 30 minutes at all, maybe about 5 minutes or 10 minutes max, might be 2 minutes.

In this story from Ghana, one of the points made by the Commissioner on Human Rights and Administrative Justice was that the bitterness that people had against criminals often supersedes the fact that when convicts are treated harshly they become more hardened and come out of jail with vengeance in their hearts. Not the kind of vengeance that the Member for Caroni East spoke about, this is real vengeance we are talking about here.

There is no gainsaying in the fact that when you incarcerate somebody who is innocent or who has in a rash moment committed a minor crime, and you subject him to inhuman conditions and you put him together with hardened criminals and you expose him to prison life, there is no gainsaying the fact that it has a permanent and traumatic effect on that person.

So, I close by asking the Government to reconsider the 28 days as it relates to the summary offences—as I said the minor offences—because we do not agree with it and we think it will create more problems with this country than it will solve. In fact, we do not think it will solve any problems at all, and it would create far worse conditions in the prison, it would lead to greater prison overcrowding and lead to a greater incidence of persons taking action against the State for not being treated in a fair and humane manner.

So we are urging the Government to reconsider that and we hold ourselves available for discussions on that matter. With respect to indictable offences, we can see that there might be some rationale for increasing that period to some extent and that one; again, we think we could have some discussions on. As I said, the Government is free to do whatever it wishes to do, but I do not think they have made the case at all that this legislation is required; that this legislation is beneficial; that it would be cost effective and it is in the interest of accused persons or that it would foster a genuine regard for the rights and freedoms of people in Trinidad and Tobago.

I thank you.

The Minister of Legal Affairs (Hon. Prakash Ramadhar): Mr. Deputy Speaker, I thank you for the opportunity again. You know, Member for Diego Martin North/East, I normally listen to you with eager anticipation and I have learnt a lot from you with the last debates and today I hope to repay the contribution, because I think in this particular case you are off the mark by 100 marks.

Simply this, I asked you when you look at an amendment, you look at the original legislation that we seek to amend. With your leave, of course, Mr. Deputy Speaker, I refer to section 66(1) and I would go directly to 66(3A):

> "A committal made under subsection (3) shall be for a maximum period of eight days unless a Court is not held within that time, in which case the defendant shall be brought before the Court on the first day on which the Magistrate holds Court at the place where the order was made."

It is a maximum period that we seek to amend, from eight days to a period of 28 days. [*Interruption*] What this means is a court has the discretion—unless I am reading this completely wrong. It says: "Section 66(3A) of the Summary Courts Act is amended by deleting the word 'eight' and substituting the word 'twenty eight', and it reads here, the original law: "A committal made under subsection (3) shall be for a maximum period of eight days." So, instead of eight you put 28. [*Interruption*]

The point being, that we cannot minimize the authority of the Magistrates' Court. We have heard, of course, of the ancient offences of bathing in the Maraval River, of harming a pigeon and a host of other almost unspeakables in terms of seriousness of offences compared to the offences of today.

Hon. Member: Correct! Correct! [*Desk thumping*]

Hon. P. Ramadhar: Little are we realizing that the legislation that we are dealing with, in fact, started off in 1918, almost 100 years ago and times have changed and changed dramatically. The summary courts have now been given the authority to deal with extraordinarily serious offences that may have been tried in a prior time, only indictably. One example is robbery which carries a penalty at least of 10 years, so too, trafficking in narcotic. A Magistrates' Court has the authority to deal with that: firearm offences, wounding and these are the things that a Magistrates' Court can and do on a daily basis deal with. So it is wrong, really, to give the impression that summary offences are negligible.

Yes, they are and when you come before a court, a person charged—I cannot imagine anybody being charged now for bathing in the Maraval River. If they are brought before a court, they do not appear before a robot. You appear before a judicial officer, a magistrate, who will determine that he would grant you bail unless you are a hazard otherwise. If you have pending offences or you are an escapee and you have now been brought in on a warrant you would remain in custody. But apart from that, in the real world Sir, with all due respect, I have spent 23 years in the criminal courts, and I speak with some authority, please give me that, from experience, not just from the books, from the real life world of the courts. [*Desk thumping*]

When, indeed, a magistrate has before him an accused for the first time brought before them, more likely than not in offences of cussing and so, which is not an offence known—it is annoying language and we have so much of that in this Parliament from time to time. On the outside you would be prosecuted. But very often when a person is charged for those offences they get their own bail in

the police station, when they come to court they walk into court for these very summary offences except for the more serious ones, where there, the police officers may take the view at the police station when they are charged to allow the court to decide whether they would get bail or not. If they do not get bail then the court has the discretion to adjourn a matter for now with the amendment to 28 days. [*Interruption*] I hear my friend and I can imagine the misunderstanding.

Mr. Imbert: Would you give way? I thank the Member for giving way as I said, always a gentleman. [*Interruption*] Be quiet. Always a gentleman. I have two questions for the Minister: Firstly, are you saying that there are not very many people in remand who are being charged with minor offences like obscene language and drunk and disorderly and so on? Because that is what you are insinuating, and two, would you agree to a distinction for what we can all agree are minor offences and some of the more serious offences that have found their way into the Summary Courts Act?

Hon. P. Ramadhar: There is always a distinction and that is why a magistrate would make a determination whether a person would remain in custody or whether they would be granted bail. Very often the magistrate will say, "any member of the family present, bring your driving permit, your ID card", and you get a sign even if you do not have money to pay for bail.

Mr. Imbert: It is every 28 days now.

Hon. P. Ramadhar: No. It is a maximum of, and the court will determine and that is the point we are making.

When we speak of human rights, the ultimate human right of any person charged for an offence is to get a trial, not to be taken back and forth to a court, but to have their cases heard. What we are attempting to do is to really streamline the process by which we would be able to make the courts more efficient.

You may have a magistrate going through a list of 100 persons for adjournments, at the end of the day; maybe at around one o'clock that list may be cleared, because when you have 100 names it is not like we call off the names "bop, bop bop"; one to 100 you know. You have to have police officers going to the dock downstairs, bringing them up. It takes about 5 minutes to 7 minutes on average for any one adjournment to take place, and that is without a lawyer; if you have a lawyer it could take longer. So, the point is, in a 20-day period, where you would have had three adjournments of a person coming into court every eight days you would have one. Therefore, you may very well have an entire two days being opened up by that magistrate for actual casework. It does not make sense to

have, as the Attorney General put it, a treadmill approach. We want when you come to court you come to do the case not to get an adjournment, and that is what this is about. This is one part of a larger scheme of things to make the courts do what they were intended to do, which is to provide a trial so that the guilty may be convicted and the innocent acquitted. The quicker that is done—as we all know, justice delayed is justice denied—the better for all of us and no greater human right would be served by convicting the guilty and acquitting the innocent.

It is as simple as that and I cannot understand how anyone could make the assumption that innocent persons—as we are all deemed to be innocent until proven guilty in any court of law—will suffer unduly for that, because we must give the Judiciary some level of respect for their intelligence. You would cater for those who are mischief makers, they get to know them very early, those who attempt to manipulate and adjourn and for all of the evil things that the Attorney General described to come back to court.

4.00 p.m.

I was in court, in fact, on several occasions when there was violence in the dock before the very magistrate. In fact, I threatened to close down the San Fernando Magistrates' Court, by protest, if they did not upgrade the security for the court, the magistrate, the police officers, where there is a BRC wire cage and you have 15 men in there. There was a riot in that cage and in the presence of the magistrate a prisoner was stabbed repeatedly and the police officers could do very little because of the shortage of police officers. But yet we insist, under the guise of human rights, in bringing 70 and 80 persons into a dock when you have the capacity only for 20.

I was in court in Rio Claro—a case I did, because I was informed by the accused that they had arrested him and charged him for murder so that they could kill him in custody. I took that case and I went down to Rio Claro, and for one reason or the other the matter kept adjourning, for no good reason, and I remember the last words I ever had with him. The prosecutor had changed and therefore they required an adjournment and—exactly the point—the court could not have accommodated a hearing within the 10-day period and they asked if we could take 14 days. I turned to him and said, "14 days." He asked that is—whatever day. I said, yes. He said, "No problem." He was taken out of the court and within a few seconds we heard the hail of bullets. He lay dead in the courtyard.

These are the manipulations of those in the prison system who know court dates and like to come out of the jail. The reason they come out of the jail—of

course, there are people who like to see their family, but how many cases, the officers will tell you, in the real world—[*Interruption*] Exactly. We have had persons who have been released from court buildings. Do you remember that scandal up in Princes Town? You remember that? "Top drug dealer allowed to leave."

You have had situations where marijuana, cocaine, weapons are passed to prisoners when they are transported out of the prison and back into the prison. That is the reality. We do not intend to keep people in jail. We intend to keep guilty people in jail, after conviction. But how do you get to a conviction unless you have the capacity for their cases to be heard? It is as simple an equation as that, and if we continue, as my friend suggests, all we will be doing is clogging up the very basic resort to the Magistrates' Courts, because all you would be doing is carrying hundreds of people and not a single person will have their trial.

I want to make this point, that this Government is intent on dealing with the prison population. We have heard of all the atrocious conditions of persons on remand, but when was the last time there was a single prison built or the capacity for prisoners increased? The Maximum Security Prison was opened at least 10 years ago and no effort has since been made to deal with the ever-increasing prison population. No wonder you will have 12 persons in a cell with the most atrocious things.

I remember as a young lawyer I had been to the prison at Port of Spain on a Monday afternoon to see a client and they brought in a "fella" who had been granted bail and he was to be processed and to be permitted to leave from the Port of Spain prison, to go. He came within the same office, because they have very limited accommodations; lawyers, everybody in the same room, and he started to tell the supervisor: "Sir, there is a young "fella" they brought in on Friday and from Friday to now, they have 12 of us in that cell. They have not allowed him to even sit down." He said, "At this point in time his ankles are swollen completely." They are there, 12 of them, with a pail—a toilet—in the cell, kept there 24/7.

We understand these things, but what has any prior government done to deal with that? [*Interruption*] No, it is an important issue, because we talk about human rights, but when you had the right and duty to deal with it, nobody dealt with it. [*Desk thumping*] Nobody wants an innocent person in custody; nobody wants that! As a criminal lawyer I could tell you, people underestimate the level of police set-up in this country. Years ago, I asked God in a prayer to allow only clients who are guilty to be convicted under my hand; those who are not guilty to

be acquitted and those who may be guilty, but yet very sorry, to give them the benefit of justice. I am lucky to have been able to get that.

In that process you realize how many persons are wrongfully kept in custody. They cannot get to their trial for us to prove their innocence, and that is all this effort is, to get to trial position. That is why the noble Justice Volney, the Member for St. Joseph, will be bringing legislation to remove preliminary enquiries from the equation. I do not know if my friend, the Member for Diego Martin North/East, knows that there is hardly a court, except for Port of Spain, where things are done very differently. In any of the outlying courts, and in San Fernando, you do not even think of a trial to begin your preliminary enquiry for at least a year and a half. That is the reality of persons who cannot get bail, because it is either murder or whatever, or matters that are non-bailable or because of their history they ought not to be entitled to bail.

This is the enormous challenge we have met as a Government coming in, but we are not shirking from it. We are taking it on manfully, to deal with it once and for all. We are going to get rid of the preliminary enquiries. Yes, of course, there will be a bulk of trials up to the assizes, but when you get there, what happens there?

We have had discussions, all of us, in terms of the introduction of a real plea bargaining system, as you all have seen on TV, as you have learnt how the Americans dealt with it with the Mafia and in Italy. A person who is brought in and there is evidence, you could say: "Listen, if you are convicted for this offence, you are entitled to 25 years. If you speak now and you give us information on the others in your grouping or of other crimes, you will get a tremendous reduction; you will get five." The message goes out and the second man comes in will get seven, and the third, depending on, of course, the actual facts of the case, will get progressively higher. Do you know what happens then? There is a rush of persons to come in to cut the deal as soon as is possible, therefore removing a large chunk of trials that are unnecessary and guilty persons will serve time for what they have done and bring down organized crime and huge institutions, because of the plea bargaining system.

So it is not a one-off thing we are doing. We take a very intelligent approach, a holistic view of things, and we are working step by step towards that. When my friend says that they have no problem with the remand period of 28 days for indictable offences, I say, "Well, then, what is your argument in relation to summary?" Because there are trials that can go either way: summary trial—

Mr. Imbert: Mr. Speaker, Standing Order 33(4), please? I wish to clarify what I said.

Hon. Member: He is giving way.

Mr. Imbert: Oh, you are giving way? I thank the Member for giving way.

Hon. Member: He is decent.

Mr. Imbert: Very much so. He is a good "fella". I would like the Minister to understand our position. We do agree with the movement on the summary offences because we believe that the person should be allowed to go to court every eight days. We have no problem with moving it from eight days, but we did not say 28. I suggested 15. We still feel that 28 days will be too long for persons on indictment.

Hon. P. Ramadhar: Either way you accept that there may be a need for the increase in the period that you could remand.

Mr. Imbert: For indictable.

Hon. P. Ramadhar: Indictable. The point I was making—and I shall repeat it so that we should have it all clear—there are offences now triable as summary offences that were always deemed indictable only, and in the last decade or two, this country has realized that those offences could better be served by being tried summarily. So to say that summary offences should get less period for the adjournment, but indictable offences you can accept more, really does not answer the question, because they are the same offences.

Mr. Imbert: No, they are not. [*Interruption*]

Hon. P. Ramadhar: Oh my God! You are wounding intelligence, Sir. You are wounding intelligence when you go down that road. What we are dealing with here is, once again, please, if we have not understood, I take blame first of all for not having expressed it. [*Desk thumping*] I always assume that I am wrong first.

Those offence of wounding pigeons—when was the last time has anyone here heard of such a charge?

Mr. Imbert: What about drunk and disorderly?

Dr. Rowley: Lack of enforcement.

Hon. P. Ramadhar: Nobody could tell, because you have not enforced most of the serious laws. "Yuh" think anybody enforcing that?

Mr. Imbert: Drunk and disorderly.

Hon. P. Ramadhar: Drunk and disorderly. Very often it is necessary for a drunk and disorderly person to be kept in custody, but when they appear in the court by the morning, they are sober. More likely than not, that very morning they get their own bail. That is the reality and we should not be speculating about things we do not know. [*Desk thumping*]

We must, when we speak in a Parliament—and I say this for all of us and I pray that I do not fall in error to this—understand that when we speak we go down in history in the *Hansard*, apart from which, this is beamed live and it is repeated on TV and on radio, so that we must be responsible for our statements. I know my friend did not intend it, and, certainly in his very comical way, attempted to make a joke out of summary offences, but in the real world the summary offences that occupy the courts are: one, possession of drugs for trafficking; two, robbery; three, wounding; four, firearm offences. These are the summary offences that occupy 80 to 90 per cent of the courts' time.

Hon. Member: What about the pigeons?

Hon. P. Ramadhar: The pigeons? I never heard of that, certainly not about bathing in any river in Maraval or in Cuchawan Trace or anywhere like that. [*Desk thumping*]

When we come to the Parliament we must be real and we must be serious and we must not, for the sake of being one side or the other, to get an advantage—I have made the point, and maybe I was wrong but I will repeat it for somebody to correct me. When we debate in this Parliament, the only winners must be the people of Trinidad and Tobago. [*Desk thumping*] It must not be about "cutting throat"; it must not be about "licking up" anybody, because this here—forgive me for repeating it—is sacred, you know. When people are elected, when the good citizens of every constituency in Trinidad and Tobago elected us, they elected us as leaders. Therefore, we must set the right examples and we must conduct ourselves in a manner that is an example to children, more than anything else, and I know my friend, the Member for Port of Spain North/St. Ann's West, will agree.

Mrs. P. McIntosh: Certainly.

Hon. P. Ramadhar: And I do not point fingers in any one direction. I point it at myself first and I hope I do not fall into error on that. That is why we must not skew an argument because it sounds clever. We must be absolutely truthful about what we want to achieve. Did anybody here suggest that anybody on this side wants to oppress people and keep them in jail unnecessarily?

Mr. Imbert: That is what you want to do.

Hon. P. Ramadhar: That is at all not what we want to do, and I put that on the record.

Mr. Imbert: That is what you are doing.

Hon. P. Ramadhar: With all due respect, Mr. Deputy Speaker, this is a simple matter of dealing with the reality, and the Attorney General made the point that there are many, many, many accused persons who agree to a far longer adjournment than the 10-day or the 8-day requirement, for the very reasons that have been expressed: that the trial cannot go forward; your trip is there just as a joyride—if you want to call it a joyride.

It is important for the country to know the real life conditions of the prison transport. It is a two-by-two box—it could be a little bit larger—but you either stand for two or three hours if you are going down to Rio Claro and you are bombarded with blows to your body as you take the corners; the potholes that the last administration did not bother to fix. [*Interruption*] Thank you, Mr. Warner. Things are sailing smoothly these days.

It is a traumatic thing. I have seen persons coming out of the prison vans shaking like a leaf, so traumatized are they from the experience they have had. The late Dhanraj Singh, I tell you, I was one of his defence counsel, when he was being transported back from court, an accident at the Grand Bazaar intersection left him disfigured. I just give you that as an example of what are the dangers.

We had two or three years ago a prison van running into the back of a parked trailer. The prison officer who was driving died, not to mention the number of injuries to the prisoners in the back, because we know that they cannot move slowly along our routes. How many of us, especially those who live outside Port of Spain, have been basically removed from the roads because of a prison transport coming down?

Hon. Member: Every day.

Hon. P. Ramadhar: Every single day. They have to drive in a certain manner because if they drive slowly there is danger that they could be ambushed and persons escape.

4.15 p.m.

This is the real world realities.

Dr. Rambachan: Reckless.

Hon. P. Ramadhar: Reckless, of course. I do not make any apologies for them. Reckless driving, yes, but real on our roads. Then I am hearing—I could not

believe the Member for Diego Martin North/East when he said that it is cheaper to send you to court—[*Interruption*]

Mr. Imbert: They will keep you in custody.

Hon. P. Ramadhar: That they keep you in custody? Do you think as you go to court you go home?

Mr. Imbert: Of course, in my case.

Hon. P. Ramadhar: No! When you go to court, you either get trial or you do not get trial. If you do not get trial and you do not have bail, you are going back.

Mr. Imbert: You will get bail.

Hon. P. Ramadhar: Well, the thing about bail is, you do not get bail for murder. You all passed laws—no bail for kidnapping until a certain period of time. [*Crosstalk*] They have extra expenses for outside caterers and I would tell you, that is where the greatest danger arises, how things get back into the prison in lunchboxes: marijuana, cocaine, razor blades. These are the things.

Mr. Imbert: Keep them in jail.

Hon. P. Ramadhar: Nobody wants to keep them. I keep repeating this, but you keep repeating that we want to. How much more can I repeat to you what the truth is? Why is it that this propaganda continues that the People's Partnership wants to keep people in prison?

Mr. Imbert: You do.

Hon. P. Ramadhar: What we want is for those who have been guilty of corruption, for those who have been guilty of betraying the people's trust to remain in prison, not us. The crime wave that we have inherited came as a result of those betrayals of our people. When young people saw the examples of those in high office, law men in high offices, making tons of money, they asked, "What about me?" Their only answer because of the poverty in an era of great wealth was the gun, and that is the way they taught a generation to succeed. When bandits and gang leaders were given contracts and became millionaires, the young people—I know it, because they told me, that is why it is personal to me—how could I do it? If I am a gangster too, I will make it.

If you work hard in this country and live a decent life, because of the corruption, anywhere you go you are faced with it and you would not succeed unless you are a bit special. That is the inheritance that we have and that is what we deal with. So I do not want to hear that we, the People's Partnership, want to

keep people in custody. We are going to clean up this mess. We have no choice in the matter because it is now our responsibility to do it. We have never shirked from any responsibility and we will not do that now. When you spoke—[*Interruption*] The one point I said you had some kind of merit, is the need for—

Mr. Imbert: I made a point to you that had some merit?

Hon. P. Ramadhar: Yes, of course, you always make good points. I will tell you, this one you went off. The inspector of prisons certainly needs to be beefed up.

Mr. Imbert: The one man?

Hon. P. Ramadhar: It is not just one person you see. It is a system, and that one person has access anywhere in the prison. Apart from which, I want to tell you now that there is a new understanding of lawyers' duty in this country. Whether it is for selfish or a noble intent, lawyers seek out persons who have been abused in the prisons, and that is a good thing. The Attorney General in his former incarnation dealt with tons of cases. His firm had continued to deal with that. I myself dealt with cases of abuse.

Mr. Imbert: The same thing I tell you.

Hon. P. Ramadhar: These are the things that continue to balance off the abuses that they may face in the prison. So I find it extraordinarily disappointing that you, Sir, and the PNM, will not support an effort to reduce the backlog, to clear up the logjams in our courts so that we could have cases actually heard and determined.

Let me tell you what the People's Partnership, in addition to the removal of preliminary enquiries, is doing:

1. We will be building more courts.
2. Getting more magistrates.
3. Electronic recording systems.

I tell you now, as a practising attorney—and the Member for St. Joseph will tell you—that if you have an electronic recording of evidence in a court, you can do five times as much work in a day than you would if you had the old longhand. Apart from which, it is far more accurate, there is no issue of anybody mistaking a note because if you query it, you have the audio and they could play it back for you.

4. We have taken steps already and under the chairmanship of the Member for La Horquetta/Talparo, my Parliamentary Secretary of whom I am very proud—he has had meetings with the Chief Justice and the team to remove out of the court system the need for application for liquor licences. [*Desk thumping*]

Dr. Gopeesingh: Very good!

Hon. P. Ramadhar: Only where there is an objection, will that go to a court for hearing. So when you have on any given day hundreds of persons closing their businesses to go and line up and wait for their name to be called to hear, no objection, no objection, and it takes two to three days out of a court to hear that, in the very short future that will be no more.

In this period of noise pollution—if you would allow me this moment—a lot of objections are made to the courts, but they are so overwhelmed, not with pigeon shooting or with pigeon hurting, but with robbery, rape, wounding and so, and they really do not take seriously the objections of our citizens for liquor licences. So you have a superficial hearing—very often they lean in favour of the promoter—they get their licence and people end up having to pay the price for the court that is overburdened by far more serious and direct bloodletting cases. Apart from which, we will also be removing from the courts the need to go there for—Do you know there is something like a hawker's licence, still existing? You have to go before a magistrate for a precious metal licence. Yes, still in this day and age 2011, these are things that occupy our courts and we are taking that on. We have already taken steps in terms of traffic tickets—thanks to the guidance of the Member for Chaguanas West—to increase the time frame for persons to pay tickets. Let me tell you what happens in the real world.

A person gets a ticket; "their money done"; they would not be getting paid until next month; they have two weeks to pay the ticket and you cannot pay it, do you know what happens then? Immediately that becomes listed as a matter for trial. So the 400,000 matters before the court may very well have a component of 100,000 or 50,000 of tickets. We may come to you. We may have to take a position of an amnesty, I am just saying, on some of these matters, so that we could really get down to the meat of the matter and real court business. But in the interim, we have already taken that step to increase the period where you could pay your fines so it does not automatically become a matter to disturb a court. Let them deal with the real criminals and, therefore, allow your trial to be had and if you are guilty you are convicted and if you innocent you go home. It is very

practical with all due respect, Mr. Deputy Speaker, in an effort also to speed up matters for trial.

Of course, there are amendments to the Evidence Bill and I do not want to traverse, anticipate—is it Standing Order 38(1)? I have to learn that one. Standing Order 38(4)?

Mr. Imbert: Standing Order 38.

Hon. P. Ramadhar: I will look into that.

Mr. Imbert: Standing Order 38(1), (2) and (3).

Hon. P. Ramadhar: But we will be bringing legislation to deal with evidence where you may have a foreign witness. We may very well—and I would like to be a bit modern—have videoconferencing capability where a witness does not have to come back to Trinidad. They could give their evidence anywhere and could be cross-examined online. These are the things we are looking at.

Mr. Imbert: That is already being done.

Hon. P. Ramadhar: It is not being done.

Mr. Imbert: I gave evidence.

Hon. P. Ramadhar: It is not being done. It may have been experimental, but we want to bring it as a normal course so that— Let me tell you one of the problems. Do you know why Mayaro has a tremendous upsurge in crime? Mostly robberies and most of the victims—the Member for Mayaro is here—are persons who have beach houses. So they get robbed down there, they leave and they do not want to go down there at all. So even if the person might be captured, nobody wants to go to Mayaro to give evidence. Is that not a fact? That is how it works.

In Tobago that was a huge problem, and I congratulate some of the efforts where they had night court and weekend court sittings so that witnesses who are foreigners were able to give their evidence before they left. That has been abused, but in a modern world—the world truly is a village—anywhere there is a witness, who is afraid to come to a foreign land to give evidence, the time will come soon when they would not have to return to give that evidence. They could do it online. [*Interruption*]

In terms of the preservation of witnesses, a witness is only in danger if the evidence can be damaging if spoken through the lips. I commend the last administration for making some headway on legislation, for the introduction of statements. You can preserve the evidence of a witness; whether the witness is

alive, absent or dead, the evidence remains. That is critically important and we are going to enhance these things. It is not for me to be distracted on a very simple matter of a 28-day adjournment.

Mr. Imbert: Not simple.

Hon. P. Ramadhar: We could always say the complicated way. But I believe in being practical and in being real.

Mr. Imbert: Fifty-six days, how about that?

Hon. P. Ramadhar: Twenty-eight days is a reasonable period and I repeat as I take my seat, that it is a maximum of 28 days.

Mr. Imbert: That is "ol' talk".

Hon. P. Ramadhar: Once again, for us not to be distracted by all the esoteric arguments created about human rights, a court will decide whether to give the person the 28 days. I have never seen an occasion where a person has indicated that he would like a shorter date when he was just brought before the court, that a court did not give it. There must always be extremely good reason for a court to deny a person a shorter date; for instance, if the list is already overburdened and there is no practical reason for that person to be brought back before the adjourned period.

Now, one of the most significant things that we have overlooked is really the provision of legal aid attorneys. I have spoken with Mr. Chateram Sinanan who is the new director, and we are going to have regional appointed attorneys who will be on call 24/7. So any person appearing in court on the first day and is inclined to plead guilty to an offence, may very well be properly represented and indicate that to the court. So the court will not then remand them for a period beyond that which is necessary to get tracing, for instance, so that they could indicate whether this person has a long criminal history, the nature of the offence, and when was the last time they committed an offence in terms of sentencing. But if it is one of those far more serious cases and the person wishes to plead guilty—yes, you can plead guilty to a robbery in the Magistrates' Court. Yes, you plead guilty to the possession of a firearm in the Magistrates' Court. Yes, you can plead guilty to a host of offences. That is a matter entirely for you, but when you plead guilty to those offences do not expect that you are going to walk free. Therefore, if a longer remand is given for good reason to clear up the courts, then it will just be a matter of being evitable, starting earlier, that you will go into custody and remain there until your sentence is passed upon you.

Now, Mr. Deputy Speaker, the old saying of "justice delayed is justice denied" could not be more true, and when you come into the real world in any court in Trinidad and Tobago—I just want to take a few moments and explain how things work in terms of an indictable offence. A person—let us take the highest one, murder—is brought before the court, of course, it being indictable he is not called upon to plead. There is no bail, of course, on it—I am just giving you that and then we will come back down—so the person is remanded in custody until a DPP officer is appointed, and until the person has defence counsel there is no issue of the case starting. What benefit would it be to bring that person back every 10 days because you have to wait for forensic reports? It takes on average now, because the DPP's office is depleted of persons; they are overworked, understaffed and they have lawyers who do about 15 murder PIs at any given time.

Mr. Deputy Speaker: Hon. Members, the sitting is suspended for half an hour for tea and we will return at five o'clock.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Hon. P. Ramadhar: Thank you very much. I am very grateful to you, Sir. When we took the break, I was at the point of explaining the process and procedure when a person is charged for the indictable offence of murder. That person is, of course—just to connect seamlessly I shall repeat it. When they are brought before the court on the first occasion, the charge is read. They are not called upon to plead it, meaning indictable. The matter is then adjourned for a period in this time frame, before the amendment, for a 10-day period. Then it is adjourned further, until an officer from the DPP's office is appointed to conduct a preliminary enquiry, after which, when the DPP officer is appointed to the particular case, then they have to go through that ordeal of dealing with statements from all the witnesses.

There is a terrible lapse, in terms of obtaining forensic reports. It is not unheard of, that forensic reports for firearms take sometimes eight months minimum for them to return. So, if it is a murder involving a firearm, there is no hope of beginning the case, unless you have that report. That is something that we in the People's Partnership Government would be dealing with. We will be upgrading the forensic lab, to ensure that any exhibit that is sent for examination is examined, and reports are created and returned in the shortest possible time. It

is not just in relation to firearms, we had other exhibits, drugs that take months on end, and you are very lucky if you can get a drug report within one, two, or four months.

Back to murder. When you have your reports, which could be seven to nine months after the original charge, the court has to find a date where there is some possibility of you starting the case. Because, in almost every single court in this country, the backlog is so enormous, the sitting magistrate, for instance, may have 15 murder PIs pending at any given time, and you have to wait your turn for any one of them to finish and then you move up. Sometimes it may be a case that involves a young person, as an accused, or there are witnesses who are old, or who may be at death's door and priority may be given to those cases. Therefore, you are put further back.

In practical terms, a preliminary enquiry for murder in the San Fernando Magistrates' Courts, from the date of charge, may not end until two and one-half to three years after the original charge. After that, the notes have to be typed up; the notes of evidence; if you are committed. It has to go to the DPP's office, once again overburdened, undermanned and understaffed. You have to get an indictment drawn up for the DPP to—our experience has been that it takes a minimum, in San Fernando, of one year. When you do get your indictment and the accused is served with the indictment and brought to the assizes, there is something called a cause list. In that cause list, you may have several adjournments, for one reason or the other. It could be that there are too many matters on the cause list already or the court has no time within the four or five-month horizon, to give you a hearing date. You may have situations where a witness is out of the jurisdiction, not to return for another seven months, so you take another cause list.

When you finally come to trial—we have had the problem in the past of matters in progress for one reason or the other—a witness may fall ill, a judge may have to be transferred from San Fernando to Port of Spain and the time frame to start and finish the case is too short. That is another adjournment. When you do get to your trial, it may take one month. Then you are either acquitted or you get conviction. In relation to other indictable offences where there is bail, for instance, kidnapping—after the time frame, the PNM passed legislation that you would not even be entitled to apply for bail until the passage of 60 days. If no evidence is started, guess what?—in almost none of those cases, were they ever started within that time frame—then they apply for bail.

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Hon. Dr. T. Gopeesingh*]

Question put and agreed to.

Hon. P. Ramadhar: Thank you so much all my colleagues, and you Mr. Deputy Speaker, my gratitude. You have the position where—I was making a point in relation to kidnappings—the courts are so frustrated, that they cannot get the cases done, even though the intent of this Parliament, when the law was passed, is that persons may not apply for bail, the time comes, and therefore, in law, they intended it to apply.

When a judge looks and asks the prosecution: When do you expect this case to start?—That is one of the questions that any court will ask in determining whether bail should be granted. It has to be a very practical approach. You are told that it would not start for another year. Then immediately, there is leaning towards the grant of bail for a person on a most serious charge. That is why I used that example for kidnapping, but you have heard of many cases in the recent past and newspaper reports of a person shot dead and an attempted robbery by the police, but he had 15 or 20 pending matters for robbery. How did that ever happen? It is simply this, human rights, of course, we value them totally. They must be the core of every society. The court is faced with a decision, having regard to the presumption of innocence of a person applying for bail, even though that person may have several pending matters.

Where there is no likelihood of the IR coming to trial within any, what I may call, reasonable time—nobody could say that they could start a trial within one year, or even two or three years, would be more likely to grant bail in those circumstances. Therefore, you have that awful development of persons who are predators in society getting bail because the court systems are so overburdened. Then we have the piousness now, on the other side, of saying human rights. We talk about human rights, but we do not live up to it. If anybody was interested in human rights and the conditions in prison, they would have done something about it. Absolutely nothing!

That report that my friend read, quoting Justice Carol Gobin, was from last year, under their term, and it was no secret that for many years before that, they were overcrowding the prisons. The atrocious brutality of prisoner on prisoner and prison officers on prisoners—they live in hell. Nobody did anything about it. That is the responsibility of every government.

I hope I am not breaching any confidence, for we in the People's Partnership are actually in the process of creating more prison cells and upgrading the conditions in the prisons. [*Interruption*] Of course, we have a lot, because we are a law-abiding Government and would ensure that the laws are effected on criminals, and those who are guilty are put into the prisons. This is the thing. A situation was created—It was a catch-22 situation—by my friends, by doing nothing. The prison population is overwhelming. Courts have to balance the rights of a citizen on the presumption of innocence, with the reality of prison life and the reality of the courts not being able to deal with the matters, therefore they grant bail. It goes on and on and on like that, but it stops here and it stops now. If we do not do it, who will? If we do not do it now, when will it be done? That is the attitude that this Government has taken. We have not shirked any of the duties placed upon us, and step by step—this is not one piece of legislation.

You might recall, Mr. Deputy Speaker, in prior debates with the Anti-Gang Bill, the Bail (Amdt.) Bill and a whole host of others, we described it as a chain; the links that we create and are going to put around the neck of crime and strangle it to death. It is a do-or-die matter now, because we are not going to leave this country in the condition we have met it. We are going to leave it much improved. We are not going to leave it now. I want to assure you that day by day we would improve things.

A propaganda has started to spread, because of the bad reputation that politics has been given by the past administration, that when people speak on this side, they lie; they do not speak the truth and they are about to fool the people, fool the people, fool the people. Of course, there is a catch sum with that, but by ye deeds, ye shall know them; not by what they say. I ask all my friends, all of Trinidad and Tobago and all our brothers and sisters to look at what we do, not only what we say we will do, because at the end of it, it is action that counts, and not the mutterings of armchair politicians and those who, when they had authority, did nothing. These are the things that trouble me as a young person in the business of politics; terrible, terrible, terrible play on words.

That is why, sometimes it is important to understand history, because the laws we are dealing with, the Summary Courts Act, as I said earlier, is a 1918 Act. When the remands in the mind of the legislators, when they said that they could remand for eight days, it was always in contemplation of those halcyon days, that in that eight-day period you could actually get a hearing to start. I do not know when was the last time any court has had the luxury of saying: "Ah could adjourn yuh fuh eight days, you just got charged and I could start yuh case for the next eight days."

I remember having researched the point, because I argued it. When you are committed, as I was making the point earlier on, for an indictable offence from the Magistrates' Court—when they read the warrant to you, that a case has been made out for you to answer at the assizes, the order is for you to be tried at the next assizes; the assizes being the High Court with judge and jury. When in criminal matters, it is called the assizes. The next assizes always meant next month.

I remember I had the great fortune to experience the tailing of the old profession and also being part of a new profession. I had the great opportunity of working with Mr. Ashford Sinanan as a student. He sat in these hallowed halls in the Upper House. I, indeed, assisted him in preparing a lot of his speeches and doing the research. He told me, that in the 1950s and early 1960s, if a person was charged for murder Wednesday, he was caught Wednesday evening and was brought to court on Thursday. The following Thursday, his trial would start with the preliminary enquiry, and in a week or two it was over, and the next month he was in the assizes. If he was convicted, his appeal would have been heard the next month, and within who months of that, if he was not successful, he would have been hanged; swift justice.

There was a chilling effect to that, because the rawness of the offence would still have been felt, while the person went through the process; while they went through the punishment. It may have been awful, in terms of the person experiencing it, but it had the effect on society that there are consequences to your action.

5.15 p.m.

When you have a trial taking place years after the event, it has no meaning whatsoever. I remember when I came into the profession I was doing murder trials that were almost half my age. From the date of offence, a person is being tried in the assizes 12 years after. When you tried to take instructions from them they were in a daze, they could barely remember anything, and that is the reality.

In those days, constitutional motions were filed on delays, and luckily things have speeded up, but they have not speeded up anywhere near enough to deal with the enormous backlog. You know, these are things we have to find solutions for. I know my friend, the Member for Port of Spain South, will deal with that issue. My friend must fully understand that this is only one small piece of the machinery. The finest wrist watch is not one chunk of anything, there are little parts coming together to give it the microscopic finesse of perfection in giving

time. Like any machinery, you have to build it in part, but this is but one cog in the wheel to improve the speed of the delivery of justice.

So, Mr. Deputy Speaker, in that effort of speeding up the court process, it makes no sense that you deal only with the backlog if you do not plan for the future. The steps that this Government is taking will see many persons being prosecuted for crimes. We have taken on board the cries of our citizens; we have taken on board the pain of our people and have already started dealing with crime detection; we have taken on board to deal with crime prosecution; we have taken on board to deal with crime prevention and, certainly, we have taken on board dealing with crime prosecution, conviction and what you do after.

So let no one attempt to fool this population by suggesting, as many have suggested in the wider population, falling prey and victim to the propaganda of a failed order, that we are not here about the people's business and everything is public relations. We are not going to do things quietly or silently, we are going to do it in full public glare. If you want to describe it as PR, that is a matter for you, but the results are what we look forward to, and the results are going to come and they are going to come faster than anybody imagined them with the help of every citizen in this country.

We make a call today, not just for parliamentarians, but for every citizen to love your country and to show what love for your country means. No mother will do anything to harm her child; no mother will do anything that will not give her child an advantage. If we consider ourselves leaders in this nation, we must do things to give our people an advantage to never hurt, and to always act to their benefit. If we have to bring laws that others may call draconian, for the time being, let it be so—as my brother, the Member for Mayaro was telling me, they have gone overboard—and you must meet the players on the ground they are on. [*Interruption*] That is the point I was building up to. If you love this country, you have to discipline those who want to step out of line. It is an act of love to all the young people to know that there are laws that are meant for all of us, not just for the lower level in the society, but for all of us.

When we brought legislation dealing with anti-corruption, everybody wanted to shoot it down. It might be rough; it might be tough, but it is necessary, and we are going to take the position that laws are just not made for the books, but laws are made to basically engineer a society to the way we want it. We have a problem, find the solution and effect it. Anybody could talk about solutions, but who is going to do the work? That is why I make the call, and I would repeat it as I take my seat, this is a call for patriots. Wherever you are—if you are a teacher,

be the best you are; if you are a doctor, be the best you can be; if you are a student excel; if you are a police officer, understand your duty is a sacred one to protect our people. It is the highest calling of anyone to be the protector of somebody. I do not think we truly understand that. Being a police officer is not just getting a job, it is about accepting the duty of protection like a father in a home; the duty to protect.

The courts, the judges, the magistrates, the prison officers and those in the protective services—the military, the fire officers—these are all persons who hold offices of trust and potentially of love and, therefore, it is upon them we cast the responsibility to actually be the foot soldiers for the protection of our people.

Mr. Deputy Speaker, I thank you once again for this opportunity. [*Desk thumping*]

Miss Marlene McDonald (*Port of Spain South*): Mr. Deputy Speaker, thank you for the opportunity to join in this debate, but before I begin, I need to respond to a couple of statements made by the Attorney General. At least I had some sort of insight this afternoon, because he sought to explain the Government's legislative agenda, which is something that we have been asking for, for the past couple of months.

Mr. Deputy Speaker, another statement was made with respect to the expansion of the Hugh Wooding Law School. I want to ask the question—I heard it from the Attorney General—have they consulted with the regional stakeholders? The first time I heard about it was from the lips of the Attorney General. I want to ask the Government, have they consulted with the regional stakeholders? My understanding is no. Have they held any discussions with the law school? I understand that they are expanding the University of the West Indies in south, and there will be a south campus, but have they consulted UTT or have they considered UTT and expanding UTT? What was the outcome? Perhaps you should say what the outcome of those consultations was.

Mr. Deputy Speaker, having listened to the Attorney General, he made a few recommendations and he said there will be an upgrade of the Forensic Science Centre; they will introduce case law management system in the magisterial court and that there will be the abolition of the preliminary enquiry system at the Magistrates' Courts, but overall he proffered reasons for revamping the criminal justice system in this country.

My friend, the Member for St. Augustine, my classmate, he gave us a whole background, as he said, the real world, of actually what happens in the

Magistrates' Court as well as in the High Court. I have to say that I do agree with most of what he has said. He also made one recommendation, the upgrading of the forensic lab.

Basically, my intervention is brief, and what I would say is that I have no problem—I want to support my colleague, the Member for Diego Martin North/East—with respect to extending the time frame, the remand time for those indictable offences, but I believe that we should keep the eight days with respect to the summary offences. Over and beyond all of that, do you know what is the burning issue for me? The burning issue is that we are just putting plasters on sores. We need to take a holistic view, a holistic approach to this. The extension of time—whether you have the majority or whether you want to go to 28 days for summary offences and 28 days for indictable offences, that is not the issue. The issue is just extending time would not revamp the criminal justice system in this country. You need to put other things in there. It is like a complementary good; it is like thread and needle, you cannot use a needle unless you have thread. I have listened to the Attorney General, and I am trying to find out, what are you really recommending? Just an extension! No, it cannot work like that.

Mr. Deputy Speaker, we are here today to basically extend the remand time for summary and indictable offences. I am looking at section 66(3A) of the parent Act, and I am looking to read it. It says in 66(3A) of the Summary Courts Act:

> "A committal made under subsection (3) shall be for a maximum period of eight days unless a court is not held within that time, in which case the defendant shall be brought before the Court on the first day on which the Magistrate holds Court at the place where the order was made."

This Bill this afternoon is seeking to extend that time where we will see eight would be replaced by 28.

Mr. Deputy Speaker, they are doing the same thing with the indictable offences and that is at section 14(3) of the Indictable Offences Act and it says:

> "Unless the person remanded and the prosecutor consent an adjournment shall not be for longer than ten clear days, but where no Court is to be held within the ten days then the adjournment may be fixed for the next day on which the Magistrate holds a Court at the place where the order is made."

Mr. Deputy Speaker, I understand that the Government is saying to us that this proposal to extend the remand time for both offences from eight days, in the case of the summary offences to 28 days, and 10 days in the case of the indictable

offences to 28 days is to achieve certain objectives. Basically, it is to reduce the court hearings; reduce the time in taking the prisoners to and from court, and reduce the transportation cost associated with the transport of these prisoners.

Mr. Deputy Speaker, before I can even examine or even make a proper contribution, I think we need to examine the differences between what is a summary offence as opposed to an indictable offence. Mr. Deputy Speaker, a summary offence is a criminal act in some common law jurisdictions. It is an offence which can be proceeded with summarily. You do not need to have a jury or trial. It is not an indictable offence, so there is no indictment.

The procedure and punishment with respect to summary offences are less onerous than those of the indictable offences. The indictable offence is an offence which can only be tried on an indictment after a preliminary hearing, to determine whether a prima facie case has been made out in the Magistrates' Court. On the face of it, it would appear that indictable offences are more serious than the summary offences, and so I believe to just paint both of them with the same brush is not a correct approach. I think that even though, with the passage of time over the years, you would have seen that some indictable offences have crept in under the rubric of the summary offences, the point is that we have missed the issue here this afternoon.

5.30 p.m.

I will repeat what is the issue. The issue is, with the greatest of respect, the extension of the remand time in both summary offences and indictable offences will not contribute on its own to the revamping of the criminal justice system in this country. It cannot.

Mr. Deputy Speaker, I seized the opportunity to research the average case load per year in all the districts for the period 2009/2010 and I have the report from the magistracy. In the St. George West Magistrates' Court, for the period 2009/2010, 118,648 cases were listed to be heard. In the San Fernando Court, 76,895 were listed to be heard; and in Arima, 61,813 matters.

Mr. Deputy Speaker, you must agree that there is a serious—and this is just to be heard. You have all the backlog that would have been there. This report did not give the status of the backlog. You would recognize that this is a serious problem; a problem I think that we all, both sides, need to look at: What is the best option available at this time to assist the magistrates in the dispensation of their duties?

The Government has come to this House without thinking through, again, this colossal problem. What they are in effect doing is tinkering with the problem.

There are a number of inefficiencies in the system which need to be addressed. The extension of time alone will not eradicate the inefficiencies existing. [*Interruption*] The Government needs—and I will repeat it until it is heard and done, Member for Chaguanas West—to go to the root of the problem.

Permit me to explore some of these problems and, for discussion purposes, I would want to separate the offences so that it will be clearer to this honourable House and to the national community. As I said, the summary offences are very trivial offences; the pigeons involved. These are things like our "cuss" cases, assault, and there is a fast turnover of these cases in the Magistrates' Court.

Every seven days, the accused person is brought to the court. I understand what they are saying about the transportation cost. In the Port of Spain prison alone, there is a high remand population. On any given day, only 44 cases could be heard. Why? Because the cells there can only hold 44 prisoners. If there are 200 listed matters, the others, the next 156, are the backlog and that will be piling up on a day-to-day basis.

So what do you have here? You have matters that are recycled back into the system and over a period of time the magistrates' list becomes quite unmanageable and the accused persons, who have not been granted bail, or who cannot get bail on their own, are kept in jail for an unacceptable period of time while their matters are being repeatedly adjourned.

The end result of all of this is that the perception of the witnesses, the perception of the public, the perception of the litigants is that these courts are largely inefficient. Statistics show that 90 per cent of the nation's legal business is conducted in the magisterial courts. That is how much I will say about summary offences for now.

With respect to the indictable offences, Mr. Deputy Speaker, as I said, that is an offence which is tried indictably, there is a preliminary hearing in the Magistrates' Court to determine whether this prima facie case is made out and then it is sent to the High Court. This, again, takes a lot of time and if the prosecution is not ready, for example, your tracings, the forensics, if this is not ready, then you start the cycle over again. Every 10 days you return to the Magistrates' Court. All these cases become bottlenecked in the Magistrates' Court.

Now, the Government is asking us to extend it to 28 days. While the Opposition has no problem in the extension with respect to the indictable offences, we have found that 28 days is too long a time. We are prepared to look at more than 10 days, but certainly not as great as 28 days.

Extension in remand time alone, as I said, will not solve the problem. With this in mind, I want to refer to—I am looking at recommendations we can make to the Government to assist. I looked at a report called "The Report of the Committee Established to Consider Measures which can be adopted to shorten criminal trials in the Assizes and the Magistrates' Court". This was February 2003. I will tell you who were the people involved.

The committee comprised the hon. Mr. Justice Mark Mohammed, chairman; Master Christie-Ann Morris-Alleyne, the court's Executive Administrator, Her Worship Debra Thomas-Felix, Deputy Chief Magistrate; Mr. Israel Khan and Mr. Larry Lalla, representatives of the Law Association; Mr. Desmond Allum and Mr. Ravi Rajcoomar, representatives of the Criminal Bar Association; Mr. Hendrickson Seunath and Mr. Ian Grey, representatives of the Southern Assembly of Lawyers; Mr. Gaston Benjamin, representative of the Tobago Lawyers Association; Mr. Geoffrey Henderson, Director of Public Prosecutions; Acting Senior Superintendent of Police, Rodvin Bastion, representative of the Court and Process Division of the police service; Mr. Carlo McHoney, Deputy Commissioner of Prisons; Miss Yolanda Thompson, Director of the Forensic Science Centre and Miss Michelle Austin, Acting Administrative Secretary to the Chief Justice and Secretary to the committee.

Mr. Deputy Speaker, as far as I am concerned, there were a lot of stakeholders involved in this report and they made fundamental recommendations and these are the recommendations which I have the pleasure this afternoon in presenting to this honourable House.

I am saying, again, that they have their majority; they can pass their Bill with their 28 days for both summary and indictable; but all we on this side are recommending is that we do other things along with that extension. There are a number of recommendations which are not too difficult to implement and we can go through them.

The report looked at the magistrates' list. As I said, it is overcrowded; every day you have a backlog, which cannot be cleared. The list has become overcrowded, not only because of an increased rate of crime, but equally because there has never been introduced in the Magistrates' Court system a proper form of case flow management. This is what they talked about.

If you read—and I looked at the address by the hon. Chief Justice of Trinidad and Tobago, Mr. Justice Ivor Archie, at the opening of the law term, September 16, 2010, just last year. This is what he said at page 4:

> "The point has been made many times that the Judiciary is the central, but not the only institution involved in the administration of justice. Our core process is case management, from filing to final disposition—that is what judges do. In order to facilitate the speedy and efficient execution of this process the necessary information and resources must be put in place at the appropriate time, for the Judicial Officer to dispense with the matters before him/her. That is case flow management, and a moment's reflection reveals that it is essentially the management of information flows (even if it is as basic as letting a proposed witness or juror know that they are to be at a particular place at a particular date and time)."

He is suggesting that we need to introduce that case flow management system and have training also for the personnel at the magisterial level.

Mr. Deputy Speaker, I would like to recommend this particular system to the Government and you just need to look at the report; look at what Justice Ivor Archie has said and this 2003 report of the committee chaired by Justice Mark Mohammed.

One of the things I heard the Government say is that they will bring legislation here to abolish the preliminary enquiries at the level of the Magistrates' Court. There is justification for so doing and we look forward to that particular piece of legislation coming here. As a matter of fact, what it will do is remove those preliminary enquiries from the magistracy and place them in the High Court at the assizes.

There is one issue I see there and that is, that we have to be careful that we do not bottleneck them; remove the bottleneck from the Magistrates' Court and place it at the High Court level. Even on that side, we need to improve our systems at the High Court level; whether it is getting more technology; if it means getting more judges; but the point is that that is a transfer we can look at.

We look at the Legal Aid Services and see that there is room to extend the Legal Aid Services. I heard the Attorney General make mention of that; that sometimes an accused may come to court and his matter is adjourned because he does not have an attorney. We can establish in each Magistrates' Court attorneys who are prepared to give service pro bono. If not, we can phase out—and this is another way we can see the smooth passage through the Magistrates' Courts and have faster convictions—prosecutions done by the police and hire attorneys.

This is more or less what obtains in the United States, the District Attorney system. At the courts, the attorneys will be based and will all prosecute. They are trained people. They will all prosecute and this should result in more convictions and eliminate the need to get a state attorney.

These are but some of the recommendations that the government could look at as they deliberate with the expansion of this remand time; always noting—I will repeat it until they hear—that the extension of time to 28 days cannot revamp your criminal justice system.

This side agrees that we need to have an extension with respect to the indictable offences, but we do not see any need to extend it for the summary offences convictions. You need to get into the police service; you need to make the police service more efficient. It is an inefficient system and you are just increasing the deficiencies. That is all you are doing.

We said it when we had the debate on the Bail (Amdt.) Bill when we wanted to go above the 48 hours. We said that at that level the police are supposed to come with a tracing report in 48 hours. By moving from two days to five days, we are giving them more time to be inefficient. Who said they will come back within 28 days; that all this will be done? What guarantee do you have that in 28 days they will be ready?

So someone "buss a cuss" on a man and he cannot get his own bail for whatever reason. So the cycle goes. He is in there for 28 days and in 28 days he goes before the magistrate and his hearing does not come up and he goes back again and the cycle goes on and on. There is no time frame in this legislation that says at what point in time this nonsense will stop. There is none and we need to examine these things.

The Attorney General said that there is no right to justice, or whatever he said. I cannot remember how he put it. If you look at the Constitution, it says at section 5(2):

> "Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not—
>
> (a) authorize or effect the arbitrary detention, imprisonment or exile of any person...
>
> (iii) of the right to be brought promptly before an appropriate judicial authority;"

We have to look at it. I agree with the Member for Diego Martin North/East that we cannot trample on the rights of individuals. It is strange that the people who were the greatest proponents and champions of people's rights are now "backing back".

We are of the view that the measurement of a country's commitment to democratic ideals is the degree of attention it pays to its criminal justice system. We need to strike a balance between the administration of justice and the passage of legislation. Our mandate should be to have efficient support systems and a fair and civilized manner of dealing with litigants, our witnesses and the public.

At the moment, the Magistrates' Court is not fulfilling this mandate. I hasten to say that an extension in time is merely extending the inefficiencies in an already inefficient system. We support an extension in remand time with respect to indictable offences. We do not support it with respect to the summary offences. I also urge, because I know that the Government has its majority, that they look at other recommendations when they are going to implement this proposal they have brought here.

Mr. Deputy Speaker, I thank you.

The Minister of Justice (Hon. Herbert Volney): Mr. Deputy Speaker, it gives me great pleasure to join this debate, on the face of it, this simple Bill, but with far-reaching implications for the criminal justice system.

The measure is a simple one and it is to extend the time beyond which the court should not remand a person in custody except if that person were to consent to a longer period. The measure serves to update old law which, obviously, when one reads it, was enacted at a time when the magistrate did not sit every day during any period of remand. As a result, it became necessary to provide for these shorter periods and there was a provision in it that even so, if a magistrate were to sit more than one day a week, the matter before him, whether it be an indictable or a summary matter, could have been adjourned for shorter periods.

This has been overcome by the changes that have come in the system both in the magistracy and at the higher level of the criminal sessions of the assizes. What happens today, unlike the days when courts would be intermittent in their sittings, is that the court sits every day now and, as a result, there is no need for this sort of outdated legislation whereby persons would have been remanded for shorter periods of time. The result of the law is to contribute to a clogged criminal justice system and it keeps getting heavier and heavier in its backlog because magistrates, rather than having an opportunity to deal with fewer cases and bringing closure to many more of them, are now faced with a situation where they spend most of their day adjourning long lists.

The measure before us is to enable a magistrate to spread out his worksheet in such a way as to allow for the more efficient use of his time when he sits on the

Bench. If the measure serves just that end, it will be a productive measure when passed by this honourable House. There is also the cost factor to which one cannot turn a blind eye and it is that it is very costly to bring prisoners from the remand institutions at Golden Grove and also from the city jail to the courts in Port of Spain every 10 days, in the case of indictable charges and every eight days in the case of summary matters.

Of course, those on the other side say that it is not more costly to bring the prisoners to town; that to leave them up there would likely be more costly. For my part, I have great difficulty in understanding the logic; but I do not want to spend too much of the valuable time of this honourable House in trying to understand the Opposition's position on that. Suffice it to say, this is a measure that I have looked at. It is a matter I know has been called for by the hon. Chief Justice.

I can say that as I stand here because only yesterday—I can say it and I do not think the hon. Chief Justice will begrudge me if I were to say it openly—when I told him that this measure was before Parliament, he was heartened and said it was about time. I told him I was there about partnering with the Judiciary to bring about the changes it had been asking for all these years.

This is just one of a package of measures that this Government will bring to Parliament in the next few months to overhaul the criminal justice system that has been neglected for all these years. We have had a lot of patches here and there.

Of course, those of us who have worked the criminal justice system—as, indeed, the Member for St. Augustine and the hon. Attorney General would know—we are grateful for the patches in the past; but the patches do just that, they cover up sores in the criminal justice system and what we need now is a complete overhaul of that system.

This measure is but a small start. It is the first turn of the wheel so that we can get the criminal justice system moving again and it will give the Magistracy the breathing space to be able to exhale again, if just for a few days, to allow for case management and to allow those responsible for setting the list to do so mindful that they have an opportunity to plan what they are going to do in terms of swifter delivery and bringing matters to a closure as quickly as possible.

Mr. Deputy Speaker, the next major piece of legislation that will come to this honourable House will be a Bill to amend the Indictable Offences (Preliminary Inquiry) Act that will result in the abolition of the preliminary inquiry. It is a measure that is in the system right now and takes some planning.

Only recently the Member for Point Fortin, I recall, held up a newspaper and she read from it and it asked the question: what is the Ministry of Justice doing? I can spend the rest of this afternoon here saying what it is doing. Suffice it to say, that this is a ministry that started from scratch and in the short space of six months, having had to recruit from the first attorney, the first lady who makes tea, drive; everyone in the Ministry. We have had to find a place to call home and during all that we have reached the stage where in six to seven short months we can say that sometime next month that vital piece of legislation that the PNM government for the last year and how many years before had failed to address; when that Bill hits the floor of this Parliament, it will mark a signal moment, a defining moment in the criminal justice administration system of our country in just that short period of time.

6.00 p.m.

Now, that is just one measure. We have to deal with a mode of trial where jurors are intimidated in today's world to pronounce and give timely and proper verdicts in accordance with the evidence. All these issues are being dealt with holistically. How do we treat with persons in whom the police have an interest? How do we treat with suspects? What measure of civility are we to impose or assert on law enforcement persons? The Judges' Rules—all those matters are being looked at, at this time.

The hon. Member for Port of Spain South asked: Are we then going to throw the backlog into the High Court? Well, in a way, yes, but we also have the vision that we are going to have to build—we are in the planning stages of preparing—courthouses. When was the last time a courthouse has been built in this country? A High Court building. When? The last one, as far as I recall, is the one in Scarborough, and that was many, many, many years before. How long have we been hearing of building courthouses in the eastern counties? Arima and Sangre Grande. There is an explosion of the population along the East-West Corridor. There is a lot of criminal activity along the East-West Corridor.

Mr. Deputy Speaker, I recall having had to preside over a trial where the gruesome murder had taken place in Matelot. Witnesses had to leave their homes at 3.00 a.m. to get to Port of Spain in order to be there in time. Jurors have to come from all over, into Port of Spain. Everything is Port of Spain, Port of Spain, Port of Spain. Well, that was the PNM's vision for this country; put everything in Port of Spain, including bringing all the traffic that the hon. Member for Chaguanas West now has to deal with, to unravel the traffic.

In the course of the next two years, you will see ground breaking for new courts, high courts, along the East-West Corridor. If the hon. Member for Point Fortin were to cooperate, she may very well get a courthouse in Point Fortin. [*Interruption*] Of course it is my duty, but you must make out a case for it. You must make out a case for it. If the hon. Member for Diego Martin West thinks that there should be a courthouse down in the valley, he can do so as well. It is not ours to give. [*Interruption*] It is not the People's Partnership's just to give. A case must be made out for the location. There must be a clear basis to put the courthouses in the different areas.

The point I am making, Mr. Deputy Speaker, is that the Government of the People's Partnership, is dealing with this whole issue of criminal justice delivery in a holistic way. This is just one small measure. I can tell you, when the abolition of the preliminary enquiry bill comes—I expect it will be passed with the unanimous support of those opposite, because they will want it, as well—the people they represent will call on them to want it and to support it. It means that within two months a matter could be ready for trial. We will go back to the old time days and we will, in the process, start building these courthouses as the economy strengthens and more money becomes available. We shall be able to deliver justice in this land speedier, more quickly, as we also deal with getting rid of the backlog; both in the Magistrates' Courts and in the High Court.

So, I need not bother this House more. I can assure Members present, and the national community, that there is no devil in this legislation. We must have some trust and faith in the magistrates of our land. Trust our law enforcement, trust our judicial officers. I cannot recall a single injustice perpetrated on a citizen in all my years in the practice.

Rest assured that if in a summary matter a person does not get bail, for whatever reason, he has the prerogative of going to a judge in chambers almost the same day in order to get bail. So, there will be no injustice because this measure is passed. While we are at it, I may say that very soon, the Ministry of Justice, the Attorney General and the Ministry of Legal Affairs would be looking at the law as it relates to summary offences so that the hon. Member for Diego Martin North/East, when his constituents are bathing in the Maraval River, which I know they no longer do, that they would not be hauled before the court, because it is now the Maraval drain. There is no river there again. It may be an offence to bathe by a standpipe, such is the progress that we have made in this country.

It is an offence to bathe by a standpipe, but in the Maraval River—

Mr. Imbert: Would the Member give way?

Hon. H. Volney: I will not give way.

That is all I have to say, Mr. Deputy Speaker. I thank you for the opportunity to speak.

The Attorney General(Sen. The Hon. Anand Ramlogan): Mr. Deputy Speaker, I have listened to the debate, carefully, from Members on the other side and my own colleagues, on this important amendment which seeks to add some grease to the wheels of justice so that they will turn a little quicker.

I think it is safe to say that there is agreement and a common thread throughout the contributions in this august Chamber, that the system is in need of improvement and that constantly bringing people before the court in the knowledge that nothing will happen that can meaningfully advance the progress of their case is an exercise in futility and a waste of precious State resources. In these circumstances I think it is fair to say that my learned friend from Diego Martin North/East does not, himself, have any trouble with the extension of the period of time with respect to indictable offences.

I think the divergence of opinion lies with respect to the extension of time for the summary offences.

Mr. Imbert: Minor summary offences.

Sen. the Hon. A. Ramlogan: My learned friend is saying "minor summary offences", but the law only knows two types: either summary or indictable.

I want to point out that the 28-day period is a maximum outer limit. The magistrate would have a discretion to exercise—so that the lower threshold offences, where one would expect for tracing purposes or because of the circumstances and nature of the offence and where one would expect a little leniency—and one would expect that the magistrate may exercise a discretion judiciously and fairly. However, to operate on the presumption that they will go for the maximum, I think, would be rather unfortunate, but, even if they did, then it must surely be because they feel that the system and the situation, more so, warrant it.

The first point is that there is no right to a speedy trial. This seems to have been misunderstood by those on the other side. [*Interruption*] There is no right to a speedy trial and there is no unqualified right to liberty. There is a right to liberty but that right to liberty in section 4(a) of the Constitution is a right to liberty except when you are deprived of it by due process of law. The minute you are

charged, and a bail condition is imposed or you are remanded into custody, your liberty is constitutionally taken away from you because you have had due process of law. So that there is no right to a speedy trial and there is no unqualified right to enjoy one's liberty.

In fact, that is the fundamental philosophical point that underlies this debate which has been missed by Members on the other side. [*Interruption*] You have a right to liberty, but that right to liberty is forfeited when you choose to cause harm and commit a crime against another human being who is a law-abiding citizen. That is why the Constitution does not give you an absolute right to liberty, but a qualified right to liberty. The system we have always had is that you will be remanded into custody and all we are seeking to do is to put the procedure on a better footing so as to save time, money and precious resources.

Mr. Deputy Speaker, my learned Friend from Diego Martin West suggested that the purpose of the criminal justice system is—

Dr. Rowley: Diego Martin North/East.

Sen. The Hon. A. Ramlogan: The fervour with which you jumped up I could almost sense a defamation lawsuit and I apologize, sincerely, for that egregious error. [*Desk thumping*] I totally understand your sentiments. That is, indeed, a grave error.

The Member for Diego Martin North/East suggested that the purpose of the criminal justice system is to get prisoners and accused out of the prison system. My colleague, the Minister of Legal Affairs, the hon. Minister Prakash Ramadhar, has addressed this issue. I do wish to state—

Mr. Imbert: Mr. Deputy Speaker, Standing Order 32(4).

Mr. Deputy Speaker: Is it 32(4)? [*Pause*] Overruled. Continue, Attorney General.

Sen. The Hon. A. Ramlogan: Thank you, very much, Mr. Deputy Speaker.

Mr. Imbert: Would the Attorney General give way?

Mr. Deputy Speaker: Standing Order 32(4) deals with amendments. [*Pause*] Okay, if he is giving way, and he is the mover of the motion, closing the Motion.

Mr. Imbert: I wanted to get in now.

Mr. Deputy Speaker: You better get in now because if he does not allow you, you cannot get in after.

Mr. Imbert: Precisely.

Mr. Deputy Speaker: Okay.

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker—

Mr. Imbert: Would you give way?

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, I think my learned friend has had his day and had his say. I would have been prepared to give way had my learned friend scored above one and a half out of 10. [*Desk thumping*] But, when I hear my learned friend seek to justify—

Mr. Deputy Speaker: It is either the Member by name or "hon. Member for Diego Martin North/East", it is not "my learned friend".

Sen. The Hon. A. Ramlogan: When I hear my learned friend from Diego Martin North/East—Member for Diego Martin North/East—may I just get it all correct at the same time and omit the word "learned"? The Member for Diego Martin North/East. When I hear my—

Mr. Imbert: Would the Member give way?

Sen. The Hon. A. Ramlogan: The hon. Member for Diego Martin North/East seeks to justify his opposition to this perfectly legitimate and important bill—one needed in the public's interest—and cites far-fetched, archaic examples of summary offences like flying kite in Port of Spain, bathing in the Maraval River and something to do with pigeons.

Hon. Member: Wounding pigeons.

Sen. The Hon. A. Ramlogan: Wounding pigeons. He did not mention anything about corbeaux, he talked about pigeons; riding bicycles without—

Mr. Deputy Speaker, it would be hilarious, were it not for the fact, that the hon. Member for Diego Martin North/East actually harbours aspirations of assuming the exalted office of Leader of the Opposition and, one day, becoming prime minister. Here is the hon. Member, with such lofty and grand ambitions, stating to this honourable House, that he opposes the extension of the remand period to a maximum of 28 days because these offences of flying kite and pigeons—

Mr. Imbert: Mr. Deputy Speaker, I would ask you to seek the learning on Standing Order 32(4). If it is in the winding up 32(4) cannot be invoked then a Member can say anything and a Member over here cannot be given an opportunity to clarify. Surely, I must be allowed to speak.

Mr. Deputy Speaker: Member, since you cannot use 32(4) in this case, what you can do is to apply to the Speaker to bring a Motion to do that.

Mr. Imbert: I would ask you to look at it, Mr. Deputy Speaker.

Mr. Deputy Speaker: I would look at it again. Continue, Attorney General.

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, when my learned friend sought to justify his opposition by—Sorry. The hon. Member for Diego Martin North/East sought to justify his opposition by referring to these archaic offences, we are dealing with a real problem in the criminal justice system. The problem has to do with the backlog that has been created. The backlog was created by persons who have been charged, remanded into custody and have to be brought, time and again, before the court. The hon. Member for Diego Martin North/East actually submitted to this honourable House, for its consideration, that offences such as killing pigeon, bathing naked in the river and all sorts of archaic offences—are offences for which a man could get charged and brought to jail for 28 days.

Mr. Deputy Speaker, you would recall, during my presentation, I was at pains to cite statistics. I cited statistics from the annual report of the Judiciary. I cited those statistics to substantiate the argument about the backlog in the court system. I was waiting patiently to hear my learned friend, the hon. Member for Diego Martin North/East tell us how many people were caught bathing in Maracas and charged. I was waiting, patiently, to hear the statistics about how many persons were caught injuring pigeons. I was waiting, patiently, to hear how many people were actually caught flying kites in Port of Spain.

I could see the hon. Member for Diego Martin North/East, in the middle of the night, in-between his blogging activities, running down by the Savannah to see who hunting pigeons; who taking a bathe in the river and who flying kite. I could see him now with his binoculars standing there, on the edge of the Queen's Park Savannah, while he is thinking and strategizing as to how he will assume the office of the Leader of the Opposition, that he will be spying on citizens, not using the SIA, but using his own power, intuitive, intellectual powers and a binoculars to pick up on all these offences to come prepared for this debate today, to tell us.

6.20 p.m.

In fact, given his penchant for visual aids and buttressing what he is saying, I expected to see him holding up photographs of himself with a man injuring a pigeon or a man coming out of Maracas. I thought that is what would happen, because these are the offences my learned friend cited and he sought to oppose the

extension of the period from 10 to 28 days by saying when people commit these offences, which remain summary offences, they could then be in jail for 28 days.

Mr. Sharma: The youngsters in the Youth Parliament did better than you.

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, to say that it really is illogical, irrational, and bordering on the absurd will be to treat it with politeness and decorum in the highest order.

Mr. Sharma: No wonder he scored one and a half marks.

Sen. The Hon. A. Ramlogan: You see, Mr. Deputy Speaker, when my learned friend speaks about the criminal justice system, my learned friend speaks and does research. He cites a judgment of hon. Madam Justice Gobin in 2008—

Mr. Sharma: Under the PNM rule.

Sen. The Hon. A. Ramlogan:—and he speaks about the poor conditions in the prison service that led to the High Court pronouncing on the human rights violations of prisoners, and my learned friend says well, you know, these are the conditions, and so on.

Mr. Imbert: Right.

Sen. The Hon. A. Ramlogan: What my learned friend does not say to this honourable House is that inasmuch as his conscience was so aroused and so alive and sensitive to these violations and the prevailing conditions there, what on earth, pray tell, did he do?

Mr. Sharma: Nothing.

Sen. The Hon. A. Ramlogan: Did he take the *Su*, put it on wheels and drive down to the jail to help people?

Mr. Sharma: No.

Sen. The Hon. A. Ramlogan: Did he take the Ministry of Works and its immense resources to go down there to try to give some counselling?

Mr. Sharma: No.

Sen. The Hon. A. Ramlogan: I do not know. But he sat idly by, allowed the situation to deteriorate, did nothing, said nothing, and when we tried to come to fix it, he wants to complain about the fact that this is the status quo.

Mr. Imbert: Fix what? Remand prison?

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, they are interested in preserving the status quo. They will oppose every single legislative measure that we bring, whether it is in the interest of the country, whether it is about good governance, transparency, fighting corruption, fighting crime or promoting accountability, they will oppose it because they believe that by opposing, the country will forget that they are not proposing.

Mr. Sharma: That is right.

Sen. The Hon. A. Ramlogan: I waited to hear from the hon. Member for Diego Martin North/East. If you find it so objectionable that we will have the 28 days for both indictable and summary offences, I waited patiently to hear well what was his suggestion that he would find acceptable for us to consider.

Mr. Sharma: He has none.

Mr. Imbert: You want it now?

Sen. The Hon. A. Ramlogan: But I waited throughout the length and breadth of his contribution. Oppose, oppose, oppose; but no propose, propose, propose. Absolutely nothing!

Mr. Sharma: Total failure.

Sen. The Hon. A. Ramlogan: So I said to myself, this is a classic case of empty barrels making the most noise. Clearly.

Mr. Imbert: You are not serious.

Sen. The Hon. A. Ramlogan: Mr. Deputy Speaker, when they speak about the need for a holistic approach, when I was outlining the legislative package—the comprehensive and biting legislative package that encompasses the reformation and restorative aspect of the criminal justice system; the fight against crime on the ground and the need to reform the criminal justice system—my learned friend from Diego Martin North/East, the learned Member, was the first to jump up. [*Interruption*]

Even my friend from Port of Spain South, the Member for Port of Spain South, is objecting to my saying "learned friend". [*Laughter*] And I want to humbly apologize to the Member for Port of Spain South. I withdraw, without reservation, the use of that prefix before Member for Diego Martin North/East.

Mr. Imbert: Deal with the issue.

Mr. Sharma: You stay out of the Parliament and campaign.

Sen. The Hon. A. Ramlogan: You see, when I was outlining that comprehensive package of legislation to show what the hon. Minister of National Security has been doing, walking in the crime hotspot areas, speaking to the fathers and telling them about the need to be good fathers; telling the young men about what opportunities there are available, whether it is in the Civilian Conservation Corps; whether it is in the older programmes, MILAT, MYPART, YTEPP, evening class, you name it. If a young man wants to lead a life—a decent and honest life—this country is one of the few countries in the world where you can, in fact, do so.

We have spent almost $400 million on the Civilian Conservation Corps programme as a country, and we have provided opportunities in every single vocational training institute; every single social sector programme, we have provided it. So when the learned Member, the Member for Diego Martin North/East, says that we are not approaching it in a holistic manner, I really wonder where he is getting that from.

I saw in today's newspaper, an added criticism from a Member in the other House saying that these measures are targeting a geographical area in the country which belongs to the Opposition party.

Mr. Sharma: Nonsense!

Sen. The Hon. A. Ramlogan: Imagine a Member of the opposition party seeks to arrogate unto himself the right to claim a monopoly on crime for his own constituents.

Mr. Sharma: How dotish!

Sen. The Hon. A. Ramlogan: Can you imagine how absurd that is, when we are targeting crimes and criminal activity wherever it is in the country because we are a Government for the people, by the people and of the people? [*Desk thumping*] And we are here to save the people. So, Mr. Deputy Speaker, when you read that kind of baseless Opposition, completely devoid of any intellectual merit and thought, based solely on geographical areas in the country and matters of the like, I say to myself, it is clear that they do not see themselves as an Opposition party for Trinidad and Tobago. They see themselves as an Opposition party for a certain part of Trinidad and Tobago.

Mr. Sharma: That is right.

Sen. The Hon. A. Ramlogan: Well I want to tell them, we will fight crime throughout the country; we will distribute hampers throughout the country; and anything we do in this country, we do it for everybody in the country. [*Desk thumping*]

Mrs. McIntosh: Fifty for PNM; a hundred for UNC.

Sen. The Hon. A. Ramlogan: The one thing we will not do is distribute pianos throughout this country.

Mr. Sharma: You did not have 50 people to give the hampers.

Sen. The Hon. A. Ramlogan: And the reason we would not do that is the cost of one piano could pay for the nationwide distribution programme. [*Desk thumping*] The entire thing. One piano. Mr. Deputy Speaker, this measure is one that is designed to grease the wheels of the criminal justice system, to ensure that we save money on the transportation costs; to ensure that the magistrates' time would be freed up so they can actually adjudicate on cases; to ensure that the frustration experienced by prosecution witnesses who must come time and again to see a matter adjourned.

So that we are designing this package of legislation to get the victims of crime off that treadmill; to make them step onto the treadmill of the criminal justice system, to adjust the speed, adjust the incline, but they are going nowhere. We want to take them somewhere, Mr. Deputy Speaker, and this is the first step in the right direction and I ask, Mr. Deputy Speaker, that we support this legislation in this honourable House.

I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Mr. Imbert: Mr. Chairman, the Attorney General refused to give way but I now can speak and he cannot stop me. I am proposing that the period in clause 2, that the words "twenty-eight" be changed to "eighteen".

Mr. Sharma: We reject that.

Mr. Imbert: Why would you not be quiet? I am talking to the Attorney General. I will tell you the thinking. There are several summary offences, and I

will use obscene language and drunk and disorderly, and even petty theft, and so on, as examples, where a person may not be able to get a lawyer. As you yourself said, Attorney General, in the rural areas, there are very few lawyers who are willing to provide pro bono services or to provide legal aid.

And as you yourself said that whereas in Port of Spain, there may be a situation where persons may be able to avail themselves of legal aid, in the rural areas, I took your point that a person may not be able to get a lawyer. A lot of these accused people are not very literate, they are not well off, and they find themselves in remand for extended periods through no fault of their own. I thought if we could take a balance between the eight and the 28, that for summary offences, 18 would be a good figure, so I am proposing that we change that to 18.

Mr. Ramlogan: Hon. Member, I think the clause, as worded, appropriately reflects the intention and policy of the Government.

Mr. Imbert: Yes, I know that.

Mr. Ramlogan: And we are prepared to leave it as it is because we feel it is in the best interest of the criminal justice system.

Mr. Imbert: All right. Up to you.

Question put and agreed to.

Clause 2 ordered to stand part of the Bill.

Clause 3 ordered to stand part of the Bill.

House resumed.

Bill reported without amendment.

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

The House divided. Ayes 24 Noes 10

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Warner, Hon. J.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.
Rambachan, Hon. Dr. S.
Seepersad-Bachan, Hon. C.
Volney, Hon. H.
Roberts, Hon. A.
Cadiz, Hon. S.
Baksh, Hon. N.
Ramadharsingh, Hon. Dr. G.
Ramadhar, Hon. P.
De Coteau, Hon. C.
Indarsingh, Hon. R.
Partap, Hon. C.
Samuel, Hon. R.
Douglas, Hon. Dr. L.
Ramdial, Miss R.
Roopnarine, Miss S.
Seemungal, J.
Khan, Miss N.

NOES

McDonald, Miss M.
Rowley, Dr. K.
Cox, Miss D.
Hypolite, N.
Mc Intosh, Mrs. P.
Imbert, C.
Jeffrey, F.
Thomas, Miss. J.
Hospedales, Miss A.
Gopee-Scoon, Mrs. P.

Question agreed to.

Bill accordingly read the third time and passed.

RELATED MOTIONS

The Minister of Trade and Industry (Hon. Stephen Cadiz): Mr. Deputy Speaker, I beg to move Motion No. 1 standing in my name. In moving this motion, I seek the leave of the House to debate, along with this matter, Motion No. 2 on the Order Paper, which relates to the same subject.

Assent indicated.

CUSTOMS DUTY EXEMPTIONS
(LEGAL NOTICE NO. 6 OF 2008)

The Minister of Trade and Industry (Hon. Stephen Cadiz): Mr. Deputy Speaker,

Whereas it is provided by section 56(1)(a) of the Customs Act Chap. 78.01, that the House of Representatives may, from time to time, by resolution, provide that any class of goods specified in the resolution shall be exempt from import duties of customs if the goods are imported or entered for use by any person for any purpose specified in the resolution, during any period to be fixed by the Minister in each particular case, not being a period terminating later than the date prescribed in the resolution as the last day on which such exemption shall be operative and subject to such conditions as the Minister may impose;

And whereas by Legal Notice No. 6 of 2008, the last resolution in respect of the goods identified therein came into effect on January 01, 2008 and expired on December 31, 2010;

And whereas it is expedient that certain goods be exempt from import duties of customs as of January 01, 2011;

Be it resolved that the House of Representatives, in accordance with and subject to the provisions of section 56 of the Customs Act, exempt from import duties of customs the classes of goods imported or entered for use in Trinidad and Tobago for the respective purposes set out in the list of conditional duty exemptions for approved industry in Part A(1) of the Third Schedule to the Customs Act for the period beginning immediately after the expiration of the last resolution of Parliament and ending December 31, 2015.

Mr. Deputy Speaker, the purpose of this Motion is to seek an extension of the initial resolution that was granted pursuant to section 56(1)(a) of the Customs Act. This extension will facilitate Trinidad and Tobago's manufacturers and exporters and subcontractors and service providers in the petroleum industry who require

important inputs without being required to pay customs duties. In doing so, Trinidad and Tobago businesses would be in a position to compete more effectively with their international counterparts.

Mr. Deputy Speaker, in 2008, Parliament provided this facility for a three-year period which expired on December 31, 2010. This facility continues to be of considerable benefit to a number of manufacturers and the continuation of the facility is critical. We are asking the House to provide a further extension under section 56(1)(a) for goods to be imported for the manufacturing sector. Mr. Deputy Speaker, rather than the three-year extension which was sought previously, we are asking that the facility be extended for a further five years, as the longer period would better facilitate the conduct of business.

Mr. Deputy Speaker, I beg to move.

Question proposed.

Mrs. Paula Gopee-Scoon (*Point Fortin*): Mr. Deputy Speaker, the Motion before us is rather simple, and all it does is seek to extend a facility under section 56(1)(a) of the Customs Act, Chap. 78:01, allowing for an exemption from import duties of Customs if the goods are imported or for particular purposes. The last resolution expired, as the Minister said, in January 2008. Sorry, it expired on December 31, 2010. I am not sure why the Minister, in the first instance, is asking for a five-year extension, when, in fact, we normally go with a three-year limit. I do not know the reasoning behind that, but I would certainly like to find out because in the next five years, I could guarantee you that the Minister will not be in office and the Government will not be in office. [*Desk thumping*] [*Interruption*]

Mr. Deputy Speaker, the list of conditional duty exemptions before us, Third Schedule, Part A, is really a list for approved industry—this is of the Customs Act—and what the Minister has done is he has brought before us the entire list from 2007, which tells me that there was absolutely no review of the list that was brought here today. I have looked at it, Mr. Deputy Speaker, and I am seeing on it, for instance, in item 5—now, let me let you know that we are supporting this, because this is to help the manufacturers and to help the business people; but I think it was rather lazy, to put it simply, of the Minister to just bring the former list without any thought or any examination of what is on the list. [*Desk thumping*]

Mr. Imbert: No analysis.

Mrs. P. Gopee-Scoon: Clearly, there must be some evaluation and some analysis of what constitutes approved industries, because this is what this list is

about; approved industries. Mr. Deputy Speaker, therefore, if you look at line 5, you will see that machinery, equipment and materials for the manufacture of textiles, et cetera—manufacturing of textiles, this is on the list as well, when we actually have no textile manufacturers in Trinidad and Tobago. I am not sure what the Government's position is vis-à-vis textile manufacturing, whether or not we still want to encourage it.

And it goes on, but, Mr. Deputy Speaker, you will be surprised. In No. 48, it goes on to talk about machinery, equipment and materials for the manufacture of gramophone records and other sound or similar recordings.

Miss Hospedales: Wow, lazy. Lazy.

Mrs. P. Gopee-Scoon: Gramophone records, Mr. Deputy Speaker? That should be expunged from the list.

Miss Hospedales: That is right.

Mrs. P. Gopee-Scoon: Really, it should be excised because I am not sure that Trinidad and Tobago is interested in cultivating some kind of industry of manufacturing gramophone records, Mr. Deputy Speaker. Therefore, what I want to say is that I am disappointed.

Mr. Imbert: Nobody makes that anymore.

Mrs. P. Gopee-Scoon: I am very, very disappointed in the work that the Minister has done on this list. Clearly, there is no—Minister, the question I am going to ask you is, do you have a list of approved industries? Because clearly, if you are bringing forward and you are asking us to approve exemptions—in other words, we are cutting the revenue that we are getting from these items that are being imported, because we are forgiving something; we are giving up something; clearly it must be for approved industries. I want to ask you, do you have a list of approved industries? Have you sat down and is there a list? This must be placed in a context and, therefore, this must be part of a trade policy.

I am not sure. I have not heard you say anything about a trade policy from your new Government, you know. And so, therefore, what I am suggesting is that when you present something like that, like what you have presented today, it must be part of an industrialization plan; and we must ask ourselves, we must be able to ask the question, is it worthwhile to support these industries that you have approved these exemptions for?

There must be some sort of unit in the Ministry doing some research and analysis and evaluation so that when this comes, it is meaningful and it is specific.

It relates to specific items that we could understand what we are giving up here. You see, there is a value to the exemptions that we are giving here, and that is the question I am asking you. All of the duty-free exemptions here, what is the value of it?

I am sure, Minister, your technocrats can detail that for us. What is the cost to the State and what is the value added in terms of these particular industries that we are helping? In other words, are we going to earn foreign exchange from it? Are we going to get X number of jobs from it? We must weigh what we are giving up for what we could get.

Clearly, some sort of measurement is required because it is well established that what gets measured will get managed, but if there is no measurement in place, I am asking you, what are you managing? It is a question of the total value of the exemptions versus the total value of the revenue, and this is what you should have weighed, and that is the context in which you should have brought a revised approved list in line with your Government's trade policy which, to date, you have not set out clearly for the business people of Trinidad and Tobago. [*Desk thumping*]

Again, I make it very clear that we are not going to hold back the manufacturing sector here. As a matter of fact, you should have brought this little piece of legislation before the end of the year so that we could have had a smooth transition, because I do not know what happened in the first two to three weeks with people who were seeking to get these exemptions. They had to wait on you, and that is not efficiency, as you purported when you first came into office, that this Government will be efficient and this Government will have all the answers, and so on. That has not happened.

I am asking you for the policy; the context for this. I got a bit of what you are doing when I went to the Chamber meeting. You spoke of some of the industries, the plastics—so I would expect to see plastics on this list. You said that you had some proposals before you and, of course, I want to know what those proposals are. You said that at the meeting. You spoke about shipbuilding and repair, and so on, so that I expect that these items being imported to assist with those particular industries will be here. You spoke about shipbuilding and printing and packaging, and so on, and that kind of thing; but again, Minister, you have not matched this, the list of exemptions, to your plan. Obviously, there is no plan and we are still waiting on that.

Then I would not go into too much detail on it. Clearly, this is just a repetitive exercise—the way you see it is as a repetitive exercise—but there is more that we

need to know with what is going on with your Ministry and the trade policy; how your relationships are working with the Ministry of Foreign Affairs and the Ministry of Energy and Energy Affairs and Ministry of Finance, so then we could understand and put this into a framework, but as it is, we have no framework. [*Desk thumping*] The way we understand it, you know, my understanding is that things are not going too well between the Ministry of Trade and Industry and the Ministry of Foreign Affairs, but I do not know the details and, therefore—

Miss Hospedales: Tell us about it.

Mrs. P. Gopee-Scoon: I mean, that is just an understanding. But through you, Mr. Deputy Speaker, Minister, there was a little statement that you made at the lecture on trade. It must have been in your third statement you said, "Do we stay with Caricom?" I mean, you seemed very puzzled and bewildered at that meeting—"Do we stay with Caricom?" I wanted to know, I questioned right away, are you acting in the best interest of manufacturers when you make a statement like that? Do you have an idea of the quantum of exports that we make to the Caribbean?

Do you know the number of people who are dependent on jobs in the manufacturing sector for goods that are exported to Caricom? I mean, have you thought about the fact that when you make a statement like that, the loss of preferential treatment, and so on, for manufacturers? I guess not. The question I am going to be asking you is really, is your Government pro-business? That is the question I want to ask when you make those kinds of statements, because I can tell you that this Opposition is pro-business and the PNM is pro-business. [*Desk thumping*]

6.50 p.m.

I want to know that you are working in tandem with the Ministry of foreign Affairs and that the missions abroad are seeking the interests of all these businesses, all these manufacturers. We trust that your missions abroad are seeking their interests. You sent a lot of novices abroad. You sent a vet to Washington; I want to know how he is going to help these business people who are importing goods on your list. How is he going to help those people who are importing goods there? I am not sure.

I move quickly to the second part of Motion No. 2, referring to section 56(1)(a) of the Customs Act. That relates to energy items and, again, it is the same thought process. I am not sure what we are giving up and what we are gaining here; it is the class of goods, equipment, material and supplies for use in offshore

petroleum exploration and petroleum operations. Again, we strongly support the energy industry; the PNM built the energy industry. Again, I am not sure if it fits into a plan.

When I tried last week to get from the Minister of Energy and Energy Affairs what the plan was for the petrochemical sector, what the plan was for the downstream industries, what the plan was for the upstream industry as well, she went into hysterics, so I am not sure. I asked about the ammonia and derivatives project, very specific things and I did not get the answers; a lot of talk, but no answers. Therefore, while we approve what you are doing here, the extension of these lists of conditional duty exemptions, we support it in support of business people, in support of the energy industry, in support of the non-energy industry. We support it, but I expect that when you do something like this, you will review, you will put it into a context, you will be up to date, and the public will know what you are about, business people will understand where your Government is coming from with regard to trade policy.

Mr. Deputy Speaker, I thank you.

The Minister of Trade and Industry (Hon. Stephen Cadiz): Mr. Deputy Speaker, for a simple Motion, that was a lot of talk.

Just a couple things; when this Motion was debated in 2008, it was actually presented by none other than the representative for Diego Martin West who was then the Minister of Trade and Industry. In fact, the date it was actually presented was Friday, January 18, 2008. I believe today is January 19, so I apologize to the manufacturers for bringing it a day later than when it was presented in 2008.

The textile industry is still very much an industry that Trinidad and Tobago should be looking at—so whether it was gramophone records in 2008 or gramophone records in 2011, I really and truly do not see that it makes a real difference. I think that is very much a non-issue.

As far as the trade policy is concerned, the policy for 2011—2015 is being developed and will be presented fairly soon. I am not getting involved in whether it is gramophone records or textiles, because just like the Member for Diego Martin North/East, my representative, who was quoting about pigeons and bathing in the Maraval River—he was talking about—[*Interruption*]

Mr. Deputy Speaker: Member, you cannot bring up in another debate a matter that has already been decided.

Hon. S. Cadiz: Thank you, Mr. Deputy Speaker. Anyway, some of us may go back in time with certain things that we talked about, but we will not go there. No, I am not going there.

Why a five-year period? Why not a five-year period? Why not give the manufacturers that security? It used to be one year, it used to be an annual exemption and then it went to three years. All we have done is say, "Why not support local industry by giving it for a five-year period?" So it is a period in time; there is no particular reason other than the manufacturers have the security of a five-year period.

When we come back in the Parliament in five years' time, we will extend it for a further five years. It is not a problem for the Member for Point Fortin; that should not worry you at all. [*Crosstalk*]

Mr. Warner: She will not be there.

Hon. S. Cadiz: On the issue of Caricom, this Government supports Caricom and we will continue to support Caricom. The comment made about Caricom at that meeting was basically whether or not we would seriously look outside of Caricom for additional export opportunities to support our manufacturers, and that is all it was. [*Crosstalk*]

Mr. Deputy Speaker, I am going to be very brief on this matter, because I do not think it requires anything further. Therefore, I beg to move.

Question put and agreed to.

Resolved:

That the House of Representatives, in accordance with and subject to the provisions of section 56 of the Customs Act, exempt from import duties of customs the classes of goods imported or entered for use in Trinidad and Tobago for the respective purposes set out in the List of Conditional Duty Exemptions for Approved Industry in Part A-I of the Third Schedule to the Customs Act, for the period beginning immediately after the expiration of the last Resolution of Parliament and ending December 31, 2015.

Mr. Deputy Speaker: Leave was granted for us to do both Motions together.

CUSTOMS DUTY EXEMPTIONS (LEGAL NOTICE NO. 7 OF 2008)

The Minister of Trade and Industry (Hon. Stephen Cadiz): Mr. Deputy Speaker, I beg to move Motion No. 2 standing in my name:

Whereas it is provided by section 56(1)(a) of the Customs Act, Chap. 78:01 that the House of Representatives may from time to time by Resolution provide that any class of goods specified in the Resolution shall be exempt

from import duties of customs if the goods are imported or entered for use by any person for any purpose specified in the Resolution during any period to be fixed by the Minister in each particular case, not being a period terminating later than the date prescribed in the Resolution as the last day on which such exemption shall be operative, and subject to such condition as the Minister may impose;

And whereas by Legal No. 7 of 2008 the last Resolution in respect of the goods indentified therein came into effect on January 01, 2008 and expired on December 31, 2010.

And whereas it is expedient that certain goods be exempt from import duties of customs as of January 01, 2011;

Resolved that the House of Representatives in accordance with and subject to the provisions of section 56 of the Customs Act, exempt from import duties of customs the class of goods specified in the first column of the Schedule, being goods imported or entered for use for the purposes specified in the second column for the period specified in the third column, but that this Resolution shall cease to have effect in respect of any class of goods specified in the first column and that is manufactured in Trinidad and Tobago.

SCHEDULE

First Column	*Second Column*	*Third Column*
Class of goods	*Purposes for which goods are to be used*	*Period of exemption*
Equipment, material and supplies	Imported for use in offshore petroleum exploration and petroleum operations	From 1st January, 2011 to 31st December 2015

Mr. Deputy Speaker, I beg to move.

Question proposed.

Question put and agreed to.

Resolved:

That the House of Representatives in accordance with and subject to the provisions of section 56 of the Customs Act, exempt from import duties of customs the class of goods specified in the first column of the Schedule, being

goods imported or entered for use for the purposes specified in the second column for the period specified in the third column, but that this Resolution shall cease to have effect in respect of any class of goods specified in the first column and that is manufactured in Trinidad and Tobago.

SCHEDULE

First Column	*Second Column*	*Third Column*
Class of goods	*Purposes for which goods are to be used*	*Period of exemption*
Equipment, material and supplies	Imported for use in offshore petroleum exploration and petroleum operations	From 1st January, 2011 to 31st December 2015

ADJOURNMENT

The Minister of Housing and the Environment (**Hon. Dr. Roodal Moonilal):** Mr. Deputy Speaker, I beg to move that this House do now adjourn to Friday, January 21 at 1.30 p.m. and to indicate to the Opposition that it is the proposal of the Government on that day to debate, and take through all its stages, the Firearms (Amdt.) Bill, 2010.

Mr. Deputy Speaker: Before I put the question on the adjournment, there is a matter on the adjournment from the Member for Diego Martin North/East.

Member, you have 15 minutes maximum.

PH Taxi Drivers
(Regularization of)

Mr. Colm Imbert (*Diego Martin North/East*)**:** Mr. Speaker, the matter on the Motion for the adjournment deals with the irresponsible manner in which the Government is treating with the regularization of PH drivers. Contrary to the belief of some Members of Government, the question of regularizing PH drivers is not new; there is nothing new about this.

I wish to take this House back to February 2010. On Wednesday, February 24, 2010 in my former capacity as the Minister of Works and Transport, the House was engaged in a very cordial debate. I must say it was a very meaningful and cordial debate on a number of amendments to the Motor Vehicles and Road Traffic Act. During the debate, the whole question of PH drivers came up, and I

will read into the *Hansard*. As I said, it was a very cordial debate and one of the riding partners, to use the local parlance, of the Member for Chaguanas West, at the time—because the Member for Chaguanas West is like a "twenty-four hours", he sheds his skin every 24 hours. [*Interruption*]

Mr. Deputy Speaker: Member for Diego Martin North/East, you are imputing—

Mr. C. Imbert: No, no, no, Mr. Deputy Speaker, let me put it this way: The Member for Chaguanas is like a chameleon, he changes his approach to matters from day to day.

Mr. Deputy Speaker: Member, Standing Order 36(4) and (5).

Mr. C. Imbert: A chameleon?

Anyway, Mr. Deputy Speaker, the Member for Tabaquite at the time, the hon. Ramesh Lawrence Maharaj SC, good friend and riding partner of the Member for Chaguanas West, this is what he had to say when we were speaking about PH drivers:

> "The hon. Member for Diego Martin North/East and Minister of Works and Transport has raised an important issue about PH drivers. Here we have a problem and it is that these PH drivers, if there is an accident, apart from their breaking the law, the passengers are in difficulty because they are not insured.
>
> On the other hand, they provide a great service. You have a predicament as to how to deal with this thing. I was wondering, one of the things I had done when I was a Minister of Government, is that we had looked at the system in England where there are minicabs. The private cars are permitted to register and have the requisite insurance, but yet be able to do public transport."

The then Member for Tabaquite went on to give examples of areas in England where there was a minicab service, for example, from London to Gatwick.

The most important point the then Member for Tabaquite made, when we were having a discussion about this matter, was when the whole question of having a police certificate of good character came up. If we go to the laws of Trinidad and Tobago, the Regulations in the Motor Vehicles and Road Traffic Act, Chap. 48:50, regulation No. 111 under the heading, "Taxis". it says:

> "No person shall drive on any road a taxi registered as such unless he is the holder of a taxi driver's licence issued to him…under these Regulations..."—
> and it goes on to give conditions.

7.05 p.m.

> "Every application for a taxi driver's licence shall be in the form set out in the Fourth Schedule, shall be signed by the applicant. Duplicate photographs of the applicant of passport size; a Police Certificate of Character and his driving permit…shall accompany each application."

And regulation 111(3) says that:

> "The Licensing Authority"—which is the Transport Commissioner—"may refuse a taxi driver's licence to any applicant who fails to satisfy him that he is a fit and proper person to hold such a licence."

So the current law for taxi drivers, persons who drive route taxis and persons who drive maxi-taxis, is that they must satisfy the Transport Commissioner that they are fit and proper persons to hold a licence and they must produce a police certificate of character. That is that law, Mr. Deputy Speaker, and for good reason.

The Member for Tabaquite had this to say. I asked him!

> "You are suggesting that we look at a regime similar to the minicab service, which is a special service or a kind of PH service. But do you think there should be a requirement that they get a certificate of good character? Is this something that we should overlook or waive? I am asking you".

This is me to the Member for Tabaquite at the time and this is what he had to say—Mr. Ramesh Lawrence Maharaj:

> "I feel very strongly about that. I think it must be that these people must have a certificate of good character".

This is the reason he gave and this is why I brought this matter—"because they are transporting ladies and children…"and one needs to have some sort of protection.

Now, let us look at what the Minister has done, because we went into this in great detail. Because of the very cordial and informed discussions that we had, we decided to have a six-month grace period in the legislation, because what we did in that legislation on February 24, 2010, was to increase the penalty for driving a vehicle for a purpose for which it is not intended to $8,000. So we increased the fine significantly. It was much less than that, but there was too great an instance of persons using unsuitable vehicles and other things where there was no

insurance so we felt we needed to stop that, because it was becoming dangerous. But, recognizing that PH drivers provide a valuable service, this is what I had to say:

> "We on this side recognize that these PH divers do provide a service and therefore, we are leaving a six-month window to have discussions with them, to have as many of them as possible become legitimate taxi operators…and also allow us during the six months to look at the minicab system and other similar systems so that we could make appropriate adjustments to the legislation and allow PH drivers to be regularized under certain conditions."

So this is the undertaking I gave to this Parliament in February: the six-month period. The legislation went to the other place, it was passed in March and the six-month period lapsed in September of 2010. So, since September 2010, the new fines and penalties have come into effect, but they have not been implemented. Clearly, there has been a request given to the police to hold their hand. In principle, Mr. Deputy Speaker, I have no real difficulty with that, until this matter is properly sorted out, we should get it over with quickly, but I have no problem in principle, because an undertaking was given by a government to these PH drivers that we would meet with them and sort out a system for them to be regularized. However, the current Minister of Works, on behalf of the present Government, has issued proposed draft regulations for PH drivers and in these regulations the Minister is proposing that the transport commissioner will make rules and regulations with respect to the type of vehicle—nobody could argue with that—ensure that the vehicle is in a suitable mechanical condition—nobody could argue with that—attach to the licence for these PH drivers such conditions as may be reasonable, including without prejudice conditions of display of signs, et cetera, ensuring that the vehicles have a policy of insurance. These are all things that have already been discussed.

There is general agreement on both sides of the House, that when you are regularizing these PH drivers you must have a system of inspection and a system to ensure that the vehicles are properly insured and in good condition. But what the Minister has left out is this, and there is a report in the *Newsday* of January 10, 2011, as follows:

> "Works and Transport Minister Austin Jack Warner is not backing down in the ongoing battle with taxi and maxi-taxi drivers in their bid to declare PH (private cars for hire) cars illegal."

And he goes on to say:

> "Warner said there would be no screening of the over 6,000 PH drivers."

He goes on to make this statement which I consider to be reckless, that is why I use the word "reckless" in my Motion: "The guys who drive the taxis, are they screened?"

Well, Mr. Deputy Speaker, I just read for you, that is a requirement of the law that before you could get a taxi badge you must produce a police certificate of good character, and therefore for a Minister to ask this rhetorical question, "The guys who drive the taxis, are they screened?"; of course they are screened! Before you could get a taxi badge you must produce a police certificate of good character and to get a police certificate of good character you must be traced and screened. That is simple common sense. He goes on to say:

> "The guys who drive the taxis, are they screened?" —he says—"The answer is no."

So, of course he is misinformed.

Obviously, the Minister is not au courant with regulation 111(2) and (3), because in those regulations you must have a police certificate of character—if you do not you commit an offence; that is regular taxis. So, the Minister was completely misguided and misinformed when he said that the guys who drive the taxis are not screened and so on, and then he goes on to talk about people who own maxis and other persons who own none, "has he been screened? If a guy commits an offence 10 years ago and has become repentant, must he be penalized—now? I do not share those concerns. Give people a chance to make an honest living because" we do not want to encourage crime.

Now, we in this Parliament—you see this Government is schizophrenic and quixotic".

Mrs. Persad-Bissessar: Mr. Deputy Speaker, that is offensive language.

Mr. C. Imbert: The Government—I am not imputing improper motives to a Member.

Mrs. Persad-Bissessar: It is not improper? How can you call the Government schizophrenic? Mr. Deputy Speaker, on a point of order, that has to be offensive language.

Mr. Deputy Speaker: Just now, just now! Could I—hon. Prime Minister, one moment. [*Crosstalk*] Hon. Prime Minister, it is not specific. [*Interruption*] Overrule, yes. [*Desk thumping*]

Mr. C. Imbert: Mr. Deputy Speaker, that has taken away a minute of my time. I would hope to get it back. [*Desk thumping*]

Mr. Deputy Speaker, we in this Parliament are currently looking at the Bail (Amdt.) Bill and the Anti-Gang Bill. They came here today beating their chests and talking about incarcerated criminals and they must lock them up for 28 days. Look at the kinds of offences that are in the Bail Bill: manslaughter, possession and use of firearms, rape, grievous sexual assault, buggery, sexual intercourse with a mentally subnormal person, shooting or wounding with intent to do grievous bodily harm, robbery, robbery with aggravation and trafficking in narcotics and possession of firearms with the intent to injure.

Now, Mr. Deputy Speaker, we in this Parliament have been debating draconian legislation, saying that we must detain people for five days without bail; that we take the period of remand and take it from eight days to 28 days; that persons must be given life imprisonment just because they are leaders of a gang; they must go to jail for 20 years just because they are gang members. But the Government wants to allow persons who have been convicted of manslaughter, just come out of prison yesterday, who have been convicted of rape, grievous sexual assault, incest, shooting and wounding; what the Government is telling us; what the Government, through the Minister of Works and Transport, is telling us, they are not going to screen PH drivers.

Mr. Deputy Speaker, I am aware of PH drivers who have been convicted of kidnapping and have found themselves out of prison and the next day that said kidnapper is driving a PH car. I am aware of PH drivers who have committed rape and the day they come out of prison they are driving a PH car. Persons involved in car stealing, involved in robbery, wounding with intent, shooting to injure; it is a highly, irresponsible—and it is these PH drivers who are going to be transporting ladies. I could not have put it better than the former Member for Tabaquite. These PH drivers would be transporting women and children and these could be men convicted of the most grievous rape. You must have some form of screening!

What we had agreed, that persons who have been charged for minor offences, you might be able to overlook that, but not a rapist, not a killer, not somebody who has assaulted a child. Mr. Deputy Speaker, I urge the Government to rethink this matter. You cannot have a system where regular taxi drivers, the legitimate ones have to go through police screening for good reason and the PH drivers, the rapist, the killer, the person who assaults a child would be allowed to come out of prison and the next day they would get a badge from this Government and be allowed to be transporting little children. We cannot allow this in this country, Mr. Deputy Speaker.

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

The Minister of Works and Transport (Hon. Jack Warner): Thank you, Mr. Deputy Speaker. I can possibly understand, but do not accept the fact that an election is looming in a few weeks in the People's National Movement, and therefore it is good to use this as a platform [*Interruption*] for politics.

Dr. Moonilal: Do not use the Parliament.

Hon. J. Warner: It is easy to use the Parliament to try to win votes, particularly when your main opponent is not in Parliament. It is easy to do that.

Mr. Deputy Speaker, nobody in the country will allow the last speaker, the Member for Diego Martin North/East, to get away with that. The people in this country now are too sophisticated, too intelligent to be fooled by this level of cheap politicking.

The Member for Diego Martin North/East began by saying, the proposal to regularize the PH drivers, that is not new. Nothing that is done in the Ministry of Works and Transport, as far as the last speaker is concerned, is new; whether it is the Aranguez overpass, whether it is the water taxi, whatever it is. In fact, I remember saying yesterday at another function, "that hell hath no fury as a Minister of Works and Transport who has been scorned." [*Interruption*] Hell knows no fury as a Minister of Works and Transport who has been scorned. I said so and I would say it again.

Mr. Deputy Speaker, he talked about change—[*Interruption*]

Mr. Deputy Speaker: Member for Diego Martin North/East, the Member for Chaguanas West sat and listened to you without saying anything, I would ask you to give him the same respect.

Mr. Imbert: My apologies, Sir.

Hon. J. Warner: I sat down here very quietly and listened to you. Do the same, that is all! [*Interruption*]

Mr. Deputy Speaker, he said that I am like a chameleon, and of course we change as the wind blows. I want to tell him, that change is a form of life. Without change you are dead. Who you are today you were not yesterday and who you would be tomorrow you are not today. So, change is a form of life. I would not go into other things because I do not have the time for that, but do not believe that everything is constant. Nothing is constant except, possibly—well, I would not say that.

He also made the point referring to Ramesh Lawrence Maharaj SC and what he said. I said to myself, well, we have reached. When the Member for Diego Martin North/East has to clutch the coat-tails of Ramesh Lawrence Maharaj SC to get a point, we have reached.

Mrs. Persad-Bissessar: They have reached.

Mr. J. Warner: In fact, I want to say, you have reached. Mr. Deputy Speaker, wherever Mr. Ramesh Lawrence Maharaj SC must be today, he would be the most shocked person. But that is life and that too is change.

He said that he wrote six months to have a window to have discussions with the PH drivers and he gave them a window; of six months—[*Interruption*] thank you very much—to talk with them. This is a former Minister of Works and Transport who for eight years has not spoken to the maxi-taxi drivers once. They have told me that for eight years he has not spoken to them once, not once, but he comes today campaigning and so on, that he gave them six months to hold discussions with them. Who is fooling whom?

Last but not least, he goes to a *Newsday* article to quote a *Newsday* article and say that is what he means when he says "reckless". Well, I have some articles to quote for you, you know and to tell you that you are reckless based on those articles, but I would be kind, I would be very kind. Therefore, I am amazed that you could use that as a yardstick whereby you could talk about "reckless".

7.20 p.m.

The PH phenomenon has been in existence for over 40 years—not 40 weeks, 40 years. Many communities throughout this country are being serviced by PH taxis, for example, in central, in south, Cuchawan Trace, Oropouche, east and west, in central, Couva North; in the east in D'Abadie/O'Meara; in Tobago. All over the country the PH taxis provide a service. Even in communities which are close to Port of Spain, they are serviced predominantly by PH taxi drivers. I am talking here about Laventille, Never Dirty; I am talking here about Morvant and especially Paramin, the constituency of the Member for Diego Martin North/East. Paramin is serviced mainly by PH taxis. But he would not know, because he does not go there. He does not go to Paramin. He is by the Maraval River bathing.

At nights, there are citizens who work long hours and they are guaranteed transportation to and from work primarily because of the PH taxi service. There are several housing communities around Trinidad and Tobago that are not being serviced by conventional taxis and even maxi-taxi service. Some of those areas do not have a reliable PTSC service, and, again, late at nights the PH taxis service the people.

The gap, therefore, in travelling, is really filled by residents who, because of their civic consciousness, assist transportation needs by plying their vehicles for hire to ensure that the people get to their homes at night. It is therefore evident that the services being provided by those PH operators are crucial in supplementing the transportation needs of the national community. Not everybody lives in Maraval; not everybody lives in Haleland Park, where you could get, of course, taxi service easily. There are people who live outside these areas—I say again—in east, south, Cuchawan Trace, wherever, but not everybody lives in Maraval.

The Motor Vehicles and Road Traffic Act, 48:50 makes it an offence for a person to use his or her vehicle contrary to the terms of his licence. Therefore, a person who plies a private vehicle for hire commits an offence and is liable to be fined. That is a fact. What the last speaker has said is nothing new. It is an offence to use your vehicle for hire if, of course, your vehicle is a private vehicle. You cannot use it for hire; it is an offence.

Over the years, previous governments have attempted to deal with the issue of PH drivers by trying to enforce the laws. They have failed. In 2010, the fine for the offence which was referred to by the last speaker was increased and this fine resulted in several protests. In fact, I should say, there were also clashes with the police when the fines were increased, because the fines were increased but nothing was put in place, effectively, to regularize the PH taxi service. In fact, those attempts in no way curtailed the operations of the PH taxi service.

Another factor which has contributed to the PH phenomenon is the issue of crime since conventional taxis and maxis have refused to go into certain areas because of the fear of crime. They will not go into particular areas at particular hours because they are afraid that they will fall victim to criminal offences. PH taxis take the risk now, of going in these areas to carry the people home, though, of course, many of these areas, I repeat, are dangerous areas.

Therefore, I am saying to you that PH taxi drivers contribute to this country's transportation in a meaningful way. They do so knowing full well that there are certain risks involved. As a Government, we also acknowledge that there are risks involved in the PH taxis at present. For example, there is the possibility that persons whose characters are not of the highest level, ply the trade, especially persons who may have been convicted of sexual offences. I would not call all PH taxi drivers rapists; I would not call them murderers, as you have done. I would not take a wide brush and paint all of them as rapists and murderers. There are

those, of course, who have no insurance; there are those also, too, who have vehicles which are not roadworthy. What, therefore, have we done?

As a Government, through the Minister of Works and Transport, we have taken the decision to regularize the service. As such, what we have done is propose regulations which we have put forward so as to regularize the PH taxi business. What are the regulations we have put forward? The first thing we have said was that the vehicles must be suitable in type, size and design for use as a private hire vehicle.

Secondly, the design and appearance must not lead anyone to believe that the vehicle is a hired taxi or maxi taxi. The vehicle must be in suitable mechanical condition; it must be safe and comfortable and that there is in force a policy of insurance so as to comply with the requirements of the Motor Vehicles and Road Traffic Act. So each vehicle must have insurance. We have said that that vehicle must be restricted to a particular area. So if you are in Cuchawan Trace, you cannot work in Laventille; if you are in Oropouche, you cannot work in Penal. We also said that the vehicle must bear certain approved marks of identification for the benefit of the members of the community. We have also said that the Licensing Authority will require that all PH drivers submit a certificate of character from the police service.

Mr. Imbert: That is not true. You are misleading the House.

Hon. J. Warner: Mr. Deputy Speaker, please?

Mr. Deputy Speaker: Let the Member finish, please.

Hon. J. Warner: The purpose is to ensure that persons who are convicted of very serious crimes, like sexual offences, are not issued with a permit to operate their private vehicle for hire. The intention is not to require an absolute prerequisite for a driver to have a good certificate of character. In other words, the driver may not have a clean certificate of character, but the fact is he has to get one and the transport commissioner, in his own discretion, will determine whether he is fit or not.

Right now, if even you have an offence for shooting a pigeon or bathing in the Maraval River, you cannot get a taxi badge. You cannot get a taxi badge if you bathe in the Maraval River. If you wound a pigeon, you cannot get a taxi badge. If you fly a kite in Port of Spain you cannot get a taxi badge. Therefore, the transport commissioner, in his own discretion, will ask each person to get a police service certificate of good character; would look at it and, in his own discretion, decide if it is good or not.

As such, therefore, I am saying that this Motion cannot be called reckless and, moreover, I want to say that we also intend to increase, drastically, the penalty for those PH drivers who are not given permission, or who fall outside the regulatory net, as I have advanced. As such, therefore, I think it is reckless in the extreme for the Member for Diego Martin North/East to call this Motion reckless. [*Desk thumping*]

Question put and agreed do.

House adjourned accordingly.

Adjourned at 7.28 p.m.