

*Leave of Absence*

*Friday, February 18, 2011*

**HOUSE OF REPRESENTATIVES**

*Friday, February 18, 2011*

The House met at 1.30 p.m.

**PRAYERS**

[MR. SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. Speaker:** Hon. Members, I have received communication from the hon. Nizam Baksh, Member of Parliament for Naparima, who has indicated that he is unwell and has asked to be excused from today's sitting of the House. The leave which the Member seeks is granted.

**MATTER OF PRIVILEGE  
(SPEAKER'S RULING)**

**Mr. Speaker:** Hon. Members, at the last sitting of the House on Friday, February 11, 2011, the hon. Member for Caroni East was granted leave to raise a matter of privilege in accordance with Standing Order 27(2) against the hon. Member for Diego Martin North/East. I indicated then that I would give my ruling at a later sitting. After consideration, I now rule as follows:

Hon. Members, the Member for Caroni East alleges that on Wednesday, February 9, 2011 the Member for Diego Martin North/East, during his contribution to the debate on the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) Bill, 2011 made certain statements relative to a decision of the British Government to withdraw its warships from the Caribbean as reported in a Caribbean newspaper which was circulated globally. The Member for Caroni East claims that the Member for Diego Martin North/East's statement conveyed information to the House that was inaccurate and thus misleading and potentially damaging to the interest of the State. In dealing with the allegations of contempt, May's, at page 132 states,

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

However, there are essential elements that must exist for this contempt to be established. Hon. Members, not only must the statement be misleading but, very importantly, the Member making the statement must have known or ought to have known at the time the statement was made that it was incorrect and he or she must have intended to mislead the House. Thus, hon. Members, the threshold is indeed an extremely high one.

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Hon. Members, you would recall that the Chair has stated on more than one occasion that a mere allegation that a misleading statement has been made, is not enough to satisfy the Chair that a matter should be brought before the Committee of Privileges of this House simply on the ground of willfully misleading the House.

In the instant matter, I am of the opinion that the matters raised are too remote to attribute any sort of deliberation to mislead this honourable House on the part of the Member concerned. Indeed, the information placed before me is, at a first glance, insufficient to satisfy any probability that the Member for Diego Martin North/East may have intended to mislead this honourable House. In the circumstances, I rule that a prima facie case has not been established.

#### MEMBERS' MANNER OF SPEAKING

**Mr. Speaker:** Hon. Members, I wish to make a statement on an incident that occurred at the last sitting of the House held on Friday, February 11, 2011. I have chosen to address this incident because of its serious nature and the subsequent attention it has received. The incident to which I refer occurred during the debate on the Electronic Transactions Bill, 2011. It has been alleged that the Chair willfully failed to recognize the Member for Diego Martin Central who desired to contribute to the debate and called upon the Minister of Public Administration to conclude this same debate.

Hon. Members, this incident involves several key components of our system of parliamentary democracy which have been enshrined in the Constitution and the Standing Orders of this honourable House. I refer specifically to the privileges of Members and the right of a Member to speak in this House. May I inform this honourable House that this Speaker will always jealously guard and steadfastly defend every Member's right to speak in this House, regardless of political complexion or affiliation.

Hon. Members, Standing Order 33(1) of the House of Representatives states:

“A Member desiring to speak shall rise,”—I want to repeat, shall rise—“in his place and if called upon shall address his observations to the Speaker or Chairman. No Member shall speak unless called by the Speaker or Chairman.”

Standing Order 33(2) further states—I am hearing some mumbling, can I have your silence please. Standing Order 33(2) further states:

“If two or more Members rise at the same time, the Speaker or Chairman shall call upon the Member who first catches his eye.”

Therefore, hon. Members, a Member who wishes to take part in a debate must rise in his place whenever he wishes to catch the Speaker's eye. This is a fundamental aspect of the rules of Parliaments, and goes a long way in ensuring order and decorum in debates.

Hon. Members, there are 42 Members in this House. The Speaker presides but does not take part in the debates and in any event the mover of a motion has a right of reply. This leaves 40 other Members who have the privilege of speaking on any question before the House. In most cases the real number of potential speakers is likely to be much less than this, because not all Members will be present or wish to take part in every debate. Priorities of speaking should, ideally, be resolved before the debate and this is largely the job of the Leader of the House and the Chief Whip.

Hon. Members, as a consequence of the foregoing, there must be a good working relationship between both sides of this House and, similarly, there must also be a good working relationship between Members of both sides of the House and the Chair. In the absence of both sides arriving at an agreement and communicating this to the Chair, the Speaker will not hesitate to call upon whoever catches his eye. Indeed, even when there is an agreement between the sides, made known to the Chair, the Speaker is obliged to call upon the Member who rises to speak and catches his eye first.

**1.40 p.m.**

The point being made, hon. Members, is that good order dictates that the House ought not to be made to wait on a Member while he makes up his mind whether or not to speak. Members wishing to speak must therefore pay attention to the appropriate Standing Orders.

Hon. Members, the video recording of the proceedings held on Friday February 11, 2011 revealed that when the Member for La Brea concluded his contribution, the Member for Diego Martin Central had his head down and appeared to be engrossed in a document on his desk. No Member on the Opposition bench rose to speak—I repeat—no Member on the Opposition bench rose to speak. The allegation that the Member for Diego Martin Central was rising to speak is therefore false, as the Member did not rise nor did he even look in my direction.

Additionally, on Friday, February 11, 2011, neither the Leader of the House nor the Chief Whip provided the Chair with a list of the Members desirous of contributing to the debate. Therefore, hon. Members, as Speaker, I was left to rely on the provisions of the Standing Orders to determine the next Speaker.

Hon. Members, it is unfortunate that Members of this House may have concluded that the Chair would intentionally deny a Member of this House the

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right to speak. Hon. Members, I wish to advise that it is also quite improper for any person, including non-members of this Parliament and others in the employ of Members of this House, to allege that the Chair and I quote:

“is picking fights to distract the nation”

And I open quote again:

“wants to create controversy” through the and I quote: “unfair treatment” of any group of Members of this House.

This amounts to reflections on the Chair and is grossly disrespectful to this House and to the Speaker of this House. A word to the wise is sufficient at this time. I hope the information that I have presented today clarifies this issue and puts an end to the unfounded and baseless allegations and negative imputations being leveled against the Chair of this honourable House.

I close by reaffirming the commitment I gave to all Members of this honourable House on the day of my election to the office of Speaker of this honourable House to be the guardian of the privileges and rights of this House collectively, and of each Member of this House individually.

#### **STATUTORY AUTHORITIES (AMDT) BILL**

Bill to amend the Statutory Authorities Act, Chap. 24:01 brought from the Senate [*The Minister of Finance*]; read the first time.

#### **PAPERS LAID**

1. Annual report of the Princes Town Regional Corporation for the period 2009 to 2010. [*The Minister of Local Government (Hon. Chandresh Sharma)*]
2. Privileges and Immunities [Caricom Implementation Agency for Crime and Security (IMPACS)] Order, 2011. [*The Minister of Foreign Affairs (Hon. Dr. Surujrattan Rambachan)*]

#### **PRESENTATION OF REPORT FROM SELECT COMMITTEES**

**Mr. Speaker:** Hon. Members, I seek your indulgence to have this matter deferred to a later stage in the proceedings of this honourable House, since a special report of the Committee of Privileges will be presented at the appropriate moment. I seek your indulgence. Do I have your concurrence?

*Agreed to.*

#### **ORAL ANSWER TO QUESTION**

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. Speaker, just for the record, the Government would like to indicate that we are prepared to answer the sole question on the Order Paper.

There is one question for oral answer, we are prepared to answer that and, Mr. Speaker, there is a question for written answer and that answer is provided for today's sitting. There is only one oral, one written, so, Mr. Speaker, we are prepared to answer all. Thank you.

**Construction of Early Childhood Centre  
(Details of)**

**56 Ms. Joanne Thomas** (*St. Ann's East*): asked the hon. Minister of Education:

Does the Government intend to construct an early childhood centre to serve the communities of Las Cuevas and Maracas?

**The Minister of Education (Hon. Dr. Tim Gopeesingh):** Mr. Speaker, it is the intention of our People's Partnership Government to have early childhood education centres in communities throughout Trinidad and Tobago. No community and no child will be left behind. Our People's Partnership Government is working expeditiously to achieve universal early childhood education which would be one of the few countries and possibly the only country in the Western Hemisphere, in Latin America and the Caribbean to achieve this when we complete the exercise. We have approximately 203 early childhood education centres, government and government—assisted at the moment. Approximately 70 are being managed by Servol and paid for by the State, which is approximately \$26 million per year paid to Servol. This serves approximately 12,000 infants between ages three to five in various communities, approximately 60 infants between ages three to five per centre.

Mr. Speaker, the annual birth rate was approximately 28,000 a number of years ago, and now has fallen to approximately 17,000 per year. Approximately 17,000 children wrote the SEA in 2010, so we now have nearly 34,000 children between ages three to five to place in the early childhood education centres throughout Trinidad, but only 12,000 are in the formal ECC setting at the moment. Therefore, 22,000 are in the informal setting either not attending any ECCE centre or attending nurseries and kindergartens of the private sector, if parents can afford. It is the intention of our Government, just as our Prime Minister, Mrs. Persad-Bissessar, ensured universal secondary education in 2000, and no child was left behind in pursuit of secondary education.

It is our intention as the People's Partnership Government, and through the Ministry of Education we have already initiated several action plans to ensure that within the next few, short years we achieve this universal early childhood

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education. No child in any community, be it Las Cuevas, Maracas, Toco, Mayaro, Cedros, Caroni or Port of Spain between ages three to five be left behind without early childhood education.

From research undertaken by this administration, we discovered that there are close to 200 primary schools with less than 70% occupancy. There are close to 25,000 school places now available in our approximately 470 primary schools, 380+ of which are managed by denominational boards and 90+ by the Government. We at the Ministry of Education have already spoken and received support from our partners and stakeholders in meetings with denominational boards to utilize the 200 underpopulated primary schools to implement early childhood education centres in these compounds, of course, improving the facilities, infrastructure and security and providing materials and training teachers to nurture another 12,000 infants, ages three to five years.

**1.50 p.m.**

For the other 10,000 children, we are already working in partnering with the private sector. There are nearly 750 nurseries and kindergartens “registered with the Ministry of Education”—just registered. We will partner with at least 200-plus of these, improving their facilities and infrastructure and providing materials, also training their teachers to nurture and teach another 12,000, thereby ensuring universal early childhood education throughout the length and breadth of every community of Trinidad and Tobago, including Las Cuevas and Maracas. So no parent would have to pay for any of their children aged three to five years to attend early childhood education centres or kindergartens or nurseries, except they wish to in the private sector.

On Monday next week, the Ministry of Education is meeting with the Ministry of Science, Technology and Tertiary Education, and through that, UWI, UTT and the University of the Southern Caribbean, to discuss, amongst other things, the training of teachers, course content, et cetera, the training for ECCE teachers. We estimate that we will have to train approximately 3,600 ECCE teachers, at least six teachers per school of 60 infants three to five years; one teacher per 10 children.

If we are to construct 600 early childhood education centres, as the last PNM administration had promised, to construct 600 by 2012; we are now in 2011, they had nine years but built approximately 25; that was not a reality, and they knew it

was not a reality—we would have to spend approximately \$3 billion to do this; \$5 million per school, according to the PNM administration's standard the last time.

Of course, Haji Construction, a company from South Korea, went off with \$60 million without constructing even one early childhood education centre during that administration's rule. [*Interruption*]

**Hon. Members:** Shame!

**Hon. Dr. T. Gopeesingh:** We would spend approximately \$500 million over the next two to three years and we will save our taxpayers nearly \$2.5 billion, through our plan, which I just enunciated, and achieving universal early childhood education.

Mr. Speaker, it does not stop there. We have searched every shelf of the Ministry of Education to obtain whatever reports, action plans or researched work over the last 10 years, in the pursuit of our new strategic action plan. Cabinet recently agreed with our new Blue Paper, our strategic initiative action plan which will guide our future direction in education over the next four-plus years. We know where we are and we know where we want to go. We have developed milestones and have already completed nearly 42 quick wins at the Ministry of Education in the realization of development of the fullest potential of every one of our students: 126,000 primary school students, 86,000 secondary school students and 34,000 between the ages of three to five.

The research shows that nearly 30 per cent of our children have special needs, whether medical, visual or auditory, which is hearing, emotional, psychological and behavioural abnormalities, learning disabilities, for example, attention deficit disorder, dyslexia, autism or Down's syndrome, cerebral palsy, neuromuscular skeletal disorders, 30 per cent of the annual 17,000 births, approximately 5,100 children on an annual basis with special needs. .

We are now embarking on a pilot project of neurodiagnostic testing in 12 early childhood education centres and 12 primary schools to determine the incidence, prevalence and types of special needs and then expand this neurodiagnostic and medical testing to all 17,000 children annually. We will then determine that in our inclusive education model.

We will not be excluding any child from our early childhood education centres and other treatment centres, which will be implemented in our prescriptive approach to prevention, management and treatment of these children, throughout various centres in Trinidad and Tobago, utilizing the national, and possibly

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international, professional capacities and capabilities to include clinical and developmental psychologists as well.

Working closely with the Inter-American Development Bank with respect to the Maracas area, under the Inter-American Development Bank programme, an early childhood care and education centre is to be built within this community. As such, the Ministry of Education has identified a possible site at the corner of Gran Fond and Retrace Roads for the construction of a new centre.

With regard to the Las Cuevas community, a site has been identified to construct a centre to accommodate the Servol-managed Las Cuevas ECC centre currently located at Las Cuevas Community Centre. These two centres are included in the 24 early childhood education centres, which we will commence construction of within one month. Three ECC centres are ready for opening, another 10 will be completed by June and construction of these 24 will commence in one month's time. In addition, five secondary schools, including the Biche High School, and four primary schools are expected for completion before the next academic year 2011.

Another important chapter in the history of education in Trinidad and Tobago will be written by the People's Partnership Government led by its distinguished Prime Minister, Mrs. Kamla Persad-Bissessar, in achieving universal early childhood education and dealing with the special needs of almost 30 per cent of our children on an annual basis.

Thank you, Mr. Speaker.

**STATEMENT BY MINISTER**  
**Trinidad and Tobago Police Service**  
**(Some Members Action of)**

**The Prime Minister (Hon. Kamla Persad-Bissessar):** Mr. Speaker, I wish to speak at this time regarding the drastic and dangerous action taken by some of our nation's police officers.

At the time when your Government is working assiduously and with some measure of success in curbing the crime situation, these irresponsible acts by some members of the police service place us all in jeopardy. Unfortunately, the action taken by a minority of police officers places immense pressure on their dedicated and loyal colleagues who remain true to their moral and legal obligations and to their oath, which is to protect and serve. I wish to commend and recognize those members of the police service who are now required to go above and beyond the call of duty in protecting innocent women, children and men in our society.



As Prime Minister, hon. Speaker, I can assure you that the level of irresponsibility will not go unchecked. Those members of the service, who may believe that abandonment of their duty to conduct an essential service, such as the protection of our citizens, would find favour, either with the public or the Government as a negotiation tactic, can expect quite the opposite.

No one is more mindful of the need for reasonable adjustment to the terms and conditions of the men and women of the police service, who lay down their lives every day in defence and protection of our citizens. The same is held true of many other public servants who faithfully serve the nation and who are equally deserving of improved terms and conditions as can be afforded at this point in time. Your Government has to act with fiscal responsibility and make prudent decisions that are in the long-term national interest, but which in the short term may be unpopular in some sectors.

The nation cannot be held to ransom. Public safety is paramount and cannot be compromised or used as a negotiation tool. It is the reason why certain services, as you well know, Mr. Speaker, are ordained by law to be essential and the withdrawal of such services is strictly prohibited.

I have held discussions with the Minister of National Security, the Commissioner of Police and the Chief of Defence Force, and plans are in place to deal with the situation as it arises. A communication programme which identifies some of the procedures and strategies, in response to any repeat of the situation which arose a few days ago, is to be deployed.

We hold each police officer who fails to carry out his or her lawful duty to protect and serve the citizens responsible for every crime which could have been prevented, but for dereliction of duty. Everyone is affected by irresponsible acts of a small number of police officers, including the very families and friends of those who abandoned their jobs.

I am filled with even greater resolve to create a police service that truly understands its duty and fulfils its obligation to the citizens of this country. But we must not allow the action of a few misguided officers to tarnish the reputation of the dedicated majority of officers. The police service has a long and proud tradition of dedication to the citizens of our nation and a few random acts of utter irresponsibility cannot erase this history of service nor the gratitude which we all hold for our policemen and women.

I take this opportunity, Sir, to express my understanding of their circumstances and pledge my Government's support for the dedication and selflessness

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displayed. I take this opportunity also to point out the difficult financial constraints faced by the Government and our desire to turn these circumstances around so that everyone would benefit.

The negotiations with the Trinidad and Tobago Police Welfare Association must continue in good faith and better sense must prevail. But I can assure all and sundry that these talks will not be conducted in an atmosphere such as was experienced by the withdrawal of services by sections of the service. [*Desk thumping*] I want to assure members of the public that necessary provisions have been put in place to deal with breaches of security at every level and that discussions have been held and resources identified to deal with any situation.

I am emboldened by the challenges presented, as they sharpen my understanding of the forces that act against the interest of the people. The revolution of change and for change, which our nation voted for, is still emerging, and there will be obstacles along the way, but none are insurmountable.

We have all struggled too long and too hard to allow anyone to forfeit the changes, and so, over the next few weeks, we will be announcing several major initiatives that will make a positive difference in the lives of our citizens. Nothing, Sir, will stop these developments from taking place and creating the kind of transformation which the nation has waited upon for decades.

Sir, I take this opportunity as well to thank the many citizens who have, in one way or another, communicated with me and Members of the Cabinet to offer their support. We are inspired by the overwhelming support of the people. We are excited by the future that is about to unfold. I also take this opportunity to thank those members of the defence force who worked alongside those dedicated members of the police service who have pledged their support in the days to come.

Mr. Speaker, I raise also a related matter which we think is equally critical to our fight against the criminal elements and our capacity to bring to justice those involved in the most heinous of all criminal activities.

As you will recall, Sir, I made a statement in this Chamber on Friday, February 04, 2011 on the matter of an appointment to the position of the Director of the Strategic Services Agency, also known as the "SSA". On behalf of Government, I made a solemn commitment to this House and the nation that we would undertake the most stringent recruitment and assessment procedures to ensure that the new Director of the SSA would stand the most rigorous test of character and integrity.

Pursuant to this pledge, we adopted a thorough and careful examination of several worthy candidates to this key security and intelligence agency. I am now pleased to announce that Cabinet has approved the appointment of Colonel Albert Adolphus Griffith, a highly decorated military officer with 30 years of experience in the armed services of our nation. [*Desk thumping*]

Colonel Griffith has served as Vice-Director of the Special Anti-Crime Unit during the period 2007—2010 and recently he served as interim Director of the SAUTT. Colonel Griffith possesses a Master of Business Administration from the Herriott-Watt University, a diploma in security administration from UWI and a diploma in laws from the University of London.

**2.05 p.m.**

Colonel Griffith, Sir, has extensive training in the areas of intelligence gathering, anti-terrorism, narcotics interdiction, security management and cross-border law enforcement. He brings this comprehensive experience and training to the position of director of the SSA. As we proceed a letter of invitation to Colonel Griffith offering him the appointment as Director of the SSA will be issued through the Ministry of National Security and we will proceed from there, Sir. I thank you very much.

**EXCHEQUER AND AUDIT (AMDT.) BILL**

An Act to amend the Exchequer and Audit Act, Chap. 69:01, to provide for payments into and issues out of the Exchequer Account and for payments of other public moneys howsoever held, by means of electronic funds transfer and for related matters [*The Minister of Finance*]; read the first time.

**VALUATION OF LAND (AMDT.) BILL**

An Act to re-enact certain provisions of the Valuation of Land Act, Chap. 58:03 [*The Minister of Finance*]; read the first time.

**LANDS AND BUILDINGS TAXES BILL**

An Act to repeal the Property Tax Act, 2009 (Act No. 18 of 2009), to re-enact the Lands and Buildings Taxes Act (Chap. 76:04) and Part V of the Municipal Corporations Act (Chap. 25:04) which were repealed by the Property Tax Act, 2009 and to reverse some of the amendments made by the Valuation of Land (Amdt.) Act, 2009 (Act No. 17 of 2009) [*The Minister of Finance*]; read the first time.

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**TAXES EXEMPTION BILL**

An Act relating to exemptions from land and house taxes [*The Minister of Finance*]; read the first time.

**CONSTITUTION (AMDT.) (CAPITAL OFFENCES) BILL**

*Order for second reading read.*

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

That a Bill to amend the Constitution of the Republic of Trinidad and Tobago to make special provisions with respect to capital offences, be read a second time.

Mr. Speaker, there is little doubt that this debate on the death penalty is a very emotional one in Trinidad and Tobago. Any debate on a sensitive matter such as the implementation of the death penalty is bound to evoke a very passionate and emotional debate that may involve several factors and dimensions including law, religion, politics, philosophy and indeed one's own concept of morality.

Mr. Speaker, this is not a new debate and there are two streams of thought. On the one hand, we have those who argue that the death penalty is not a deterrent and therefore it ought not to be implemented. On the other hand, we have those who argue that it may be a deterrent and in addition to the question of deterrence you have the question of retribution.

Mr. Speaker, permit me to begin by making the point that, in the Republic of Trinidad and Tobago, we do not have to embark on whether the death penalty is good or bad for this country, because the death penalty is the law in this country. And insofar as it has been, has always been and remains the law of this country, the real question is, in respecting and giving meaning and effect to that law whether or not we should facilitate its implementation.

This debate is not about introducing any new penalty that was hitherto unknown criminal law. It is simply about facilitating the implementation of a penalty that the law has in itself authorized the courts in this country to impose for the offence of murder. Mr. Speaker I dare say, this law that has been with us for some time is one that enjoys popular support in our country. Indeed, if a referendum is taken on the issue, I feel pretty confident to declare that the majority of the population would be in support of the implementation of the death penalty.

This Government has prepared a package of crime legislation, and the package of crime legislation is in response to the tsunami of crime, the terrifying wave of crime that has hit Trinidad and Tobago. By way of reference, Mr. Speaker, we have the Firearms and Kidnapping Court Bill, we have the DNA Bill,

the Corporate Manslaughter Bill, the Jury (Amdt.) Bill, the Criminal Procedure Disclosure Bill, and the Sexual Offences (Amdt) Bill.

There are a number of measures which are before both Houses to try to reform and improve the criminal justice system, ranging from reforms to the Bail Procedure Act, evidence, anti-corruption and indeed, anti-gang legislation. This Bill to amend the Constitution to facilitate the implementation of the death penalty is but another aspect or limb in this biting package of legislation to help us deal with crime.

Mr. Speaker, permit me to digress by way of a history, to give a brief introduction of this issue. The State has not been able to implement the death penalty in this country since 1999 when the last set of convicted prisoners were executed. That is because of a decision of the Privy Council in the famous case of *Pratt and Morgan v the Attorney General Jamaica*.

In this landmark case, the appellants was convicted in 1979 for a murder they had committed in 1977 and they had appealed to the Privy Council. Permit me to quote from the judgment the relevant passages. It is said that the appellants, Earl Pratt and Ivan Morgan, were arrested 16 years ago for a murder they had committed on 6th, October 1977.

They had been arrested 16 years ago and they had been held in custody ever since.

“On three occasions the death warrant has been read to them and they have been removed to the condemned cells immediately adjacent to the gallows.”

After they were convicted of murder and sentenced to death.

It is said: Mr. Speaker, in the judgment that

“The statement of these bare facts is sufficient to bring home to the mind of any person of normal sensitivity and compassion the agony of mind that these men must have suffered as they have alternated between hope and despair in the 14 years they have been”—condemned —“facing the gallows”.

Mr. Speaker, the Privy Council in this landmark judgment took a very strong position that started the tide that developed to prevent the implementation of the death penalty. Permit me to quote from page 19 of the judgment delivered by Lord Griffiths in this matter:

“There is a powerful argument that it cannot be inhuman or degrading to allow an accused every opportunity to prolong his life by resort to appellate procedures however extended may be the eventual time between sentence and

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execution. This is the view that currently prevails in some States in the United States of America and has resulted in what has become known as the death row phenomenon where men are held under sentence of death for many years while their lawyers pursue a multiplicity of appellate procedures...”

What the Privy Council was saying in this judgment, Mr. Speaker, is that there was a powerful argument that it could not be deemed inhumane, and degrading or cruel and unusual punishment, if a convicted person sentenced to death in accordance with law could thereafter claim that the period of time that they took to exercise their rights of appeal could then be used to justify the non-implementation of the death penalty.

The Privy Council in this judgment went on to hold, quoting from Lord Diplock in the case of *Abbot v Attorney General of Trinidad and Tobago*, that:

“...their Lordships doubt whether it is realistic to suggest that from the point of view of the condemned man himself he would wish to expedite the final decision as to whether he was to die or not if he thought that there was a serious risk that the decision would be unfavourable.”

It is said the acts:

“...caused by his own action in appealing against his conviction about the delay totalling two years subsequent to the rejection of his petition caused by his own action in appealing against the sentence on constitutional grounds.”

What the Privy Council had to grapple with is that the fact that prisoners themselves would have been the cause of the delay by appealing their sentence or their conviction and they would then come to say at the end of that prolonged period that you cannot implement the sentence of death because too long a period of time has elapsed.

That is what the Privy Council was trying to come to terms with. The fact of the matter, Mr. Speaker, is the delay in implementing the death penalty is in fact invariably caused by the convicted murderer exercising rights of appeal to the Court of Appeal, the Privy Council, the United Nations Commission on Human Rights, the Inter-American Court of Human Rights and then to the Mercy Committee.

It is a meandering and seemingly endless journey designed with one thing in mind which is to stall the process to save their life.

**2.15 p.m.**

What the Privy Council is saying is, that is to be expected, because that is an inalienable right, because the instinct of self-preservation is such that the man or woman who is convicted and sentenced to death will be expected to try every means and every manoeuvre possible to save their own life. Having said that, you have the other side, and the other side is, should the law accept that a self-imposed delay on the State, one which is imposed by the convicted prisoner—it is a self-imposed delay he imposes on himself and the State—now be taken as lawful justification for the non-implementation of the death penalty?

Permit me to quote further. I am quoting Lord Scarman and Lord Brightman. This is what the Privy Council had to say:

“It is, of course, true that a period of anguish and suffering is an inevitable consequence of sentence of death. But a prolongation of it beyond the time necessary for appeal and consideration of reprieve is not. And it is no answer to say that the man will struggle to stay alive. In truth, it is this ineradicable human desire which makes prolongation inhuman and degrading.”

The Privy Council further down went on to hold in this case that if the State wishes to implement the death penalty if the—

“...State...wishes to retain capital punishment”—it—“must accept the responsibility of ensuring that execution follows as swiftly as practicable after sentence, allowing”—for—“a reasonable time for appeal and consideration of reprieve. It is part of the human condition that a condemned man will take every opportunity to save his life through use of the appellate procedure. If the appellate procedure enables the prisoner to prolong the appellate hearings over a period of years, the fault is to be attributed to the appellate system that permits such delay and not to the prisoner who takes advantage of it. Appellate procedures that echo down the years and are not compatible with capital punishment. The death row phenomenon must not become established as a part of our jurisprudence.”

That was the position taken by the Privy Council in *Pratt and Morgan* and they established, in a case where there was a 14-year delay that within five years we should try to implement the sentence of death. Mr. Speaker, that was the position as of December 1993 when the judgment in *Pratt and Morgan* was delivered.

The Privy Council was careful to point out that they made no attempt to set a rigid timetable. If one correctly understands the Privy Council’s judgement, what they are saying is that, if you wish to retain capital punishment, you must accept

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the responsibility of ensuring that execution follows as swiftly as practicable after sentence, allowing for appeals and so on. The point I am making is, the Privy Council never objected to the death penalty being part of our law. What they were saying is, “If yuh want to execute them, do it faster, doh take so long.” That is what the Privy Council was saying.

It is a fundamental misconception that the Privy Council said they are against the death penalty or the death penalty is bad law. They never said that. What they were saying is that the death penalty is good law for this country, but we are taking too long to implement and execute. That is what they are saying. Mr. Speaker, it is against that backdrop we turn now to the frustration of the death penalty and the delay tactics that have been imposed, having understood that it is enshrined as part of our law, well established, well recognized and accepted to be a part of this country’s laws.

The central focus of this Bill is to prevent persons who are convicted of murder and sentenced to death from using repeated and unjustified collateral attacks against their conviction and sentence to buy time. These challenges may be lawful within our system of criminal justice but they are clearly designed to frustrate and delay the implementation of the sentence of death imposed by a court in accordance with law.

The ebb and flow of judicial activism, as this debate has raged on for some time, is one that merits mention and attention in my presentation, because the pendulum has swung both ways as history has unfolded. During the last three decades, the law has been dramatically changed by the Privy Council, which has moved from one extreme to the other, and there are some therefore who argue that, perhaps, this is an area where personal emotion and personal value judgments hold sway. In the American school of jurisprudential thought and philosophy there is a stream of thought known as American realism, and when American realism is infused and applied to judicial decisions, it is said that, look, your personal view and your personal judgment colour how you interpret the law and how you declare the law.

Mr. Speaker, let us look at what the facts are. The issue of delay as a challenge to the implementation of the death penalty first arose in the case of *de Freitas v Benny* in 1976. The Privy Council dismissed the appeal and upheld the death sentence without any real problems. They did not really discuss or consider any great constitutional issues as such there, in my view. It next arose in 1979, three years later, in the case of *Abbot v The Attorney General*, a delay of six years, the Privy Council held, could not hinder the implementation of the death penalty. It was held in 1979—six years—they said, “No problem, implement the death penalty.” It was held that the issue of whether a delay measured in years could be



a breach of the due process of law under the Constitution was such that it did not stop the implementation of the death penalty.

A few years later in 1982, *Riley and Others v Attorney General of Jamaica*, in that case the Privy Council held that whatever the reasons for or the length of any delay in executing a sentence of death lawfully imposed by a court of law, the delay could not render the execution unconstitutional. That was in 1982—six to seven years' delay in that case, the Privy Council say, "Whatever the reasons for or the length of the delay it is lawful"—six or seven years, they execute it.

Mr. Speaker, that then brought us to *Pratt and Morgan* in November of 1993. Having had that established position then came *Pratt and Morgan* which said that if you do not do it within five years then it becomes cruel and unusual punishment to execute. The history shows that the position of the court was one that respected the implementation of the death penalty, did not allow the delay to frustrate it, and then you had the case of *Pratt and Morgan*. It bears mentioning that in *Pratt and Morgan* the delay was of some 14 years.

Now, apart from the challenge on the ground of delay in the implementation of the death penalty, the Privy Council set forth a timetable in *Pratt and Morgan* that is highly unrealistic for the Commonwealth Caribbean. The Privy Council said that the capital appeal process should be heard within one year of conviction, the entire domestic appeal process should be completed within approximately two years and applications to international bodies completed within 18 months. It was stressed that this is not a rigid timetable, but was seen to offer some guidance.

**Mrs. Gopee-Scoon:** What is wrong with that?

**Sen. The Hon. A. Ramlogan:** Mr. Speaker, what is wrong with that is the fact that Trinidad and Tobago would never be able to comply with that for several reasons which I would go into now, no matter how hard you try.

The first is, to look at the new grounds for challenge that creatively being invented and employed to frustrate the implementation of the death sentence. A number of ground-breaking decisions followed the ruling in *Pratt and Morgan*. They dealt with access to international bodies, potential challenges to the Mercy Committee, prison conditions, reading of the death warrant to the condemned man more than once, notice of the date of execution, the time limit for appealing and the very day chosen for the execution itself.

Permit me to mention a few of these cases: *Sankar v The State* 1995 and *Boodram v The State* in 2008. These cases established that the minimum

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requirements for competent legal representation and basic requirements of due process in capital cases should be followed. *Guerra v Baptiste*, 1995 it was held that even where the delay does not exceed five years, the total delay may be such as to render the carrying out of the death sentence unconstitutional as cruel and unusual punishment. The due process of law require a warrant of execution must be read at least four clear days, including a weekend, before the date of execution.

Next we had in 2001 *Lewis v Attorney General* before the Mercy Committee. They said procedural fairness should be observed and it would be unlawful to execute the condemned prisoner without regard to his rights and the decisions of international bodies. *Reyes v R*, Belize 2002—Privy Council acknowledged the inhumanity of the mandatory death penalty in Belize. In 2006 *State v Boyce*—the Privy Council struck down the mandatory death sentence imposed for murder in the Bahamas. That is the history.

Mr. Speaker, why can we not really keep within this five-year deadline? Even if we were to pump all of our resources into the administration of justice, I will tell you why we cannot. We have no control over the international bodies that have to adjudicate on these petitions, none whatsoever. Indeed, we do not even have any control over how long the Privy Council itself may take. But we would have to keep the appeal process and the application procedures within three and a half years, that is to say, in total. The case would have to be heard by our Court of Appeal within one year, by the Privy Council within another year and by the two human rights bodies—the United Nations Human Rights Committee and the Inter-American Commission on Human Rights—within the next 18 months, and a condemned prisoner may file an application to any one of these bodies.

Mr. Speaker, permit me to cite, by way of example, just one case. It is the case of *Dexter Lendore*. On January 31, 1991 *Dexter Lendore* was committed to stand trial for murder. On December 09, 1993 he was convicted and sentenced to death by hanging. On February 05, 1998 the Court of Appeal, five years later, affirmed the conviction and sentence. July 16th, the Privy Council dismissed the petition for leave to appeal to the Privy Council. On April 23rd, sentence was commuted to 75 years in prison with hard labour. September 15, 1998 petition sent to the Inter-American Court of Human Rights, wanting commutation and so on. From 1998—2005 the Inter-American Commission on Human Rights said—not that they are going to do the man's case, but they deemed the petition valid and admissible as qualifying to be heard—seven years after.

**2:30 p.m.**

So the Inter-American Commission on Human Rights took seven long years

simply to deem the petition worthy and valid of being able to exercise jurisdiction over it, as it were. Then on March 20, 2009, the report of the commission was submitted—2009. So from 1998—2009 it remained with the Inter-American Court.

Mr. Speaker, that is not the only one. There are many others. Permit me to cite a few examples. Bissoon Reshi, petition filed in August 2005. The date of the admissibility report, from the Inter-American Court, that is to say, they accept it as a valid petition; four years later, November 13, 2009. Remember we have five years from the High Court straight through to the Privy Council, straight through to all these international bodies, we have five years to complete everything. And the point I am making is the international bodies themselves take more than five years. On average they are taking five years or more. How on earth could you possibly then have any hope or any possibility, realistically, of implementing the death penalty?

Mohammed Alladin, date of petition filing, December 1, 2001, admissibility report October 9, 2002; up to now case not heard, petition not heard. Ramcharran Takoor, March 26, 2001, up to now not heard. Arnold Ramlogan—no relation, I add—January 12, 2001, up to now petition not heard. Sheldon Roach, November 27, 2000, not heard. Franklin Villaroel, March 23, 2000, not heard. Foster Serrette, June 2005, not heard. There are many others.

The point is, Mr. Speaker, the petitions are there languishing so that the time will pass so that you cannot execute anyone. So what we are faced with in this country is a deliberate or unintentional reality from the international human rights bodies that leads to a frustration of the law of this country. And the law of this country is that if you take a life you are liable to lose your own life. That is the law that has stood since Trinidad and Tobago has known its legal system.

Mr. Speaker, these crimes, I would not go in to the facts of them, but suffice it to say, that the heinous nature of some of these crimes, the gruesome nature of some of these crimes, has left even those who have survived the crime in a state of permanent trauma and distress, so much so that they wander around like zombies. When a life is taken and when a man chooses to forfeit, the social pact and contract, that sacred social pact and contract that he has made between the State and citizen, that allows him all maximum freedom and liberty until he chooses to harm another person or to injure another innocent citizen, when a man can enjoy that but yet breach that social pact and he takes the life of someone, he is not just taking the life of that person; the people who are left behind must live with a permanent mental death sentence in a permanent state of anguish and mental distress forever.

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I remember as a young man when the Guerra case was being tried. I recall from memory, I believe the father of the—it was a baby and a mother who were killed, a two-year-old and the daddy, the father survived, I think his name was James Jirod if I remembered correctly—Girod. I remember that man surviving to testify, and I remember that father. The country forget about him but his name left an indelible mark on my mind, to know that a father witnessed the murder of his two-year-old daughter and wife and that gentleman, I remember years later reading a newspaper article that he was beyond psychiatric help. He was left to become a walking zombie and he is a living dead. He is a living dead. And in the meantime the man convicted and sentenced to death was able to escape the hangman's noose. Mr. Speaker, that is our reality.

Ronald John who is going to escape the hangman's noose, it was on November 27, 2002 in the course of a robbery at Starlite Recreation Club in Palmyra Village in San Fernando, he shot Kenneth Boxie. Yes Boxie. Everybody in South knew Boxie. He shot and killed Boxie. Ronald John on February 8, 2006 was convicted, sentenced to death. Mr. Speaker, with the effluxion of time, I need not tell you what has happened. The point I am making is that there are two sides to the story, there are two sides to every coin.

When we looked at the Dole Chadee gang being executed, they are dead and gone. But when we looked at the newspapers recently and saw a “fella” with hair in all different directions, “like it never comb for months”, Osmond Baboolal—Osmond Baboolal was the one who had to live the death sentence, because his entire family was wiped out and there was no one left to care for him. The State used his evidence in court to gain a conviction against the gang, but yet he was left to drift aimlessly and no one could understand what young Osmond Baboolal would have probably had to live and go through. But the point I am making is, when you take away a father or a mother, you also leave behind those who survived, in a state of permanent mental anguish.

Mr. Speaker, at present there are 33 prisoners in this country on death row. In accordance with the Pratt and Morgan case, nine of those would most likely have their sentences commuted to life. Of the remaining 26, Mr. Ronald John is the only prisoner whose sentence has been confirmed by both the Court of Appeal and the Privy Council, but, as a matter of course, the effluxion of time, the five-year rule kicked in and in fact expired on February 7, 2011. On March 26, 2009, Ronald John submitted a petition to the Inter-American Court of Human Rights, thereby, blocking his journey to the hangman's noose.

There have been several requests by this country's governments over the years, to

the international bodies to have these matters expedited. Twenty-two months now we have been asking—Ronald John matter even—nothing doing. All we have to do is simply sit and wait. When they feel like giving a decision they will give it.

In Trinidad and Tobago, we continue to be a member of the OAS and the United Nations. And individuals, sentenced to death continue to apply, therefore, to the Inter-American Court of Human Rights by virtue of this fact, because we are a signatory to the American Declaration of Rights and the Duties of Man. As a result of two cases which are the *Lewis* case and the *Darren Thomas* case, we are now forced to accept that the Government's attempt to place time limits on the procedures for applications made by death row prisoners to international bodies was deemed unlawful. So even if you attempt to put a timetable as a sovereign State, that has been declared to be unlawful. So we are obliged to await the application to the particular international organization as part of the domestic appellate process and to consider the outcome before moving forward.

Mr. Speaker, permit me to say that in 1997 the Government had attempted to persuade, by diplomatic channels, the international bodies to deal with the complaints in a more expeditious time frame, but did not succeed. That is why, on October 13, 1997 a valiant attempt was made to publish instructions relating to applications from persons under the sentence of death. The prescribed time limits and procedures were again struck down by the Privy Council.

Mr. Speaker, the idea that this delay which in itself is caused by the convicted prisoner, which I understand, because it stems from the natural human instinct of self-preservation—the idea that delay somehow defeats the death penalty imposed by a court of law is one that does not always find favour in jurisdictions across the world.

#### **2.40 p.m.**

Permit me to quote from a case—many cases in the United States of America have dealt with this; some others. I wish to quote from a far off one which I discovered recently, from Zimbabwe. *The Catholic Commissioner for Justice and Peace in Zimbabwe v the Attorney General of Zimbabwe and Others*, coming out of the Supreme Court of Zimbabwe. They quote U.S. decisions and so forth, but this is what the learned Chief Justice had to say. He says:

“The modern starting point the cause célèbre involving Caryl Chessman. There are two decisions which dealt with his protest that the mental suffering

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caused by the years spent on death row was ‘cruel and unusual punishment’. In the first, *People v Chessman*...although the Court recognised that mental suffering had occurred, it focused only on the submission that the unusual length of the confinement on death row, 11 years, was due to unconstitutional delays on the part of the Californian judiciary. It held that the Californian courts had proceeded without unreasonable delay and the State of California had not therefore been guilty of cruel and unusual punishment. This rationale implies that, no matter the extent of Chessman’s mental agony because of his confinement, and irrespective of the length of the confinement, his suffering would not have been a factor in determining whether cruel and unusual punishment had occurred as long as there was a legitimate and lawful reason for him to be confined.

In the subsequent case, *Chessman v Dickson*...the complaint that the delay, now close on 12 years...”—that 12-year period in confinement awaiting the execution—“constituted cruel and unusual punishment and would render the execution a denial of Chessman's fundamental rights.”

This is what Chief Justice Chambers had to say—not George Chambers:

“It may show a basic weakness in our government system that a case like this takes so long, but I do not see how we can offer life (under a death sentence) as a prize for one who can stall the processes for a given number of years, especially when in the end it appears the prisoner never really had any good points. If we did offer such a prize, what year would we use as a cut-off date? I would think that the number of years would have to be objective and arbitrary.”

So what the learned Chief Justice was saying was that you cannot offer life as some prize to a convicted prisoner who is lawfully sentenced to death because he remains there while he has activated the appellate process in an attempt to save his life. That is what they are saying.

They then go on to quote from another judgment, from the Supreme Court of Georgia, *Potts v State*.

“Smith J quoted extensively from an article by Professor Little in (1984) 36 Florida University Law Review at page 201.”

What the learned Professor said, the article was to the effect that the suffering on death row—this is important. The Professor’s thesis was that:

“...the suffering on death row was no worse than that endured by an innocent patient who was to serve out a ‘death sentence’ imposed by disease - a condition which, though cruel, was far from unusual and out of the run of human experience.”

It is on par, by way of analogy, with what I am saying about the victims who survive. The surviving victims, they have to live a mental death sentence for the rest of their lives. They have to relive, rewind and replay the tapes that led to the loss of their loved ones time and again in their minds. And if you have witnessed the murder, there is no escape. Your life is a living nightmare; you are but a walking ghost; you are reduced to being a nonentity and a zombie. That is the reality. Why should someone who put you in that position claim a right to life when they have forfeited that right to life by taking your parent’s life? That is the issue. [*Desk thumping*]

They went on to say, and I quote:

“We know of no decision by either the United States Supreme Court or this Circuit that”—has held that—“the accumulation of time a defendant spends on death row during the prosecution of his appeals can accrue into an independent constitutional violation...”

Indeed, they go on to cite *Andrews v Shulsen* where a petitioner had spent 10 years on death row and the court said in that case that to accept the argument that the 10 years would somehow now be cruel and unusual to implement the death penalty, they say that would make a mockery of justice, given the fact that the delay was attributed more to the petitioner’s actions than the State’s.

You see, it is not that the State is causing the delay; it is the convicted murderer who insists on appealing to try to exercise and exploit all the loopholes and all of the processes that are available. That, as I said before, is understandable. It may be legitimate because the law allows for the appellate procedures. But as to whether or not it should turn around and come full circle to defeat the sentence originally imposed by the court, which is the death sentence, that is a different matter.

You see, it is one thing for a man to appeal his conviction and sentence on the ground that there is some unfairness about it or something is wrong with it;

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something went wrong during the course of the trial and you might have some adjustment as the case may be, but we are not dealing here with any case where the man who is convicted for murder and sentenced to death has any valid point regarding the act of murder. The action whereby he took another man or woman's life, he is not in any way advancing anything about that. What he is coming to argue is that, "Although I am properly convicted for murder, properly sentenced in accordance with the law, all yuh take too long to execute me, because I take plenty chance and keep appealing." That is what it is. And that distinction is an important one, because there is no way they are attacking the conviction or the sentence of death; what they are saying is that, "That sentence is fine, but because you take so long, gimme ah bligh". That is what it is.

Permit me to quote from *Willy Lee Richmond v Samuel A. Lewis*, United States Court of Appeal, 9th Circuit judgment. This is what the court had to say:

"The court reasoned that to accept the petitioner's argument would be a 'mockery of justice' given that the delay was attributable more to the petitioner's actions than to the state's. Like Richmond"—in this case—"the petitioner in *Andrews* had sought, extensive and repeated review of [his] death sentence, Arizona also points to the well-known decision of the Californian Supreme Court in the *People v Chessman*, in which that court rejected the same claim by an eleven-year death-row inmate."

They then go to *Harrison v United States*, where the district court cited in its rejection of this claim whereby an eight-year delay between arrest and sentencing was not unconstitutional, and this is what they said:

"Especially in light of the relative absence of contrary precedents, we believe that the reasoning of these cases is sound. A defendant must not..."

And look at the reasoning:

"A defendant must not be penalized for pursuing his constitutional rights..."

I agree with that. We should not penalize or seek to block the appellate procedures from being invoked, as the case may be:

"...but he also should not...benefit from the ultimately unsuccessful pursuit of those rights."

That is where I register my agreement; that we are not about to penalize anyone for pursuing their constitutional rights or in triggering the appellate procedures, but where we say the buck stops is that you should not be able to take advantage and benefit from the ultimately unsuccessful pursuit of that journey. We say that we associate ourselves with the comment that to do so will be a mockery of



justice and if the delay occurred during the prosecution of those claims that failed on the merits could in itself one day accrue or crystallize into some substantive right that can defeat the death penalty, then that will turn the law on its head.

I quote:

“If that were the law, death-row inmates would be able to avoid their sentences simply by delaying proceedings beyond some threshold amount of time, while other death-row inmates—less successful in their attempts to delay—would be forced to”—suffer and—“face their sentences.”

What we are saying, in effect, is this. Exercise your rights of appeal, but one day the longest rope has an end and when the end comes, if you have failed to convince a court that your conviction and sentence is in some way unsafe or in any way unfair, then the rule of law must be respected and the sentence of death imposed by a court of law must be carried out. The death penalty is part of our law. It is imposed by a court of law in accordance with that law and it is foolhardy of us to not implement it by allowing a deliberate journey that we know to be an exercise in futility designed to frustrate the implementation of the death penalty itself.

As you have seen, to some extent, this matter is beyond the control of this country, and indeed the Government, because the international bodies themselves average a five-year period to hear and determine the petitions filed. That is why this Constitution (Amdt.) (Capital Offences) Bill is brought. We are not alone in this regard in the Caribbean, because this is a problem that is common throughout the Commonwealth Caribbean. In 2002 in nearby Barbados, they enacted legislation to bypass the various decisions of the Privy Council and to facilitate the implementation of the death penalty. The Constitution (Amdt.) Act, 2002, Act No. 14 of 2002, provided that the imposition of a mandatory death sentence or the execution of such a sentence or delay in executing such a sentence or prison conditions, were not inconsistent with the Constitution of Barbados. So the imposition of the death sentence itself, not unconstitutional; the execution of such a death sentence, not unconstitutional; delay in the execution of that sentence, not unconstitutional; prison conditions, cannot render it unsafe or unconstitutional, and that is the law in Barbados since 2002.

Securing the death penalty against challenge by a constitutional amendment is recognized by the Privy Council itself as being effective. In fact, in the landmark case of *Charles v Matthews*, Lord Nicholls in his dissenting judgment on behalf of the minority said that the better route to go would be a constitutional amendment.

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He said, and I quote:

“If departure from fundamental human rights is desired, that is the way it should be done. The constitution should be amended explicitly. Departure from fundamental rights entrenched in the constitution should not be carried through by misapplication of the transitional savings clauses.”

In drafting this Bill, I had the benefit of the guidance and advice from two eminent local Senior Counsel one of whom had given advice even five, six years ago, as it were, because this is not a matter that is a new one. You see, the Constitution being the supreme law of the land, there can be no challenge to it, and if we amend the Constitution to make this part of the Constitution itself, the amendment will be part of the supreme law of the land. What we are seeking to do is consistent with what even the Privy Council has hinted should be done, not just in terms of the procedure which has to do with the amendment of the Constitution rather than the passage of a separate Act of Parliament.

But permit me, even in the *Matthews* case where they upheld the death penalty, the mandatory imposition of the death penalty was challenged as being unconstitutional. And in that case you had four of the strongest Lords in the Privy Council delivering a dissenting judgment: Lord Bingham, Lord Nicholls, Lord Steyn and Lord Walker. This is what they had to say about that matter.

**2.55 p.m.**

They said that we should, in their view—this was the minority, but a Privy Council Court normally will comprise five Lords. This was a nine-member court, I recall, specially convened, but four of the Lords, which would normally be an overwhelming majority in a normal judicial committee hearing four out of five, this is what the four were saying. They said the section with the death penalty should now read: “any person convicted of murder may be sentenced to and may suffer death.” They wanted us to say that the imposition of the death penalty should not be mandatory, it should in fact be discretionary.

That is what the four Lords who delivered this powerful dissent were saying. In fact, they said in paragraph 62 “the modification which we favour has the additional advantage of curing a serious constitutional anomaly in the existing arrangements. There is ordinarily no constitutional objection to the setting by Parliament of a fixed penalty for a prescribed criminal offence provided that is the penalty which is imposed and enforced. But there is a serious objection to the

legislative setting of a fixed penalty, which the judge is obliged to impose, when the passing of sentence”—as a—“prelude to the determination by the executive of what punishment the offender really deserves. Such is the procedure in Trinidad and Tobago, since it has been accepted in practice for very many years that by no means all those who are sentenced to death deserve to die.

What the Privy Council was saying is that the Legislative arm of the State this Parliament, should not predetermine that the sentence of death should be imposed mandatorily across the board, but that there should be some discretion for the Judiciary. Mr. Speaker, this Bill goes a long way in that direction because what we are doing is to categorize murder and we will have murder in categories, some of which will attract the death penalty, the more heinous and the more gruesome. So that we are, in fact, trying even to be consistent with the ideas and jurisprudence that have emanated on that particular issue.

Mr. Speaker, section 4 of the Offences Against the Person Act provides that every person convicted of murder shall suffer death. That is the law of this land, 1925 statute codifying what was the common law position. In *Roodal v State*—

**Dr. Moonilal:** Roodal?

**Sen. The Hon. A. Ramlogan:** Roodal, yes. Well, we had Ramlogan before; and we have the Roodal now. They ruled that the imposition of the death penalty was, in fact, mandatory and constitutional and not discretionary. So you see again, bobbing and weaving. In *Roodal*, that was the position.

Mr. Speaker, in this country this debate comes at a time when the State's ability to guarantee to its citizenry the most basic and fundamental of constitutional rights, that is to say the right to life, the right to peacefully enjoy life, is under threat. The very first fundamental human right in our Constitution speaks to your right to life, and speaks to your right to security of the person. And in this country there is a great perception, a growing perception, as to whether the State is in a position to actually honour that commitment to its citizenry, that it will protect their life, limb and property and that they will guarantee the security of their person. That is a double-edged sword, the right to life guarantee in the Constitution has been applied to favour the convicted murderer without realizing that there is a next edge to the sword.

That right to life provision in the Constitution is the right to life, the right to security of the person, the right to enjoy your property. That is a right that does not only apply and protect the convicted murderer. Indeed, the right is there to

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protect innocent and law-abiding citizens as well. They too have a right to life, they too have a right to security of person, and they too have a right to enjoy their property.

And in this country the crime rate is so astronomical, the murder rate, things are getting so bad—some say it is already bad, and I will come to how we arrived at the brink of the precipice. And this Government, unlike the previous administration, we are not burying our heads in the sand and wish it would disappear; we are coming clean with the population. I am not here to talk about bogus kidnappings, I am not here to talk about collateral damage. That is not what we are about. We are here to talk about what the facts are and we are here to say this is a collective problem.

During the period 2002—2010, 3335 persons have been murdered, permit me, Mr. Speaker, the average murder rate during 1995—2001, that period when a previous administration occupied office, the average murder rate was about 100, except in 2001 when it reached 151. Mr. Speaker, let me cite the statistics: in 2002 the murder rate was 172 murders, 2003—229; 2004—261; 2005—386; 2006—371; In 2006, this country crossed a critical statistical milestone, there were more murders than there were days in the year. In 2007, 391 murders; in 2008, 547 murders; 2009, 506; 2010, a drop since 2008—547; 2009, 506, and 2010 it dropped to 472.

You see, when one looks at the casual manner, the flippant manner in which some of these crimes are being committed, the situation is bordering on emergency, because if we do not act now to rescue our nation and if we do not act responsibly in the interest of Trinidad and Tobago—and that would include Members opposite—If we do not join hands—it is either we swim together or we drown alone. That is why we cannot turn our eyes away from the fact that people are being killed on a daily basis in this country. You can literally cut and paste the story from yesterday's newspaper with the mere minor amendment of the name and age of the murder victim and you can move on. Blood is flowing like water and people are being killed like stray dog and "cyat" in the streets of this country. That is what we have inherited.

The public is fed up, outraged and frustrated, and this Government indentifies with their pain, their anguish and their frustration. [*Crosstalk*]

**Mr. Speaker:** I would like Members on the Opposition Bench and on the Government Bench to observe Standing Orders 40 (b) and (c) respectively. Could you continue, hon. Attorney General?

**Sen. The Hon. A. Ramlogan:** Thank you, Mr. Speaker. The public is fed up and they have voted for change, and this Government is committed to doing things differently and giving change. If we continue to think the old way, implement the same old ideas and expect different results, we will be guilty of the same sin of burying our heads in the sand and allowing this problem to escalate. We will be here in this Parliament debating this measure five or seven years from now when the murder rate is a thousand a year.

Mr. Speaker, the quintessence of democracy is that we embody the spirit, the values and indeed the desire of the people, and the desire of the people is that the law of the land, which is the death penalty, be implemented and executed. Regardless of my or your personal view in the matter, it is the law of this land and it should be implemented.

**3.05 p.m.**

Mr. Speaker, it is the duty of the State to employ every means at its disposal to treat with the wanton disregard of human lives by the criminal element. The public debate on the move by the Government of the People's Partnership to introduce a Bill to amend the Constitution to remove hindrances in the carrying out of the death penalty, as well as the classification of murders, has been intense as expected, and this is a healthy sign for democracy.

In 1995, Trinidad and Tobago tried to amend its Constitution to prevent death-row prisoners from abusing their constitutional rights, from seeking constitutional redress under section 14 to delay the death sentence being implemented. So, you needed leave to appeal to the Court of Appeal, no leave to the Privy Council, and to render the decision of the Court of Appeal as final. That Bill, the Constitution (Amdt.) Bill, 1995, sought to oust the jurisdiction of the Privy Council and it was never debated.

In 1998, three years later, we had the Constitution (Amdt.) (No. 2) Bill, 1998 that required a two-thirds majority, but it did not get the necessary support. That Bill sought to declare that, where there was a delay not exceeding five years, there cannot be granted or allowed to a person upon whom the sentence of death has been imposed any stay of execution, alteration, remission or commutation of the sentence.

The Bill also sought to preclude the grant of redress under section 14, such as the permanent stay of execution, alteration, remission or commutation of the sentence of death. It also sought to prohibit the carrying out of the death sentence after the expiration of five years from the date when it was passed, but the time

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spent by an offender after the commutation of a sentence by the Privy Council or any court in referring the matter to any international body would not be taken into account to calculate the five-year period—so that your delay would be excluded. That reached nowhere.

The next major step was in 2000, when we had the Offences against the Person (Amdt.) Act, No. 90 of 2000. That Act was assented to by the President on November 02, 2000. But that Act which was passed by a simple majority and remains unproclaimed which sought to establish categories for murder, was never proclaimed because it was felt that a simple majority would not cut it and that it may be liable to be torpedoed in a court of law.

Mr. Speaker, it would be easy to continue to run this country on auto cruise and simply pick up the baton where it was left off. But the problem is that we are on the brink of a precipice and if we even leave it at auto cruise, if we do not reverse, back up and change direction, we may fall over the precipice. That is why this country voted for change and voted for a visionary leader like the hon. Prime Minister, Kamla Persad-Bissessar. [*Desk thumping*] The fact that Prime Minister Bissessar's administration of the People's Partnership has had the fortitude and courage to bring this Bill before this House, to let us take the bull by the horns and confront this problem of the terrifying criminal element that is terrorizing our society and say enough is enough, that is a measure that requires the ultimate form of congratulation and support by those opposite to us because it is in the interest of the country. [*Desk thumping*]

Mr. Speaker, they know that when the categorization of murder Bill came, they supported it. They supported it. In fact—[*Interruption*]

**Dr. Browne:** Work legislation.

**Sen. The Hon. A. Ramlogan:**—not just supported it, they supported it in Parliament. But not just that, on a number of occasions when they were on this side, they said that they supported the implementation of the death penalty. These statements were adverted to by the hon. Prime Minister when she addressed this Parliament on January 14, 2011 and January 20, 2011.

**Mr. Speaker:** Hon. Member, you have exactly 11 more minutes to complete your 75 minutes.

**Sen. The Hon. A. Ramlogan:** I am grateful to you, Mr. Speaker. Thank you very much. On the international front, there has been an understanding regarding

the object and purpose of resolutions of the United Nations General Assembly. These resolutions, some of which seek to retain the death penalty for member states, are not binding unless they are expressly incorporated as part of our domestic law. There is no international consensus on the abolition of the death penalty. Member states which have abolished the death penalty for capital offences have been attempting to use the political space provided by the debate of the Third Committee of the United Nations to pressure states which have maintained the death penalty on their statute books to repeal that law.

Trinidad and Tobago and its Caricom partners, as well as other regions and countries, including the United States and a number of Asian and African countries, have maintained the right to maintain the death penalty as part of their law. Mr. Speaker, it is for these reasons that Trinidad and Tobago supported a number of amendments for the original text of the United Nations Resolution in order to reflect and embody the views of the retentionist States.

We are acting consistently with our international obligations in this matter, because Article 2, paragraph 7 of the Charter states that:

“Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter...”

Mr. Speaker, this Bill, in accordance with section 54(3) of the Constitution, requires a three-fourths majority and a two-thirds in the Senate, because it would amend section 89 of the Constitution. The Bill seeks to incorporate a law that was already passed by this Parliament with respect to the characterization and classification of murder, and the death penalty will now be reserved for the most heinous of offences. You would have heard more on this when the hon. Prime Minister addressed this Parliament.

Permit me to remind you that when a member of the security forces, a prison officer, a judicial or legal officer, a member of the immediate family of such a person or any murder committed in the course of the furtherance of an arrestable offence involving violence, murder committed using means of explosive, destructive device or a bomb, murder that is especially heinous, atrocious or cruel, manifesting exceptional depravity, murder where the deceased was intentionally killed because of his race, religion, nationality or country of origin, those kinds of situations we say death should be the sentence.

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Mr. Speaker, we seek now to meet the loopholes created by Privy Council decisions, and we wish to declare that on no grounds whatsoever were the execution of a sentence of death be held to be inconsistent with our Constitution including any or any combination of the following grounds:

- a delay in the hearing or determination of a charge for a capital offence;
- a delay in the execution of the sentence of death;
- the conditions or arrangements under which a person is held in prison or otherwise lawfully detained pending the execution of a sentence; and
- the effect of reading to a person more than once the warrant for the execution of the sentence of death on him.

It will also be stipulated that a warrant for the execution of a sentence of death on a person, shall be read to the person at least four days, including a Friday, Saturday and Sunday before the date of the execution of the sentence, and that the execution of that sentence could take place any day of the week.

A new section 6M would apply to persons on whom the death sentence is imposed after this law is passed. It is not going to have retrospective effect, and not retroactively affect those who are presently on death row.

Clause 5 would amend section 89 of the Constitution to ensure that at least 21 days before the date of the meeting at which the advisory committee on the power of pardon considers a case of the person who is sentenced to death, he must be given notice, he must be given a copy of the report to be considered and he can make representations, if he desires, in writing. So we are trying to protect and safeguard procedural fairness even at the Mercy Committee stage.

Clause 5 would authorize the President to impose time limits within which a person who is sentenced to death may appeal to, communicate with or consult any body or international body outside of Trinidad and Tobago in relation to the offence or sentence in question. The President will be able to impose time limits within which any such appeal, communication or consultation shall be concluded. Upon the expiration of the time limits, the Minister and the advisory committee on the power of pardon would be empowered to exercise their respective functions in relation to such a person, even though the appeal has not been concluded to the international body.

Mr. Speaker, who can forget some of the memorable events that have



occurred? In August of 2004, former President ANR Robinson's bodyguard, Edward Williams, was senselessly gunned down whilst they were at the home of former Ambassador to the United Nations, Dr. Marjorie Thorpe. Mr. Robinson said and I quote:

“I am deeply distressed and stricken in disbelief...”—that such a brutal murder could take place—“almost in my presence...I could not summon up words to express my feelings on the matter.”

We have people being killed because they are state witnesses. Who could recall Andrew Flores, 23 years of age from Radix Village, in the quiet place of Mayaro, constituent member of the Member for Mayaro. He was due to testify against four men who were charged with the murders of Liam Moore and Hilary Wanzer, whose bodies were found stuffed in a trunk in Moore's car, parked outside the family's beach house on the St. Joseph Estate.

Thirty-one year old Terrance Haynes of Citrus Drive in Cunupia was killed while he sat on the rails of a bridge, while his killer brazenly ran through the streets of Gasparillo. The killing came after he testified. The man had the courage to testify at the preliminary inquiry and was due to testify before the judge and jury at the murder trial, and they killed him. Those are just a few instances.

Mr. Speaker, it is not that we ignore what the international bodies have said. We have taken the pearls of wisdom as and when they occurred. That is why the prison has undergone a massive transformation. New prison regulations will come from the Minister of Justice, and he will tell you more about that. But for the time being permit me to say, in the prison, out of prison, there are many numerous social programmes offered.

You have the Higher Education Loan Programme, the GATE Programme, the Education Grant, Youth Development and Apprentice Centres, YTEPP, Tobago Youth build Programme, the Retiree Adolescent Partnership Programme, Multi-Sector Skills Training Programme (MuST), and the list can go on and on. But all of these programmes—and if a person does not want to make a decent wage and earn a decent living and the person choose to murder, then we say that you have taken a conscious decision to breach the social sacred, pact that holds this society of law and order together and you must suffer the death sentence.

We cannot say to taxpayers that you must pay hundreds of millions of dollars to finance all these programmes, to cater for people who would like to have a second chance at life, and yet in the same breath come and say to them that we

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cannot, in fact, implement the death sentence in appropriate cases.

In the prison we have orientation programmes designed to reduce the negative effects of incarceration and to promote adherence to rules and regulations, religious and spiritual programmes, medical services, leadership programmes, conflict resolution programmes, anger management programmes, sports programmes, social programmes, cultural programmes and educational programmes.

We are not just seeking to implement the death penalty in a vacuum, but we are saying that the social safety net is there. It is for this reason we say that the Government of this country is committed to implementing the law of this country. The argument about deterrence versus retribution is not one that we should encounter in this debate because it matters not whether the imposition of the death penalty is going to deter anyone or bring retribution because it is already the law of the land. [*Desk thumping*] It is already there.

**3.20 p.m.**

Mr. Speaker, in closing I say, this is about respect for the rule of law, about implementing a law that is already there. And whether it will bring deterrence, whether it will bring retribution is not the question. The question is whether, as a Parliament, as a responsible Parliament, we will act to uphold law and order and we will act to implement the law of this land. I thank you very much and I beg to move.

*Question proposed.*

**Miss Marlene McDonald** (*Port of Spain South*): Thank you, Mr. Speaker, for giving me this opportunity to join this debate this afternoon. First and foremost, I do not intend to shout; I intend to make my points very clearly. I intend to communicate with the national community outside so that they can understand exactly what is happening in this Bill. I am going to keep it very, very simple so that the simple people outside in the national community would be able to understand this Bill. I am not going to spend five minutes on this Bill; I am going to spend the time allotted to me on this Bill so that the national community may be able to understand what is in this Bill.

Mr. Speaker, before I start, the Attorney General made a few points. He said the death penalty is good law. Yes AG, we agree with that. He went into a long discourse on delays in the execution of the death sentence. One of the obstacles he said facing Trinidad and Tobago is the fact that our accused persons here, they prolong their own stay in death row by the many appeals to the Privy Council, to

international bodies. And basically what he said is, this is the main problem we have or we face, why we are not carrying out the death penalty in Trinidad and Tobago. He also said that we have no control over those international bodies and the pace of their proceedings. I will deal with that.

He also stated that Lord Nicholls, who is the dissenting Judge in *Charles Matthews*, stated that one of the ways that you can do this or he found support for embedding this constitutional amendment or this Capital Offences amendment in the Constitution, he said Lord Nicholls suggested such. And he also said that he was coming clean with the population. I also hope and he knows that Lord Nicholls would think that if any jurisdiction is going to do something like this, that the Government must also come clean and be honest with their citizens with respect to what they are doing. [*Desk thumping*]

Mr. Speaker, I am going to go through this particular Bill, this proposed legislation, and I am going to show that this particular Bill would bring or add more delays in this particular system. [*Desk Thumping*] We on this side, Mr. Speaker, think it is indeed a critical piece of legislation in the light of the ever increasing crime rate in our country and I will probably just go through a few statistics. I looked at the murder statistics from 1998. From 1998 to 2010, the police recorded 3,796 murders; that is giving on average of 292 annually. Mr. Speaker, that is a crisis situation.

The position of the PNM is that we support the law of the land and the law of the land is in section IV of the Offences Against the Person Act which says “every person convicted of murder shall suffer death”. Mr. Speaker, we support that, but we want to do the right thing in the right way.

**Mr. Manning:** Correct!

**Miss M. McDonald:** The Government’s position is to rush this piece of legislation through in order to fulfil their campaign promise that they would be tough on crime but, at the same time, it was this very Government who rode into power on the wave and the promise that there would be public consultations on critical issues, as well as on critical pieces of legislation.

Based on this, I ask the Government this afternoon, who have you consulted before bringing this Bill to this House this afternoon? Who did you hold discussions with? Did you consult with the Criminal Bar Association?

**Hon. Members:** No!

**Miss M. McDonald:** Did you consult with the Law Association?

**Hon. Members:** No!

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**Miss M. McDonald:** Did you consult with the Southern Assembly of Attorneys?

**Hon. Members:** No!

**Miss M. McDonald:** Did you consult with the NGOs?

**Hon. Members:** No!

**Miss M. McDonald:** Did you consult with the Judiciary?

**Hon. Members:** No!

**Miss M. McDonald:** Did you consult with the Chamber of Commerce?

**Hon. Members:** No!

**Miss M. McDonald:** Did you consult with the churches?

**Hon. Members:** No!

**Miss M. McDonald:** Answer is no. [*Desk Thumping*] Answer is no.

Mr. Speaker, this continues to be a public relations campaign for the Government. I am getting the impression that they do not care whether they get it right or they get it wrong. The last statistics that I know is that at least 85 per cent of the population wants the death penalty. This Opposition Bench is included in that 85 per cent, but this Bill presented would not satisfy the expectations of the population. This Bill is fundamentally flawed! [*Desk Thumping*]

Mr. Speaker, we have been a very responsible Opposition. We have collaborated with the Government over the past nine months on critical pieces of legislation. Let me remind the national community and this honourable House of those pieces of legislation. The Procurement Bill, we voted for the 2011 Budget, the Anti-Gang Bill; The Bail Amdt. Bill; the Interception of Communications Bill, and we, as an Opposition, Mr. Speaker, would be willing to meet and speak with the Government on matters of national interest; matters and issues which will affect each and every person in this country.

The current Bill before this House, we see as yet another method to hoodwink the people of Trinidad and Tobago. You promised them one thing and when you lift the veil, it is something else. And we have good examples: one, the promise to pay that \$3,000 to the senior citizens. [*Desk thumping*] That fiasco ended in a misprint. The Reshmi Ramnarine fiasco, [*Desk thumping*] that ended in a misstep; the promise to pay Pan, Chutney Soca, \$2 million first prize, Mr. Speaker, that ended in a misunderstanding on the part of the citizens. [*Desk thumping*]

Mr. Speaker, I want to state—[*Interruption*]

**Mr. Speaker:** Order! Again, I want to appeal to Members on both sides to observe Standing Orders 40(b) and (c). Now, I keep reminding people so, at the appropriate time, if it continues, I will ask Members to withdraw from the Chamber and go into the tea room and have some tea, if you continue. You may continue.

**3.30p.m.**

**Miss McDonald:** Thank you, Mr. Speaker. I just want to endorse what you have said. I sat here very quietly as a well disciplined PNM politician and listened to the Attorney General. I would like the same respect, please.

Mr. Speaker, I would expect that this very Bill promises one thing. It promises that we are going to remove delays. It promises that hangings would be resumed in this country, and I am saying, when I am finished with my contribution no such thing will occur.

By way of background, the death penalty was, for years, considered the mandatory sentence for murder throughout the region, so all capital sentences are invariably for murder. During the 1980s, there was a virtual moratorium on executions in the Commonwealth Caribbean, and most sentences were commuted to life imprisonment. The moratorium arose because of the many constitutional motions, exactly what the Attorney General said, filed by condemned prisoners citing various breaches of their human rights. The execution of the death penalty had to be stayed again and again, pending the hearing of these motions.

Mr. Speaker, I cite the Jamaican case of *Pratt and Morgan*, where the Privy Council commuted the death sentences of the appellant on the grounds that the delay in carrying out the sentences amounted to cruel and unusual punishment. The appellants had to wait for some 14 years. The Privy Council confirmed that sentences of death should be carried out within two years after conviction. If the prisoner files constitutional motions and seeks the intervention of international human rights bodies, the time period should be no more than five years. As a result of that ruling in August 2008, 53 people on death row in Trinidad and Tobago had their death sentences commuted to life imprisonment, because they were not executed within the five-year period.

Between the years 2001—2004, there were a series of challenges to the constitutionality of the mandatory death penalty across the Caribbean, from Belize to Trinidad and Tobago, with differing results. Here in Trinidad and Tobago, the first notable challenge to section 4 of the Offences Against the Person Act was that case of Balkissoon Roodal, not the Member for Oropouche East, we

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are talking about, as the Attorney General cited.

The appeal in this case went all the way to the Privy Council. The issue before the Privy Council was whether the penalty for murder is a mandatory or discretionary death sentence. The Privy Council ruled that section 4 of the Offences Against the Person Act, 1925, should be interpreted as providing for a discretionary life sentence, instead of being automatic and mandatory. All this simply says is that the Privy Council, with this discretionary sentence, is saying that the judge will now look at mitigating circumstances, and he would be able to impose a sentence, other than the death sentence. That is all. If it is mandatory in nature, it means when the jury brings in that guilty verdict, the judge's hands are tied. He would not be able to impose any other sentence more than that death penalty. That is the automatic and mandatory nature of the death penalty, enshrined in section 4 of the Offences Against the Person Act.

This Privy Council decision in *Roodal* proved to be very short-lived. Indeed, in the case of *Charles Matthews v the State*, the appellant challenged the constitutionality of his death sentence by the Court of Appeal. He was granted special leave to appeal against his sentence on the grounds that the mandatory death penalty was incompatible with his right to life under section 4 of our Constitution and his right under section 5 not to be subjected to cruel and unusual punishment and that section 4 of the Offences Against the Person Act should be interpreted as imposing a discretionary death sentence; almost the same argument as that of *Roodal*'s case.

Mr. Speaker, it was the first time in 200 years that a full quorum of the Privy Council, nine law lords, met and actually overruled their own decision which they had taken in the *Roodal* case one year earlier. It was decided in the *Roodal* case, that the sentence was discretionary. Now the Privy Council is saying that section 4 of the Offences Against the Person Act was an existing law, for the purposes of the savings clause in section 6(1) of the Constitution. Although it infringed sections 4 and 5 of the Constitution, it could not be invalidated and that accordingly, the mandatory death penalty imposed on the appellant was lawful and valid.

In other words, what happened here is that the Offences Against the Person Act was proclaimed and implemented in 1925. Our Constitution came into being in 1962. In the Constitution, at section 6(1), it says clearly that:

Nothing in sections 4 and 5 shall invalidate—

(a) an existing law,”

What is an existing law? It is says that:

“existing law means a law that had effect as part of the law of Trinidad and Tobago immediately before the commencement of this Constitution.”

What the Privy Council said is that, at the time this was done, the time of the Act, section 4 of the 1925 Act was an existing law for the purposes of this particular case and, therefore, you could not, it was protected. Section 6 protected section 4 of the Offences Against the Person Act and therefore, the mandatory death penalty would be imposed on the appellant. It was lawful, it was constitutional and it was valid.

The question as to whether a trial judge has a discretion as to whether or not to impose a mandatory death sentence on a person found guilty of murder was decided in this case. The Privy Council decided that the imposition of the death penalty was in fact mandatory and constitutional and not discretionary.

Therefore, this case, the *Charles Matthews* case, overturned the decision in the *Roodal* case. At page 11 of that case, at paragraph 29, one of the judges, I think it was Lord Griffith, said:

“it is not the practice of”—the Privy Council—“to depart from a previous decision merely because the Board as later constituted thinks that it was wrongly decided. But the present enlarged Board was constituted for the purpose of deciding whether”—*Roodal*’s case —“should be followed not only in Trinidad and Tobago but also in all other Caribbean states which have similar constitutions and a right of appeal to the Privy Council.”

A similar decision was made in the Barbados case of *Boyce v the Queen* and it was actually a spinoff to the *Charles Matthews* case. Both cases were decided on the same day. In this case, the relevant provision of the Offences Against the Person Act was immune, like the *Charles Matthews* case, from constitutional challenge.

Having said that, the position that we are now in, the position which now stands in Trinidad and Tobago with respect to this law, is very clear. Section 4 of the Offences Against the Person Act is quite clear, with respect to our death penalty, and from the *Charles Matthews* case, the section was held to be automatic and mandatory.

It is against this background that we are here this afternoon, debating this amendment to the Constitution of Trinidad and Tobago, in relation to the implementation of the death penalty; the categorization of murder into murder 1,

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2 and 3; and the imposition of time limits within which a person will be allowed to apply to an international body.

Based on the aforementioned objectives of the Government, I want to ask you this afternoon, the following questions: first, would the categorization of murder into murder 1, 2 and 3 expedite the hanging process in Trinidad and Tobago? Second question: Does the categorization of murder change the death penalty in Trinidad and Tobago from being automatic and mandatory to being discretionary? I want to ask the Attorney General another question. Which model of legislation is this Bill based on? Please tell this House.

Mr. Speaker, permit me to explore these questions. I am looking not at the categorization of murder. The then UNC government, in 2000, sought to amend section 4 of the Offences Against the Person Act, by Act No. 90 of 2000, wherein categorization of murder was introduced. Although passed in both Houses of Parliament, it was never proclaimed, and in my research, I wanted to find out why. It is there on the books. Why was it not proclaimed? In order to answer that question, I have to refer to a Jamaican case of *Watson v the Queen*.

Let me just, by way of some facts—Jamaica amended its Offences Against the Person Act of 1864, by the Offences Against the Person (Amdt.) Act of 1992, wherein they introduced categorization of murder into capital murder and non-capital murder, with the mandatory death sentence being reserved for the more serious offences. The alteration of the existing law, in 1992, made the general savings law clause inapplicable. In other words, they could not have been saved—I believe, section 28(1) of the Jamaican Constitution. The result was that the mandatory death penalty, even for the most atrocious murders, was held to be an inhuman punishment. The appellant was convicted of two non-capital offences and was liable to the mandatory penalty under section 3(1) of the Offences Against the Person (Amdt.) Act of 1992.

The appellant appealed, contending that the mandatory death sentence imposed was incompatible with his right under section 17 of the Jamaican Constitution, not to be subject to inhuman or degrading punishment. The Jamaican Court of Appeal upheld the sentence and dismissed his appeal. It went all the way to the Privy Council and the Privy Council allowed the appeal on the ground that the imposition of the death penalty was incompatible with the prohibition on inhuman and degrading punishment as found in section 17(1) of the Constitution.



The Privy Council held when Jamaica amended this 1864 Act, the Offences Against the Person Act, in 1992, they had made fundamental changes. It was not just a pure modification of the law, rather it was new law and, therefore, could not have been existing law for the purposes of section 28(1) of the Jamaican Constitution. Therefore, the mandatory death sentence in Jamaica was therefore unconstitutional and a person found guilty of murder is entitled to make representations at a sentencing review to seek to have another sentence imposed on him by a judge. As a consequence, the death sentence was no longer automatic in Jamaica.

This explanation that I have just given would have been the same situation if Trinidad and Tobago had gone the route of Jamaica. If we had only proclaimed and implemented Act No. 90 of 2000, we would have changed our existing law, which is section 4 of the Offences Against the Person Act. We would have lost the preservation and protection that the savings for existing law stipulates in section 6(1) of the Constitution. The death penalty would no longer be automatic and mandatory, but it would no be discretionary.

Finally, section 4 of that Act, the Offences Against the Person Act, would have contravened sections 4 and 5 of our Constitution. Mr. Speaker, in a nutshell, this is why Act No. 90 of 2000 was never proclaimed and implemented.

### **3.45 p.m.**

So we come now today, and we are now seeking to amend our Constitution to embed, so to speak, Act 90 of 2000, because they are the same provisions in the Constitution. From the outset, Mr. Speaker, let me state that all the clauses were imported into this Constitution (Amdt.) Bill, and for purposes of explanation, I want to walk the House through the particular clauses.

6A. Clause 6A of the Bill says:

“Subject to this Part, a person convicted of murder shall suffer death.”

Not a problem.

6B(1) outlines that murder 1, this is where you are categorizing now murder 1, murder 2, murder 3:

Murder 1: “is the category of the offence of murder as may be determined under section 6H...”

So we have to look at 6H and see exactly what would be the criteria for Murder 1. We turn to subsection 2:

“A person shall suffer death if he is convicted of murder 1.”

Not a problem. We go now to the categories of murder: who do you have to kill in order to be categorized as murder 1 and how you have to kill the person.

Murder 1, if you go through (a): if the person kills “a member of the security forces in the execution of his duties; a prison officer; if you kill a judicial or legal officer; the murder of any person or the immediate family of that person for any reason, the status of that person as a witness; the service or past service of that person as a juror; a murder committed by a person in the course furtherance of an arrestable offence; murder committed by use of bombs and explosives; arranged murders; murder that is especially heinous, atrocious or cruel; or where the deceased was intentionally killed because of his race, his religion, nationality; if someone is accused of murder 1:

“the offence shall be charged as murder 1 in the indictment;” but, Mr. Speaker, that is not all.

You have to go to clause 6H which speaks to discretion to the prosecution. This clause deals with the discretionary power of the DPP when he has to prosecute for a category offence of murder under section 6B to 6F. I am also looking here at murder 2 because there are two limbs in there. One limb is the limb of manslaughter and the other limb is where a person is accused of multiple murders.

Mr. Speaker, in 6H(a): “the DPP himself—he has to determine in which category the offence falls, this shows the discretion.

If you turn to...where—the DPP—considers the interest of justice so requires—” he can—“apply to a Judge to determine whether an indictment shall lie and if so for what category of the offence;”

In subclause (2), Mr. Speaker, I am going through all because it is important to understand what we are doing here this evening.

“any person who is charged...or who may be involved in the prosecution of such offence has the right to be present and to take part in the proceedings.”

That is an accused person going to a judge. So what I am saying is, this is your pretrial going on here. That is at the charge stage where a person could go before a judge to say, listen “I should not be murder 1, I should be murder 2”. This is what is happening here.

“No appeal shall lie from any determination of a Judge under this section...”

Mr. Speaker, the DPP would only have the police information when he is making

that determination. What is happening here is the people of this country believe that the death sentence would remain mandatory and automatic. If you kill someone in the categories I have just stated, then that person would be guilty of murder 1. But all this means, Mr. Speaker, what the Government is doing, the Government is superimposing a discretionary power on the mandatory death penalty. That is what you are doing. You are creating—the AG talked about delays, but what you all are doing is creating and opening up a whole new avenue of delays in this country. [*Desk thumping*] You are putting another layer of delays in the system. That is what you are doing.

Mr. Speaker, under the present law, mitigating factors are not taken into account at the charging stage. They are not. But under the proposed Bill this proposed Bill here, mitigating factors, such as the existence of provocation and excessive force, are being taken into account.

**Dr. Rowley:** To be contested.

**Miss M. McDonald:** That is it. So this Bill is now introducing a discretion prior to the charge being made. This is where the difficulty lies because every person who gets the benefit of a discretion will use it to their advantage. [*Desk thumping*] They will use it. If you say to me that I am going to be charged with murder 1 on that indictment and I have the opportunity to go before a judge, I will do so, and despite the fact that the other side may tell me that section 90 of the Constitution gives the DPP wide discretionary powers, I say once you give a public officer discretionary powers you are going to get challenges [*Desk thumping*] against—

**Dr. Rowley:** All the way to the Privy Council.

**Miss M. McDonald:**—all the way to the Privy Council. Mr. Speaker, what I envisage is a floodgate of constitutional motions and judicial reviews taking place with the passage of this Bill.

**Dr. Rowley:** Before the trial.

**Miss M. McDonald:** Before even the trial starts, because you are going to get pretrial challenges, then you will have a trial, then you are going to have the judicial review after the trial, and you all are adding that layer of delays and then telling this House and telling the nation that it is the accused person who is causing these undue delays. [*Interruption*] [*Crosstalk*]

**Dr. Rowley:** Talk to the Speaker. Talk to the Speaker.

**Miss M. McDonald:** Mr. Speaker—[*Interruption*] Mr. Speaker [*Interruption*]

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**Mr. McLeod:** I thought you said you will not shout.

**Miss M. McDonald:** Mr. Speaker, I note what the Member for Pointe-a-Pierre is saying, but when the adrenaline is running down in Pointe-a-Pierre [*Desk thumping*] when the adrenaline is running so forgive me. [*Laughter*] The DPP, Mr. Speaker, would be placed in a situation where a number of constitutional motions will be filed against a decision he might make, for example, categorizing a murder as murder 1 instead of murder 2.

Mr. Speaker, in much the same way as the Privy Council ruled that the Mercy Committee has an obligation to listen to an accused person, the DPP, in the exercise of his discretion under section 6H, has to do the same. The DPP can also go to a judge according to the section, to decide on which indictment to use and the accused person must be present. Imagine that! You are present there to participate in the proceedings. I commit the murder, I kill a prison officer in cold blood, and I am going before a judge to say. "Listen, I have rights too"; that is exactly what the AG is saying. "Do not put me as murder 1; put me as murder 2". That is what you are doing here in this Bill.

One would then expect that the judge will carry out some type of mini trial to determine which category of murder to place in the indictment. All this is going on before the real trial, the real trial. Mr. Speaker, I hope that you are appreciating the long-winded approach being proposed here by this Government and then they come here this evening talking about delays and [*Desk thumping*] taking us on a whole long frolic. A whole, long frolic the AG took us on. Absolute nonsense. Let us get down to the Bill. Let us address the Bill.

Mr. Speaker, the Bill presents us with the scenario of having pretrial examinations of the evidence by some judge, one judge, other than the trial judge. The consequence of this is there will be litigation before the trial, then we will have the real trial, and then we will have litigation after the trial.

**3.55 p.m.**

All this Government would be doing is complicating the law. Any mistakes made along the way, for example, the wrong categorization of murder, it will be difficult to uphold capital punishment. In such circumstances, the court may very well decide that capital punishment is no longer lawful. You could never tell.

Mr. Speaker, in the *Roodal* case the Privy Council had concluded that a death sentence should not be mandatory and automatic but discretionary, so that the judge can take into account any mitigating or unique factors before he decides on

the sentence that should be imposed. Mr. Speaker, let us this evening, lift the veil of deception, let us lift the veil of deceitfulness. Are we seeing a return to the *Roodal* ruling where the death sentence is discretionary? Are they trying to remove that mandatory and automatic nature of the death penalty in smart? [*Desk thumping*] Are they doing that?

Section 4 is “de law a de land”, let us preserve it and maintain it. We want to hang, we will tell you how to hang, as I continue my contribution. Mr. Speaker, I want to say this afternoon that you are not only never going to be able to hang a person, this Bill will make it virtually impossible to get a person before a jury on a charge of murder 1, all because of these pre trial challenges and the discretionary approach being superimposed on the mandatory death penalty. Mr. Speaker, this Government is making a serious mistake. There will be no hanging in Trinidad and Tobago for a very long time if this Bill should pass. We on this side, we, the Opposition, we support the law of the land with respect to the death penalty, but the Government must speak the truth to this nation. [*Desk thumping*]

**Dr. Rowley:** Come clean.

**Miss M. McDonald:** Come clean. The national community has high expectations that this Bill will see the commencement of hanging in this country but I am putting this country on notice, this will not happen with this Bill. [*Desk Thumping*]

**Dr. Browne:** Set up the population.

**Miss M. McDonald:** Mr. Speaker, this Bill is basically removing the mandatory and automatic nature of the death penalty as we know it in section 4 of the Offences Against the Person Act 1925. What are you all doing? You are replacing it with constitutional constipation. That is what you are doing, Mr. Speaker, by the categorization of murder 1, 2, 3, all of them being discretionary. [*Desk Thumping*]

Mr. Speaker, it is better the Government had come here this afternoon and said to this nation, “We are abolishing the death sentence”. Say that. This Bill makes no sense. It is atrocious, it is deceptive and it is part of the UNC PR campaign. [*Desk thumping*] The only group of persons will benefit from all of this, would be the attorneys, due to the avalanche of judicial reviews and the pretrial cases that will emanate if this Bill should be passed.

The Government is seeking to remove the hindrances to the implementation of the death penalty in the following circumstances. We are going to look at this

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whole question of delay that the AG spoke about. Let us look at delay re the execution of the death sentence. Mr. Speaker, I want to rely on the case of *Pratt and Morgan*. The appellants in this case were convicted 1979 of a murder committed in 1977. It took all of 14 years before the case was decided by the Privy Council. The Privy Council in their ruling, by way of advice, recommended some time lines which the jurisdictions can follow.

One—I heard the Attorney General say; we could never ever do it but we need to look in-house and see how it could be done. It is not rigid but there are guidelines. They said one, domestic appeals should be completed in one year. Two, in case of Privy Council appeals, one year. There is a balance of three years which can be used for appeals to the international human rights bodies. Thus, the time frame from conviction to execution should not be longer than five years. The decision of the Privy Council in this case led to speedier hearings in murder cases across the region. While the decision of the Privy Council may not always be approved in the region, it resulted in the removal one by one of hinderances to carrying out the death penalty.

I view very suspiciously that this Government is attempting to reverse this decision in the *Pratt* case by legislating in our Constitution that any delay in executing the sentence of death shall not be held inconsistent or in contravention of section 4 or 5 of the Constitution. Mr. Speaker, if you look at section 6M (2) (b), this clause is stating on page 9 that the execution of a sentence of death shall not be held to be inconsistent or in contravention of section 4, 5 on the grounds that there is—and it is contained in (b)—delay in executing the sentence of death.

I take a very dim view of this section and I wish to ask the Government a question. Are you attempting to oust the effect of the ruling in *Pratt and Morgan*? Is that what you are doing? [*Desk thumping*] Mr. Speaker, I ask: how will the Privy Council view such a move? This is a retrograde step. What is the Government doing to overhaul the criminal justice system in our country so it would deliver expeditious justice? I want to remind the Attorney General, the same case he read he has to go back and read it over, *Abbott v Attorney General*, Lord Diplock in delivering the judgment of that board at page 349 said:

“That so long a total period should have been allowed to elapse between the passing of a death sentence and its carried out is, in their Lordships’ view, greatly to be deplored. It brings the administration of criminal justice into disrepute among law-abiding citizens”

This is the thinking of the Privy Council, so I ask the question: would the Privy

Council not find a way to get around section 6M which seeks to constitutionalize any delay in the execution of the death sentence? Again, Mr. Speaker, as night follows day there would be constitutional challenges against this section.

Mr. Speaker, I want to look at delays with respect to a condemned person's rights because this is what the AG seems to have most objection to, the rights of that person and the long delay to access international human rights bodies. Currently condemned persons have the right to access in international human right bodies. Trinidad and Tobago is a subscriber to the Inter-American Commission. The Government has cited this right as causing undue delays in the execution of the death penalty because of the length of time taken to hear the matter and further, in many instances, the five-year time frame as stated in *Pratt and Morgan* would elapse. As a consequence, the Government has introduced a new clause. Clause 5(1B), which speaks to the imposition of time limits.

The Government is amending section 89 of our Constitution to empower the President to impose time limits, within which a person who is sentenced to death maybe appeal or communicate with an international body outside of Trinidad and Tobago. In Part (b), the President would be able to impose time limits, within which any appeal shall be concluded and, upon exploration of those time limits, the Minister—whoever is that minister appointed—together with the advisory committee, would be empowered to exercise their respective functions in relation to that person, even though the appeal to the international body has not yet been concluded. In clause (1c), Mr. Speaker, it says that the actions of the Minister and advisory committee, shall be inconsistent with sections 4 or 5. Mr. Speaker, I take issue with the President being able to impose time limits.

I now ask the Government: what are these time limits? You are embedding this in the Constitution.

**4.05 p.m.**

Let me tell you where it is—at page 11 and 12 of your Bill. Are you giving the President a wide discretion to determine what is an appropriate time? This proposal is far too wide and can result in far-reaching consequences. Maybe, Mr. Speaker, the Government can take some advice from Lord Griffith; the AG was quoting Lord Griffiths, well quote this one now. Page 359 in the case of *Pratt and Morgan* where Lord Griffith said and I quote:

“The application of the appellants to appeal to the Privy Council and their petitions to the two human right bodies do not fall within the category of frivolous procedures disentitling them to ask the Board to look at the whole

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period of delay in this case.”

Mr. Speaker, we need to take note of this. At page 361 their Lordships dealt with application by the prisoners to the international—

**Mr. Speaker:** Hon. Members, the speaking time of the hon. Member for Port of Spain South has expired.

*Motion made,* That the Hon. Member’s speaking time be extended by 30 minutes [*Dr. K. Rowley*]

*Question put and agreed to.*

**Miss M. McDonald:** Thank you, Mr. Speaker, and thank you, Member for Diego Martin West. Mr. Speaker, at page 361, their Lordships dealt with the application by prisoners to two international human right bodies, and this is what they said. I quote, and this is coming out of *Pratt and Morgan*:

“It is reasonable to allow some period of time for delay for the decisions of these bodies in individual cases but it should not be very prolonged. The UNHRC does not accept the complaint unless the author ‘has exhausted all available domestic remedies’...

It therefore appears to their Lordships that provided there is in future no unacceptable delay in the domestic proceedings complaints to the UNHRC from Jamaica should be infrequent and when they do occur it should be possible for the Committee to dispose of them with reasonable dispatch...”

And here is our guideline:

“and at most within eighteen months.”

Mr. Speaker, it comes right back to the Government revamping and restructuring its judicial system so that timelines can be achieved. Giving the President unfettered power and discretion will not help. Mr. Speaker, it gets worse. Where this unknown time limit imposed by the President comes to an end, the Minister and the advisory committee can exercise their functions, and on top of that section 5(1C) says that the actions of the Minister and the advisory committee would not be in contravention or inconsistent with sections 4 and 5 of our enshrined rights under the Constitution. This is absolute madness, Mr. Speaker.

As I indicated before, the Privy Council recommended timelines: one year to complete your domestic appeals, one year for the Privy Council appeals and there is a balance of three years. With respect to the Inter-American Commission, it is unlikely that this commission will take more than three years. If you do the math, you will be well within that *Pratt and Morgan* time frame. Mr. Speaker, the



Government may argue, their case that the Privy Council—those law lords—they sit in a foreign jurisdiction and they are far removed from the increasing crime and the circumstances in our jurisdiction, but I want to hasten to add that the Caribbean Court of Justice has upheld the philosophy of the Privy Council decisions. So maybe it is time to look at our CCJ. [*Desk thumping*]

Mr. Speaker, when they were in government they supported it; when they came out of government they are not supporting it. Well you are back in Government. You are back there. Mr. Speaker, the CCJ understands the dilemma of going to the Inter-American Commission. Mr. Speaker, I want to proffer a simple solution to the question of delays by the commission and I will put it in the form of a question until I get back to it. Has the Government given any consideration to the passage of legislation to deal with delays by the Inter-American Commission? That is a possible solution. What about bringing legislation to this House to deal with it and I will quote you a case—the AG—take it and we look at it.

Just by way of overview to conclude, I have shown the current position of the death penalty in Trinidad and Tobago. The law is clear as stated in section 4 of the Offences Against the Person Act. I have noted the constitutional challenges beginning with the case of *Roodal* and ending with the case of *Charles Matthews*. We have seen the decision in *Pratt and Morgan* which has laid out for us the five-year time frame. More importantly, Mr. Speaker, the Privy Council arrived at this five-year standard by reasoning that an efficient criminal justice system must be able to complete its entire domestic appellate process within two years and that 18 months could safely be set aside for application to international bodies to which condemned prisoners might have rights to access.

We saw, Mr. Speaker, what would have been the effect of Act No. 90 of 2000. Now we see the attempt by the Government to embed Act No. 90 into our Constitution with minor changes in 6(M) and the addition of clause 5. We on this side believe that all that the Government is doing is tinkering and meddling with our Constitution without due justification. The Government has consulted with no one.

I want to say on the issue of consultation, during my research on this Bill, Mr. Speaker, I had reason to look at the Prescott Committee—I think that was way back in 1990—and they were given a task to look at the death penalty whether it is warranted and whatnot in Trinidad and, Mr. Speaker, it is the scientific approach they utilized in that committee. They went all around this country soliciting the views of people and they were able to bring all that to bear on the results in the particular—that is the

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Prescott committee report. This Government has done no such thing. The Government has not demonstrated to this country that the passage of this Bill will lead to the implementation, or I should say the immediate implementation of the death penalty.

Mr. Speaker, we have seen where, in the case of murder which will carry the death penalty, we see the discretionary approach being superimposed on the mandatory death sentence. We see where the Government is adding a new layer of delays and then they complain that the process is too long. We on this side recognize the many pretrial challenges and the post-trial judicial reviews. We recognize the subjectivity which has been introduced here. What the Government is seeking to do in this Bill is merely, Mr. Speaker, to create bacchanal and mayhem, and we would be no closer to actual hanging in this country, and this is exactly what the population would like to see. They think when we come here today, they would see some results. When you pass this Bill, hanging will occur. No such thing!

Mr. Speaker, again, this Government has not demonstrated to this House, and by extension the national community, that they have exhausted all avenues with respect to the removal of the obstacles, with respect to the appeals, namely appeals to the Inter-American Commission, but they are proposing amendments to section 89 and empowering the President to impose time limits. So exactly what is the obstacle to the resumption of hanging in this country? The Government is saying it is the long delay by the international body. But we can deal with that administratively. I am aware that the Government has no control over the pace of proceedings before relevant international bodies, and the AG made it very clear.

#### **4.15 p.m.**

Mr. Speaker, the Government has control over what we do to improve our criminal justice system in Trinidad and Tobago. A possible solution is that the Government could bring legislation to this House, in keeping with the *Pratt and Morgan* ruling, that where the time taken in processing a condemned man's petition before an international body exceeds 18 months, the excess should be disregarded in the computation of time for the purpose of applying the decision in *Pratt and Morgan*. [*Desk thumping*]

I have found support for this recommendation—I will lend it to the AG; he might know about it—in a Bajan case before the Caribbean Court of Justice. It is between the Attorney General, Jeffrey Joseph, and Lennox Ricardo. It is CCJ Appeal No. CV2 of 2005. This is an appeal to the CCJ from the Court of Appeal of Barbados wherein one of the issues being argued was whether the Court of

Appeal was obliged to await the outcome of the Inter-American Commission on Human Rights. At page 57, paragraph 126, this is what the judges had to say, Mr. Justice de la Bastide and Justice Saunders:

“Where Pratt is applicable, as it was in Barbados for these respondents, we would have been inclined to the view, if the issue of the five-year time-limit was still a live one before us that where the time taken in processing a condemned man’s petition before an international body exceeds eighteen months, the excess should be disregarded in the computation of time the purpose of applying the decision in *Pratt*. In any event, protracted delay on the part of the international body in disposing of the proceedings initiated before it by a condemned person, could justify the State, notwithstanding the existence of the condemned man’s legitimate expectation, proceeding to carry out an execution before completion of the international process.”

This is our own CCJ talking in this case.

Based on the aforementioned, I want to state categorically, as I conclude, we the Opposition support the law of the land. We say together, “Hang them high.” We acknowledge the many atrocious and heinous murders in our country. Only last Friday one of my constituents, Mr. Brian Audain from Low Place, was gunned down at the corner of Alexander Hill and Laventille Road. I grew up with him; I knew him. He was from Low Place, I am from Mosely Place. I would be the first to support any measure to expedite the death penalty, but I will not support, we will not support fooling the people into believing that this Bill will see the resumption of hanging in Trinidad and Tobago.

I say to the Government this afternoon, “Come clean with the people of Trinidad and Tobago.” We the Opposition will not support this Bill being sent to a Joint Select Committee. We believe that the policy statement of this Government should be clear for all, and not for a Joint Select Committee to decide on what we should do. Mr. Speaker, our recommendation to this Government is that they withdraw this Bill in its entirety and return to the drawing board and consider other avenues, as the one we have just proposed here.

Mr. Speaker, I thank you.

**Hon. Members:** Oooh!

**The Minister of Legal Affairs (Hon. Prakash Ramadhar):** Thank you, Mr. Speaker, once again for the opportunity to speak in this most respected and august House.

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May I say that there are at least two sides to every story in life and, in particular, when as I know that my friend has grown into an extremely competent lawyer, we must be careful that the people's business is not "lawyered" to death.[*Laughter*]

The reality of what we are faced with is very simple. This country has on its books the law that says if you murder and you are convicted of murder, you shall suffer the sentence of death. The question I have to pose to my friends on the other side is this: during the year 1999, which if my friend is so eager to hang them high—[*Interruption*]

**Mr. Speaker:** I notice it is a practice in some other areas where we talk about "mih friend" and "my friends". I keep saying to hon. Members, refer to Members by their constituency or by the office they occupy.

**Hon. P. Ramadhar:** My apologies.

But to the Member for Port of Spain South, who is also my friend, the question I had been posing was: since 1999 to the present day, if there was such eagerness to enforce the laws of the land, were we able as a people to enforce the law of the land? I am not casting it in political terms to say PNM, COP or UNC. I am asking as a people of this nation: Have we been able to do what is required of us under law? When you answer that question, then we could entertain all the sophistry of legalisms. The query now is: What do we do? Are we going to acknowledge the truth that this nation has not been able to effect its law, and then what, do nothing?

My friend, the Member for Port of Spain South, we have come clean and we intend to cleanse the Augean stables of the mess we have as a people seen.

The Attorney General said some very profound things and I would want, just before we take the break for tea time, to reflect on the one thing of greatest significance. Many of the delays in the courts and in the process, whether at the High Court, Court of Appeal, Privy Council or the international bodies, are because many of the claims made by those who seek to avoid the hangman are artificial claims.

As was quoted, I think it was Chief Justice Griffith that the AG referred to, there was no merit at the end of many years of articulation in the courts to any of the claims. This is what this Bill is attempting to deal with, to bring this country back to reality, to get down to what is necessary as a people to do. You cannot have laws on your books that are not respected nor adhered to, because then that

in itself diminishes the rule of law. I wonder if we understand that. To post something as your law, but nothing is done to give effect to it, diminishes the effect, not only of that law, but the entire system of law and order in a country. That is a critically important point that we have not really understood or catered for in our deliberation.

The issue as I have heard, and speaking as Chief Whip, the Member for Port of Spain South is saying that they support the issue of the death penalty. Of course, we have been given all sorts of mechanisms to achieve it. That is one point of view, but the point of view of this Government is that we are going to achieve it by those mechanisms stipulated in this law, that we propose to pass with the consent and authority of the people of Trinidad and Tobago.

We are not going to shirk our responsibility and say that it is too difficult or too circuitous to get it done. We take steps and we take meaningful steps to get it done. If my friends do not want to cooperate and support it, that is a matter for their conscience. But I could never understand, if it is in their conscience to support the death penalty, what then is the issue here as to why you do not support this Bill in its present manifestation?

We have been given the opinion that games are being played by this side. Nothing could be further from the truth. Why would we put forward a game, if, as suggested by the other side, we intend to get rid of the death penalty by doing this? It makes absolutely no sense. It is the furthest suggestion from the truth.

Mr. Speaker, if you will forgive me, when you have a brief in a criminal court or in any court of the land, you must speak only in favour of that which will represent your interests. If it is the interest of a party they wish to protect, that is a matter for them, but we have come openly, presented ourselves and asked the other side to support it. If you are going to shirk the responsibility of permitting the death penalty to be implemented, then do not do so under the guise of an argument that really has no merit. [*Desk thumping*]

I admire the lawyering ability of my friend, but I do not admire her, my friend, the Member for Port of Spain South, in her bid to suggest that you wanted the death penalty implemented, when nothing was done from 1999 to now. We have been hearing about speeding up the process of the courts, but what has been done since then? I could tell you what has been done since May 24. We have brought legislation in this House to remove the delays by the numerous adjournments on remand, from eight and 10 days to 28 days that will dramatically reduce the process of trials in the court.

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We are bringing on new courts, magisterial courts, high courts and, indeed, giving all the resources necessary to improve the capacity of the Court of Appeal. Maybe it should be told, and I will take a few moments, as I see we have just a few moments before the tea break, but I will continue after that. In a Magistrates' Court, with the present preliminary inquiry, it takes about two to three years before a charge could be heard and determined. On a charge of murder, if a case has been made out, you are committed to stand trial on murder. One of the biggest delays after that is the tightening up of notes. After all the evidence is taken, the notes have to be typed up and then sent over to the DPP.

Under this administration, steps are being taken, first of all, to remove preliminary inquiries, and that is a matter of not what we say we will do but what we are doing, with your help of course. When that has been rid of, you have the statements, the person is charged for murder, he is brought before the court, if there is no preliminary inquiry, as we intend there will be none, that entire two or three-year delay is removed from the system. You come to the assizes where your trial will be heard.

We are taking steps, in any event, to speed up things in the Magistrates' Court in terms of note-taking, by the provision of electronic recording systems. In the High Court it is an embarrassment to know that in this modern day and age, some of the high courts have transcription services and others do not. These are simple things that we are putting in place. The resources are being given to ensure that all our courts have electronic transcription, so that a civil trial, and particularly a criminal trial, will be much speeded up.

After a conviction in the High Court, a matter may go to the Court of Appeal. Another of the big problems we face is the same note-taking. A very simple administrative thing, as we all know, has been delaying murder cases, matters going to the Court of Appeal and, ultimately, to the Privy Council, simple things like preparing notes, certifying notes and having them move forward.

Many times in the Court of Appeal—I know things have changed and improved a lot, but there is a lot more that could be done—lawyers appear and say they did not get the notes from the trial or that they just got it and, therefore, appellate matters have to be adjourned for simple and foolish excuses like, “We do not have the notes.” [*Interruption*]

**Mr. Speaker:** It is time for us to suspend the sitting for tea. This sitting is suspended for tea and we shall resume at 5.00 p.m. sharp.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting reassumed.*

**Hon. P. Ramadhar:** Thank you much, Mr. Speaker. Before we took the break I was on the point that this Government is taking active and positive steps to reduce the delay in even getting to trial and I will just trespass on the point where, even after a conviction, simple things like notes take extraordinarily long to be prepared and sent up to the Court of Appeal for its determination.

I think it is important to make the clarification here that pretrial delay will not count into the five-year period. It is the conviction five years after which we are dealing with and I agree wholeheartedly that five years are enormously long time, depending, of course, on which party is in power. Sometimes it could seem like an eternity—under the PNM I am hearing and I will not repeat that, but five years is an immensely long period of time for what we consider to be very simple matters to have been dealt with.

We did not say that we will allow it to run, we are saying that we are going to do all things necessary to bring about a speedy trial, because we firmly believe that justice delayed is, indeed, justice denied. And these are the steps that we are taking, very simple ones. My friend from Port of Spain South referred to administrative issues. Absolutely correct! What does it really take to get notes prepared other than to put the necessary staffing, computers, and whatever machinery is required to get it done?

So, these are the things—that is why the very essence of the Ministry of Justice was created. Because we looked on in horror over the years and saw our judicial system allowed to fall under its own weight, to a point to almost of crisis proportion where trials are taking years instead of months at most, when the exact issue we come to deal here with today was allowed to go unattended to by those who had the authority, the responsibility to deal with it in the past. But this is a new shift in politics and politicians. Just like my friend from Port of Spain South who would take responsibility, not just to utter the complaints but to find the solutions for the problems that we have had in the past.

Apart from getting the notes done quicker, we are ensuring that lawyers, through the new legal aid system, even at the appellate level, are appointed way in advance of trial dates that is in the Court of Appeal. So when they come, and they do have their notes, I understand that it is rare that the Court of Appeal may grant an adjournment. So things are speeding up. But the point that the Attorney General made, and I think that has escaped most of us here, is that even after the

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Privy Council has upheld the conviction for murder, only then they have resort to the international bodies.

There is where the problem arises. I think the Member for Port of Spain South acknowledges that, that we have no right or authority as it stands now, but I have heard from Port of Spain South and there may be a solution. And that is why we come to debate, so that we get ideas and we work together and solve things. As I said, there are at least two sides to every story, there might even be more. And what we have come here to find out is which is the best way forward, and I am sure with the best minds we will be able to get the best way forward.

We have come with one proposal where it will not be inconsistent with the Constitution to go beyond the five-year period; where any court may find that it is cruel and unusual to have been kept in death row, where your death warrant may have been read to you more than once, that it is not inconsistent with the Constitution, and therefore, ultimately, that is the surest possible way to confirm your sentence of death is carried out, notwithstanding that it goes beyond five years.

Forgive me just to analyze the artificiality of the five-year rule. What comfort is it to a man who has been convicted, he has had his appeal in the Court of Appeal heard and determined to the Privy Council and maybe even determined in the external bodies, but that everything ended four years 11 months and 28 days as an example—he would be in the line literally to be hanged—but a person similarly circumstanced but whose case went into five years and two days enjoys the benefit. How artificial could we be by that pronouncement? But, as the Attorney General referred, they had to pick a date, five years, and five years sound to be reasonable. It is not reasonable, of course, for the man who fell within four years 11 months and 28 days.

That is why when we say there is no merit sometimes into delayed points, you could understand that because there is no concern sometimes or recourse to the actual conditions they are kept in prison, your conduct there or anything of that nature, but a five-year period has been laid down. If your case has not been completed within that time in totality, you are entitled to be hanged. But those who have benefited from incompetence, inefficiency or for whatever reason, and it goes beyond the period, you enjoy your life. Could that be fair? Could that be real? That is why this legislation has been brought, to take away all those artificial reasons for not executing the death penalty. At the same time however, we are making the very positive steps to shorten the period of the appellate process.



Sir, if you would permit me to read section 6H which is another main point of my learned friend's argument that this will really effectively remove mandatory death penalty. I shall read it, 6H(1):

“Notwithstanding anything in this Act or in any other law, in exercising his discretion to prosecute for a category of the offence of murder under section 6B to 6F the Director of Public Prosecutions may—

- (a) having regard to the nature of the circumstances in which the killing took place, himself determine in which category the offence falls; or
- (b) in any case where he considers the interest of justice so requires apply to a Judge to determine whether an indictment shall lie and if so for what category of the offence.”

Let me say this from the very onset, that the DDP in any case at this point in time, has the sole discretion in determining these things. one, whether an offence has been committed, if it is where a person has died, he may say that no criminal offence has been committed and refer it to what we call an inquest. If he finds that an offence has been committed, he will decide in his sole discretion whether to charge for manslaughter or for murder. There is, to my knowledge, no judicial intervention in the discretion of a DDP as to whether to charge and what to charge for.

So, therefore the law, as it is now, nobody challenges that discretion. To suggest now that because you categorize murder into 1, 2, and 3 that it changes really will be to be, what should I say, overly sensitive and probably being premature in our expectations because the DDP does not have, in the new proposed legislation, to go to a high court even, he could do it within his own sole discretion. When he does go to the high court, the high court is seized of the facts and the DDP asks, “Listen, I would determine whether this should be 1, 2, or 3. You are entitled by yourself or by representation to put your case why it should not be 1.

**5.10 p.m.**

The law understands that, notwithstanding your proposals, that is the accused or the suspect, the court may very well say you would be tried for murder. But it does not stop there. To pre-empt any of the delays you speak about, section 6H(2) and (3)—may I read it?

“In any proceedings under subsection (1)(b) any person who is charged or to be charged or who is otherwise concerned with any offence before the Judge

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or collateral thereto, or who may be involved in the prosecution of such offence has the right to be present and to take part in the proceedings.”

So in terms of fairness you have a right to be heard, but after having been given that opportunity—

“(3) No appeal shall lie from any determination of a Judge under this section.”

What this means is, there is no issue of going to judicial review—and certainly you cannot review a judge’s decision by judicial review, nor can you go to an appellate court to review the decision of that judge who makes that decision.

So as it stands you are going to be tried for murder 1. If you go through a trial process and you are convicted, there is nothing preventing the convicted person who has been sentenced to death under murder 1 from arguing any unfairness in his trial, and in his trial would be the evidence which would have supported whether he should, in the first case, have been tried for murder 1, because murder 1 is not just a killing, you know. We have taken the liberty, the time and the effort to stipulate the categories within which or the types of killings that would attract the most severe punishment, and for good reason. Not every killing is a murder.

I remember years ago I got into some trouble when there was the newspaper report where a woman in the San Fernando Assizes had been convicted for murder. She had stabbed her husband to death. The jury deliberated and found her guilty of murder. My mother saw it in the newspaper and said, “You know, how they could do this”—because the facts were that she had been abused and so—“and see if you could help her?” I made a statement to a reporter, I said, “If that woman's relative come by us we would help her.” Some colleagues, Mr. Jagdeo Singh and some others—the person sent their family and they did, in fact, come. The matter was appealed, she got a retrial and ultimately she did not—the sentence of death was removed.

Is that circumstance a situation where a woman who may have been abused and out of a moment of, what shall I say, weakness, she may not at the moment have been under attack, but for some thing the anger builds up or whatever, she takes a knife and sticks it into the husband's heart and he dies, could that be in the same category of those demons who coldly plan, coldly obtain weapons and coldly and maliciously and even devilishly went into the home of a policewoman and her family and executed them in cold blood? How could they be in the same category and carrying the same sentence? They are absolutely different things!

There are many cases—how many “all foes” games, that is one of the most popular things where you have killings. I am telling you from my experience. For whatever reason you “had a little grog, “men drinking playing cards, argument” and it is amazing how one little penknife always finds its way through the intercostal muscles through the aorta. How many young persons have died by that? Nobody, when they left home, ever intended it to have happened; the deceased or his family never imagined it nor did the accused. When you speak to them, “Sir, I never imagined this would have happened. I wish I could turn back the hands of time if I can.”

Many of those persons have been convicted of murder in the past. Previous good character does not matter, but for whatever reason the jury finds them guilty. How could that be in the same category? For instance, the Dole Chadee killings, where an entire family had been executed, or, where, in Arima a couple of months ago children were executed in their homes at the computer. It cannot be! That is why it is necessary that you reserve the most severe punishment for the most severe crimes.

I remember years ago there was a prison officer, Mr. Goolcharan, and during an attempted prison break he was murdered at the Port of Spain prison by a prisoner who had been on death row—double killing. Could that person be in the same category as a man whose home may be burgled, gets up in the night and finds a person there with no weapon, but in the anxiety and so, “put a few blade on him” and kill him and possibly get charged for murder? Could that be?

We have to take a very realistic view of what is happening in the society. We are not about to remove the death penalty, but we must ensure that if it is to be carried out, it must be carried out only in the most severe cases and we must do so without any joy, without any happiness, we must do so with great resistance, because it is an awful thing to take a life, but sometimes it is absolutely necessary.

Every human being has an instinct of self-defence and, if in a moment you are under attack the law provides and agrees that you do not have to weigh, as they say, to a nicety, the retaliation. This society is under attack and we must retaliate, not by being emotional about it, but by laying down rules and if you break those rules there are consequences.

No system will work unless there are consequences to an action. It is as basic and as simple as that. If you chose to do the worst of things, not just to spill the blood of your brother but to take his own life, then you, knowing in advance that

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there is a consequence, must pay the price for it. But by the neglect of this nation to have effected that law and the consequence to that law, there is a belief that you could do whatever you want and escape the reality of the noose of a hangman.

It is sobering to every criminal to believe, first of all, that he is doing a criminal act; it is sobering for him to believe that he will be caught and it is extraordinarily life changing when he knows he may die if he is caught. That is the paradigm that we want to reintroduce in this land, where, for too long, murderers—I understand the arrest and conviction rates are at an awfully low level. So this is not just a bit of legislation in a vacuum. This is legislation as part of a larger system to reinforce and reintroduce a sense of law and order into the society, and there is no greater beacon of lawfulness than the severity of a death penalty for a heinous murder and we take it from the top and we take it from the ground.

Just recently we introduced traffic wardens, litter wardens—

**Hon. Member:** You introduced them?

**Hon. P. Ramadhar:** When I say that, we are actually putting people on the ground, putting the manpower and not just to pass laws, but to make it happen and to give teeth and effectiveness to these things. At the end of the day, this Government will be judged not by what it said it will do, but what it has actually done and these are the things, step by step, that we are doing.

Every time we come to this Parliament, of course we get criticisms, you may believe in the realm of the politics that the duty of the Opposition is to criticize every action. But there are persons here, and I speak to my brothers and sisters, who have a purity of intent and a will to save this nation.

**Mr. Warner:** Oh yes. Oh yes. [*Desk thumping*]

**Hon. P. Ramadhar:** I have spoken to many on the other side and the same I have found, but yet we criticize each other, but in the criticism sometimes it is good, because if you have two heads thinking as one there is no need for that other head, so I do like constructive criticism.

From the Member for Port of Spain South, I have heard a lot and I admire some of the points you made, [*Interruption*] others, of course, we may not always agree on. But I admire your effort and I think you did an incredible job with the material that you had available to you and there is a lot of food for thought. We may not always agree with it, we may not always accept it, but these are things that create a healthy democracy, and criticism for the sake of criticism is not what

we are about.

So I am happy to hear that you will support the penalty of death—I should not say happy, I am comforted that we are at one on the issue of the return of law and order for that end. However, your big concern why you said that you will not support it is on the issue of the categorization, and if I made any sense at all in that analysis, that the DPP already has that discretion, that is not reviewable, and the court has the authority to decide the categorization and we have taken the opportunity to say that it is not appealable, then your worries are over on that point.

I would take one moment to say this, that in our form of Government the Parliament is supreme, not the Privy Council. Our Parliament is empowered under our Constitution to make laws for the good governance of this nation, and once we do things in the manner and form that is required with the necessary majority, we could change any law, even the very Constitution itself. And the courts' purposes are there not to make law for this nation but to interpret our laws, and that is why we are taking out the uncertainty from our laws and putting in clear and defined limits to where the court can go.

That is why when you read section 6M, it is a bold government that will take this step. But in these times it is not the time for meek or the fainthearted. It is the time for those who are willing to take a stand to do so, and I shall read it, because in a former incarnation these are things that I would have criticized to no end, but now, having risen by the votes of the people of St. Augustine, I have a duty not just to a single client, but I have a duty to this nation and the future of this nation. I shall read this; 6M says:

“The imposition of a sentence of death by a Court on a person in respect of a criminal offence under the law of Trinidad and Tobago of which he has been convicted or the execution of such a sentence shall not be held to be inconsistent with or in contravention of section 4 or 5.

(2) Without prejudice to the generality of subsection (1) and for the removal of doubts, the execution of a sentence of death referred to in subsection (1) shall not be held to be inconsistent with or in contravention of section 4 or 5 on any grounds whatsoever, including any, or any combination, of the following grounds:

- (a) a delay in the hearing or determination of a charge for a capital offence;
- (b) a delay in executing the sentence of death;
- (c) the conditions or arrangements under which the person is held in prison,

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- or otherwise lawfully detained, pending the execution of the sentence of death, or
- (d) the effect of reading to the person, more than once, a warrant for the execution of the sentence of death on him.”

What this says is that, you do the crime of murder you shall pay the penalty for murder and not use any of those grounds to avoid the consequence of your action. What does the fact that there has been a delay in the determination of a charge for a capital offence have to do with the reality of your killing? Nothing! What does a delay in the execution of the sentence of death have to do with the fact of your killing? Nothing! What do the conditions or arrangements under which the person is held in prison or otherwise lawfully detained pending the execution of the sentence of death have to do with the fact of your killing? Nothing! What does the fact of the reading of a death sentence or a warrant for execution have to do with the fact of your death? Nothing!

**5.25 p.m.**

These are artificial in relation to the facts of your killing that had been used; artificial points raised, that, for good reason or otherwise on other base about the larger scheme of cruel and unusual punishment and so that a court may find, but it has nothing to do with your paying the price for your action. And, therefore, there comes a time when we have to cut through all the morass, get down to the basics. If we are a society that must return to truth, honour and justice, we must remove the technicalities, we must remove the artificial defences, the artificial points that have nothing to do with your action. And this is what this legislation is about. It is bold, yes, but somebody has to do it. If not us, who? If not now, when? [*Crosstalk*]

**Dr. Browne:** Attorney General is withdrawing the Bill?

**Mr. Sharma:** Are you speaking on the Bill?

**Hon. P. Ramadhar:** Mr. Speaker, I have heard it said by my friend that there was no consultation on this matter, but my understanding is that the consultation on this matter started since the very report of Mr. Prescott, when he went throughout this nation. A lot of what is in here came from even then. In 2000—Bill No. 90 of 2000—I understand there was large and widespread public consultation. This very Bill has been laying in this Parliament for several weeks now and, therefore, there has been consultation. Maybe there should have been more, I do not know. But the fact is that this is not a Bill that has come in the silence and in darkness of night like murderers. This is a Bill which has been

basically cried out for by our population. And when you look around—like somebody here in this august House made the comment that, “democracy requires us to reflect the will of our people,” anywhere you go, every day, you hear the cries of our people: What are we going to do about these murders? What are we going to do about these killers? I understand there are 3,000 murders and maybe less than a hundred persons in custody for these murders. Who did these murders?

Are we accepting that there are many, many murderers out there who have no fear, no care and no worry about even being caught? That is why this Government, as I repeat, is not only dealing with things in a vacuum. As we speak, as we speak, many of the things we promised, in terms of securing our people, are being put into effect.

The bays along the highway are being built, the cameras are being installed, the GPS systems are being—they are coming into play within a very short period of time. We are refurbishing the courts. We are increasing the number of courts. The training of police officers is increasing. So, you know, that is why it is sometimes a little sad that we look at things only in a very, very, tunnel-like manner. But this is only one part of a larger picture of things, a larger number of actions that we are taking to protect this nation and to protect our people.

So, Mr. Speaker, I do not think I need to trouble this House further, I think I may have adequately answered the issue of the determination by the DPP or by the High Court of the degree of murder to be charged and also the issue of the constitutional protection by section 6(M) to have that removed, so that there will be no bar to the execution. So that no person who is contemplating now the possibility of collecting money to execute someone will believe that if they are caught they could lawyer the case to death and never have to pay the penalty.

They must know as of now this is a Government that is taking every step to enforce our law; taking every step to ensure that those who commit crimes are caught, prosecuted and the sentence effected; whether it is for murder, for robbery, for rape or for wounding. This country must return to law and order. It must! There is no future without law and order. We have reached, I think, the brink or the breaking point and that is why we must act, and we act together to save this nation.

Before I take my seat, Mr. Speaker, let me just say that as I grow older, a new maturity—like all of us I imagine—comes about. When I was a younger lawyer I would fight to the bitter end to defend my client. I will do all things within the law necessary to defend this nation today, because I am no longer just a defender of a person. As we all do, we now have a sacred duty to defend this nation and we

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must do all things necessary within law. That is why we change law sometimes, to act within it—all things to protect this nation.

Mr. Speaker, I am extremely grateful to you for the opportunity. Thank you.

**Mr. Nileung Hypolite** (*Laventille West*): Thank you kindly, Mr. Speaker, for the opportunity to join this debate. Mr. Speaker, I honestly thought that after my colleague, the Member, for Port of Spain South, made her contribution, that the Government would have taken this Bill and carried it back home. [*Desk thumping*] Unfortunately, it seems as if they are here to suffer the consequences of not listening to the Members on this side explain to them what this Bill is all about.

Mr. Speaker, again, let me say that we are for the laws of this land. [*Desk thumping*] We support the law of the land, there is no doubt about that. We, however, do not support the Bill in its present form. We ask the question, why do we have to go the way of a murder 1, a murder 2, a murder 3? We ask the question: what is so wrong with the capital murder and the manslaughter of which we have on our books right now? We ask the question: whether or not there is another way of having our laws dealt with, without having to go through another lengthy time period of this murder 1, murder 2, murder 3.

In 1993, we saw the *Pratt and Morgan* ruling which indicated, basically, that after five years someone should not be hanged. But then we also saw whereby in 1994 the hanging of Glenn Ashby, in 1999 that of Dole Chadee and the gang and also Anthony Briggs in 1999. So it means to say that there is a method, there is a way, in which the hanging can take place, because it was done. It was done three times.

### **5.35 p.m.**

It was done three times after that of the Pratt and Morgan ruling. Let me also state that we speak about Amnesty International and the other such institutions, but then in 1999 for the hanging of those individuals to take place, something also took place and I wish to quote from the *Guardian* of May 18, 1999 where it stated:

“To reinstate capital punishment Trinidad and Tobago withdrew a year ago from the optional protocol to the international covenant on civil and political rights, which had given individuals the right to petition the UN human rights committee to appeal against capital punishment.”

If the case is that for us to have the death penalty advance through its stages and



the “keep-back” to that is the international amnesty bodies, I ask the question whether or not something can be done there rather than taking the steps of the murder 1, murder 2 and murder 3. You see, my colleague, the Member for Port of Spain South, went through the Bill—and I think she would make a very good Attorney General—[*Desk thumping*]—because, as my colleague was going through the Bill, I saw Members on the other side actually picking up their Bill and trying to find the various pages to see where she was actually speaking from.

You have murder 1—and my colleague, the Member for Port of Spain South, went through what murder 1 is all about. That is where the hanging, more or less, will be taken from. People who do a crime—do a killing—and end up under murder 1 is the person who would be hung. Murder 2, on the other hand—in fact when you look at murder 2, you speak about multiple killings. What murder 2 tells us is that for you to be hanged you will have to either be identified as being involved in a murder of more than one person, or, you will have to be identified as a person who has been charged with a murder before and this is your second murder. And, of course, murder 3 is manslaughter. But then murder 2 also indicates that you can be removed from that murder 2 bracket and go down to the murder 3 manslaughter—well, not murder 3, but the manslaughter bracket within the murder 2 part of the Bill.

So it is a bit cumbersome. In other words, what the Bill is saying is that you have murder 3, which is manslaughter; you have murder 2, which is partially manslaughter and partially that of murder 1, which is compulsory hanging, and murder 1 is compulsory hanging. That is what this is all about. [*Desk thumping*] What we are saying is, if the law of the land is if you do a crime; you are found guilty; that crime is murder and the law of the land is that the punishment is death by hanging, then so be it. Why go through the whole issue? Why go through the whole cumbersome agenda of having to go to the Director of Public Prosecutions or go to a judge to challenge whether or not it is murder 1, 2 or 3? Why? Whereby, as it is now, we have capital murder and that of manslaughter. So you know quite well that if you fall under capital murder, then straight to the gallows you go.

What we are saying is that if the international bodies are a step of distraction for making sure that hanging takes place, then let us remove ourselves from those bodies and pursue with the law of the land. Before we get to the point of actually having someone go to the gallows, that person must commit a crime and we ask ourselves: why is crime in Trinidad and Tobago so high? There are four basic reasons why. One is poverty; one is education; one is inflation and one is poor

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upbringing.

When we look at poverty, you have to look at what is taking place right now in our society where the unemployment rate continues to increase and as the unemployment rate continues to increase so will the crime in this country. You see, as you fire individuals left, right and centre, those persons will need to get some kind of financial support and they will get that financial support from anywhere possible.

You had a situation where CEPEP and URP contractors and workers were dismissed; you had a situation where over 100 pushcart workers from the Tunapuna corporation, their contracts were not renewed; you had a situation whereby—*[Interruption]*

Mr. Speaker, we keep speaking about Standing Order 40(a) and (b) and I think my colleague, the Member for D'Abadie—Lopinot/Bon Air, not D'Abadie; the Member for D'Abadie/O'Meara is behaving himself these days. The Member for Lopinot/Bon Air continues to disturb me, so I am asking you, please.

**Mr. Speaker:** I would like to offer protection to the Member for Laventille West. So if the Member for Lopinot/Bon Air is causing some disturbance in the back, I ask you to observe Standing Order 40(b) and (c) respectively. Continue, Sir.

**Mr. N. Hypolite:** Thank you kindly, Mr. Speaker.

You see, Mr. Speaker, poverty and crime, they link. Okay? And if Members of the House do not understand that we need to have our people employed so as to keep the crime rate down, then something has to be wrong.

**Dr. Baker:** Mr. Speaker.

**Mr. Speaker:** Are you on a point of order?

**Dr. Baker:** Yes, Standing Order 43(1), relevance; tedious repetition; unnecessary arguments.

**Mr. Speaker:** That is not a point of order. Continue.

**Mr. N. Hypolite:** *[Desk thumping]* Thank you, Mr. Speaker. You see why it is Standing Order 40(a),(b),(c) and we probably need a (d) for the Member for Lopinot/ Bon Air—but the fact of the matter is, when you have this number of people unemployed—and the Attorney General, as well as the Member for St. Augustine, made the statement that they are coming clean. I wonder why they

keep saying they are coming clean. Is it that they were not coming clean before? I ask that because in April of 2010, throughout their campaign period, it was said that loss of jobs would be a no-no. Then in August of 2010 you saw where persons were sacked, and then in November of 2010, you saw again where the hon. Prime Minister said “no job loss”. But on a daily basis you continue to see, you continue to hear, you continue to realize that people are being sent home from their various places of employment.

**Mr. Volney:** Mr. Speaker, 36(1), relevance to the Bill before the Parliament.

**Mr. Speaker:** I am watching him very carefully. Continue. [*Desk thumping*]

**Mr. N. Hypolite:** Mr. Speaker, I said that there are four items: poverty, education, inflation and poor upbringing, that are linked to that of crime and I am certain murder is a criminal activity. I am certain. So, again, the situation is—it is my calculation that it is close to 30,000 persons who have been sent home from their jobs by now, and if not by now, within a month’s time that will happen—close to. You will have your time to shake your paper because you like to shake things; snakes and stuff like that.

So, Mr. Speaker, they ask to go back to the Bill, failing to understand that I was on the Bill all the time, because you had poverty and then you have education, and when we speak about education, we have to understand that a number of those youngsters outside there who lime on the block and do not also find themselves in one of our educational facilities, would find themselves in mischievous acts and at some point in time will also find themselves committing a murder.

What we are saying is that we have to prevent ourselves from reaching that level. We have to get our young boys and girls, our youth, our young people—and most of the murders that are taking place today are done by our young people. So what we are saying is that we need to get our young people employed or we need to get them trained so as to prevent them from reaching the state of being faced with a piece of rope around their neck, and that is the point.

**5.50 p.m.**

You also have to look at inflation, because—they say another direct reason for crime in Trinidad is inflation. Inflation in Trinidad and Tobago is extremely high, somewhere around 14 per cent “PPG Ooh good!” So you see again, Mr. Speaker, that inflation is another factor that contributes towards crime. Poor upbringing is

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another issue that contributes towards crime. Members in the House on the other side will take this as a joke but what one is indicating is that we are talking about hanging persons, we are talking about murder 1, murder 2, murder 3, but before we reach to murder 1, murder 2, and murder 3, something would have gone wrong, and something would have gone wrong with our young people. The person who is responsible for looking after our young people, the Minister of Sport and Youth Affairs, I ask: what is he doing with respect to getting our young people more active? What is he doing to guide our young people? What is he doing? Where is the policy for our young people to prevent them reaching the stage of having to face a murder 1, 2 or a murder 3? Where is the policy?

Mr. Speaker, the Member for St. Augustine spoke about consultation and I say thanks for recognizing that the People's National Movement would have done some kind of consultation on your behalf, along the same lines; that is it is the People's National Movement that advanced the traffic wardens. So when the Member for Couva South sat there and said, "They put it out" everything was in place for the traffic wardens, everything. All they had to do was to get them outside there but we are talking about hanging, not traffic wardens. Likewise we will speak about hangings and not that of the recreation grounds throughout Laventille that have not been fixed, so that the youngsters will go outside there and "bounce some ball" "kick some ball" and not get themselves into mischievous acts, so as to get hanged. *[Laughter]*

And again we laugh at that but sports is a very important instrument for keeping our young children off the streets, because when those young boys, when our young people sit on the "block" and they have nothing to do, no sports, no community centres, for them to do any programmes, they will go and get involved in mischievous activities; they will even kill. Poverty, Mr. Speaker, they will even kill and when they kill what will happen? Murder 1, murder 2, and murder 3, hanging.

Mr. Speaker, again my colleague for Port of Spain South went into the Bill in a holistic way, and as such, *[Interruption]* you are quite right, Member for Oropouche East, I do not need to go into the Bill, I do not need to go any deeper into the Bill simply because Port of Spain did an extremely good job on the Bill, such a good job that Members on the other side found themselves trying to find exactly what she was talking about and they still had no response. I am hoping that they will and, as my colleague said, they did not even read the Bill.

So, Mr. Speaker, what I will like to say is that we here on this side, we support the law of the land, and the law of the land indicates that if you kill the

punishment for that is the death penalty. What we do not support are the reasons why we need to make things more complicated by going the way of a murder 1, murder 2 and murder 3. Mr. Speaker, I thank you.

**The Minister of State in the Ministry of Education (Hon. Clifton De Coteau):** Thank you, Mr. Speaker. I would agree with the Member for Laventille West, when he said we support the law of the land, I agree with that, but I know if his contribution was for the calypso season he would have been doing well with “we should ah, could ah, would ah”, because after the fact we are all very brilliant and I understand your level of brilliancy after the fact, now that you are sitting there. [*Crosstalk*] [*Laughter*]

As the Member of Parliament for the constituency of Moruga/Tableland, I must admit that I have attended more funerals than weddings and christenings—and someone may say, I was not invited to the weddings or christening—and I have shared the grief of many families and one thing they were in sync with is what the Member for Port of Spain South said at these wakes where people were murdered, “Hang them high, hang them high, hang them high”. Even though you try to explain to them the need for justice to take its course they all synchronized “hang them high, hang them high, hang them high.”

Mr. Speaker, according to the statistics received from the Princes Town Police Station (CAPAB) which is the acronym for Crime and Problem Analysis Branch—this branch is the data processing unit that analyses information from crime reports and other sources to better inform the crime deterrence disruption and detection efforts of the Trinidad and Tobago Police Service. For the period January 01, 2007 to February 15, 2011 there have been 1,140 reported serious crimes in the Moruga, St. Mary’s, Barrackpore, Tableland and Princes Town areas, 115 of which took place in Moruga, 277 St. Mary’s /Barrackpore, 102 Tableland and 646 in Princes Town. Someone mentioned that for the period 2002 2010 we had approximately 3,335 murders.

Mr. Speaker, what we are looking at is really—we all seem to be in sync with the death penalty. What we are looking at is how we remove the artificial blockage to implement this death penalty when it is necessary. The umbrella terminology of serious crimes entails murder, attempted murder, robbery, wounding, housebreaking, larceny, malicious damages, trafficking narcotics, burglary and rape. The death penalty is just that, a penalty, a punishment, a consequence. To focus on its applicability as a deterrent alludes to the relevance in today’s society, we need to hold persons responsible for their actions;

responsible for taking the lives of others, responsible for the pain and suffering caused to others, we need to hold them responsible.

**6.00 p.m.**

Our society has reached a point where people believe that they can do what they want. I heard this morning that while some reporters were being taken around in some area, La Pastora—and brazenly—the farmers were attacked in the presence of the reporters. This is where we have reached today, and that is why we need to take back our country, Trinidad and Tobago. [*Desk thumping*]

Mr. Speaker, probably at my age I love to look at the Western Channel, Encore, “dow, dow dow, people shooting up each other.” The craziness, and I am saying, this looks so much like Trinidad and Tobago, no law and order, or, if it is there, we are not implementing it. [*Interruption*]

**Mr. Ramadhar:** Yes. The only thing missing is the horse.

**Hon. C. De Coteau:** The only thing missing is the horse. Thomas Szasz said:

“If he who breaks the law is not punished, he who obeys it is cheated.”

The use of the justice system should be such as to warn others. If we, the Government, set the example of imposing the death penalty on those convicted and deserving of such according to the law, then we would be seen as exemplars to upholding justice. The voice of the people, it is said, is the voice of God. According to the NACTA poll, approximately 72 per cent of respondents supported the implementation of the death penalty. I listened, I think two days ago, to 95.5, and all the callers supported the implementation of the death penalty. The point is, we all seem to be in sync, but it is how we arrive at the point. How do we get away from those people who are conveniently using all the corners and meanderings so as to avoid being punished?

On Friday, October 13, 2000, at the House of Representatives, the Offences Against the Person (Amdt.) (No.2) Bill was passed unanimously. The record would show that all 28 Members had agreed, but I think the Member for Port of Spain South did give some reason why it was not proclaimed. Let us look at it. Let us take the high road in this Bill. Let us be together because we know what we have to do. We are all responsible. In fact, I am hearing that being ventilated on both sides.

Let us try to get it going because the country, the people are looking at us.

They are expecting us, as their elected representative, to do something to protect them. We are the highest House in the land and we have to make a responsible decision to protect those people. [*Desk thumping*] The time for change is now, and the way in which to make that exact change is to show the criminals that we are serious. We have to show them that we are serious, but they seem to know that we seem to be a bunch of cowards. [*Interruption*]

**Hon. Member:** Not us here.

**Hon. C. De Coteau:** Certainly not us here. We have to show them that we are ready to have a safer Trinidad and Tobago. Mr. Speaker, everyone is aware of the pros and cons of the death penalty. You can go on the Internet and you will find it. [*Interruption*]

**Dr. Browne:** You tell us about it.

**Hon. C. De Coteau:** We need to focus on the stance that we mean business. When measures are being successfully put in place to capture criminals, we also need to ensure that the consequences match the crime. I know at one point that the Opposition was worried about whether or not the criminals can be caught by the police service. We must concern ourselves with the need for society to protect itself. As the Government of Trinidad and Tobago, the protection of the society is our responsibility. We must not be blind to the fact that it is our responsibility to protect the society of Trinidad and Tobago. Therefore, we must hold criminals just as responsible for their activities. They are putting a certain amount of fear in the people of Trinidad and Tobago and we must put some fear in their hearts. [*Desk thumping*]

Do you know what the “fellas” on the block are saying: “Boy, dem fellas up dey only foolin. Dem cyah do we nutten”? Criminals are not foolish people. They are technologically savvy. They would go into a community, they would monitor all the homes, and they would know when people are leaving to go to work and when they are returning. They are high-tech. They know your going and your coming, and what are we going to do? Just probably gain political points and they run free? We have to protect our citizens.

Recently in the Tableland area of my constituency, one of the recent murders involved the brutal stabbing—and I say brutal stabbing—of primary schoolteacher, Imtiaz Al—I have asked if I should call his name—whose blood-drenched body was found in the pineapple fields near Devil’s Woodyard in Hindustan. There were four stab wounds to Ali’s neck and both ears were punctured. The motive was robbery. Sixteen hundred dollars was stolen along with his wallet and its

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remaining contents. Sixteen hundred dollars for a life! Sixteen hundred dollars for a life! Is that the value placed on someone's life nowadays? People are being murdered for \$1,600 and even less. Three sons lost their father for \$1,600! A mother and father lost their son for \$1,600!

At the funeral, students were weeping. His teacher colleagues were weeping. Members of the community were weeping. It was really a sad day. What do you think would be the most deserving punishment for the murderer who committed this crime? Do you think he should be hanged? Well, I would orchestrate, I would ventilate and I would echo the sound made by the Member for Port of Spain South, "Hang them high, hang them high, hang them high." You see, sometimes it is very good, when you are not a relative or someone near to the person, to analyze, articulate and theorize, but when you are part of that, you think differently and you respond differently.

In the month of January this year, there were 46 cases of murder in Trinidad and Tobago. One such event entailed a taxi driver from my constituency. Nigel Huggins was earning a living by routinely running his taxi. He picked up three male passengers, and he was forced out of the vehicle by these passengers who were attempting to steal his vehicle. Huggins retaliated and they proceeded to bounce him with his own car. He then fell into a drain where those murderers chopped him about the body 18 times, slitting his throat, leaving him there to bleed in anguish waiting to be saved by death.

Last year August, Evelyn Harrington, a young lady who was on my campaign—a young person, very friendly, musical, singing her tune—was stabbed to death in her home. She was the mother of two. The police reported that she died from multiple stab wounds to her neck and back.

Earlier this year, you all would have heard about it in La Rufin, outside of Marva's Bar. "Fellas", in a normal lime having a drink; "fellas" approached, "shoot up the place" and one man died. So those who want to go and make a little friendly Friday lime at TGI Friday (Thank God It's Friday), would say, "You see me boy, I am not taking that chance." We are cautious, we are afraid. The young son or daughter going out there, you would say, "Listen, be careful, call me when you are leaving." You have to be careful. We are all living in a kind of prison, because no one, not one of us inside of here, is not a possible victim of crime because out there those people are respecters of no one, no one; and we are saying it is time that we do something about it.



They say that the complexities of criminal law and constitutional law as they relate to the death penalty can currently be expressed in layman's term, "They won't hang me even if they catch me." I would not go into that area of law because as my colleague, the Member for Laventille West, said, I am not so trained. Again, as I shared with the Member for St. Augustine, when I listened to the Member for Port of Spain South, she did grab my attention and I would really—I always take the highroad—compliment her for how she articulated—*[Desk thumping]*

**Dr. Moonilal:** She did make a good contribution.

**Hon. C. De Coteau:** It was an extremely good contribution to me. Thank you, Member for Port of Spain South.

Mr. Speaker, crime is playing the role of the largest hindrance in our development. It is playing the role of the largest hindrance of development in Trinidad and Tobago, as it deprives us of invaluable human resources, be it through its direct or indirect consequences.

As a Member of Parliament for Moruga/Tableland, as a Minister of State in the Ministry of Education, the lack of respect for laws of our country is plaguing our developing society, and more so the youths and the future of our nation. When you could read in the papers today where a Form 1 student—*[Interruption]*

**Dr. Moonilal:** Form 1?

**Hon. C. De Coteau:**—form 1 student—attacks a teacher, whether he was provoked or not, brutalized her in her head, that is literally madness. Do you know what the "fellas" on the block would say? "Oh, she disrespect meh", or "He disrespect meh." *[Interruption]*

**Dr. Browne:** You cannot hang a child.

**Hon. C. De Coteau:** I do not want to hang a child, but I am just showing you it starts—*[Interruption]*

**Mr. Ramadhar:** Disrespect for the law.

**Hon. C. De Coteau:**—disrespect for the law. Please, let us not go down with semantics. Please! *[Interruption]*

**Mr. Ramadhar:** If it is allowed, he would grow up a potential murderer.

**Hon. C. De Coteau:** He would grow up a potential murderer. That is a possibility. *[Interruption]*

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**Mr. Ramadhar:** Set the example that the law will return.

**Hon. C. De Coteau:** I would like to think that—I know the Member for Diego Martin Central’s intellectual capacity. He wants to get me in the field of semantics. I would not go there.

Mr. Speaker, the Members of the Government of the People’s Partnership are guided by the principle that the highest mission of society is in the development of our citizens, both young and old, according to our commitment to the administration to promote a process of people-centered development. Let us keep in mind those 3,335 persons who were murdered over the last 10-year period.

It is unfortunately accepted, as I said earlier, that crime and lawlessness threaten the very fabric of our society. However, as a proactive Government that owes a duty to its citizens, and I would also say in the same breath, as a proactive Opposition that owes a duty to the citizens of the country, we have to do something. We cannot allow offenders to continue to hide behind the cloak of a technicality enshrined in our Constitution. We cannot allow them to hide behind that.

I understand some of the points made by the Member for Port of Spain South—I have internalized them and I am sure some of my colleagues have internalized them—where she did mention that we are probably putting more bureaucratic stumbling blocks in place.

**6.15 p.m.**

But my colleague did say that the pretrial issue is wrong and I am sure my colleagues who are more articulate where the law is concerned will deal with that.

But we cannot allow our legal system to be taken advantage of by the offender. Guilty of murder means that you have intentionally taken the life of another. A murderer is a murderer and should be punished as such. Once found guilty, you should be punished. Drastic and inhumane? You know, we go back. In 1998, we had double digits for murders. Did anyone question the death penalty and call for its abolition? We are not saying it should be abolished. Now that we have figures of over 500, some people are saying why should you kill people, why should they be hanged?

Mr. Speaker, they will show you that USA, Japan, Singapore and South Korea have all implemented such penalties, many of which still retain a high regard for human rights. Government throughout the globe have shown that, to protect citizens, all avenues must be visited and certain policies, although they may seem extreme, are implemented for the greater good and to great effect.

Mr. Speaker, research conducted by the Ministry of National Security over the past three decades has shown that several factors influence the incidents of crime and violence in our society. They were well articulated by the Member for Laventille West. He spoke in terms of the economic gap between the rich and the poor; the speed of organization; poor urban planning; the planning and management, you know when we put some residents and there are no recreational facilities, nowhere for them to sublimate or to get rid of that extra energy—poor urban planning. I am not saying who is guilty, I am not saying who is guilty of doing that but these are some of the things we have to look at. To what extent would those who were in administration would have contributed to what we are inheriting today? I do not want to point fingers here now.

You know, according to Amnesty International, this human rights non-governmental organization, they talk in terms about the retentionist countries and how many were murdered and how many were unfulfilled. But what is noteworthy is that the eight-speaking Caribbean, they have remained unaffected by the abolitionist trend. We say that in 2008, Trinidad and Tobago along with Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St Vincent and the Grenadines voted against the UN General Assembly Resolution for the abolition of the death penalty. They also reminded us that the last execution in the Bahamas was in the year 2000. Mr. Speaker, a number of organizations are in support. I do not want to identify their names lest I be asked to give the data.

Mr. Speaker, the Government has implemented a number of crime-fighting initiatives. In the past seven months, we have seen improvements in the crime-fighting situation and I know the Members on the other side may not agree with that. Programmes have been put in place such as the Citizen Security Programme attached to the National Maintenance Programme; The Panyard Initiative and the Morvant/Laventille Initiative. For the remainder of 2011, under the Ministry of National Security, we will also see surveillance bays along the highways; GPS in police vehicles; a National Recognition Programme to honour and motivate officers of the law and other programmes.

Mr. Speaker, let us ensure that the amendment Bill can allow our judicial system to do its job. Let us punish those who deserve punishment. Let us punish those who deserve punishment. Mr. Speaker, the Bill will also make it possible for condemned prisoners not to use prison conditions or delays, such as what occurred before their trial, and other areas to escape. I have listened to the Members from the other side and they seem to be in sync with the death penalty it is how we reach that point. I have the electronic Bible here and what it says, if

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you would permit me. According to Revelation 13:10

“He that leadeth into captivity shall go into captivity he that killeth with the sword must be killed with the sword.”

The pastor is not here. Here is the patience and the faith of the saints. “What they said again.” They said that the death penalty was first instituted by God himself in Genesis Chapter 9:6:

“Whoso sheddeth man’s blood, by man shall his blood be shed: for in the image of God made he man.”

Exodus 21:12:

“He that smiteth a man, so that he die, shall be surely put to death.”

Mr. Speaker, the Constitutional Amendment (Capital Offences) Bill, 2011 is critical. It is very critical to the development of Trinidad and Tobago as a nation. Crime is wreaking havoc on our people and we must put a stop to it. We, the Members of the Government, feel the need to impose the consequences and punishment of the death sentence. We regard this as essential to securing victory against the criminals of our beloved country, victory against every murderer, gang member, drug trafficker, rapist, victory against crime. Let us now uphold the law and order in Trinidad and Tobago. Mr. Speaker, I beg all, let us support this. I thank you. [*Desk thumping*]

**Mr. Speaker:** Before I call on the Member for Diego Martin Central, I did ask this honourable House—I indulge the House to defer the item dealing with Presentation of Reports from Select Committees. The report is now properly before this honourable House and I am going to ask the Leader of the House and Minister of Housing and the Environment to present that report at this time.

**COMMITTEE OF PRIVILEGES  
(PRESENTATION OF REPORT)**

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. Speaker, I wish to present the following report:

A Special Report of the Committee of Privileges of the House of Representatives.

**CONSTITUTION (AMDT.)  
(CAPITAL OFFENCES) BILL, 2010**

**Dr. Amery Browne (Diego Martin Central):** Thank you, Mr. Speaker, for the opportunity to speak on this Bill and thank the Government, in particular, for

facilitating the democracy of Trinidad and Tobago. I see the Member for Oropouche East squirming in his chair but let me proceed into contribution.

Mr. Speaker, the Bill that this Government has brought to the House today can only be described as an historic one and those opposite like to dismantle everything that they put their hands on but I believe that today, this Bill and the presentation of the Attorney General were properly dismantled by the Member for Port of Spain South; properly dismantled.

**6.25 p.m.**

Mr. Speaker, the Commissioner of Police recently denied that there was a lack of manpower in the police service of Trinidad and Tobago, but I believe that in bringing this formation of a Bill to the House today, the Government has demonstrated, not a lack of manpower, but a possible lack of brain power in the corridors of governance of this country.

Mr. Speaker, the UNC once again—and they have done it many times before—have found a way to cut and paste from the hard work of someone by the name of Mr. Ramesh Lawrence Maharaj. And I do not think the Attorney General is accustomed to pronouncing that name at all, but he is accustomed to harvesting his work. So, they found a way to cut and paste from the hard work of Mr. Ramesh Lawrence Maharaj, but they have also found a way to ensure that this Bill will be rejected by every single citizen of Trinidad and Tobago.

Mr. Speaker, for the minority—and we have to listen to all voices in society—who are opposed to hanging in this country, this Bill tarnishes our nation's Constitution in a manner that cannot be forgiven. For the majority who expect to see murderers executed in the near future, based on expectations created by Members on the other side—and we will go through how those expectations were created—for that majority, this Bill is yet another UNC illusion; a false promise, designed never ever to materialize in any results. Because as sure as night follows day, no one who is currently on death row—and I want the Government to listen very carefully—will be executed as a result of this piece of legislation. And no one who kills in the future during the constitutional term of this Government is going to be executed by any of the provisions in this Bill. Smoke and mirrors once again, Mr. Speaker. They cannot do anything else.

So why are we here? What has brought us to this point that the Government has assembled this in a hasty fashion? The population has awoken out of its slumber and has recognized that despite all of their grand promises, this UNC-dominated coalition is unable to ensure the rights of citizens to safety. They are

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unable to ensure the rights of citizens to safety, and that is the reality. No one feels safer today than they did prior to the election. That is true. And the Government is pained to face that reality. This has been birthed out of that pain, to face the reality that they are unable to ensure the citizens' right. In fact, perceptions of public safety have, in fact, declined and declined precipitously and we need to bear in mind—

I heard the Member for Moruga/Tableland in a sort of disconnect. He fails to bear in mind that we just came out of a January, which was the bloodiest January in the history of the Republic of Trinidad and Tobago. That is the reality. So let us not come here and pretend to the population at all. And what is happening now is that the people are taking the law into their own hands. So the Government is talking about the law, and they brought this weak Bill, but the people are already taking the law into their own hands, because they recognize that despite their promises, the Government is unable to ensure their safety.

What is happening? Farmers are battling marauding gangs of thugs. The media had time to be there. Police were nowhere in sight. So, I do not know how we are going to hang persons if there are blades slashing live on television and there is no policeman around. What is happening in Trinidad and Tobago? I think they are trying to put the cart before the horse.

I saw on TV6 News two nights ago, so many—I did not know we had so many cutlasses in the nation of Trinidad and Tobago. I thought it was an airing of the movie *Kill Bill*—cutlass fight after cutlass fight, no policemen in sight. That is scenario that this Government is working within at this stage.

Villagers are using their vehicles to kill bandits, because they can get no proper response whatsoever. Violent housebreakings—housebreaking with violence and murder is back with a bang. It seems like no one is safe. No gate, no padlock, no fence, no alarm, no security system, no street light seem to be able to provide a sense of security, and to keep the lawless out of our premises in Trinidad and Tobago.

Mr. Speaker, I visited the Desperadoes Pan Yard very recently, a couple days ago. I was surprised, because the Government had a big ceremony and it was billed “We taking Despers back up the hill” and so on. They went back up the hill. I spoke to some of the guys there. They went back up the hill. And you know what? They came straight back down the hill that very day because of this situation of violent crime. So, while there is an attempt on the other side to paint this picture, maybe it is safe for Despers to go back up the hill; tonight, tomorrow

night, Despers is right down on the ground level in Belmont, because the situation is actually deteriorating as we speak. The band members are being shot, et cetera. So, that is the difficult reality the Government has to face. And what has that pain resulted in? Sadly, it has resulted in a dysfunctional Bill that is never going to bring any results to either the minority or the majority of citizens in this country. It is very unfortunate.

The police service is not catching the murderers. The judicial service is not efficient enough. I thought we would have heard a little about the school and education system related to this from the Member for Moruga/Tableland but, unfortunately, that has not happened.

But the Government made promises that are very different to the reality we find ourselves in. Their Declaration of Principles, very lofty stuff they presented to the citizens. Number two:

“Provide a safe, secure and sustainable environment where all people”—not them and their bodyguards—“can live, work and play without fear and in which their quality of life is optimised...transform the society and end the lawlessness and disorder which contributes to criminal activity...”

Very lofty words, but have we taken any steps to make this principle a reality? Is this Bill—I heard some very empty arguments—bringing us really closer to making this principle a reality? Are any citizens feeling safe and secure? Have we done anything to create a sustainable environment where people can live, work and play without fear? Mr. Speaker, I tell you that has not happened at all in Trinidad and Tobago.

The People’s National Movement recognized the insidious contribution of the drug trade and the pernicious contribution of the drug trade to the rise in murders and homicides in this country, and was taking steps to secure our borders, reform the police service, and also put very critical interim measures in place to try to treat with the low detection rate. The Government has taken some recent decisions that I will have to address that have actually rolled back the clock in that regard. So, while bringing this Bill, which is already demonstrated to be completely dysfunctional, they are working, sadly, maybe inadvertently, to lower the detection rate in Trinidad and Tobago. And I will demonstrate that to you in a little while.

The UNC came into power and engaged in an extensive dismantling exercise and rebranding exercise, but as the murders piled up, and a sense of frustration

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grew in the population, you know what. They realized they needed a weapon of mass distraction. They realized they needed a weapon of mass distraction and that is exactly what this Bill is. It is a weapon of mass distraction. [*Desk thumping*] They realized that the country was outraged and shocked by their ineffectiveness and they needed to appear to take action. That is all they needed to do, and this Bill is all about appearances and it is not at all about results.

I heard the Member for Moruga/Tableland listing some programmes and, unfortunately, I believe, I stand to be corrected, I heard him say that in the last few months they put in place the Citizens Security Programme. Mr. Speaker, what? I think he would need to visit the CSP and find out a little about the history and recognize that was a programme put in place to address crime at the community level by the People's National Movement [*Desk thumping*] long before there was ever a—the People's Partnership was ever dreamed of. So, maybe the Member is dreaming as well today.

Mr. Speaker, but look at the pattern. The immediate crime plan was supposed to kick off in June 2010; never materialized so far. With bodies piling up daily, including women and children—and I do not need to go through the gruesome stories like they have; bodies found in dumps and all sorts of heinous crimes taking place, including young professionals, accountants and others being murdered, the pressure was on. The Government had to do something. They had no answers, they had no plan, but they had to appear to be doing something. They also came into possession of some data, polling data, that suggested that the vast majority of the population would wish to see hangings resume, and that is where the master plan was formulated. That is where it kicked in.

The chronology is very interesting, and we got—now they gave an excuse as to the lack of consultation, and I heard a Member indicate that 10 or nine years ago there was consultation on this issue, and I cannot believe that is the materialization of their promise to consult with citizens before taking any serious decision. I cannot believe that is the new philosophy of this UNC coalition. Because, it would appear that the consultation that has occurred recently comprises of Government Ministers having a debate in the public sphere among one another; and I could name the Ministers, but that is not public consultation. That is consultation among them, and that should be going on behind closed doors; have your own discussions at the Cabinet and other levels, not in the media, and then come to the population and engage in consultation with Trinidad and Tobago. That is a responsible approach.

We saw the flag bearer, the brilliant strategist on that side, the Minister of



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Works and Transport. Early, he recognized that when you have a brutal murder, the solution will be to, the next day, get on the media and talk about hanging. That is something that will buy them time, and that is exactly what took place.

August 17th, open letter to the Attorney General urging him to implement the death penalty as soon as possible. I quote here from an *Express* article of August 17, the Minister of Works and Transport:

“I am sure I...”

It is “I”, eh.

“I am sure I have the support of the majority of citizens, in calling for the implementation of the death penalty.”

July 07, same Minister:

“Hangings will curb crime”

I quote:

“I am convinced that were we to reinstate hanging, it will have a dent on crime. I am convinced.

That is not public consultation. “I” it is all about “I”, Minister of Works and Transport. No discourse with the public about whether they are talking about a deterrent effect, or a punishment effect or a prohibitive effect; no discourse whatsoever; no intellectual engagement with any sector of society. But, I guess he can be excused. He is a Minister of Works and Transport.

But, then the Attorney General came here today and made an extremely weak case in support of this piece of legislation, and as I have already said that case was dismantled by the Member for Port of Spain South. Maybe that happens when you send someone who may have abolitionist philosophy to pilot a hanging Bill. That may be what happens when you rely on someone like that to move a measure like this.

Mr. Speaker, but the consultation continued on July 20, when one of the Government’s—well I do not know; advisors. This is the headline:

“Jack disappointed with Verna’s anti-hanging talk”

This was their consultation, “eh”, just maybe four people talking about this in the public sphere. I quote from the *Trinidad Express*.

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“I think it is unfortunate...”

This is the Minister of Works and Transport:

“I think it is unfortunate for any minister...”

I do not know if she is a Minister, but she is being referred to as a Minister.

“I think it is unfortunate for any minister to make a statement which seems to be an ultimatum.”

That was his position:

“...unfortunate for any Minister to make a statement which seems to be an ultimatum.”

But, a few weeks later on August 19, guess who is making the ultimatums in the public sphere? Mr. Speaker in the *Newsday*, in an article by Clint Chan Tack:

“Warner said he was prepared to speak with non-governmental organisations, walk the streets and even launch a placard campaign to lobby for the implementation of the death penalty.”

The same person who is telling Verna, advising her, through the media, it is unfortunate to make a statement which seems to be an ultimatum, is now lobbying in the public sphere and threatening to placard the very Government of which he is a part, because he is a strategist and he is on to something.

Then, a couple of days later, some of our columnists and analysts picked up on this trend. After every brutal murder, there is a knee jerk reaction of talk of hanging; nothing else than that, but just the talk. The Government seems to hope that will placate sectors of society, but they are not going to placate the thinking members of society with those empty words at all.

#### **6.40 p.m.**

They are not going to placate the thinking members of society with those empty words at all. And there was a very insightful and what has proven to be a prophetic piece of analysis in the *Trinidad Express* by a columnist by the name of Michael Harris, Mr. Speaker, and this is what he had to say, and I quote: “This is why politicians love this issue so much. If they can succeed” as the Minister of Works and Transport—he named him:

“appears to have succeed in igniting a widespread debate on this issue, then they are assured of a great cloud of passionate obfuscation, diverting attention from other pressing issues of the day which they may not particularly wish to

come under scrutiny.”

Mr. Speaker, I want to repeat that last part for you:

“If they succeed...in igniting a widespread debate on this issue, then they are assured of a great cloud of passionate obfuscation diverting attention from the other pressing issues of the day.”

And I started to think, why is it that the Government has been so anxious to move the debate from April, as was discussed with the Opposition, up to February? Why are they so anxious [*Desk thumping*] to have this debate now when the Attorney General came here today and told us in plain English—that is what he said—under these measures he is not going to be able to hang anyone for years. He said it, Mr. Speaker, it is on the *Hansard* for years. What difference would two months make to come back behind the Opposition to try to squeeze us and then made a big political statement in the Parliament about it? We succeeded, we got them to bring it up, but why have they done that now when they are talking about at best, a long-term measure and at worst something that will never bring fruit to Trinidad and Tobago? And, Mr. Speaker, the answer is this is their obfuscation to divert attention from pressing issues of the day which they do not wish to come under any further scrutiny [*Desk thumping*] in Trinidad and Tobago. And he went on to say:

“Igniting a debate on capital punishment is the ultimate red herring, the holy grail of unscrupulous politicians.”

Well that is strong language; I do not think there are any unscrupulous politicians on either side of this House.

“When it comes to the issue of crime, the country cannot allow itself to be diverted by such political sleight-of-hand.”

Just to wrap up, Mr. Speaker:

“...the real crime here is a political one. The Minister of Works and Transport...aided and abetted by...National Security and the Attorney General, should see the need to blow this giant balloon of obfuscation, strongly suggests that the Government either has no plan to put before the population, or are afraid [*Desk thumping*] to trust that the people have the wisdom...”

Mr. Speaker, words of wisdom. The last article in this, because it is a very interesting chronology how this thing has unfolded, which has brought us to this place today where the Government has a Bill which is already dead on the table,

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slaughtered by the Member for Port of Spain South. [*Desk thumping*]

Mr. Speaker, the last article in the series and it brings us to September 2010 and the title: “Hang them in The square”. Enter stage left the Member for St Joseph, not to be left out. Well first of all, again, I said there were about four of them who engaged in these consultations among themselves in the public space, including—I have never seen open letters from one Minister to the other in the media. I have never seen that in my life, but we are seeing it here.

“Most recently, Minister of Trade and Industry...said he was not in favour of returning to the hangman. But yesterday the Member for St Joseph...was very vocal about hangings, saying they should be a public affair. Persons should be hanged in Woodford Square in the morning,”

—for emphasis I guess.

“The people should see the hangings taking place, they need to feel the fear of God and have fear for the law.”

Mr. Speaker, as I said earlier, very early on in a previous term Ministers were advised that every time you speak in public, the words that come out of your mouth represent government policy. So it is not a case of just running your mouth and talking. When you have a Minister of Justice—I do not know if he has changed his position, he will have the opportunity in the debate, I am sure, today—saying persons being hanged in public in Woodford Square at 6.00 or 7.00 a.m., I am wondering if that remains the policy of the Government of Trinidad and Tobago, and if that is what their— These are their words, Mr. Speaker. I am not putting words in their mouth.

So, Mr. Speaker, look at the pattern. Their immediate crime plan was supposed—[*Interruption*]

Mr. Speaker, their immediate—[*Interruption*]

Mr. Speaker, the Member for Lopinot/Bon Air West is interrupting and he is being disrespectful. I invoke Standing Order 40(b), Mr. Speaker. He has already been named.

**Mrs. Gopee-Scoon:** He has been named, again.

**Dr. R. Browne:** Repeatedly [*Crosstalk*]

**Mr. Speaker:** I have observed some crosstalk involving Point Fortin across the floor, and I am seeing some responses from the back, so I really want to appeal to my colleagues, particularly the Members for Point Fortin, Lopinot/Bon

Air and Couva North. I think that, for instance, if Members can remain quiet and silent and observe Sanding Order 40(b) and (c), at least the hon. Member for Diego Martin Central would be able to make his contribution in silence. So I ask Members in the Front Bench, and in the Back Bench, do not engage in crosstalk, because that is what brings about disturbance. Continue, hon. Member. [*Desk thumping*]

**Dr. A. Browne:** Mr. Speaker, I think that is an example of some friendly fire taking place. Mr. Speaker, moving right along, so the Government, as we see in that evolution, thought they were on to something, a potential public relations gold mine and this is, after all, a public relations Government that we have on our hands.

The ideal formula would be as follows: tell the public you found a way to hang people in the near future. Tell them that. Make them feel that you can execute people who are currently on death row. Make them feel that because they were quoting the statistics coming down, you know. These people are on death row and the PNM could not hang them and so on. Create that perception in people's minds, when you know fully well this Bill does absolutely—it does not even pretend to address people who have already committed murder in Trinidad and Tobago.

Mr. Speaker, that is a level of what I would have to deem of deception that should not be practised. We need to engage much more forthrightly with the citizens and let them know what we are proposing and what cannot be delivered; and this Bill cannot deliver the results, the expectation that the Government has deliberately planted in people's minds. And you see the sequence, Mr. Speaker, some might be guilty and some might be very innocent in this regard.

The real test of these amendments will only come when the first future case works its way through the system, right up to—guess where—the Privy Council once again. That is where the real test will come, and we will see what the Privy Council thinks about the AG's clever little plan. And the Member for Port of Spain South gave us a prediction, and I think it is a solid one, of exactly what the Privy Council is going to do. I do not think they are going to get away with that at all, Mr. Speaker.

### **6.50 p.m.**

So every time there is a bloody murder you say “We brought a hanging Bill, we have done our part, do not blame us, blame the court system, blame somebody

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or blame the Privy Council”, and it buys them years, Mr. Speaker. That is the plan and they started doing it since last year, every time there is a killing, just say: we are working on hanging by August. Remember August 2010? Well that came and went. Nobody even asked them, because by then we were getting accustomed to the false promises.

You do not have to hang anybody, they know they would not hang anybody, they know they cannot hang anybody and many of them do not even want to hang anybody. That is another story, Mr. Speaker. [*Desk thumping*] It is all about perception. I do not know why they were pushing it so hard, why they were trying to force the Opposition when they know, they are talking about a long-term plan at best to get anyone even close to the gallows. That is not honesty.

They left some clues for us in the Bill itself, and we have gone through some of them. The Attorney General talked about all the delays in the process. He made heavy weather of all the stages of delays but in the new Part IIA, he creates categories of murder, fair enough, but never explained how this will reduce any of those delays. He never made that explanation or connection, so I do not know how the cure is really addressing the disease he was complaining about or the ill he was complaining about.

Then, 6M(2)(b) seems to be trying to oust the *Pratt and Morgan* decision, a practice which is certainly frowned upon by the Privy Council and we can predict it is going to trigger a very, very creative reaction from them when that time comes. There are other clauses, clause 6C(3), the new 6C(3), some sloppy definitions, definition of “immediate family member”, excluding “significant other” and you are talking about members of the uniformed services and so on, who are not unknown to have extramarital or cohabitational relationships. Some of those persons have been killed in the past, in association with the duties of the officers. This Bill makes an attempt, some of the clauses, to treat with that but these “significant others” are not covered at all in that regard.

Mr. Speaker, the Attorney General talked a lot about murderers abusing the system and delaying and buying time for themselves and then introduces a brand new additional step in the pathway to give them even more time, they can buy even more time. I suspect it might be inadvertent but some might say it is a Freudian slip by this particular Attorney General, whose heart may not be in this matter at all, Mr. Speaker. You would notice in every single article, every newspaper reference, we have never heard the Attorney General respond in

almost a year on this issue. He has had something to tell us on everything else from classical music, piano, tailoring, buildings, seizing passports, churches, he has had something to say on everything else, he has never spoken on the death penalty issue, Mr. Speaker. [*Desk thumping*] I could not find a single article except today. Think about it. [*Desk thumping*] So, it may be a Freudian slip, some of these obstructions in the Bill to efficiency or it may be something else.

Mr. Speaker, clause 6, the new 6H(2), introduces massive potential, guaranteed potential, for a floodgate of constitutional motions, judicial reviews, potential delays of additional years. So we are not heading in the right direction. For the majority out there who want to see hanging, this Bill takes them in the opposite direction and for the minority [*Desk Thumping*], for which this interference in the Constitution is heresy, well this is kryptonite for them, they are shocked at all of this.

No one gets anything out of this legislation, Mr. Speaker, and I strongly recommend to the Government that they do the honourable thing, as I suspect they are capable of doing, and remove this Bill from this honourable House, go back to the drawing board [*Desk Thumping*] and come once again. You have gotten some valuable advice already from Members on this side.

Mr. Speaker, clause 5 is especially telling as a key indicator of the Government's seriousness on this matter. I think a key indicator of seriousness would have been a decision or indication to the community, to the country, that the Government is considering a decision to replace the Privy Council with the Caribbean Court of Justice as a final Court of Appeal for Trinidad and Tobago. They have not, since May 24, spoken definitively on this issue. It is left up to the speculation of members of the public and this House as to what the Government's position is on this matter. The Bill certainly does nothing to address that.

The Attorney General took us through the sequence of the Privy Council. In 1979, a delay of six years was no problem. Then in 1982 he said, no delay is relevant, time is no excuse, then jumped to 1993, the Privy Council says, less than five years—anything over five years amounts to torture and is unconstitutional. Why are we subjecting ourselves and continuing to subject ourselves to that?

Then he spoke of creative new grounds for challenge that have come up along the way, so why is he sending us back there? Why are we continuing to go back to England where the last person who was hanged, was hanged, when, 1967. Some

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of us were not even a thought at that stage, were not even born as yet—1967—we continue to go back there like a moth to a flame or a mouse to a piano. We just keep going back. Let us not fool ourselves. They are just sitting, Mr. Speaker, waiting, rubbing their hands. They may already have this Bill in their sights waiting on that next case, that next heinous murder to work its way through the years up to them, and then they will take care of the Attorney General and this Bill, Mr. Speaker, easily and readily because they have done it in the past.

Mr. Speaker, we are aware that the Caribbean Court of Justice is not a hanging court, no one is holding it up as a hanging court, but with the pattern of abolition in Europe—and we even have the European societies writing to Caribbean Governments—their position is clear. England, since 1967, not having executed anyone, we know that that council is far remote from our realities and far remote from the toll of gun violence and gang warfare. That is what we are really trying to respond to, what the public is calling on us to respond to and the legal experts are fully aware that they are just waiting to find additional ways to block us. The Attorney General warned us that they are creative. Why does he keep sending us back there?

Mr. Speaker, if the Government was really serious about enforcing our laws, they would take steps to ensure that more judges are hired, better judicial infrastructure including information technology, improved monitoring and evaluation in the judicial system. The Member for Port of Spain South gave a very good suggestion of limiting the time frame of the Inter-American Committee on Human Rights suggesting 18 months with a specific provision in law, and not necessarily the Constitution, and any excess time would not be counted toward a five-year limit, Mr. Speaker, and start respecting the law yourselves.

There have been way too many examples in the recent past of high public officials literally flouting the law and, very importantly, to demonstrate to the public, in the absence of a crime plan, that we are serious about enforcing our laws is to demonstrate at all times respect for independent institutions and independent offices in Trinidad and Tobago. This is where the Government has been performing very, very badly.

Mr. Speaker, look at the new clause 6C. This Bill pretends to protect the Office of the Director of Public Prosecutions. The Bill pretends to protect the office of the DPP when, at the same time, the Government has used this very Parliament to attack the DPP and erode its independence. It is on the *Hansard*



record very recently, Mr. Speaker, and then look at clause 6H. How can the country be assured that the DPP will be free to carry out his duties unencumbered, under this section, if he is coming under pressure from the Attorney General or any other public official or Government official?

Mr. Speaker, the message to the Attorney General through you, do not bring Bills like this if you do not demonstrate respect for the Office of the Director of Public Prosecutions. [*Desk thumping*] Do not bring Bills like this if you do not demonstrate respect for the office of the DPP. In fact, I want to tell him, Mr. Speaker, leave our DPP alone. [*Desk thumping*] Do not interfere with the office of the DPP in Trinidad and Tobago. You know what they say after those types of statements. It was my personal opinion. It was my personal opinion.

Mr. Speaker, as I said, that is a sign of indiscipline. When you come into the Parliament, when you speak as a Minister in the public space you are not expressing your personal opinion. [*Desk thumping*] The words that come out of your mouth have to be considered Government policy, otherwise, what can we rely on? What can the public or the media rely on as the views of the Government? What can they rely on? It has to be their words and if that is the cop-out. “It was my personal opinion”, we are in a very, very serious place.

Mr. Speaker, this Bill has to be taken in the wider context. Remember we have had former ministers charged with murder in Trinidad and Tobago. We seem to be forgetting that. We have had alleged death threats, death threats—this is serious business—against senior persons in this country including prime-ministerial candidates. Death threats were reported. So it is not something to be taken lightly. What is going to happen if a public official, at some stage, pulls a gun on a police officer who is in the course of doing his duty? What is going to happen when you have situations where phone calls are being made to commissioners of police and all those types of arrangements? Is this Bill going to defend us from that? What if a public official tries to knock down a policeman who is in the course of effecting his duties? And, Mr. Speaker, if you would believe, such activities have happened in this country very recently.

**7.00 p.m.**

Mr. Speaker, if you would believe, such activities have happened in this country very recently, including December 02, 2010 on Henry Street in Port of Spain. I have seen the report by the policewoman involved and I do not think the public is even aware of the serious nature of what took place.

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Mr. Speaker, we talk about interfering with police in the course of their duties in the Bill and I will just quote—this is a letter, a report to the Commissioner of Police dated Thursday 02, December, 2010. [*Crosstalk*] This is WPC Gittens, Mr. Speaker:

“I refer to the above subject and have to report for your information around 12 noon on Thursday 2nd December, 2010, I was on foot patrol duty at the corner of Independence Square North and Henry Street Port of Spain dressed in police uniform. I was directing traffic on Independent Square North and facing West at the time. I observed vehicle PCA 84 a blue Kia Sportage proceeding East in the middle lane. The left lane is for vehicles turning left or North onto Henry Street while the middle and right lanes are for vehicles proceeding East. These directions are reinforced by arrows painted on the roadway.”

Mr. Speaker, we are talking about a policeman in the course of his duties—[*Interruption*]—[*Crosstalk*]

**Mr. Speaker:** Please, please, please, please. If you rise on a point of clarification and the Member does not give way, you will have your chance to speak. Continue.

**Dr. A. Browne:** Thank you, Mr. Speaker. [*Desk thumping*] Mr. Speaker, we are being trained to ignore nuisances and extraneous noises and I will ignore the Member for Fyzabad. Mr. Speaker, as a result—

**Mr. Speaker:** Please, please, please. I think you should withdraw that. When you say you have been trained to ignore nuisances—but what I am saying is that the implication is clear just—

**Dr. Browne:** I withdraw any association of the Member for Fyzabad with that comment; I withdraw.

Mr. Speaker:

“As a result of the lane that PCA 84 was occupying I gave the driver...”

—[*Interruption*]—Mr. Speaker, what is going on in this House? He has made an obscene and ridiculous comment. Mr. Speaker, I cannot tolerate that—[*Crosstalk*]

**Mr. Speaker:** Chandresh, could you withdraw?

**Mr. Sharma:** I said nothing, but if you heard nothing I withdraw it. [*Interruption*] [*Crosstalk*]

**Mr. Speaker:** No, no, no, please, please, please, please. [*Crosstalk*] Member for Fyzabad, Members are alleging that you said something across the floor that is very offensive. I am asking you if you did say so, withdraw it and I will also advise the *Hansard* reporter that that be expunged from the record.

**Mr. Sharma:** Could you help me? What did I say, because I said nothing [*Crosstalk*] and I withdraw if I said anything?

**Mr. Speaker:** He said he has withdrawn it, okay, and it has been expunged.

**Dr. A. Browne:** Mr. Speaker,

“As result of the lane that PCA 84 was occupying I gave the driver of this...”—

You see the truth hurts you know, Mr. Speaker. You realize what is going on, their cries of pain from the other side—Mr. Speaker, “I gave the driver of the said vehicle a hand signal to proceed East which is straight ahead. The driver ignored my directions and proceeded straight towards me and stopped the vehicle abruptly in front of me.” This is the police officer, “I jumped back to avoid being hit by that said vehicle.” Mr. Speaker, this is an officer pursuing the course of her duties being attacked by the use of a motor vehicle and there are also eyewitness reports verifying that this is exactly what happened. The officer had to move out of the way to avoid being hit by the SUV and we have the Member for Moruga/Tableland lecturing to us and telling us we need to start demonstrating observance of lawfulness at all levels in society. That is what he told us. Mr. Speaker, this is odious and horrific. It gets worse. I will treat with that at another time in terms of the suggestion by the Government that there were meetings, mediation and resolution of this matter.

Mr. Speaker, nothing could be further from the truth [*Desk thumping*] and I mean that literally but we will address that at another time. The Government cannot expect the people to take them seriously in this manner, Mr. Speaker. This Government is about PR gimmicks and personal promotion as opposed to serious efforts to nurture and protect the citizens. And what about the children? We heard mention by a previous speaker, but what about the children. What about protecting our children. Mr. Speaker, I want to ask through you, where is the Children’s Bill which is protecting our children from violent crime, murder, violence, torture, child labour, child prostitution, burning, mutilation, other forms of neglect and abuse?

Mr. Speaker,—yes, well, good. You cannot ask them about protecting the unborn child; not this Government. Mr. Speaker, I piloted the Children’s Bill in

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this very lower House to protect the lives of children. Mr. Speaker, it was extensively debated and you know what? The UNC, because they were in Opposition they said the penalties were too harsh. The penalties were too harsh. That is when they were in Opposition. Now they are in Government they preaching “pop necks”, hang people in the square in public, et cetera. That is the mentality of the shift between Opposition and Government, Mr. Speaker. When they were in Opposition the penalties for crimes against young children were too harsh but now they want to pop necks in Woodford Square. In fact, because of the presentations of Members on the other side when they were in Opposition, that Bill was sent to a special bipartisan committee of the lower House which met and did extensive work on the Children’s Bill.

Now nine months later that Bill is yet to come. Nine months later that Bill is invisible in this House while the Government pretends to care about safety in Trinidad and Tobago. Mr. Speaker, nine months later we have a Minister who prefers to appear on television ads, and some say he is pretending to be a social worker and no Children’s Bill to protect and children. They want to talk about reducing crime. That is a shame and a sham, a political ploy to fool the population into thinking that they are serious about crime.

Mr. Speaker, this Bill is designed and tailored to cover “Reshmigate” in Trinidad and Tobago. [*Desk thumping*] This Bill is designed to give the Government a few years, breathing room while they try to formulate something to reduce the crime situation but the citizens are seeing through all of their tricks. Yes, “Reshmigate”, that is what this Bill is designed to take care of, that is why they brought it from—

**Dr. Ramadharsingh:** Mr. Speaker, 36(4), Standing Order. [*Crosstalk*]

**Mr. Speaker:** Yes, I did not pick up the exact offensive language. What was the remark that you found offensive?

**Dr. Ramadharsingh:** Mr. Speaker, he is carrying on about shame and sham and the language was very offensive and he was getting very, very offensive.

**Mr. Speaker:** All right, I do not agree with that. Continue. [*Desk thumping*]

**Dr. A. Browne:** All right, Mr. Speaker, I will just carry on because clearly the Member for Caroni Central wants to entertain us today. Mr. Speaker, if—[*Crosstalk*]

**Mr. Speaker:** Do not use expressions like that across the floor. Nobody is a

racist in this House and I do not want that expression to be used. [*Desk thumping*] That is offensive. That is objectionable. Do not use those expressions across the floor. If you want to talk to—[*Interruption*]— Listen, I am on the floor please, please. What I heard was what was said, and what I heard was—so that word, if it is in the *Hansard*, expunge it and please, no more crosstalk. That is causing the problem.

A Member is on his legs—I keep saying Members, it does not matter how dramatically different or we may differ, I should say, in our opinions, democracy demands that everybody must have a say and they must say and they must be allowed to speak. You will have your chance to speak. Do not use those offensive expressions in this honourable House, please. Could you continue, Sir? [*Desk thumping*]

**Dr. A. Browne:** Mr. Speaker, I myself have to pound the table in support.

Mr. Speaker, if it was just public relations alone that would be merely characteristic of this Government, but it is worse than that. Unfortunately what is happening right now and this week is a lot more sinister.

**7.10 p.m.**

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

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

*Question put and agreed to.*

**Dr. A. Browne:** Mr. Speaker, I thank Members on both sides of the House, my brothers and sisters in the field of public endeavour, for their support in continuing.

As I was saying, Prof. Ramesh Deosaran and other criminologists have advised the Government and the Opposition, and all experts and all real social workers know that the murderers continue to thumb their noses at the Government, at the leaders and at citizens, because they know they will not be caught and if they are caught they will not be convicted. That is the more insidious reality, as opposed to these PR gimmicks that the Government has been playing. If the Government fails to address this issue, this entire Bill is largely irrelevant to citizens, except to create a perception.

Unfortunately, they have made the situation worse, where criminals feel they will not be caught and if they are caught they will not be convicted. Recent

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actions of this Government, even as this Bill is in this House, have made that situation worse. I base that comment on a recent proclamation by the Minister of National Security. How on earth can we increase our dreadful detection rate, to get people before the courts to even test this Bill, if they have committed murder, when we are dismantling the very agencies that provided a ray of light or hope in improving our detection rate? It is very, very serious what is happening.

We are not talking about litter wardens or traffic wardens; we are talking about very serious crime scene investigators, experts and other critical pieces of our country's efforts to turn around a very serious situation. This cannot be a political game. This cannot be the subject of political games. I think the Government is making some wrong decisions which will lead to disaster in the future.

These gaps in the chain between committing the crime, detecting the crime and conviction, the Special Anti-Crime Unit of Trinidad and Tobago were designed to address some of those issues. That was the purpose of bringing it on board, dealing with the kidnappings for ransom which sometimes led to murder, also dealing with gang-related homicide in Trinidad and Tobago.

We were in a crisis when it came into place and we are still in a crisis, but some of the rays of hope that were developed are being extinguished at this time, and I will give you some of the evidence. I advise the Government that they may need to look again at those decisions, because those types of announcements only bring joy to a potential murderer, only bring joy to a potential drug trafficker or a kidnapper for ransom. [*Desk thumping*] This is very serious.

First of all, I will go through this very concisely. That agency never intercepted anyone other than criminals, despite some early announcements and firing of someone under false pretences. Mr. Speaker, we were struggling with the epidemic of kidnapping for ransom, with deaths, with executions. In 2005 there were 58 reported cases, but that was when SAUTT started working with the Anti-Kidnapping Unit, to change that. In 2006, 17, and the associated deaths went down; 2007, 14; 2008, nine; 2009, seven. From 58 to seven reported cases, that to me, sounds like progress. That sounds like something you would want to encourage and facilitate, as opposed to going back to the future, which is what this Government is specializing in; operational and strategic success, but that capacity is now being weakened at this time.

Simply handing over very sensitive equipment to the police service, who do not have polygraph tests, who all would admit has a lower bar in terms of the

entrance into that service, and we all know of the suspicions that some of the cartels have made inroads into significant ranks within the police service. Not to denigrate the entire service, there are excellent officers, but we know that is the reality within which these kidnappings and gang-related murders began to flourish, and that is the reality in which some of those interim measures were put in place. Simply dismantling it and handing over men and resources into the existing TTPS system is a very bad idea.

This is not an academic discussion. My family's lives and the families of all the citizens have to be considered. I cannot tell the Government what to do, but it might need to look again. They overall achieved a 95 per cent detection rate in these cases and then kidnapping has become very unprofitable in this country and the associated deaths have gone down.

What about gang-related homicide? These are some of the people who should be brought before the courts and associated with the death penalty. The element of hope with regard to those gang-related homicides began emerging around 2008 with the formation of the Homicide Investigations Task Force by SAUTT. By 2009, the rays of hope began to emerge; the detection rate for gang-related homicides had improved for those cases to about 40 per cent. It does not sound like a lot, but that is much higher than most of the anti-gang units in the United States and other parts of the world, so it says that the experts, as the Member for Diego Martin North/East referred to them, and the new technology have the potential, if properly applied, to really make a difference in this country; and it was beginning to make a difference.

Mr. Speaker, at 40 per cent, we need to bear in mind that gang-related murders are less evidence-rich crime scenes, than, let us say, a murder associated with someone climbing through a window, coming into a house and so on. You are talking about driving by or walking up and shooting someone and disappearing; there is very little evidence. But a 40 per cent detection rate says something very right was being applied. You are talking about higher levels of professionalism and attention to detail; rapid response teams 24 hours a day, seven days a week. As the bullet is fired, within a short space of time, if it is gang-related, the police service and SAUTT connect and the team arrives on the scene. What is the Government doing about that?

As I said, dismantling, turning over the men to the police service and the sensitive equipment, while it may sound good on paper, given what we know and the situation we are trying to address, is a terrible idea at this time. There are some

suggestions coming up.

There is a lot of high-level training taking place; about 3,500 officers were trained under SAUTT. What is going to happen to that? I heard talk from the Minister about the Ministry of Science, Technology and Tertiary Education taking over the Academy. That is such a bad idea, but I will deal with that on another occasion. It will take me a little more time to flesh that out.

In 2010 a review team looked at a crime scene. There was a TTPS team of CSI investigators to investigate this crime scene and also a team from SAUTT CSI Unit. The TTPS officer finished his review in 20 minutes; he said that was a typical type of crime, they get very little evidence, he did a bit of dusting, no evidence was collected. The SAUTT CSI team spent two hours on the scene and retrieved significant evidence, acquired, packed and labelled it, photographed points of entry, extracted hand and footprints—two hours as opposed to 20 minutes.

So you are talking about significant resources that the Government met in place that were active, directed at criminals, not against politicians or anybody else; we are talking about SAUTT, and a decision made to go back to the future, as it were, in that regard. That is not something we would want to encourage. By dismantling SAUTT, sending home the foreign experts and handing over those resources simply to the police service directly, are we going to be able to properly detect our murder scenes, to bring people before the different levels of this Bill?

This is very serious. This is not an academic discussion. Bear in mind that the detect rate for these crimes in the police service tends to be less than 10 per cent, so it is a very stark comparison. The price is going to be very high for our citizens. Look at what is happening in East Port of Spain right now and we are not detecting those crimes. People are being killed with alarming frequency. Moving the police post, as was done recently, was a very bad idea, because there was an immediate rebound in murders at Besson Street, East Port of Spain and “Behind the Bridge”, and I spoke about the experience with Desperadoes.

The Bill is good; the Government has gotten some PR value out of it, but they are making some atrocious decisions at this time that are directly related to outcomes, to results for citizens, to that sense of public safety. I think they are relying on some of the wrong advisors in that regard.

This Bill has been exposed as a non-starter. It is non-functional and I believe it is just a PR gimmick. It has nothing for anyone. The abolitionist minority will be disappointed and insulted by this Bill, and they already are. I see some of them



outside with placards. The hanging majority will also be completely disappointed. They have been set up to believe that people who are currently on death row will be somehow affected by this legislation; they will not. They have been led to believe that persons who kill tomorrow or next year will be facing the gallows in the near future; they shall not. This Bill does not address that whatsoever. They sold precious hope during the campaign. That hope was to restore safety to our streets and homes, to reduce murders and violent crime.

In closing, I want to remind this House that the Member for Siparia and her team even resorted to calling a past Minister of National Security—do you know what they called him? Sponge Bob, Square Pants; that was very unfortunate. Look at how they are treating with contract workers today, throwing everyone overboard. The message seems to be: “Might is right; fight violence with violence, fight injustice with more injustice, fight poverty with exploitation and Santa hats and photos on the front page; fight injustice with greater injustice.” They are navigating without a compass it seems, on the issue of crime, but are also ready to regale us with tales from the past, stories from the past.

This Government promised to rescue T&T. That was the mandate they were given. Instead they have been teaching us the true meaning of national disaster, because that is what this Government is. They have resorted, time and time again, to gimmicks and public relations to fool the people. They fooled the foolish on May 25, in my opinion, but the population knows their tricks by now. [*Desk thumping*] This Bill is one last attempt to buy some more time and distract us from their misdeeds, missteps, mistakes, “miss-Rishmis”, misprints, et cetera, et cetera.

In conclusion, in speaking of the “miss-Rishmis” of the world, I would conclude with the clearest sign that this Government is not serious in how they make decisions affecting the safety of our citizens. They are not serious. I firmly believe that the decision to disband SAUTT is a monstrous mistake, directly related to the homicide rate in the future of this country.

When I heard the Minister of National Security, I checked back to see who was on the review team that reported to the Prime Minister and the Minister of National Security. You would not believe who featured in that critical decision for the safety of this country.

On that review team, a deputy commissioner of police, a deputy Permanent Secretary, a security consultant and the Deputy Director of the SIA, none other than Miss Julie Brown herself. Can you believe that? That is the advisory team

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that has resulted in those grand announcements by the Minister of National Security yesterday, featuring the Deputy Director of the SIA, the same Miss Julie Brown who they blamed for “Reshmigate”, who they threw under the bus. I saw Gary Griffith up and down the country and the media, blaming this person for that terrible decision that was made. They washed their hands of it. The Prime Minister cannot have her cake and eat it too; you cannot be blaming an officer for the worst decision in national security in this country and then have her advising. [*Desk thumping*] You cannot have her advising this nation on such a critical decision to the lives of our families and citizens in this country. You cannot have your cake and eat it too.

These people are not serious; they cannot be serious, and that has to be a terrible decision. My advice to the Prime Minister is to scrap the Julie Brown report today; rescind that bad decision to disband the Special Anti-Crime Unit of Trinidad and Tobago today. Once again, you are putting our lives at risk for political purposes. You are not spiting the PNM when you take action like that; you are spiting the citizens and families of Trinidad and Tobago. [*Desk thumping*]

Mr. Speaker, we will not allow this foolish Bill to get anywhere close to the Constitution of this country and the citizens will continue to see through this Government’s self-serving machinations.

Today is February 18. On this very date, in the year of our Lord 1797, the island of Trinidad was surrendered to the British Royal Navy under Sir Ralph Abercromby.

**7.25 p.m.**

And we sit in this House today and we stand in this House, right next to Abercromby Street which was named after that gentleman, the same 18th February. And today as we deliberate in this Chamber my advice, based on the Government's presentation, is that we must sever our ties at some stage with the British Privy Council, we must reject this debacle of a Bill and we must reject this total disaster of a Bill. Mr. Speaker, I thank you. [*Desk thumping*]

**The Minister of the People and Social Development (Hon. Dr. Glen Ramadharsingh):** Thank you very much, Mr. Speaker. I made sure to rise and seek your attention so that I could speak here today and have this opportunity. I tried with great effort and attention to find points to respond to, to rebut the contribution of the hon. Member for Diego Martin Central, but suffice it to say, I will have to rebut some of the misinformation that he tried to plant in the minds of the population.

I find it very disappointing Mr. Speaker, that he made the statement coming to the end of his contribution, “that they fooled the foolish on May 24”. I find it very disappointing that he would say that. The twenty-nine constituencies representing more than 20,000 people, you are talking about 600,000 members of our population, calling them foolish? That is sad, it is sad. And I would like to know, are you saying that the entire voting population of the People’s Partnership, which was in fact 422,000 persons, is foolish?

If even some of that population may have thought, may have put it in their minds for one second, one fleeting moment, they are now never going to support people who call them foolish. They are not going to support people who call our children with the laptops, “duncy”. They are not going to support people who get up and say in their contribution that the presenter was foolish 32 times. They are not going to support people like this. They want constructive programming in the Ministries. They want policies; They want to see effort.

I think, MP for Diego Martin Central, if you want to apologize to the 422,000 people I would let you, but I know you will not.

**Hon. Dr. G. Ramadharsingh:** I know you will not and will have your—

**Dr. Browne:** Thank you Member for giving way. Mr. Speaker—

**Hon. Dr. G. Ramadharsingh:** You will have your opportunity. I know that you will want to grab the spotlight with your egoistic exploits, as I had demonstrated before, with the pictures. Anyhow, I will get on the contribution, Mr. Speaker.

If you listen to the Member for Diego Martin Central, you will buy a ticket and leave this country. According to him, nothing is working. Apparently everything in this country was working for eight years and when the government was lost, everything is breaking down; breaking down; there is confusion out there, all kinds of ridiculous accusations, talking about the Judiciary and the inability for the machinery of justice in this country to work. I cannot believe my ears! A government that presided over 400,000 cases that overloaded the Judiciary, that blocked the cogs in the wheels of justice in this country, a government that did that to this country, speaks about “freeing up” the justice process in this country.

He is asking, do members of the population feel safe? Do you believe that? When kidnapping was running rife in this country; when a woman would be the victim of a kidnapping and people would attack her viciously, as if she was an animal, and then when she comes back home and is found, her husband will not

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have her no fault of her own, she is cut open and desecrated! An administration that was unfeeling and uncaring, and called people who died under gunfire, “collateral damage”. Those people come to ask the population, if we feel safe? Yes, we feel safer than we felt in those eight years! [*Desk thumping*] Yes, we know that we are heading in the right direction, and yes we will continue to listen to the people who have constructive comments to make as to how and what is the way forward.

The Member continued to speak about low detection rates. Well, I would like to know, in eight months’ time, this Government is responsible for low detection rates? Low detection rates have been the legacy and the hallmark of a failed administration in this country; an administration that the people resoundingly rejected. When and the Prime Minister in her wisdom, because you are saying they fooled the foolish, she said, “Okay, let us have another election, local government election”.

It was the Member for Diego Martin Central who fled the country, [*Desk thumping*] who decided that he did not want to be part of this “licking”, and he gave away the Diego Martin Regional Corporation to the People’s Partnership and we thank you, because the people of Diego Martin today breathe a sigh of relief, that they can now govern their local affairs. [*Crosstalk*]

It is so sad, and I suggest that if the Member—the Member spent at least 25 minutes on the hon. Minister of Works and Transport. Maybe you should meet him in the corridor and you could save some of that contribution for constructive comment on the Bill.

He kept accusing us of using weapons of mass-destruction. Well you know what, against the population they used weapons of mass destruction. They destroyed families, they destroyed homes, they destroyed the lives of people in this country because of their inability to govern the country. We do not distract, we interact, we act, we serve, and we deliver [*Desk thumping*] in the People’s Partnership Government of Kamla Persad-Bissessar.

You know, as if to outdo himself, Mr. Speaker, he actually talked about attacking independent offices. Well that seems to be the obsession of the leadership of the last administration; hounding members of the Judiciary out of office, going aggressively after them and giving them little choice to act independently and here we have a point coming from the Member about hounding people out of office. How sad that he would go there.

The Member tried to use statistics. These statistics, Mr. Speaker—we have them too—the total crimes that were committed from 1990—2011. We have the statistics. And you remember how they played with statistics, and manipulated statistics for their own devices. I cannot believe that the Member had the temerity to quote statistics in crime. I cannot believe it! And I cannot believe that he used statistics because his former Minister of National Security, who the Member for Oropouche East, the “fella” could not even write his own resignation letter. The Leader of Government Business had to write his resignation letter for him. He used statistics all the time and tried to tell people, held a big press conference, and said “Okay, we have good news, we have a decrease in the increase in crime, and then he pulled out his statistics, and, Mr. Speaker, he walked with three types of statistics. He had three statistics in his back pocket; one to fool the Government, one to fool the Cabinet and one to fool himself. [*Desk thumping*]

If you listened to the gentleman, he was very convicted about what he was saying and a colossal failure that the former Prime Minister, Manning, refused to move when the population was calling for his head. Let me give him the real statistics. In their nine years they spent of taxpayers ‘money’ \$25 billion on crime. They frittered away the patrimony of this country to the tune of \$25 billion on the blimp, on Mastrofski. Mastrofski wanted to implement “Yankee Doodle” policing in Trinidad and Tobago.

**7.35 p.m.**

Mr. Speaker, the Member spoke so glibly about the colonial influence and how we should remember that it was surrendered and so on, and we must move on now and get rid of the Privy Council, but they have brought in foreigners and consultancies to tell us how to deal with local, on the ground, on the street crime in Trinidad and Tobago, when, never utilizing the resources, the statistics of our local criminologists, abandoning them but giving lucrative contracts to consultants from outside. [*Crosstalk*] Mastrofski.

If you look at the architecture of this honourable House you will see the remains of a colonial influence. It is an influence that runs deep in the society. It affects the way the public service functions, it affects the way we greet and meet and engage each other and entreat each other in the society. We are a spin-off of the colonial influence, and therefore, it would have been wiser to bring consultants from countries that have the same experiences to implement studies that were done in the Caribbean, possibly England, but they came and brought Mastrofski for \$80 million to tell us how to run a police service—

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**Hon. Member:** Eighty three million.

**Hon. Dr. G. Ramadharsingh:**—\$83 million to be exact—wasted away the—it was as if they were insulated from the people, as if they were hovering off the ground while the crime and violence in the society ran wild, and they come here to quote statistics about crime. What a shame, Mr. Speaker!

**Hon. Member:** What a shame! [*Desk thumping*]

**Hon. Dr. G. Ramadharsingh:** Anaconda, Baghdad and all kinds of names—name playing and statistics gaming, that is what they were involved in. [*Interruption*]

It was as if they were hovering off the ground, insulated from the people, locked arm in arm because they were all saying the same thing that the master told them to say; as if they were all in a blimp themselves, a political blimp that turned out to be a political blight that this country swept away on May 24 and demolished them from office. [*Desk thumping*] Sadly, it took the lives of 3,335 of our brothers, sisters and children. [*Interruption*]

The Minister of National Security at that time, Mr. Martin Joseph, refused to resign despite widespread calls for his resignation from civil society, from NGOs, from government agencies as well and from the population at large. They stood by him, they held on to him while he presided over the liquidation of our social assets, our people. He presided over the demolition of communities. He sat there while criminal activity ran wild in the URP, the CEPEP and other make-work programmes, and they sat there in their air-conditioned, lofty offices, oblivious to the pain and suffering of the people.

The detection was less than 10 per cent and I would like the Members on the other side to tell me if they were happy, having looked at the Hood Report from the University of the West Indies, which said they convicted only one in one thousand murderers. That is their legacy and that was their conviction rate. They allowed the sale, distribution and allocation of cellular phones in the prisons of Trinidad and Tobago. Marijuana was available in the prisons through the prison service of Trinidad and Tobago, and hits were ordered on innocent citizens of Trinidad and Tobago under that administration. They do not have the moral authority to talk about crime. They failed for eight years. [*Desk thumping*]

Mr. Speaker, the Member also asked about the Children Bill. Where is the Children Bill? He makes the accusation that the Government engages in PR, but

he does not read the articles, he just looks at the pictures. He likes picture-friendly papers, so he does not read the captions. [*Laughter*]

**Dr. Browne:** Mr. Speaker, not “he”, “the Member”.

**Mr. Speaker:** Yes, the Member.

**Hon. Dr. G. Ramadharsingh:** Yes, the Member for Diego Martin Central. [*Interruption*] I should be specific in that regard. Having looked at these pictures, he does not read—the Member does not read the captions, because under this Government led by the Prime Minister, the hon. Kamla Persad-Bissessar, the children who suffered and needed life-saving surgery, the children who are born to a whacker man in Barrackpore and born to a taxi driver in Carenage, who, under their administration had to have a “bar-b-que”, and people had the “bar-b-que” in the communities, in the temples, in the mosques and in the churches. They had it because they wanted to save life.

They wanted to pay \$750,000 and they started off with \$5,000 and they held a “bar-b-que” and the rain came and washed away the “bar-b-que” and they lost \$2,000. They went for a “curry-que”, then for a bazaar knowing that this child is dying every single day, every single hour and every single minute and the Member sat in a Cabinet that presided over the inability of the government to deal with the children of this country. [*Desk thumping*] They asked, “where is the Children’s Bill?”

We passed the Children’s Life Fund Bill in this Parliament to save the lives of the children of Trinidad and Tobago. The Prime Minister, one of her first acts was to pass that Bill that would save those—and today every Member of Parliament contributes a portion. Never before in the history of Trinidad and Tobago have we seen that kind of benevolence on the part of government officials, and the Prime Minister herself doubles the percentage that she gives to the children. Where are the children? Today the children can grow up in a home where they are not wealthy and they could get up to \$1 million to save their lives. [*Desk thumping*] That is where the children are under this administration. They continued to crow about the alleged successes of a failed administration in a Rip Van Winkle manner, as if he just got up and recognized certain things were happening.

Mr. Speaker, the Children Bill would come to this Parliament very shortly. We have had several problems with some of the measures in that Bill and we would not bring it in a piecemeal manner as it was done under the last administration, without a holistic plan. By the way, nobody is being fooled. You could pass all the legislation in the world, that organization called the Children’s

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Authority is an authority that would bring us on par with First World countries. We cannot rush this. We cannot come and pass legislation—we are not about fooling people that we are passing legislation, we are putting in the infrastructure.

Today the Chairman of the Children's Authority wrote me and thanked me for some of the measures that I have put in place. *[Interruption]* We are handling two horses at the same time. We are whipping and moving forward with the legislation on one side of the wagon and we are whipping and putting in place the infrastructure for the Children's Authority to function, so that when those two horses run at the same time and they take us to the same place, we would come when we are ready with the packet of children's legislation in a holistic manner and we would enact the authority to function and deal with children's issues throughout the length and breadth of Trinidad and Tobago. *[Desk thumping]* Trinidad and Tobago would be a shining example in the Caribbean and this part of Latin America in the forefront of children's protection and rights. *[Interruption]*

What has happened? I do not blame him. It is now the Ministry of the People and Social Development. We now know what the focus is. It is not social development while you are building million-dollar castles; it is not social development while you try to buy private planes; it is not social development while palatial buildings go up and rise—you are raising the skyline of Port of Spain while the people in Fyzabad cannot get water, the people in Barrackpore cannot get a food card and the people in Arima are suffering from bad roads in some parts. *[Interruption]* We do not even have to go there. What has happened? The Ministry of the People and Social Development is like a 5 ml syringe of adrenaline that has been injected into the Ministry of the People and Social Development that has it alive *[Desk thumping]* and running to truly do the work that it was intended to do. *[Crosstalk]*

Mr. Speaker, as I continue my contribution, we all know the issue that we are grappling with, the issue that we are dealing with and we are making some serious progress. This issue that has had the country at ransom is the issue of crime. As I said, communities were under siege and the lives of men and women have been destroyed. There has been a preponderance of gangsters under the last administration, but our Prime Minister has clearly delineated a crime plan, not a crime plan that just comes from the air or that we just draw up.

They keep giving the impression that this Government does not have policy, this Government does not have a plan and it is a strategy that they try to employ to deceive the population. This document *[Holds up document]* is one of the most



comprehensive, this is one of the most succinct and this is one of the deepest documents dealing with programming of social programmes and national issues. [*Desk thumping*] This is the manifesto of the People's Partnership. [*Interruption*] This is now Government policy and it is a document that would charter the course of Trinidad and Tobago into the dimensions of the 21st Century.

In this document we have clearly articulated crime reduction and human security, attacking crime and nurturing a caring society. In this document the Prime Minister did not speak about the three-pronged approach just like that. It is here: law enforcement, overhauling the criminal justice system and re-socializing away from crime. That is the way that we are dealing with crime.

Therefore, Mr. Speaker, this Bill is one measure in a series of measures that has to be done in that holistic fight against crime. It is similar to the fight against poverty. They could not have launched a war on poverty because they had weapons in the Ministry of Community Development, they had some in the Ministry of Social Development, they had some in URP and CEPEP, some in the Ministry of Sport and Youth Affairs, and so they could not have had a synergistic blow at poverty. We are at this time harmonizing all of those grants and making them more relevant—and so too with crime—and making them more accessible. And so too with crime we are putting in—

**Mr. Speaker:** Hon. Member, we have a procedure that we have to address. Leader of the House.

#### PROCEDURAL MOTION

**The Minister of Planning, Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. Speaker, pursuant to Standing Order 10(11), I beg to move that the House continue to sit to debate the matter of the Constitution (Amdt.) (Capital Offences) Bill and to debate the Bill under “Private Business”, The Way of Trinidad and Tobago (Inc.) Bill. I beg to move.

*Question put and agreed to.*

**7.50 p.m.**

#### CONSTITUTION (AMDT.) (CAPITAL OFFENCES) BILL

**Hon. Dr. G. Ramadharsingh:** Thank you very much. Mr. Speaker, we saw that in the middle of 2008, Trinidad and Tobago had gone down so badly in terms

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of rise in crime, that we were given the ill-fated honour of becoming the “murder capital” of the Caribbean, outstripping even Jamaica, which allegedly had the highest level of organized crime in the region. That year, homicides increased in Jamaica by a mere 2 per cent, while in Trinidad and Tobago under the PNM it skyrocketed to a massive 38 per cent.

Mr. Speaker, this mushrooming crime under the PNM is a crime that we are dealing with here today and, as I said, this is one measure in a series of measures to battle the escalating crime. We intend to continue and intensify our efforts in the face of some of the successes that we have had:

- the appointment of a new Commissioner of Police;
- the appointment of two Deputy Commissioners of Police—something that they could not have done;
- the review and restructuring of the Special Anti-Crime Unit;
- the passage of the Interception of Communications Bill;
- the introduction of the Anti-Gang Bill, specifically targeting gangs and gang-related criminal activities, where a large number of crimes and homicides take place;
- the introduction of the Bail (Amdt.) Bill;
- the creation of the Ministry of the People for social interventions—[*Desk thumping*] to re-socialize people away from crime;
- the increase in grants and benefits to the less fortunate in the society.

Mr. Speaker, these are some of the successes that we have had. The time has come today for us to reclaim our land and reinstate confidence in Government—particularly our law enforcement agencies—which is happening under our powerful administrator, the Minister of National Security.

This Bill partners with some of the new initiatives we intend to aggressively pursue;

- the regulations for the prison service, with special emphasis on rehabilitation and restitution;
- the introduction of GPS technology and the outfitting of police cars with GPS, transponders and tracking equipment;
- the abolition of preliminary enquiries, which my colleague, the Member

for St. Augustine, spoke at length about the benefits that will be accrued in that regard;

- the comprehensive package of legislation directed at improving the pace of the criminal justice system.

In today's age they had the temerity to talk about detection. We, the People's Partnership Government, will complete the DNA lab, Mr. Speaker.

- The use of Internet will be employed in the fight against crime;
- we will utilize text messaging; and
- we will establish a virtual crime-fighting command centre.

All of these are plans and initiatives that we have.

The Bill today categorizes murders and the mandatory imposition of the death sentence will only be delivered in relation to murder 1. This includes, Mr. Speaker, the serious crimes because we have to protect our officers who are there on the front line. We in this Government believe that the front line is the bottom line; that is why you see our Ministers out there, out in the field meeting the people, interacting with the officers, talking to the troops and going—of course responding to any national emergencies and also changing policy to accommodate persons on an emergency basis. Therefore, we have a duty to protect our front-line officers. So the mandatory imposition of the death sentence will be delivered for murder 1 which includes the killing of a member of the security force, a prison officer, a judicial or legal officer acting in the performance of his duties, the murder of a witness or a juror, murders committed by a bomb and contract murders.

Mr. Speaker, if you have had the opportunity to meet with Mrs. Yvonne McIvor—Mrs. Yvonne McIvor was walking down the streets of Port of Spain—Frederick Street—like any one of us. She was a normal citizen; reading her books; going to social functions and making a trip to Port of Spain to do some shopping and coming from medical treatment at times. And on that particular, fateful day, coming from medical treatment, because of the lack of enforcement of security initiatives, and for all the reasons that we have mentioned so many times, there was in fact a bomb nearby. And if you have had that experience, Mr. Speaker, you will know why we are putting these measures to include murders committed by a bomb.

Mrs. McIvor's feet were blown off. Her hearing was blown out on the left part of her body. And today, she is a very blessed soul. She still reads, she has a lot of

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friends and she is a beautiful hostess, and someone whom this Government will treat with in a very special way, because of the great injustice that has been done to her life and her family. Those initiatives we will talk about at another time, but we are beginning to prepare measures to lift her life and we have already ensured her security in terms of a caretaker and other facilities; but it is a very sad day for such a fate to befall a citizen therefore, we have included that.

We have looked at how this has worked in other countries and this Government makes no apology for tough law. Tough law and order are sometimes needed in the society when things are out of control. Singapore is one of those countries that is widely acknowledged for having a transparent and fair justice system and is considered one of the safest places to live and work. That Government weighs the right to life of the convicted against the right of the victims and the right of the community to live in peace and security. Though faced with a barrage of criticism and myths propagated about the yielding of the death penalty, Singapore retains the use of capital punishment. It should be noted that the country's judicial and legal systems have been consistently rated highly in international and regional rankings. For instance, the 2003 Asian Intelligence Report of the Political and Economic Risk Consultancy stated that:

“Singapore has a well-deserved reputation for being one of the safest cities in the world for someone to live. Crimes against persons and property are very low, and when they do happen they are dealt with efficiently by the system.”

Mr. Speaker, this is exactly what we aspire towards in the People's Partnership Government: prosperity for all and protection for all so that they can prosper in this society. In Singapore, crimes against persons and property are very low and, therefore, we want the same for Trinidad and Tobago. But we believe in crafting strategies for our own unique experience in the legislation that we pass in this Parliament.

Using 1990 as our base year, we see that there was a total of 84 murders. This started increasing every year until 1994, in which there were 139 reported murders. It is interesting to note that the numbers started to decrease in 1995, when the former UNC Government came into office and began revamping policies and created greater court resources and better policing.

Mr. Speaker, the numbers steadily decreased. The success of the death penalty may perhaps best be seen in the fact that in 1999 there was the lowest recorded number of murders in the country since 1990. This year was the year in which we

had landmark hangings of the notorious drug dealer at that time. In that year we also witnessed the lowest number of serious offences committed. Apart from the 93 murders, there was a total of 16,261 reported serious crimes, including woundings and shootings, sexual offences, serious indecency. That year concomitantly also saw the highest number of persons detained by the authorities.

### **8.00 p.m.**

We know that having had some experience and having now pointed out the three-pronged approach, that we will even be more successful in this administration in bringing the crime rate under control. We consider the scourge of crime over the past few years and account for the factors that have led to its increase so that we can effectively deal with the problem.

I always quote very generously from the Ambassador himself, the Cultural Ambassador to Caricom, Mr. Makandal Daaga, who points out that happy people do not commit crimes. Yet when we came into office, the People's Partnership Government unveiled several reasons for the prevailing gloom, negativity and malaise. We find ourselves with rife poverty in the communities that are rural in nature, despite the financial wealth that has accrued to Trinidad and Tobago in the oil boom years.

Nonetheless, according to international bodies, Trinidad and Tobago is currently ranked in the top 25 per cent of countries in the world in terms of GDP per capita. Is that not significant? The IMF estimates that local GDP per capita in 2010 was US \$20,137. This translates into the 43rd highest per capita income in the world. Out of 182 countries, Trinidad and Tobago is number 43. Additionally, the current CIA World Fact Book ranks us 42 out of 194 countries.

Sadly, despite such positive economic indicators, preliminary analysis of poverty trends and inequality in the distribution of income still points to rife poverty that remains concentrated in certain areas in the country. The 2005 survey of living conditions illustrates that approximately 16.7 per cent of the population live in poverty. Our outreach programmes now tell us that this figure is indeed much higher and more than 29 per cent of the population live in poverty because of the legacy of the past failed administration of the PNM. This equates to more than 200,000 citizens who have the 43<sup>rd</sup> highest per capita in the world—200,000 of our citizens cannot find enough food to put on the table because of the policies and programming of the PNM.

In the face of international food prices, fuel crises and financial crises, there seems that there will be a perpetuation of poverty if it were not for the

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intervention of the programmes and policies of the last eight months of the People's Partnership Government, primarily through the Ministry of the People and Social Development taking charge in that regard. No one can say that poverty and indigence justify crime, but we are saying that no man, woman or child in this country should ever have to resort to any form of criminal activity for survival. What has made the difference? Indeed, no one can deny that "Direct Impact"—

**Mr. Speaker:** Members, I would like to appeal to you. The Member is making his contribution but there is a lot of talk on my left and crosstalk on my right. I cannot hear him properly, and the Hansard reporter is having difficulty. So I ask you to observe Standing Order 40 (b) and (c), please. Could you continue?

**Hon. Dr. G. Ramadharsingh:** Thank you very much, Mr. Speaker, for your intervention. "Direct Impact", the phrase has now become part of the dialect of Trinidad and Tobago and it was the only way to do it. I have always said that the best surgical equipment is of no use unless in the hands of a skilled surgeon; the best carpentry equipment is of no use unless in the hands of a knowledgeable carpenter; the best law books are of no use to any shelf unless in the hands of brilliant lawyers like people in the People's Partnership, too numerous to mention at this time, lawyers all. All the brilliant policies and programmes that were brought from foreign trips all over the world and left on the shelves of the Ministry of Social Development and laid there to rest, were of no use to the people in Mayaro who are indigent. It was of no use to the people in Point Fortin who had problems with their pension, who the Minister of Works and Transport seems to pick up every time he tours and calls me directly to intervene. It is of no use to the people in Sangre Grande who cannot access the disability grant and who, when they are "flooded out", would never have received the housing grant.

Therefore, what was needed was for us to roll out those programmes throughout the length and breadth of Trinidad and Tobago, because we believe that every citizen is as important as the other. [*Desk thumping*] We do not believe in concentrated efforts and energies in the capital city alone. We believe that the man in Icacos who throws his net out at four o'clock in the morning deserves every single grant that you have in Port of Spain, Arima and San Fernando. They are people too; they are people who voted for the People's Partnership, and, incidentally, they are the people who voted you out, because you were not responding to their needs. You did not believe in lifting the lives of our people; you believed in lifting the skyline of Port of Spain to make it look like Bahrain, because you thought that you were oil and gas-rich tigers. What you did not realize is that you ran afoul of the love of the people whom you ignored and left

to suffer in the villages of Trinidad and Tobago in the extremities.

That is why the Ministry of the People and Social Development makes it its business to go to these areas and open up the doors of the Ministry on Saturdays and Sundays. Last weekend we were in Woodland in south Trinidad. They may have never seen a ministry vehicle pass through that area in the history of Woodland.

**Mrs. McIntosh:** I want you to come to Port of Spain North.

**Hon. Dr. G. Ramadharsingh:** I am coming to your constituencies as well. I will respond to your invitation. “I doh know how your hamper end up with a calendar from the Prime Minister, eh, but we did not put any.” It may be from someone while they were passing with the hamper.

I was saying, before I was interrupted, that we make it our business to go and to pick up the pieces where people’s lives were smashed apart because of the lack of support and the lack of nurturing and caring. Tomorrow, incidentally, we head to another area that may have never seen a ministry’s vehicle, and that is Brazil Village in the constituency of La Horquetta/Talparo that has been neglected for too long, and the people will be seen about tomorrow in that constituency. [*Desk thumping*]

That not being enough and we not being satisfied with what we are doing, we said that we must not only have a direct impact but we must have a direct effect on the lives of people. I say that the policies and programmes must not only roll out to community centres; it must not only roll out to schools—and I laud the efforts of the Minister of Education who has been giving us significant statistics to inform us of the attendance of our children. He tells us that more than 4,000 children leave home with their school uniforms and do not reach the school. Why? They do not reach because of several reasons from my social investigations: poverty; sometimes they do not have money to get there; they fall into the hands of criminal elements. There is rife unemployment in some areas and so the family is unable—they have to basically send one child one day and send the other child the other day. Things have gotten so bad because they mercilessly closed down an industry.

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

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

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*Question put and agreed to.*

**Hon. Dr. G. Ramadharsingh:** As I was saying, Mr. Speaker, we thought that it is not enough to roll out these policies and programmes to community centres and to schools and I was speaking about the statistics that the Minister of Education has given to the population to guide us to look out for our children. Yes, we are protecting the children in the Children's Life Fund and those children who are born and need life-saving surgery will be saved by the People's Partnership Government under the prime-ministership of the hon. Kamla Persad-Bissessar, but our children at five and 10, they are also not making it to school. Some of them have learning disabilities and, again, it is in this regard that we will partner with the Ministry of Education to have a centre for the differently-abled which will have as its primary focus the detection, early in life, of learning disabilities. That is how we protect our children.

Some of the people who end up in the hands of the wrong people in society, they are sometimes not very, very normal and so they do not do well in school and they have to make a living for the family, and so, because of an attention deficit disorder they may end up in crime. So we begin at the schools in partnership with the Ministry of Education. But we also go out into the communities, because you have what is called shut-in elderly persons who are shut into their homes. Do you know why they do not get grants; why they do not get their pension corrected? Because they do not have anyone to take them out of their houses. They need a shoulder to lean on. They need a neighbour to take them there, and sometimes that neighbour is not there, because in many areas we are losing our sense of community. We are losing the good old days. I remember when a house was burnt down, all the villagers would gather together the materials that they had at their home. The local carpenter, the local mason, would start immediately to clear the site and the people would throw up a structure together.

When there is a wedding in the community, you, as a youngster, had a duty to go and assist for the entire week. We need to rebuild our sense of community, and I know that the Minister of Community Development also has programmes that he is going to do to reengineer and take us back to the good old-time days.

Therefore, we need to go out and find these shut-in persons and have a knock-on-door, direct effect on their lives, and this is what we are doing, what we call "knock-on-door social delivery". That is why we have opened up the system and people have asked me: is it that these facilities were given out in a political manner? I say, well, I am not sure, because people from all the parties meet me and they say, "Finally we feel we have access because the universality of the delivery of the process"; the way they are seeing, they are feeling that they can get



help.

Every single Member of Parliament was offered 100 hampers to give to the poor, needy and underprivileged in the society. How can a Member of Parliament refuse to collect 100 hampers for the 100 poorest people in their constituency? That is an act against their very own constituents. They did not want to take the opportunity to take 100 hampers while their tables were full of ham, lamb, bake, champagne and everything that was good in this life. While they were feasting and having a wonderful time and music was playing and children were dancing and families were engaging in splendour, the poor people, the 70-year-olds who live by themselves; the people who lost their jobs; the people who are suffering, who did not know where their meal was coming from for Christmas, they say, “Well, you know, my Member of Parliament might give me a little hamper for Christmas.”

**8.15 p.m.**

But it was not to be, because it was said that “Dey eh coming in any place sounding Central, in ah back road in Central”. It was not, it was very close to the highway they received official invitations and their very insensitive decision was taken.

**Mrs. Gopee-Scoon:** Mr. Speaker, point of order 36(1)—relevance; it is really stretching.

**Mr. Sharma:** Nonsense, sit down

**Mr. Speaker:** Please, please Member, Member, Member. Hon. Minister, just connect the dots for me, I will appreciate that. Connect the dots.

**Hon. Dr. G. Ramadharsingh:** Mr. Speaker, I was just responding to some of—the debate had opened up so wide by some to the contributions of the members, that we had to deal with some of these—but I was really talking about this Bill solving crime, helping to solve crime in a holistic manner, and therefore I was always dealing with the inextricable link of poverty and crime, poverty that could have been avoided.

I was just simply making the point that when you have an opportunity to give something to the 100 poorest persons in your constituency, you must grab at the opportunity, and if you needed help with transport, we could have arranged it. If you did not want to go in a back road in Central, we would help you, we would try to get a little van to help you to bring the things to your constituency offices. You did not have to refuse the people who most needed it at the time when the country needed to be with their family at Christmas-time, you refused the people.

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There was only so much that could have fit in the Mercedes Benz and all the big cars and so on, so we understand.

So I want to say, the fact of the matter is, we need our people to be empowered, and that is what we are doing in all the service sectors within the Ministry of the People and Social Development, to make a dent in poverty so that we can lead to a decrease in crime. And in any event, the death penalty, the Constitution (Amendment) (Capital Offences) Bill of 2011 is not new law, it is the law of the land that we are making some changes in the law to ensure that justice is delivered. We also want to engage our population in restorative justice.

As you know we have also been working on a programme that will not only see persons pay for their crime as this Constitution (Amdt.) (Capital Offences) Bill seeks to deal with but we will also see those persons who have wronged society have an opportunity, while they are in the prison system, to contribute to the victims of crime, and so we have looked at some of the policies in this area and we are developing an action plan to deal with this. We are working toward, in the prison, providing counselling and referral services to the prisoners, to look at an initiative that we working on to provide a 200 per cent tax credit to private employers because when many persons come out of the prison system we do not want them to go back into crime and commit murder and be subject to this law, and therefore, we want to give an incentive to the private sector.

We also want to create a database on the ex-prisoners, we are looking at the products that are produced in the prison system to be sold in the open market and the Government, through the agencies of the State, assisting those products to be marketed and sold and a percentage to go to the victim, a percentage to the prisoners' family, a percentage to the prisoners personal allowance which would act as a savings account.

We have also considered the training of some of the prisoners to the extent where they are ready to enter into the world of self-entrepreneurship and having been certified by the bodies that are involved in promoting this activity and certified by the prison we have also looked at the possibility of a grant to help them to get back on their feet. We are looking at all the policies and consulting with all the stakeholders in society and looking at a possible \$5,000 grant to help them to get back so they will not have to go back and shoot and kill persons, so to create finance for themselves to live and they would not be lost to the criminal elements. Right now, 60 per cent of the inmates come back out go back into the jail system; that is unacceptable and it is also one of the areas who restorative justice—rehabilitation and getting persons to contribute to society.

So, Mr. Speaker, it is a holistic approach to crime it is a war on poverty that has been declared and it is a war against crime, that we are ready and up to the challenge. Already in the short space of time the Government's policies have been sailing, we have been up and running, I have recounted to you some of our successes, some of our challenges and as we come together as a Government we synergize the efforts of the various Ministries for the benefit of the country.

All the Ministers are working hard and this initiative is just one in a series of measures to combat crime in our society, to create a sense of confidence in our people that they can walk the streets again after having been imprisoned by the former administration. A walk to go for doubles, to go to the mall and buy a shirt was not an activity that you ordinarily engaged in the last eight years, it was a risk that you took at the peril of your own life.

I remember in my own community, people in the recreation ground at 5.30 p.m. all the cars leaving, because you cannot be out. It trampled on the constitutional rights of our people. The right to property and the right to life were under siege, they were under attack. Here again people are moving. The Minister of Sport and Youth Affairs, the Minister of Public Utilities are lighting up the playgrounds. The Minister of Housing and the Environment intends to make them solar in nature so we will conserve our electricity.

We understand that our oil and gas are non-renewable energy resources that we utilize wisely and save for a rainy day. We understand that that is why we have put money into the Heritage and Stabilization Fund and we continue to save and be conservative while at the same time utilizing the resources at hand very wisely. And we continue to grow from strength to strength and the people out there, the masses, are happy; they are finally feeling a sense of relief that good governance has come to the people of Trinidad and Tobago. I thank you.

**Miss Alicia Hospedales (Arouca/Maloney):** Thank you, Mr. Speaker. It is an honour for me to contribute to this debate on an Act to amend the Constitution of the Republic of Trinidad and Tobago to make special provisions with respect to capital offences.

Mr. Speaker, I sat here listening to the Member for Caroni Central and really wondered if I was actually in a debate on the death penalty.

**Mrs. Gopee-Scoon:** La la land.

**Miss A. Hospedales:** And he appears to be in denial that as a Government

they are not doing good and I am saying this and I would refer to a commentary and analysis made by Sheila Rampersad in today's *Express* Newspapers which stated that in taxis—for the information of the Member for Caroni Central:

“In taxis, shops, family gatherings, conversations stray to the PM, AG and many of her ministers. People exhale their disappointment in sometimes joking, often bilious vocabulary. Everywhere in this country, stories are circulating, attributed to someone who knows someone who knows this or that one who said—”

So and so.

**8.25 p.m.**

Mr. Speaker, she also stated that:

“These openers are followed by the nastiest stories of goings-on in the Government. The stories, whatever their weight in truth, represent people's ongoing confusion and attempts to comprehend what accounts for the blunders, mistakes, lack of cohesion, poor governance, crisis management—aka outing their own bush fires...” [*Desk thumping*]

**Dr. Browne:** Bush bath!

**Miss A. Hospedales:** Bush fires. Mr. Speaker, the Member's contribution today was very incomprehensible. He presented a whole lot of rhetoric which made him sound more incoherent than ever. The Member does not appear to know that crime fighting needs a multi-faceted approach that is yet to be understood by his Government. He presented to us words of flattery that are in their manifesto and stated that they have this great plan that they are going to implement, but where is the crime fighting plan? We constantly come here week after week after week, having to ask the same questions: where is your crime fighting plan, Member for Caroni Central? Where is the multi-faceted approach to the political, economic, social, technological and managerial dimensions of security that you all have promised in your manifesto? Nine months later, all we are hearing is flattering words dressed in deception.

Mr. Speaker, there is no action. The Members are showing me their paper—  
[*Interruption*]

**Hon. Member:** Foolish!

**Miss A. Hospedales:**—showing me some paper, claiming that is their plan. We do not want to see what is written on paper. We want action and that is what the country is waiting for, action. [*Desk thumping*] The Members on the opposite side would not have an answer. They do not have an answer, and they will not be brave enough to answer the population because they do not have a plan. They do not have a vision. They have nothing.

Mr. Speaker, he does not even have an answer as to why the Children’s Bill took nine months to come back to Parliament. He does not even have an answer for that. Yes, he claimed that it is coming, but why did it take so long? He does not have an answer. All the Member is concerned about is using metaphors, similes, personification to pad his contribution with nothingness. Nothing! He did not even link the information that he was presenting today to the Bill that is before the House. Nothingness! I am saying that. He did not even link it, and this is evidence of his disconnect from the reality of what is taking place in the House today. [*Desk thumping*]

**Mrs. Gopee-Scoon:** Oh, yes!

**Miss A. Hospedales:** That is the reality. He is disconnected from what is taking place here. So, I want to inform the Member for Caroni Central that the campaign is over. It is time for you and your colleagues to get to work. Yes, you all are talking about working hard, doing this and doing that, but that is far from the reality; again, disconnected from what is actually taking place. He is blocking his ears. Just imagine that. [*Laughter*]

The Member talked about the statistics presented by the Member for Diego Martin Central, but at least the Member for Diego Martin Central knew what he was talking about. The Member for Caroni Central just simply babbled off things that somebody else probably wrote for him on a piece of paper. He does not even know what he was saying, and it was not relevant to the debate being held here today. He also talked about Government’s policies have been sailing. I would say Government’s policies have been sailing off course. The policies are in no way connected to the needs of the people of this nation.

I want to refer back to his saying that Government’s policies have been sailing. I want to say, yes, it has been sailing off course and that is a manifestation of their motto. If it sounds good do it. That is all they have been doing. [*Desk thumping*] If it sounds good do it. If I had to give a title to this debate, I would say that it is “Unmasking the Deception” or “Deception Exposed Again” because this

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is what the Bill presented to us today. Once you go into the details of the Bill, you would realize that it is deception exposed again, and again and again and again.

Mr. Speaker, what is the real motive of the Government in bringing this Bill before this House? Is this another public relations gimmick? We know that they love public relations gimmicks. They would go on a hype and would declare this and declare that, but there is no action behind the words. There is no action behind anything that they say, and we know as well that they always use public relations gimmicks as smokescreens to hide the fact that they have no vision, no plan, no strategy to address the issue of crime in this country. [*Desk thumping*]

The Member for Chaguanas West was quoted in the *Trinidad Express Newspaper* on July 07, 2007 saying—and the headline is: “Hangings will Curb Crime”. The Member said and I quote:

“I have told the Attorney General”—at that time he was acting as the Prime Minister—“that when he comes to Cabinet he must tell us what are some of the things we must do so as to free ourselves from these international organisations which try to frustrate the law of the land.”

He also said that:

“...he was certain the resumption of hangings would curb crime in this country.

I am convinced that were we to reinstitute a hanging, which is the law of the land, it will have a dent on crime. I am convinced.”

He also said:

“It is inconceivable to have 295 (convicts) on death row awaiting the hangman when of course no one is trying to apply the law.”

Finally, he said that:

“The law says death by hangings. And if a person is convicted and has of course used all his measures of relief up to the Privy Council, why should he stay in the prison anymore.”

Additionally, the Minister of Justice was also quoted in the same newspaper on September 01, 2010, and that is what he had to say:

“I am not opposed in principle to hanging persons, but it has to be in respect of brutal and heinous crimes.

Persons should be hanged in Woodford Square, 6 or 7 am in the morning. The

people should see the hangings take place, they need to feel the fear of God and have fear for the law.”

Mr. Speaker, not only were these statements emotive, distracting from Government’s incompetence, mistakes, again lack of cohesion, poor governance, distraction from the fact that they have gained the title of coalition of the incompetent in such a short space of time, and the promotion of the idea that people should take revenge, they have also promoted that idea. Is this the way they intend to fight crime, through deceptive intentions? The Government needs to tell us the truth, the real intention for bringing this Bill. They need to let the people of Trinidad and Tobago know what is their real intention.

The Prime Minister was quoted in the *Hansard* on January 28, 2011 saying that:

“The death penalty is the law...and the time has come for those...who attack and murder to feel the full weight...of the law.”

She also stated that:

“The Government that I have the honour to lead will ensure that this law is implemented and convicted murderers must suffer and pay the ultimate price by having the sentence of death carried out.”

But is this the real truth behind the Bill that is before this House today? That is the question. Is this the truth? The Bill before us is not a reflection of what the Prime Minister or any other Member of her team would have stated. The Bill before us today seeks to categorize murder.

Mr. Speaker, clause 6B(1) of the Bill says that it creates a category for murder 1, and it says that:

“Murder 1 is the category of the offence of murder as may be determined under section 6H which is not reduced to manslaughter or which is not required to be punished as manslaughter under any written law and consists of offences specified...”

So what this clause really seeks to do is to categorize the different types of murders: murder of somebody from the security forces, a prison officer, a judicial officer, a legal officer, murder of their family members and other offences and other types of murders.

Also, the Bill seeks to create a category of murder 2. It says:

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“...the category of the offence of murder as may be determined under section 6H that is reduced to manslaughter or that is required to be punished as manslaughter under a written law, and includes, gross negligence, mercy killing, recklessness as to participation in the offence of murder, the use of excessive force outside the contemplation of section 4 of the Criminal Law Act, but does not include murder 3 or matters falling within murder 1.”

Then we have murder 3.

“Murder 3 is involuntary homicide committed otherwise than is referred to in section 7 of the Offences Against the Person Act for which a person is liable to be convicted, and includes manslaughter by provocation, negligence and causing death by reckless driving.”

What the Members fail to tell us is that the Bill before us today, in seeking to categorize the offences, causes the partial abolition of the death penalty. So, the result is that eventually the death penalty would be abolished.

Mr. Speaker, in Guyana, there was a debate that was held on the death penalty, and an Opposition MP, Ms. Clarissa Riehl, in a debate on the death penalty said that the death penalty legislation which was before them, which also had categories for murder, was a partial abolition of the death penalty. She noted that murders identified in category 1 during the course of their duties, murders calculated for cause of fear in the public and contract murders among others which will attract the death penalty or a term of imprisonment. She also highlighted category 2 murders which would attract life imprisonment or other terms which would have been decided by the court.

Mr. Speaker, the categories of murder outlined by Miss Riehl is no different to those proposed by the Government in the current legislation that is before this House. So, just for the information of all the constituents of Arouca/Maloney and the members of the general population, the true intent of the Bill that is before us is to abolish the death penalty. That is the true intent of the Bill that is before us.  
[*Interruption*]

**Mr. Imbert:** We do not want to hang anybody.

**Miss A. Hospedales:** It does not matter if the Members on the opposite side get up say, yes, they are in support, it is the law and it is this and it is that. The true intent of the Bill that is before us is to abolish the death penalty, and that is confirmed by an Opposition Member in another country who had a similar debate recently. They passed their legislation with the categories, because their intention



is to abolish the death penalty eventually.

So, it is very important that the Members of the Government tell the truth to the people of Trinidad and Tobago. Do not come here pretending that you all are interested in the death penalty, when you are really not interested at all. Your intention is to abolish the death penalty. [*Interruption*]

**Mr. Roberts:** Mr. Speaker, Standing Order 40(b). I would love to hear the Member for Arouca/Maloney, but the Members opposite are disturbing me.

**Dr. Moonilal:** “You all keep quiet nah.”

**Mr. Speaker:** I have to protect you, but continue.

**8.40 p.m.**

**Miss A. Hospedales:** Thank you, Mr. Speaker. A question is: does the Government take the time to consider the details of Bills that are brought before this House? And what we have seen time and time again, every single sitting, every time we come here, we have seen them over and over again, bringing Bills to the Parliament without due care and consideration. Mr. Speaker, is this how they intend to come clean?

I wish that the Member for St. Augustine was in his seat because he talked about they would come clean with the people of Trinidad and Tobago. Is this their intention of the way in which they will come clean? They are surely bringing the country back to the reality that they are seeking to abolish the death penalty. As I say again, it does not matter what Members on the opposite side stand to say today, the intention of the Bill is to abolish the death penalty. Mr. Speaker, no hangings will occur in this country if the Bill is passed in its current form. I agree with the Member for Port of Spain South that the Bill is flawed and it should be withdrawn.

Mr. Speaker, the Member for Caroni Central, in his contribution, talked about Singapore but at least the Government of Singapore did not deceive its population. They implemented the death penalty. At least they did that. You know, the Member for St. Augustine talked about truth and integrity and honesty and all of these things. It is time that you all do what is right. [*Desk Thumping*] It is time you all do what is right and stop presenting falsehood to the people of Trinidad and Tobago.

Mr. Speaker, I agree with the Member for Port of Spain South, as I said, who

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said that the Bill should be withdrawn in its entirety because of its true intent. Over the past few weeks, we have seen several examples, again, of this Government bringing flawed legislation. And what has happened as a result is that these pieces of legislation would have had to be sent before a Joint Select Committee because the clauses were cause for concern by the Members of this side. And because the concerns were highlighted, they were sent, except in one instance. There were two Bills that were before this House last week Friday and despite the concerns that were expressed by the Members on this side, the Government still passed those Bills, those flawed Bills, those Bills that would be very problematic especially when it comes to its implementation.

Mr. Speaker, is this the manifestation of the Government's inability to govern that resulted in the Cabinet approving the Reshmi Ramnarines without Cabinet Ministers not even knowing that the appointment was actually made? The Member for Arima is saying "he fed up hearing about it" but, listen, they have to hear it over and over because it was a major mistake. [*Desk thumping*] It was not a misstep and a true apology needs to be made to the people of Trinidad and Tobago. It was not a misstep. It was a major, major error on your part and we will continue to speak about it.

**Hon. Member:** We are not moving on.

**Miss A. Hospedales:** Mr. Speaker, not even the Members of the Cabinet, as I indicated, some of the Members were not even aware that the appointment was actually made and with that, the decision was flawed, it was wrong and it can even be classified as fraudulent.

Mr. Speaker, I agree with the Member for St. Augustine, when he said that the Government will be judged for what it has actually done. I agree with him. Let me tell you what they will be judged on. They will be judged for dismantling the SAUTT. [*Desk thumping*] They will be judged for selling the blimp. They will be judged for canceling the OPVs. They will be judged for opening up this country to the illegal drug trade, illegal guns, et cetera. [*Desk thumping*] They will be judged for raising unemployment. [*Desk thumping*] They will be judged for raising the poverty levels. [*Desk thumping*] They will be judged for threatening police officers. [*Desk thumping*] They will be judged for the disenchantment among members of the security services. [*Desk thumping*] They will be judged for the growing dissatisfaction in the population. [*Desk thumping*] They will be judged for their non-action to reduce food prices. [*Desk thumping*] They will be judged for the inability to reduce the inflation rate. [*Desk thumping*] Mr. Speaker, I can

go on and on and on with the list of things that they will be judged for.

The people are not going to support you because they recognize that you have been constantly making major, major, major errors. So, Member for Caroni Central, you boasted that the population supports you, but I guess you were not aware of the commentary that was posted today in the *Trinidad Express* by Ms. Sheila Rampersad.

Mr. Speaker, the Attorney General made reference to the obstacles that were posed by accused who have been sentenced to death because of the appeals to the Privy Council and international bodies. In a paper on the Caribbean Court of Justice: Precedents, Human Rights and Incrementalism by the Honourable Mr. Justice David Hayton, he revealed that the International Human Rights Commission needs to be given incentives. This is an international body. He said this body needs to be given incentive to produce its reports within a limited reasonable period and this is an international body that people who are on death row actually appeal to, to get mercy from the President or whoever they seek to appeal to, to have their sentence reduced.

Mr. Speaker, so what he is saying is that incentives need to be given to this body so that the reports would be done within a time period of 18 to 24 months. So that after the expiration of this period, a reasonable period of time would not count for the purpose of the five-year period being exceeded, assuming the delay was not caused by the Government's lack of response.

So what he is really saying is that once a reasonable time is stated by the Government, if that time is exceeded by the international body, what will happen is, the time will not be counted. For example, the person is on death row, the person remains on death row for five years, eight months or five years, four months and if the report is outstanding within that period of time, the time frame within which the report was outstanding, as long as the 18 or 24 months have passed, after that period it would not be counted. So he is saying, that incentive needs to be given by the Government.

He also said that if the appeal process takes place locally within a 30-month period and IAHRRC takes 36 months to produce a report for the Mercy Committee to consider, then the murderer cannot complain that he has been on death row for over five years, in order to receive the benefit of the IAHRRC's report.

Mr. Speaker, the Government's decision not to have a time limit given for the application to international bodies is a dangerous precedent. What this will cause

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is the opening of floodgates for the death penalty imposed on a murderer to be reduced to life imprisonment. What he said in the reports is, because the IAHR is a body that actually is in favor of the abolition of the death penalty, they normally would drag the report on for a very, very long period of time. So while their report is pending and the prisoner is on death row, the time elapses and what could eventually happen is that the person's sentence would be reduced to life imprisonment.

So, Mr. Speaker, he said a time limit should be given for the application to international bodies. And again, it is a dangerous precedent because what could happen is that the approximate 295 persons when we have on death row can all eventually be given life in imprisonment and not be sent to the gallows. Why did the Government not put into the Bill a reasonable period of 18 to 24 months? That question needs to be answered.

**8.50 p.m.**

Mr. Speaker, the only reason this will not be done is because they are taking the necessary steps to abolish the death penalty. As indicated by the Member of Port of Spain South, they are ousting the jurisdiction of the *Pratt and Morgan* decision or judgment. Is the Government really taking every step to implement the death penalty as stated by the Member for St. Augustine? He boasted that the Government is taking every step to implement the death penalty, and that is far from the truth. I am saying again, Members of the opposite side really need to come clean with the members of the population.

The Government needs to tell us exactly what their intentions are regarding the death penalty. They need to tell the families in my constituency who lost their loved ones: the families of Curtis Sebro, Lisa Thomas, Bethford Williams, Antonio La Borde and Marsha Huggins, who all lost their lives—they need to tell—in cold-blooded murders. They need to tell the loved ones or the families of these persons what they intend to do with the death penalty.

Governing a country requires sober thinking, discipline and hard—working individuals. The Member for Caroni Central boasted of hard-working Members on his side. Well, the truth is there to be seen. Whose desire is to be truthful? That is what the nation wants to see; Members whose desire is to be truthful to them. The fruits of the work of this Government are not consistent with sober thinking. It is not consistent with discipline and hard work. If it were so, this Bill would have never come before this House today in its current state. Members on the opposite side, Members of the UNC-A Government, who have ears to hear, would

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have prevented this Bill from coming here today.

We support the law of the land, as indicated by the Member for Port of Spain South. We support the law of the land. One thing we do not support is this flawed Bill that is brought before this Government. Mr. Speaker, I thank you. [*Desk thumping*]

#### PROCEDURAL MOTION

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. Speaker, pursuant to Standing Order 25(b), I beg to move that this debate be adjourned to Wednesday, February 23, at 1.30p.m., and we continue to discuss the private business of the day. We have two Motions on the adjournment. I beg to move.

*Question put and agreed to.*

#### THE WAY OF TRINIDAD AND TOBAGO (INC'N) BILL

*Question put and agreed to,* That a Bill to provide for the incorporation of The Way of Trinidad and Tobago and matters incidental thereto, be now read a second time.

*Bill accordingly read a second time.*

*Bill referred to a select committee of the House chosen by the Speaker as follows:*

Dr. Fuad Khan	Chairman
Dr. Lincoln Douglas	Member
Rodger Samuel	Member
Miss Joanne Thomas	Member
Miss Alicia Hospedales	Member

#### ADJOURNMENT

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. Speaker, I beg to move that this House do now adjourn to Wednesday, February 23, 2011 at 1.30 p.m. On that day we intend to continue the debate on the Constitution (Amdt.) (Capital Offences), Bill 2011.

I beg to move.

**Mr. Speaker:** Hon. Members, before moving the Motion for the Adjournment, there are two matters which qualify at this time. These two matters are raised by the Member for Diego Martin North/East. The first one deals with irregularities in

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the appointment of the Director of the Financial Intelligence Unit, to be followed by the need for further clarification by the Minister of Works and Transport on the status on the Diego Martin Highway Improvement Project, Powder Magazine to Four Roads/Petit Valley.

### **Director Financial Intelligence Unit**

#### **(Appointment Irregularities)**

**Mr. Colm Imbert** (*Diego Martin North/East*): Mr. Speaker, at a sitting of the House of Representatives on February 09, 2011, on the debate on the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) Bill, the Attorney General, in referring to the appointment of the Director of the Financial Intelligence Unit, uttered these words”

“The Cabinet of this country took a decision to save this country from being pushed over the precipice... We then took a decision to appoint the Registrar General, Miss Francois, as Director of the FIU for a period of one year, so we could rationalize and get our way out of this convoluted, nasty mess that you put us in. Those are the facts.”

On February 09, 2011, the Attorney General told this Parliament that the Cabinet of Trinidad and Tobago had appointed a person as the Director of the FIU for a period of one year. The question is: can the Cabinet do that?

In order to answer this question, you need to go to the Financial Intelligence Unit Act No.11 of 2009. In that Act, at clause 3, one will see that the Act established a department of the Ministry of Finance to be known as the Financial Intelligence Unit. Now, if that was not enough of a clue to the Cabinet that they cannot appoint someone to hold an office within the department, a department of Government, clause 3(2) of the Act states:

“The FIU shall consist of such number of suitably qualified public officers including a Director and Deputy Director as may be necessary, for the performance of its functions and may include—

- (a) public officers, appointed, assigned, seconded or transferred from
- (b) another Ministry or statutory corporation to the FIU and
- (c) officers...”

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I would like the Attorney General to understand that—[*Interruption and crosstalk*] Mr. Speaker, I have only been going for two minutes and the Member for Fyzabad is misbehaving again. I seek your protection.

**Mr. Speaker:** You have my protection.

**Mr. C. Imbert:** Thank you.

The Attorney General should note that there is a distinction between the wording of clause 3(2)(a) of the FIU Act and clause 3(2)(b). Clause 3(2)(a) has the word “public” in front of officers, whereas clause 3(2)(b) speaks about “officers and other persons appointed on contract”. So, that is another clue that the Cabinet cannot appoint the director on contract. Only officers can be appointed on contract, not public officers.

Mr. Speaker, in order to get a better understanding of what is a public officer, we go to section 3 of the Constitution. In section 3 of the Constitution, a “public officer” is defined as follows:

“Public officer’ means the holder of any public office and includes any person appointed to act in any such office;”

If there was any doubt whatsoever, you now go to the definition of “public office”. In the Constitution, “public office” is defined as:

“...an office of emolument in the public service.”

So, in order to be a public officer, you must be the holder of a public office, and a public office is an office of emolument in the public service.

If one now goes to section 121 of the Constitution, which deals with the Public Service Commission and appointment to public offices and so on, section 121 says:

“Subject to the provisions of this Constitution, power to appoint persons to hold or act in offices to which this section applies, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct... shall vest in the Public Service Commission.”

So, section 121 tells us that the power to appoint persons to hold or act in offices

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to which section 121 applies shall vest in the Public Service Commission.

Well, exactly what does section 121 apply to? The answer is found in section 121(7), which states:

“This section”—which is section 121—“applies to all public offices...”  
[*Interruption*] That is okay. It does say under the Constitution, Attorney General. It says—I shall read it again:

“This section applies to all public offices including in particular offices in the Civil Service, the Fire Service, the Prison Service, but this section does not apply to offices to which appointments are made by the Judicial and Legal Service Commission, and Police Service Commission or the Teaching Service Commission or offices to which appointments are to be made by the President.”

But I would repeat again. Section 121(7) says:

“This section”—which is section 121—“applies to all public offices...” and the power to appoint persons to hold or act in offices to which this section applies, vests in the Public Service Commission.

Therefore, Mr. Speaker, it should be obvious that, since the office of Director of the FIU is to be held by a public officer, and since a public officer is the holder of a public office, and since the power to appoint persons to hold public offices vests in the Public Service Commission only, then only, the Public Service Commission can appoint the Director of the FIU.

But, the Cabinet has decided that it can do so. And I would like the Attorney General to tell me, where in the Financial Intelligence Unit Act does it state that the Minister, the Cabinet, or the President can appoint the Director of the FIU? And I will answer, it does not. So, there is no express power in the Financial Intelligence Unit Act, which states that the Minister, the Cabinet or the President can appoint the Director of the FIU, and, therefore, the Constitution will apply.

But if you even thought that was ambiguous, because it is not, that is crystal, but if you thought it was ambiguous, because it does not say in this law that the Cabinet can appoint the person. It does not say the Minister can appoint the Director. It does not say the President can appoint the person. It says nothing with respect to the powers of the Cabinet to appoint this director, but it does say the person shall be a public officer, and the Constitution does say that the Public Service Commission has the sole power to appoint persons to public offices, except offices that are to be appointed by the President or offices by the Judicial and Legal Service Commission.



**9.05 p.m.**

Therefore, Mr. Speaker, it should be obvious that since the office of Director of the FIU is to be held by a public officer, and since a public officer is the holder of a public office, and since the power to appoint persons to hold public offices vests in the Public Service Commission, only, then only the Public Service Commission can appoint the Director of the FIU. But the Cabinet has decided that it can do so and I would like the Attorney General to tell me: where in the Financial Intelligence Unit Act does it state that the Minister, the Cabinet or the President can appoint the Director of the FIU? And I will answer, it does not. So there is no express power in the Financial Intelligence Unit Act which states that, the Minister, the Cabinet or the President can appoint the Director of the FIU.

And therefore, the Constitution will apply; but if you even thought that was ambiguous because it is not, that is crystal, but if you thought that was ambiguous, because it does not say, Mr. Speaker, in this law, that the Cabinet can appoint the person, it does not say the Minister can appoint the Director, it does not say the President can appoint the person. It says nothing with respect to the powers of the Cabinet to appoint this Director, but it does say the person shall be a public officer, and the Constitution does say that the Public Service Commission has the sole power to appoint persons to public offices, except offices that are to be appointed by the President or offices by the Judicial and Legal Service Commission.

But if that was not enough, let us go to the law now. What does the law tell us? And of course we have the landmark case of *Pepper v Hart*, and all the cases that have followed *Pepper v Hart*.

**Hon. Member:** “You get that from Calder Hart.”

I do not need advice from the person you have mentioned. [*Interruption*] I am very familiar with this case, Mr. Speaker. Let me just educate the Attorney General about the case of *Pepper v Hart*. *Pepper v Hart* a 1992, case was a landmark decision of the House of Lords on the use of legislative history in statutory interpretation. [*Interruption*]

**Mr. Speaker:** Please, please, order.

**Mr. C. Imbert:** Mr. Speaker, I know you are interested. The court established the principle that when primary legislation is ambiguous, then, under certain circumstances, the court may refer to statements made in the House of Commons or House of Lords in an attempt to interpret the meaning of the legislation. Before

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this ruling such an action would have been seen as a breach of parliamentary privilege.

If I go in particular to the decision read by Lord Brown Wilkinson, he stated as follows. He was talking about the conclusions that the House of Lords had come to:

“I have come to the conclusion that as a matter of law there are sound reasons for making unlimited modifications to the existing rule as it was then, that *Hansard* may not be used unless there are constitutional or practical reasons which outweigh them. In my judgment, subject to the question of privilege, reference to parliamentary material should be permitted as an aid to the construction of legislation which is ambiguous or obscure. And in the case of statements made in Parliament as at present advised I cannot foresee that any statement other than the statement of the Minister or other promoter of the Bill is likely to meet these criteria. The purpose of looking at *Hansard* will be not to construe the words used by the Minister but to give effect to the words used so long as they are clear. Far from questioning the independence of Parliament the courts would be given effect to what is said and done there.”

So what Lord Brown Wilkinson was saying is that if a statute is ambiguous and this statute is not ambiguous, but if it is, if the Government believes that it is, then you have to go into the *Hansard* record and see what the Minister or the promoter of the legislation said with respect to the clause that is deemed to be ambiguous.

Now, what was said? This matter was dealt with in the Senate and this matter was dealt with in the House. In the Senate, Sen. Wade Mark had this to say:

“I am suggesting that this entire section,” this was the section dealing with the appointment of the director, “be recast, we would like to have some independence. We are suggesting that the director and deputy director be appointed by His Excellency on the joint advice of the Prime Minister and the Leader of the Opposition.”

That is what Sen. Wade Mark had to say. And there was a long discussion all about it, but Sen. Mariano Browne who was the promoter of the Bill in the Senate said:

“Precisely because it is a government department” and I have already pointed out it is a department of the Ministry of Finance “the presumption would be a service commission.”

And they went on and debated it at length and then eventually come to this conclusion, Sen. Browne:

“Given the comments which have been made our proposal would be to make the position of director and deputy director public officers, subject to appointment by the Public Service.”

You could not get clearer than that, but if there was ambiguity with that, let us go to what the Member for Diego Martin North/East had to say, yours truly, when I piloted the amendments from the Senate on Friday, October 09, 2009, and speaking about clause 3, which is the clause to appoint the Director, I had this to say as the promoter:

“With respect to clause 3, the view was that the Director and Deputy Director of the FIU should be public officers, that the normal public service procedures would apply and that appointments were to be made by the Public Service Commission.”

That was the reason for the amendment which I was piloting in the House, Mr. Speaker.

So the Constitution says only the Public Service Commission can appoint public officers to hold public office, and this is a public office. But the Minister who was piloting the Bill in the Senate and the Minister who was piloting the amendments in the House made it unequivocal, unambiguous, crystal clear, that the purpose of the amendment was to ensure that the appointment was to be made by the Public Service Commission; and that falls squarely within the confines of the decision of Lord Brown Wilkinson in *Pepper v Hart*.

And therefore, Mr. Speaker, this appointment by the Cabinet is *ultra vires*, void, and of no effect. I thank you, Mr. Speaker [*Desk thumping*]

**The Attorney General (Sen. The Hon. Anand Ramlogan):** Thank you, Mr. Speaker. Mr. Speaker, I find it rather strange, to say the least, that the hon. Member for Diego Martin North/East, who was so intent on making an unequivocal, crystal clear and unambiguous position on the debate on the Financial Intelligence Unit Act, or Bill, would not have insisted that the position, if that was the policy position of the Government at the time, be reflected and embodied in the legislation.

I find it strange that the Member for Diego Martin North/East would rely and have to resort and find comfort in the case of *Pepper v Hart*, a well known House of Lords decision, that says that you may have regard and reference to *Hansard* record, when everything else fails, as an aid to interpret a statutory provision. The problem is that principle of law applies when there is a provision and you want assistance as how to interpret it. The difficulty here is that when my learned

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friends who sit opposite, when the hon. Members who sit opposite were passing this legislation, they did not in fact put into the provisions of this Act anything about who is responsible for making the appointment. They put nothing. And since they put nothing you cannot invoke as an aid to statutory interpretation, your contribution in a debate to try to amend the legislation through the back door. It is simply ridiculous. It is bereft of any intellectual merit and short—[*Interruption*]

**Hon. Member:** Very short. [*Desk thumping*]

**Sen. The Hon. A Ramlogan:** —and short of any intelligence. Yes. Now to come—this is an attempt to come through the back door to seek to amend ex post facto the legislation by reference to *Pepper v Hart*. If my learned friend is saying that they intended that the Public Commission should make this appointment, I ask him, tell us the provision in this law that says that. Because you see, Mr. Speaker, you cannot read the Constitution, which is a schedule to an Act of Parliament—the Constitution of this country is a schedule to an Act of Parliament—and you cannot read definitions in the Constitution, and apply them to another separate Act of Parliament, as though that Act of Parliament does not mean anything as standing piece of legislation. You cannot do that. But more than that, perhaps the best evidence that can be used to refute the Member Diego Martin North/East’s contribution is when they did move, if we accept his argument—let us hoist him by his own petard—

**Mr. Sharma:** He short. He needs a peera.

**Sen. The Hon A Ramlogan:** The petard is tall I will put it on a short ‘peera’ and I will hoist him on it now. You see the position, Mr. Speaker, is that if this position was meant to be independent, and the position was meant to go through the Public Service Commission, then I ask the question to the hon. Member for Diego Martin North/East, who appointed David West under your administration?

**Mr. Sharma:** Exactly, exactly. [*Desk thumping*]

**Sen. The Hon. A Ramlogan:** It was the Cabinet that appointed him.

**9.15 p.m.**

**Mr. Speaker:** Member for Diego Martin North/East, I was listening—no I followed very carefully, when you were speaking, very silent. Please allow the Attorney General to respond in silence? Could you continue, hon. Attorney General.

**Sen. The Hon. A. Ramlogan:** I am grateful, Mr. Speaker. When the Member for Diego Martin North/East says that he tried to be crystal clear, unequivocal and

unambiguous in his contribution to the debate, if the intention and the policy of the Government at the time were to have this person independently selected from elsewhere, a rose called by any other name is still a rose. No matter how they dress up and disguise the appointment of David West made by their Cabinet, they cannot escape the fact that they did not involve the Public Service Commission then. [*Crosstalk*]

**Mr. Imbert:** He was not the director.

**Sen. A. The Hon. Ramlogan:** My learned friend says—the hon. Member says he was not the director. They tried to call him director designate but he signed off as director—and, Mr. Speaker, permit me to say for the record, that act, that kind of clever, fancy footwork of appointing him director designate and all of this and allowing him to sign off as director has put this country in a very precarious position.

The hon. Minister of National Security, Sen. The Hon. Brig. John Sandy, is now in Paris, having to defend reports from this country that were submitted to FATF, indicating in writing to FATF, that this was an appointment of a director. We now have to contend with the fact that all of the correspondence signed by Mr. West was signed in his capacity as director. We now have to contend with the fact that the legal status of all of the actions taken by the putative director are now in question because the legal validity of what may have been done, it may very well be null and void. The Member for Diego Martin North/East was a Member of that Cabinet. They were trying to hoodwink this population. They wanted to hoodwink the population by appointing him director designate.

I ask the question: since you are so concerned about independence, where in the FIU Act that you read from does it mention director designate? It does not mention the word “director designate” anywhere, so you bypass the two offices the law created, created one of your own by Cabinet edict and now seek to have the unmitigated gall and temerity to criticize us for filling the same office, under the law. They expect us to do what they did, ignore the legal positions and do like they did. They wanted us to fall into the same trap of perhaps appointing Susan Francois as a director designate.

Mr. Speaker, the position is very clear, Mr. David West was not even a public officer—not a public officer—and they allowed him to hold that position. [*Interruption*]

**Mrs. Persad-Bissessar:** He was not in any kind of office.

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**Sen. The Hon. A. Ramlogan:** He was not in any kind of office. He was a legal consultant hired by the former Attorney General. That is the position. Mr. Speaker, that is a matter that we now have to contend with as a Government because it has compromised the integrity of Trinidad and Tobago in the eyes of the international community. Those who are guilty of misleading the international community, those who are guilty of committing that fraud and deception, they would very well find themselves on the end of a lawsuit because the act of making that appointment and the misrepresentation to the international community in the written reports that were submitted, is a very grave and serious matter because we may now have to go to court to question the legal status of all those actions that were taken, signed under the hand of a director who was never appointed to that office. [*Crosstalk*] We may very well have to come—if the court rules that the appointment and those actions were illegal and null and void, we may have to bring a validation Bill to come and do that.

Mr. Speaker, when they speak about Susan Francois, Susan Francois obtained no-pay leave on the ground of public policy from the Permanent Secretary in the Ministry of Legal Affairs on February 10, 2011. Mr. Speaker, that permission having been granted, Ms. Susan Francois wrote the Judicial and Legal Services Commission, to inform them of the fact that she was desirous of taking up this appointment and she made a recommendation as to who should fill her shoes as Registrar General. Those are the facts. Mr. Speaker, this is not the first time. [*Crosstalk*]

**Mr. Imbert:** She has a master's degree.

**Sen. The Hon. A. Ramlogan:** In fact, we would have obviously sought guidance from the public service and the technocrats. There are many instances in which this was done under the previous administration. [*Crosstalk*]

**Mrs. Persad-Bissessar:** All administrations.

**Sen. The Hon. A. Ramlogan:** All administrations. Mr. Speaker, there is a fundamental misconception about the constitutional arrangements. The Service Commission is not the employer of public servants. That needs to be understood. The constitutional relationship and the interdependence between the Service Commission and the Executive arm of the State, is one that it is not understood by the hon. Member for Diego Martin North/East.

The Public Service Commission and all of the Service Commissions, the remit, the scope and ambit of their constitutional jurisdiction is that they are

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responsible for appointing, promoting, transferring and disciplining public servants but the employer remains the Executive arm of the State. The Service Commission, for example, cannot set terms and conditions of employment and that is why the grant of no pay leave on the ground of public policy is a matter for the Cabinet of the country. That is why it is a matter for the Cabinet. [*Desk thumping*]

The Cabinet of the country under the delegated powers, the Permanent Secretary—not us, it was the Permanent Secretary— [*Interruption*—not appointed by us, the Permanent Secretary is appointed by the Public Service Commission. It was the Permanent Secretary in the Ministry of Legal Affairs, Mr. Speaker, who granted no pay leave to Ms. Francois to take up this appointment, and Cabinet was therefore well within its rights to make a one-year appointment to fill that office.

That office having been filled, the Salaries Review Commission will work out the terms of conditions. We will then create a situation in a year's time. When the Salaries Review Commission sorts itself out in a year's time, we will then have advertisements and fill the vacancy permanently. In the meantime, Mr. Speaker, we had to fill a void that was created because of their negligence and mismanagement and mishandling of the situation [*Desk thumping*] that threatened the very reputational viability and international image of Trinidad and Tobago. [*Interruption*]

Mr. Speaker, they were trying to set up this country. That is why the Member for Diego Martin North/East came here in a pre-emptive and premature manner to say “oh we geh blacklisted, we geh blacklisted”. Mr. Speaker, that was the cry. It was almost as though they were hoping and praying and wanting for this to happen. They are the only ones in this country who are disappointed that Trinidad and Tobago is not blacklisted. They are the only ones disappointed. [*Desk thumping*]

**Mr. McLeod:** Unpatriotic plot.

**Sen. The Hon. A. Ramlogan:** Because that unpatriotic plot that seemed to have been hatched whereby they deliberately misrepresented that someone who was a director designate was, in fact, a director and they misrepresented that to the international community, to cover up their own inability to (a) pass a clearly written law, and (b), to fulfil the legislative requirements of their own law, to cover up that.

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That is what they did, a little clever fancy footwork.

Mr. Speaker, Susan Francois is well appointed, properly and validly appointed to the position. She has obtained no-pay leave on the ground of public policy from the Permanent Secretary in her line Ministry.

**Hon. Member:** Did not require the point at all.

**Sen. The Hon. A. Ramlogan:** She has informed the Judicial and Legal Services Commission. [*Interruption*] She was a public officer and therefore satisfies—unlike Mr. West, she satisfied 3(b). She is a public officer within the meaning of section 3(2) of the FIU Act.

Mr. Speaker, I think this is a case of intellectual jealousy and envy about a Government that got it right, when they got it wrong [*Desk thumping*] and it is a case of political misery wanting company because they did it wrong, they expect us to do it wrong as well and because we discovered the correct way to do it, they think that they will now come and try to pull wool over the people's eyes.

Mr. Speaker, the smokescreen in all of this is, if they understood the legislation so clearly and it was so simple, let me ask the question: why did you not appoint a director or deputy director through the Public Service Commission? Why did they not do that? They went through Cabinet, hand-picked a legal consultant and gave him the job. They saw nothing wrong with that. They then misrepresented the position to the international community and they saw nothing wrong with that—written reports, submitted on a quarterly basis to an international organization. They disregarded the contributions in the House. Why did they not amend it to say in this law, that that position, that director and deputy director—why they did not make it crystal clear that that person shall be appointed by the Public Service Commission?

**9.25 p.m.**

Where is it in the Act? I challenge them. But it is not in the Act because, Mr. Speaker, it is well understood in the arrangements here that the FIU, they wanted the FIU under the Ministry of Finance. They did not want to create an independent FIU external to the Executive arm of the State, it is in the Ministry of Finance, which was the point the Opposition was making to them and I wish to give you this commitment, Mr. Speaker.

The People's Partnership administration, under an acting instruction and mandate from the hon. Prime Minister, Mrs. Kamla Persad-Bissessar, is in the process of reviewing this Financial Intelligence Unit Act, the Anti-Terrorism



Regulations and the Financial Intelligence Unit Regulations and we are reviewing them because this legal minefield and all of these potholes, we have to go back now to review this to bring proper legislation to this honourable House.

So what we are indeed going to do, Mr. Speaker, it come back to a tighten up on this legislation and strengthen it and we may very well engage in a process of consultation so that we will come back with stronger legislation. So, Mr. Speaker, with these few words, I want to say, the ghost of David West shall return to haunt you and it is hypocritical in the extreme for you to cry wolf on this appointment when we did it through the proper mechanism.

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

**Mr. Speaker:** The hon. Member for Diego Martin North/East. [*Desk thumping*]

**Diego Martin Highway  
(Completion of Extension Project)**

**Mr. Colm Imbert** (*Diego Martin North/East*): A very weak contribution. Mr. Speaker—[*Crosstalk*—all of you are embarrassments. You have no power to do what you did.

Mr. Speaker, on February 04, 2011 in answer to a question from me with respect to the completion of the project to improve the Diego Martin highway between Powder Magazine and Acton Court, the Minister of Works and Transport said the following:

“Mr. Speaker, only Phase I of the project was approved by the former Minister of Works and Transport... Only Phase I of the project was approved for execution.”

I told the Minister of Works and Transport that he was mistaken. I asked him whether he was aware that the entire project from Cocorite to Petit Valley was approved by Cabinet, including the land acquisition, long before the May 24, 2010 election and that instructions were given to do the entire project. The Minister said he was not aware.

Well, Mr. Speaker, since the Member for Chaguanas West appears to have defective records, I shall correct his records.

**Mrs. Persad-Bissessar:** You have records?

**Mr. C. Imbert:** Yes I do, just like the Cabinet Minute I showed today about

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the OPVs, I have records.

Mr. Speaker, in March 2010, a Cabinet Note was prepared entitled as follows:

Compulsory Acquisition of Lands for the Improvement to Diego Martin Access along the Diego Martin Main Road and Diego Martin Highway between the Western Main Road and North of the Morne Coco Road.

The matters for consideration of Cabinet in that note were the acquisition of lands described in the schedule for a public purpose, namely road improvement works in the Diego Martin Highway and, Mr. Speaker, in this Note the then Minister of Works, namely myself, sought the approval of Cabinet to proceed with the necessary land acquisition to facilitate all phases of the Diego Martin highway project from Powder Magazine in Cocorite to Acton Court in Petit Valley.

In this Cabinet Note, I stated:

Funds for this expenditure are available under the Programme for Upgrading Roads Efficiency and Cabinet will be apprised of the final cost of acquisition when approval is sought for the final vesting of the lands under section 5 in the Act.

The recommendation section of the Note read as follows:

Accordingly, the Minister of Works and Transport recommends and Cabinet is asked to agree to:

- (1) the acquisition under section 10(1) and Part I of the first schedule of the Land Acquisition Act of the lands described in the schedule to the draft section 3 notice and these lands were the lands necessary for the highway project Phases I to IV between Powder Magazine and Acton Court in Petit Valley;
- (2) that a notice be published in accordance with section 3(1) of the Land Acquisition Act to facilitate the said acquisition and to allow entry by the Ministry of Works or its agents and/or servants onto the same lands for the purpose of surveys and soil tests;
- (3) upon publication of the notice referred to in paragraph 9(2) above and after two months have elapsed an order be issued by the President in accordance with section 4(1) of the Act authorizing the Permanent Secretary, Ministry of Works and Transport take possession of the said

lands;

- (4) upon publication of the order referred to in paragraph 9(3) above, the Permanent Secretary of the Ministry of Works and Transport be authorized to carry out works on the lands prior to the formal vesting on the said lands in the State in accordance with the Land Acquisition Act; and
- (5) Cabinet is asked to note that funds are available to meet the expenditure referred to in paragraph 8 from the 2010 allocation of the programme for improving roads efficiency.

You would not want to get it clearer than that.

So I went to Cabinet in 2010, Mr. Speaker, before the election—this note was approved by Cabinet, Mr. Speaker—and what is ironic is that the Minister does not even know what is on his own website. If you go on to the Ministry of Works and Transport website now, you will see the pretty, pretty picture of the Member for Chaguanas West looking out through the distance as if he is surveying the landscape and on that website, Mr. Speaker, you will see Legal Notice No. 187, and Legal Notice No. 187 reads as follows:

“NOTICE OF LAND LIKELY TO BE REQUIRED FOR A PUBLIC PURPOSE

Notice is hereby given that it appears to the President that the parcels of land described in the Schedule and situate between the Diego Martin Highway southbound carriageway from Western Main Road to north of Acton Court and from Diego Martin Main Road from Western Main Road to Victoria Gardens, in the ward of Diego Martin in the County of St. George, are lands likely to be needed for a purpose, which in the opinion of the President is a public purpose: improvement to the Diego Martin Access.”

And the notice goes on to describe all the parcels of land between Power Magazine and Acton Court in Petit Valley that are required to be acquired.

And it is dated May 07, 2010 signed A. Leung Woo-Gabriel, Secretary to Cabinet, Mr. Speaker. That is on the Minister's website.

Well, let me tell you what the Minister failed to do, Mr. Speaker, after the Cabinet approved the publication of this notice. After this notice became Legal Notice No. 187 in early May 2010, I will tell you what the Minister failed to do, and I really need to know why the Minister failed to do this, because section 4 of

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the Land Acquisition Act makes it clear that:

“no earlier than two months after the date of publication of a Notice...” which is this notice published in early May 2010—

if satisfied that the circumstances of the case justify such action, the President may issue an Order authorising the Commissioner, without waiting for the formal vesting of the land in the State to take possession of the land and upon publication and service of such an order the Commissioner may proceed forthwith to carry out any works on the land connected with the use to which it is intended to be put on acquisition.”

So after the publication in early May 2010, Mr. Speaker, what the new Minister was supposed to do after the publication of the section 3 notice, in accordance with the decision of Cabinet, was to arrange for the section 4 notice to be published but the Minister failed to do that. Do you know what happens when you fail to do that, that is when section 4(4) of the Land Acquisition Act kicks in. If the Commissioner fails to take possession of the land within six months of publication of an order, the said order lapses and the powers of the Commissioner thereupon cease to have any effect.

So what is the net effect of what the Minister of Works and Transport has done? He has not followed through with the decision of Cabinet to compulsorily acquire the lands required for all phases of the Diego Martin Highway. The period of time has lapsed, they have not taken possession of the site, they have not entered onto the lands and now the entire procedure is void and of no effect. The Ministry now has to start all over again the process of acquisition and wait for the periods of time to elapse, serve new notices, get a new decision, publish a new legal notice in the Gazette. They have just wasted the entire nine months.

### **9.35 p.m.**

This Minister of Works and Transport came into this Parliament and said that the reason they have not proceeded with the project, was not because he did not do the necessary land acquisition, but because the former Minister did not approve the phases, not realizing or possibly being aware that the Cabinet had approved all four phases of the project. The Cabinet had approved the land acquisition and had given the Minister the go-ahead for the project.

I call on the Minister, now that your records are updated, now that you know Cabinet approved the entire project, now that you know you have failed to do the

land acquisition properly, to ease the suffering of the residents of Diego Martin. Complete the project that the PNM started; finish the improvement of the Diego Martin Highway. There are 100,000 people who live in the region of Diego Martin and at least 50,000 of those people are affected by this project which your Government has failed to do.

All the available evidence tells me that the Government has completely bungled this matter. I call upon the Government to fix the mess that you have made of this and ease the suffering of the travelling public of Diego Martin.

I thank you, Mr. Speaker.

**The Minister of Works and Transport (Hon. Jack Warner):** Mr. Speaker, I have great difficulty coming here, Friday after Friday, to see a former Minister of Works and Transport, in his quest for party elections, come here to abuse the process. He comes here week after week and uses this House to campaign.

Mr. Speaker, you have been trying relentlessly, since you became Speaker, to lift the bar in this House, that is why I have restrained myself from using the words “arrant nonsense” and “dotishness”. I will not use those words, because I know you try your best to raise the bar; but if you were not so vigilant in raising the bar, those words would have been automatic, [*Laughter*] especially, of course, after what I have just heard—worse again, to come to tell this House to look on a legal website. I ask the question: What is the point really? What have you said in the last 15 minutes? What are you trying to tell this House? [*Crosstalk*] What have you done?

**Mr. Imbert:** Do your job.

**Hon. J. Warner:** Last week the question was asked and I said then what I will say again now, and if it is asked again next week Friday, I will say the same thing I say tonight. I do not intend for you to use this House or this Government for your campaign. You have to fight the campaign on your own steam. [*Crosstalk*]

I would never have thought that I had to go to that length to beat a credit card lady. [*Desk thumping*] [*Laughter*] Never; that is “tabanca”. Therefore, I will tell you what I said last week. I will say it this week; I will say it again next week and, come next week, bring four more motions again until the end of March, when you will lose the election and we shall get some peace in this House.

Mr. Speaker, on April 08, 2010, Cabinet approved funding for land acquisition to be carried out for the Diego Martin Highway extension project,

from Victoria Gardens to Acton Court. I said so last week; I say so again this week.

I said last week that the project was assigned to the Programme for Upgrading Roads Efficiency (PURE) unit for implementation, and in collaboration with the roads planning branch the detailed designs for the project were commenced. I said so last week; I say so again this week.

I said the project was widened into four phases and only Phase I of the project was approved for execution. That began on March 15, 2010. That was last week; I say it again this week. [*Interruption*]

**Mr. Imbert:** You said no such thing. I have the *Hansard* here.

**Mr. Speaker:** Member for Diego Martin North/East, could you allow the Minister to make his contribution in silence. If you are having difficulty, I will excuse you. Allow the Minister to make his contribution in silence, please, please, please, please.

**Hon. J. Warner:** When you spoke, I did not say a word, because I do not respond to nonsense normally. [*Laughter*] I did not say a word, because the Speaker has tried his best to lift the bar. I did not say a single word.

**Mr. Imbert:** You said no such thing. "I bringing you before the Committee of Privileges."

**Hon. J. Warner:** What is the background to all of this? The expansion of the Diego Martin Highway was part of an initiative to address the present traffic congestion along the Diego Martin Main Road, between Victoria Gardens and Morne Coco Road junction, due to the increased commercial activity in that area. The project entailed a new two-lane carriageway, from Victoria Gardens to Acton Court, allowing commuters to bypass the busy commercial areas. I said so last week; I say so again this week.

The four phases of the project are as follows: Phase I—the widening of the roadway from two lanes to three lanes, with shoulders and associated drainage works from Western Main Road to Victoria Villas. I said so last week; I say so again this week.

Phase II—the extension of several culvert crossings and the construction of major concrete works al

ng the proposed route; same point. Put it on an LP, put it on a DVD, put it on a tape? [*Crosstalk*]

Phase III—the realignment and widening of the south-bound lane of the highway, from Morne Coco Road to Western Main Road. That is Phase III. Phase IV—the dualling of the highway through the construction of two new northbound lanes and associated works, including demolition of the existing structures from Victoria Villas to Acton Court. That is Phase IV.

Mr. Speaker, what is the present status of the project? Phase I was completed on November 16, 2010. I said so last week. I say so again this week. Phase II—my colleague said Phase II played on Sunday, but “is” all right—[*Laughter*] Phase II involves major concrete works. Currently, the unit is awaiting relocation plans from TSTT. Designs, drawings and final estimates are completed. The proposed start date for this phase of the project is March 28, 2011. I said so last week.

Phase III involves land acquisition and this is ongoing. What is new? This is ongoing. Section 3 has already been served to landowners and section 4 documentation is currently being prepared. I said so last week. If anybody “break stick in their ears” is no fault of mine.

Other outstanding issues include the submission of relocation plans from the various facilities. The unit PURE is also currently engaged with the EMA to obtain a Certificate of Environmental Clearance. Designs and drawings are 95 per cent completed and final estimates are being prepared. I should say that the proposed date to begin Phase III is April 11, 2011.

Phase IV involves the construction of the two new northbound lanes from Victoria Gardens to Acton Court. I said so last week. I say so again. [*Interruption*]

**Mr. Imbert:** [*Inaudible*]

**Mr. Speaker:** If you utter one more word again, Member for Diego Martin North/East, I will ask you to withdraw from the House. I find you are very disrespectful. [*Mr. Imbert rises to leave*]

**Mr. Imbert:** I will withdraw myself.

**Mr. Speaker:** I think you had better leave—withdraw. I find you are very disrespectful. [*Interruption*]

**Mr. Imbert:** [By order of the Chair remarks expunged] [*Interruption*]  
[*Crosstalk*]

**Mrs. Persad-Bissessar:** “Take yuh bag nuh boy.” [*Laughter*]

[*Mr. Imbert exits seat*]

**Mr. Speaker:** Expunge those words that came out from his mouth.  
[*Crosstalk*]

*Diego Martin Highway*  
[HON. J. WARNER]

*Friday, February 18, 2011*

Continue, hon. Minister of Works and Transport.

**Hon. J. Warner:** Thank you, Mr. Speaker. I apologize for the behaviour of the Member for Diego Martin North/East. I know you try your best to lift the bar. I apologize.

Phase IV involves the construction of the two new northbound lanes from Victoria Gardens to Acton Court. Currently, land acquisition is ongoing. Section 3 has already been served to landowners and section 4 documentation is currently being prepared. Other outstanding issues include the submission of relocation plans for the various utilities. I said so last week. Designs and drawings for this phase of the project are, again, 95 per cent completed. The proposed date to start is May 09, 2011.

In conclusion, to date, the only phase of the project that was approved for execution, and has been completed, is Phase I. With respect to phases II—IV, as I said before, there are several outstanding issues as I outlined recently. Mr. Speaker, I want to repeat, these phases are currently awaiting financial approval.

As I speak, I look at my colleague next to me and I see a book named *Zombie Economics*. I am wondering whether there is something called “zombie politics”, because it has to be zombie politics to ask me the same thing week after week.  
[*Crosstalk*]

**Dr. Moonilal:** Tabanca.

**Hon. J. Warner:** If there is anything that is called “political tabanca”, that is.

Mr. Speaker, I thank you.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 9.47 p.m.*