

*Papers Laid*

*Monday, February 28, 2011*

**HOUSE OF REPRESENTATIVES**

*Monday, February 28, 2011*

The House met at 1.30 p.m.

**PRAYERS**

[MR. SPEAKER *in the Chair*]

**PAPERS LAID**

1. Signed loan contract between the Government of the Republic of Trinidad and Tobago (GORTT) and the Inter-American Development Bank (IDB) for the Neighbourhood Upgrading Programme. [*The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal)*]
2. Signed loan contract between the Government of the Republic of Trinidad and Tobago (GORTT) and the Inter-American Development Bank (IDB) for the Public Capital Expenditure Management Programme. [*Hon. Dr. R. Moonilal*]
3. Administrative report of the Ministry of Legal Affairs for the period 2008/2009. [*The Minister of Legal Affairs (Hon. Prakash Ramadhar)*]

**NATIONAL ECCLESIASTICAL COUNCIL OF SPIRITUAL BAPTIST CHURCHES OF TRINIDAD AND TOBAGO**

**Special Select Committee Report**

**(Presentation)**

**Dr. Fuad Khan** (*Barataria/San Juan*): Mr. Speaker, I wish to present the following report:

Report of the special select committee of the House of Representatives appointed to consider and report on a private Bill entitled, "An Act to repeal and replace the National Ecclesiastical Council of Spiritual Baptist Churches of Trinidad and Tobago and provide for the Ecclesiastical Council of Spiritual Baptist Churches of Trinidad and Tobago".

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

[Third Day]

*Order read for resuming adjourned debate on question* [February 18, 2011]:

That the Bill be now read a second time.

*Question again proposed.*

**Mr. Speaker :** The debate on the second reading of the following Bill which was in progress when the House adjourned on Wednesday, February 23, 2011, will be resumed; a Bill to amend the Constitution of the Republic of Trinidad and Tobago, to make special provisions with respect to capital offences.

Attorney General, you had used up 18 minutes and you have 27 minutes of original speaking time left.

**Sen. The Hon. A. Ramlogan :** Thank you very much, Mr. Speaker. Mr. Speaker, on the last occasion before we adjourned I had commenced my reply and indicated that the Government was prepared to meet the Opposition, not halfway, not three-quarters of the way, but, indeed, almost close to the finish line by virtue of the incorporation of several proposals that were made during the course of the debate by the Opposition.

Perhaps it is a timely reminder at this juncture to remind us of what some of the fundamental human rights are in our Constitution, which are enshrined in section 4 that are relevant to the debate on the death penalty. Section 4(a) guarantees the right of the individual to life, liberty, security of the person, the enjoyment of property and the right not to be deprived thereof except by due process of law. There is a right of the individual to respect for his private and family life; there is a right to join political parties and express political views, and I dare say that when this debate is over, the right to join political parties and express political views will have great significance in this country, because those who support the implementation of the death penalty as part of the law of this land stand on one side and those who do not, stand on a different side. [*Desk thumping*] And today, this is about who will stand up on the side of the decent, law-abiding citizens who are under daily attack in this country, as opposed to those who will stand up with the criminals that seek to maim them and murder them, because that is what it is about.

There is a right to freedom of movement and a right to freedom of conscience and religious belief and observance. I mention these enshrined constitutional rights because whether we agree with the death penalty or not, there is a constitutional right to freedom of conscience and religious belief and the overwhelming support for the implementation of the death penalty is something that must be respected by elected Members of Parliament. Our rights to freedom of movement in this country will become virtually meaningless as we live in an undeclared state of emergency with a self-imposed curfew where, in the night, the bandits feel that the street belongs to them. There is no respect for private and

family life when a mother's life is snuffed out by gun-toting bandits in the dead of night and there can be no right to liberty and security of the person, far less enjoyment of property.

The point I make is that the bedrock and the lynchpin of our constitutional rights are being undermined daily while we dilly-dally and while for eight years the murder rate skyrocketed and nothing meaningful was done to address it. The main compromise we have made in this law, as I indicated before, the Opposition having supported the categorization of murder, I incorporated that un-proclaimed Bill in this Constitution (Amdt.) (Capital Offences) Bill and they have indicated that they do not wish to support that, and unlike other jurisdictions like the United States of America, where you have murder in the first degree; murder in the second degree; murder in the third degree, and so forth, where they recognize the endless possibilities and permutations that can lead to murder, the Opposition says they wish that categorization be removed. We have met them on that and I have deleted every single clause in this Bill that dealt with the categorization of murder to meet their concerns. We do not think that is a progressive step, but half a loaf is better than none, and the country is reaching breaking point. There is a desperation with respect to crime, and that desperation did not just appear overnight; that desperation was brought on by eight years of mismanagement and mishandling of the criminal situation, while it mushroomed and skyrocketed under the People's National Movement. [*Desk thumping*]

On that note, the hon. Member for Port of Spain South said that during the period 1998—2010 the average annual murder rate was 292. The real analysis shows a different picture. Permit me to remind this honourable Parliament and the nation what the facts and figures reveal when my learned friends on the opposite side held the reins of power in this country. In 2002, the murder rate was 172; in 2003 it crossed the 100 mark into 200, it was 229. In 2004 it was 261; for 2005, Trinidad and Tobago reached a landmark—an unforgettable landmark—in that there were more murders than there were days in the year for the first time in this country's history—386 murders. In 2006—371 murders; 2007—391 murders; 2008—547 murders. Look at the graph. It just keeps climbing up and up : In 2009—506, and it was only in 2010 that we saw a drop out of the 500 picture, to 472. That drop is attributed largely to the second half of 2010, and as we all know, came on May 24 when there was a change in administration. [*Desk thumping*] So the latter half is what brought it back down into the 400.

In total, 3,235 murders in the nine years that the Opposition held sway. That is a horrible legacy that we inherited. The hon. Prime Minister has had the courage to call a spade a spade. We are not here to bury our heads in the sand and we are

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not here to pretend that the situation is not as serious as it is. That is why the hon. Prime Minister has had the courage to bring this Bill when, for nine years and almost half a century rule under the People's National Movement, a measure like this was never tabled in this House.

When we speak of a self-imposed curfew; when we speak of an undeclared state of emergency; when we speak so strongly about the situation we have inherited, it is because the hon. Prime Minister, as leader of this Government, is prepared to take the bull by the horns and deal with this problem frontally and squarely. That is why we are not here to speak with euphemisms, we are not here to downplay anything; we are here to call it as we see it and to confront the problem and face the raw reality—the harsh and raw reality—that they neglected; that they turned a blind eye to and for that reason it mushroomed out of control.

The hon. Member for Port of Spain South in her contribution indicated that the average murder rate was 292 for the period 1998—2010. The average was not 292; the average was 359 murders per year, during the tenure of your administration. Their record on crime was one of an abysmal failure. From Prof. Mastrofski to Operation Anaconda, everything they tried failed to bear fruit. The hon. Member for Port of Spain South, in her contribution, noted that in 2008, 53 death row prisoners escaped the hangman's noose because of the *Pratt and Morgan* ruling in 1993. What that means is that during the period 2003—2008, no measures were taken by the former administration to deal with the ruling in *Pratt and Morgan*. By virtue of that five-year rule, convicted killers were allowed to live rather than to suffer the sentence of death imposed by a court of law.

I want to remind this Parliament, the *Pratt and Morgan* decision was delivered in 1993 and this is the first time that the Parliament is being asked to confront the *Pratt and Morgan* ruling in a way that will allow us to implement the order of the court after trial by judge and jury. No steps were taken to remove or to plug the loopholes that existed after *Pratt and Morgan*—absolutely none!

**1.45 p.m.**

That is not a matter of any national pride, it is a matter of national disgrace and shame, because this is not a problem unique to Trinidad and Tobago. Right next door in Barbados, the Government had the wisdom and the courage to bring legislation in 2002, not to bring a separate Bill but to amend the Barbadian Constitution. The Parliament amended the Constitution just like we are doing now. They amended the Constitution in Barbados and they provided that the

imposition of the mandatory death sentence, or the execution of such a sentence, or the delay in the execution of such a sentence, or prison conditions, would not be grounds to invalidate the sentence of death.

Mr. Speaker, the previous regime knew this happened in Barbados, they did not follow suit. In fact, they took no steps and they allowed the *Pratt and Morgan* ruling to bite. And now that we are trying to confront that problem they do not wish to give us their support in this measure. They did nothing and when we are trying to do something they seek to condemn criticize and dance with clever, fancy footwork, without actually coming to the point to say to the nation “we do not support the death penalty”, because that is the reality.

The Member for Port of Spain South in her contribution, gave a lengthy discourse on the case law and she concluded by saying, the position that we now find ourselves in is very clear. The position is not now very clear, that position was made very clear since *Pratt and Morgan* in 1993 and thereafter in the *Charles Matthews* case in 2004. They could have taken action since 2004 to prevent people from escaping the sentence of death imposed by a court of competent jurisdiction after a trial by a judge and jury.

They did nothing and having done nothing they have the unmitigated gall and temerity to ask in the newspapers, and to quote the hon. Member for Diego Martin North /East, he asks “What is the rush?”

**Mr. Imbert :** What is the rush?

**Sen. The Hon. A. Ramlogan :** And he repeats it and confirms it. What is the rush? He sees no rush to deal with crime. That is why for eight years they did not rush to deal with crime, for eight years they allowed it to limp along like a three-foot dog.

He says our initial proposal was that we have a period of public consultation and address this issue immediately after Carnival; “we would therefore, not be supporting the Bill on Monday”.

So the official position of the People’s National Movement and the Opposition of this country as enunciated by the “half leader” from Diego Martin North/East, is that there is no rush to deal with this legislation and that this should go out to public consultation.

Mr. Speaker, what is the rush? What is the rush; when people are being murdered in this country on a daily basis and you have the boldfacedness to ask what is the rush to deal with a biting piece of criminal legislation to give meaning and effect to the law of the land? What is the rush?

**Mr. Imbert :** Why did you not bring it nine months ago?

**Sen. The Hon. A. Ramlogan :** I did not hear him ask what is the rush when they called a general election before their time was up. They did not ask what the rush was then. That is, perhaps, when that comment would have been appropriate. But there is a rush and we see a need to rush because we treat crime in this country as the number one priority, and there is a rush to deal with it. [*Desk thumping*] Because if we do not rush to deal with the crime problem the criminals are rushing to murder us, and that is a reality.

So whereas the Member for Diego Martin North/East has the “brass face” and the boldfaceness to come and say, what is the rush? He wants a period of public consultation, and he wants to enjoy Carnival. Well, I will tell you this, for each person that is murdered and for each murderer that escapes the hangman’s noose, that is a rush that the blame lays on their doorsteps.

They are deliberately trying to slow down the passage of this legislation, slow it down and frustrate, not the Government, they are frustrating the people, they are frustrating the law-abiding citizens who are under attack on a daily basis.

Mr. Speaker, I want to remind this honourable House of the grim and raw reality we face. I see my learned friend, the hon. Member for Diego Martin West, suddenly has a lot to say. I notice he did not bother to contribute in the debate when he had his chance but he has a lot to say. [*Crosstalk*] Yes he said nothing and he continues to say nothing. This is public relations because the hon. Member for Diego Martin North/East is perhaps showing him up because he contributed. So this is PR on his part to show that he has something to say, he is a bit jumpy. [*Desk thumping*] If you had something to say you should have contributed to the debate and said it then; now is not the time to say it, you have had your chance.

You see, when the hon. Member for Laventille East/Morvant said, you know the situation is almost as if—you got the impression the situation is not all that bad, why are we rushing this? She said hate crimes are not even common to our national culture and why are we even including hate crimes, and so forth. I wonder if their memory is so short.

I view the murders—Dr. Rambachan, Member for Tabaquite, said it: “They are beasts in human form.” Listen, let me remind you of some of the hate crimes.

David Abraham sentenced to death for the murder of Carlos Phillip. Phillip went to that apartment of Julia Sellier-Ramdeen at Jerningham Junction in Charleville. She shared that apartment with David Abraham; Phillip was killed in

the apartment and his body was found two days later, floating in a pond with his hands and feet bound and his mouth gagged. He had injuries to his face and head and died from multiple stab wounds. That is a hate crime, as far as I am concerned.

Nigel Brown—Brown was found guilty of murdering pensioner Lloyd Bailey. You all forget these people but I want to remind you of these people because their memory must shock your conscience. Lloyd Bailey, a pensioner at his home in Second Caledonia, Morvant, on October 28, 2004—Bailey's widow heard her husband aged 76, shouting for his life and she went inside the house and saw Brown holding her husband in a headlock and repeatedly stabbing him in the head. Bailey's widow started to struggle—this is a pensioner struggling to save her husband's life, and he stabbed her on her head and beat her with a small bench before escaping. Lloyd Bailey died on the spot and his death was due to a slash to the side of his face.

Anton Bruce, of Couva, was convicted for beating his two-and-half-year-old stepdaughter—a two-and-a-half-year-old baby girl—convicted of beating her to death in a fit of anger, because she ate snacks bought with money she had stolen from him—two-and-half-year-old, and they wish to say that we should not rush.

**Mr. Sharma:** What a shame! Total shame!

**Sen. The Hon. A. Ramlogan:** Kareema Roberts, two-and-half-year-old beaten to death by Bruce with the palm of his hand on April 8, 2009, to the extent that she suffered a ruptured liver and head injuries.

I want to remind you of these children's death because, it seems as though it is only when this Government came into office that suddenly, suddenly, they realized that there is a need for a Government and elected representatives to demonstrate that they care for the people.

Mr. Speaker, it was after the hon. Prime Minister paid a visit to the home of young Daniel, after the Prime Minister paid a visit to the home to express some compassion, to show a caring side and to meet with the family and see how we can assist. It was only after the Prime Minister took such a personal interest, after nine years in office and never visiting a home of a single victim of crime, all of sudden, they find their high-heeled shoes to put on and they find their car key to reach Gasparillo, to show that the PNM cares, the PNM cares. Why is it for nine years you did not visit a single kidnap victim? [*Desk thumping*] Not a single kidnap victim's home you visited.

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When Tecia Henry died, they did not go because their leader said that there was more in that. [*Interruption*]

**1.55 p.m.**

**Dr. Browne :** Would you give way, Member?

**Sen. The Hon. A. Ramlogan :** No, no, no! When people were gunned down they said it was collateral damage. [*Interruption*]

**Dr. Browne :** You are misleading the House.

**Sen. The Hon. A. Ramlogan :** When young children were being kidnapped—

**Dr. Browne :** Nonsense!

**Sen. The Hon. A. Ramlogan:**—brutalized and raped, they said that was bogus. It was inspired by the Opposition. All of a sudden, after we demonstrated how a responsible government should behave, they found socks and shoes to put on to reach quite down Gasparillo. I want to tell you something, “charity begins at home”, and you all should have visited the people in your own constituencies because they too are citizens of this country. [*Desk thumping*]

You should have visited young Tecia Henry’s home. They too are citizens of this country. Do not come and cry crocodile tears in Gasparillo now.

**Dr. Browne :** “Look who talking.”

**Sen. The Hon. A. Ramlogan :** Mr. Speaker, Marcus Daniel admitted to slitting the throat of his 16-year-old cousin, Susan Gordon, and stabbing her.

Deochan Ganga beat his cousin, Sunil, to death in July 2003, while he was lying in a hammock. Both men then tied a rope around Sunil’s neck and hanged him from a shed. So they carried out the hangman’s noose and hanged young Sunil, but they must escape the hangman’s noose themselves because the Opposition said, “What is the rush? Let us have public consultation.”

Timothy Hunte wanted by the police, agreed to kill Ramkhelawan Ray Charran in return for an opportunity to escape abroad. He was shot five times at home, in his house; sustained craniocerebral injuries, facial injuries and haemorrhaged, due to multiple gunshot wounds to the head and face.

Neil Hernandez murdered Christine Henry and her son Phillip on May 02, 2000. They were found at 10.00 a.m. on a beach in Cumana. Christine had chop wounds on her neck, hand and behind the ear, while Phillip’s body was found in a track with chop wounds on the head.



Mr. Speaker, one can go on and on to remind them because the nation's conscience has been aroused and shocked, but their conscience has not been even aroused to rise to the occasion to meet this country's interest and to act in their interest. Do you know why? They have no social, far less political conscience for the people of this country. Absolutely none! Their concern in this debate is to not make the People's Partnership look good for bringing this, because they did not do it while they were there. That is their main concern.

**Mr. Imbert :** You all cannot look good.

**Sen. The Hon. A. Ramlogan :** It is political hooliganism of the worst kind! [*Desk thumping*] A maxi taxi full of what should be responsible, elected representatives—a little 12-seater, Minister of Works and Transport—full of MPs, holding this entire country to ransom and standing in the way—they are being politically obstructionists—of a measure that would help the country.

**Mr. Imbert :** We are convinced. [*Crosstalk*]

**Sen. The Hon. A. Ramlogan :** That 12-seater is in jeopardy. Mr. Speaker, we tried the diplomatic route, we tried the friendly route, we met with them and said, “Look you want the categorization of murder? You all supported it before, why this change of heart? Let us support it.” They said, “No, we are standing firm. We are standing firm.” I said, “No problem, I am removing it.” When I said I would remove it, they say, “Okay! What now?” They said, “What about the timeline?” You all said, “Let them have their day, however long they take, you would come and execute them.” They say, “Put a timeline.” I say, “No problem, I will put a timeline.” There is an amendment circulated to this Bill on the floor of this House since last week, to give in to their demands, to give them 12 months on international petitions.

**Mr. Imbert :** Who you are talking to?

**Sen. The Hon. A. Ramlogan :** *Pratt and Morgan* said with 18 months. I asked if we should stick with 18 months, they said no, they wanted 12 months. We circulated that amendment—[*Interruption*]

**Hon. Members :** Noooooooo!

**Mr. Imbert :** Not true!

**Dr. Browne :** That is not true!

**Sen. The Hon. A. Ramlogan :** Mr. Speaker, the record of the *Hansard*—[*Interruption*]

**Miss Cox :** You lie!

**Sen. The Hon. A. Ramlogan:**—will show that their position—

**Mr. Speaker :** Please! Please! I know this place is getting a bit warm, but let us cool the temperature. And as we are on that, I am hearing expressions that are unparliamentary on both sides. I just want to indicate that we should use more elegant language when we are communicating and, across the floor, please, be careful of the language that you convey. Hon. Member, continue.

**Sen. The Hon. A. Ramlogan :** You see, Mr. Speaker, if they are prepared to even clarify now, they are by saying, “Nooooo, not 12”, tell me what you want. If you do not want 12, then you want 18?

**Mr. Imbert :** We said 18.

**Sen. The Hon. A. Ramlogan :** The Member for Diego Martin North/East says they want 18, Mr. Speaker. I am giving the commitment on behalf of this Government to amend it, to give you 18. [*Desk thumping*] I shall immediately instruct the Chief Parliamentary Counsel to redraft and circulate an amendment now to give the Opposition, not 12, but 18 months and hopefully, that will give us their support.

**Mr. Imbert :** You wish.

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

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

*Question put and agreed to.*

**Sen. The Hon. A. Ramlogan :** I am obliged, Mr. Speaker. You see, the formula we came to this Parliament with, we said, look, allow them to have their appeals. However long it takes, at the end of it, delay cannot be invoked to invalidate the sentence of death imposed by a court of competent jurisdiction after trial by judge and jury. Take how long you want. They said that is too loose and they prefer—they have gone now to 18 months. You see, I am demonstrating even at this stage we are prepared to meet them.

Mr. Speaker, we have tried to win them over, and we have tried everything to win them over.

**Mr. Speaker :** Order! Order!

**Sen. The Hon. A. Ramlogan :** What else do they want, I do not know.

**Mr. Imbert :** You very well know. Read the whole article.

**Mr. McLeod :** “All yuh make ah mess of it.”

**Sen. The Hon. A. Ramlogan :** Every time they have raised an objection, we have met it. They raised the objection that they do not support categorization, I took it out. They raised the objection that we should not leave this delay endless and say however long it takes we will execute you after, put a time frame, I said no problem. Twelve months to 18 months, no problem. They then raised—

**Dr. Rowley :** In like manner, is the Attorney General prepared to—  
[*Crosstalk*]

**Mr. Speaker :** Continue, hon. Member.

**Miss Cox :** “Disturbing man.”

**Dr. Rowley :** In the same way that you have publicly instructed your staff to amend from 12 to 18 months—we have always requested 18 months—are you prepared to instruct your staff to draft a Bill to separately put that before the House, and accept the Opposition’s support for a Bill that says, “it will not be put in the Constitution, but will be enacted by a separate three-quarters majority”? Are you prepared to do that?

**Hon. Member :** [*Inaudible*]

**Dr. Rowley :** I am not talking to you. I am talking to him. [*Desk thumping*]  
[*Crosstalk*]

**Sen. The Hon. A. Ramlogan :** Mr. Speaker, unlike the split political personalities on this side, when you speak to the Attorney General, you speak to hon. Prime Minister and every Member of the People’s Partnership Government. [*Desk thumping*] Part of the problem is that you do not know who to speak to sometimes to get an authoritative position from that side. [*Laughter and desk thumping*] You have one leader, one want-to-be leader, one coming up on the flanks, and it is always gamesmanship.

This debate, a serious debate, has been transformed into a “political gayelle”—[*Interruption*]

**Hon. Member :** By the Government.

**Sen. The Hon. A. Ramlogan:**—for one person to outdo the other because there are internal elections coming and they have different slates running. So the Members for Diego Martin North/East and Diego Martin West have to showcase their talent in light of the upcoming internal elections. But I am not about that.

I want to respond to the hon. Leader of the Opposition. Mr. Speaker, every single Attorney General who has held this exalted office has received advice on this matter. The Privy Council has spoken to it, and the advice that has been received is that if you proceed—because this is their latest objection, come by way of a separate Bill, do not amend the Constitution. Every single advice received by the Ministry of the Attorney General has advised that the best way to do this, in fact, the most appropriate way to do it, is to amend the Constitution. So, hon. Leader of the Opposition, the answer to the question is, no, because you will be setting us up. Permit to cite why. Even Barbados, as I have indicated, recognized this and amended their Constitution.

**Mr. Imbert :** How many people in Barbados?

**Dr. Browne :** How many they have?

**Sen. The Hon. A. Ramlogan :** Mr. Speaker, what I find strange—this is their position. The hon. Member for Diego Martin North/East in the *Trinidad Guardian* on February 27, 2011 says—I mean no disrespect to the hon. Leader of the Opposition, the Member for Diego Martin West, if I do not quote him on these matters, it is just that the de facto or the de jure leader of his party from Diego Martin North/East has been the only one outlining the party’s position. The hon. Leader of the Opposition appears somewhat reticent to speak on these matters. This is what the hon. Member for Diego Martin North/East had to say and I quote:

“This clause is the section of the Bill that seeks to alter the Constitution. Our problem is that we did not believe that it was necessary to alter the Constitution to achieve the results they are seeking to achieve.”  
[*Interruption*]

**Hon. Member :** You now know.

**Sen. The Hon. A. Ramlogan :** So, Mr. Speaker, they are telling this country that—I want to get it clear—they have no objection to the death penalty being implemented. That is what they said. Their objection is that we are seeking to implement it by virtue of amending it and putting it in the Constitution—  
[*Interruption*]

**Mr. Imbert :** You are not seeking.

**Sen. The Hon. A. Ramlogan:**—and they want it by a separate law. Whether you amend it and insert it into the Constitution, or you put it in a separate Act of Parliament, it is still law of the land.

**Hon. Members :** No! No!

**Sen. The Hon. A. Ramlogan :** They said, which is what the Privy Council said in *Charles Matthews*. This is what Lord Nicholls said:

“73. If the requisite legislative support for a change in the constitution...”

**Mr. Speaker :** Members, I would like you to cooperate and observe Standing Order 40(b) and (c). I am hearing it on both sides, but I want the Members on the Opposition side and, in particular, the Member for Diego Martin North/East, would you be kind enough to allow the Attorney General to make his contribution without interjecting. Continue, hon. Attorney General.

**Sen. The Hon. A. Ramlogan :** Thank you very much, Mr. Speaker. This is what Lord Nicholls said in the *Charles Matthews* case and this in direct response—[*Interruption*]

**Mr. Imbert :** Would the Attorney General give way?

**Sen. The Hon. A. Ramlogan :** No—to the point raised by the Leader of the Opposition. This what the Privy Council said:

“73. If the requisite legislative support for a change in the constitution”—which is what we are doing here—“is forthcoming, a deliberate departure from fundamental rights may be made...That is the prerogative of the legislature.

74. If departure from fundamental rights is desired, that is the way it should be done. The constitution should be amended explicitly.” [*Desk thumping*]

Mr. Speaker, this is the Privy Council speaking, giving us that guidance, but I did not stop there.

Mr. Speaker, I mentioned that over the years, Attorneys General would have sought legal advice on this matter. Permit me to tell you what that advice is. I noticed, for example, that the hon. Member for Diego Martin North/East quoted liberally in his contribution from a newspaper column written by former Independent Senator Martin Daly SC—[*Interruption*]

**Mr. Imbert :** *Hansard*.

**Sen. The Hon. A. Ramlogan:**—or from *Hansard* but he quoted liberally.

**2.10 p.m.**

Mr. Speaker, one of the lawyers from whom advice was sought and received was Mr. Martin Daly SC and that was not by myself, that was by my predecessor, Mr. John Jeremie. And I will quote from these advice to show that when the PNM was in power, the advice they received that they did not disclose to the country, that they failed to act upon, the advice was to do precisely what we are doing here today, in this Parliament. Mr. Speaker, this will expose their political hypocrisy and deception for all to see and lay bare the facts.

Mr. Speaker, the first advice I sought was from Mr. Russell Martineau SC, a former Attorney General of this country and a well respected Member of the Bar. This is what Mr. Martineau had to say:

“In my opinion, the proposed legislation, to give effect to the implementation of the death penalty should be by way of amendment to the Constitution—”  
It should be by way of amendment to the Constitution—“itself. In that way, the State will...”

Listen to the reasoning, he said:

“In that way, the State will avoid constitutional challenges to the provisions contained in the proposed amendment.”

If we amend the Constitution, we will avoid proposed challenges.

“The Constitution being the supreme law of the land, there can be no constitutional challenges to it.

On the other hand...”

This is Mr. Russell Martineau speaking now; he is now going to examine their proposal and Mr. Martineau says:

“On the other hand, any other law can be the subject of a constitutional challenge. It follows that by amending the Constitution itself, the State will eliminate one possible type of challenge against the provisions of the proposed amendments.”

And he says:

“Indeed, this is the preferred way.”

And he cites the Privy Council passage I just read.

He goes further to say:

“...the State may wish to amend the Constitution to ensure that there is no challenge to the execution of the death sentence on a day other than a Tuesday or reading of the warrant...”

He concludes that it will be prudent for any amendment to the Constitution to be done by Parliament with the specified majority. But the point is, Mr. Martineau SC expressly, in his advice, rejected the course proposed by the Opposition and the rationale for that was that if we do it your way, it is bound to be overturned in court because there will be constitutional motions to challenge it.

Mr. Speaker, I heard the hon. Member for Diego Martin Central say: “Well, let them go ahead.” It is almost as if, Mr. Speaker, they are trying to set it up, they are trying to set up this country to allow for that to happen. They do not wish to facilitate the death penalty, they wish to facilitate challenges to the death penalty. That is what is taking place here.

Mr. Speaker, I sought advice from Sir Fenton Ramsahoye QC. Sir Fenton said:

“With...the barriers to the enforcement of the death penalty for a criminal offence which may not be easily overcome at this time, the”—best—  
“solution in the event the Government wishes to enforce the death penalty is an amendment to the Constitution itself.”

Sir Fenton Ramsahoye QC. Sir Fenton is a former Attorney General from Guyana. Two former Attorneys General, two distinguished and eminent Sir.

And then I come to the President of the Bar, Mr. Martin Daly SC, whom Diego Martin North/East quoted as an authoritative source on the death penalty. This is what Mr. Martin Daly SC, in an advice to my predecessor, Mrs. Bridget Annisette-George, had to say on April 01, 2009. He says and I quote:

“...one must proceed with caution in regarding Matthews”—decision —“as having automatically made future implementation of the death penalty easier. Any action that is not protected by the savings clause of the Constitution or by the Constitution itself...”

Listen to it:

“Any action that is not protected by...the Constitution itself is likely to be quashed...”

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If it is not protected by the Constitution itself, it is likely to be squashed. I ask the question to the hon. Member for Diego Martin West, Leader of the Opposition who asked me a frontal question, Sir, I am answering you now. Is it that you want it in a separate Act so that it can be quashed, so that more murderers can escape? Is that what you want?

You see, Mr. Speaker, Mr. Martin Daly SC concluded—[*Dr. Rowley stands*] I am sorry, no. Mr. Martin Daly concluded—for me to have allowed a first interruption from a Member of this House that did not contribute to the debate is in itself an anomaly, and a joke twice is not nice. I shall continue with my contribution. Mr. Speaker, Mr. Martin Daly concluded :

“If there is to be new legislation...”

And this is way back in 2009; April 01, 2009. He says:

“If there is to be new legislation, I have advised that all of it should be done, by way of an amendment to the Constitution.”

And I have highlighted it.

So, Russell Martineau, former Attorney General, Sir Fenton Ramsahoye QC, former Attorney General and Mr. Martin Daly SC, whom the Member for Diego Martin North/East regarded as an authoritative source, all three speak with one voice and yet still, they come here to say they do not want it this way. The Privy Council said it, Mr. Martin Daly said it, Mr. Russell Martineau SC said it, Sir Fenton Ramsahoye QC said it, and yet still, they wish to continue to say, well boy, put it in a separate Bill. It is as if they looking for anything, something to just be obstructionist because they do not want this to succeed.

Mr. Speaker, so I have dealt with the point—they are objecting to the procedure, they say do not come with the Constitution, come by way of a separate Act of Parliament. The advice the State had received—not me—the advice while you were in Government had received, was that the only way to do this, if you are serious about it, is to amend the Constitution. That is the advice you sought and received.

Mr. Speaker, to have sought and received that advice and not disclose it to the population and not act upon it to bring a Bill before the Parliament and to remain in office for eight years while murders skyrocketed to an astronomical unprecedented proportion, and for me to discover it and come to disclose it now, Mr. Speaker, I cry shame on the Opposition. Shame! Shame! Shame! [*Desk thumping*]



Mr. Speaker, when they realize they are running out of things to say and obstacles to erect, they come and say, as the Member for Diego Martin North East says: public consultation. Mr. Speaker, public consultation. I find it really strange, the hon. Member for Port of Spain South indicated during her contribution that there was over 85 per cent support for the death penalty—that is what she said—over 85 per cent support.

Mr. Speaker, she cited no research, she cited no authority for that but I thought it was pretty high to say 85 per cent and I thought coming from the Opposition that that would have given some inspiration and impetus to arrive at a consensual approach to this. But lo and behold, Mr. Speaker, they said they want consultation.

Mr. Speaker, a survey done by Prof. Roger Hood of the University of Oxford and Dr. Florence Seemungal, a Trinidadian psychologist attached to the University of Oxford—and they have done research on the death penalty in Trinidad and Tobago before—they conducted interviews between November 16 and December 16, 2010. The results showed that the Member for Port of Spain South when she said 85 per cent support the implementation of the death penalty she was wrong. Mr. Speaker, Prof. Hood's research showed that in Trinidad and Tobago, not 85 per cent but 91 per cent of this population support the death penalty. [*Desk thumping*]

**2.20 p.m.**

Mr. Speaker, if, in the face of 91 per cent, or by your own admission, 85 per cent, there is public support that you yourselves admit, acknowledge and recognize, what do you want to consult the public about? The next 9 per cent comprise you all. You want to talk among yourselves? Ninety-one per cent. You will never get 100 per cent support for any measure. You will never get 100 per cent support. Ninety-one per cent support it. It is noteworthy that out of that 91 per cent, the majority said that they even supported the categorization of murder; that they have made us concede.

Do you know what I find interesting? This is an Opposition, when they were in government, this present penchant for public consultation seemed to have escaped them. I want to ask the question: did they consult with the population when they were bringing a Bill to amend the Judicial Review Act to abolish public interest litigation against the State?

**Hon. Members :** No.

**Sen. The Hon. A. Ramlogan:** Did they consult with the population when they were going to amend the Integrity in Public Life Act, to make a complaint to the Integrity Commission be done on sworn statutory declaration and to make it an offence if the complaint is not made out, so that the complainant, as the whistle-blower, could be punished in a court of law? Did you all consult the population on that?

**Hon. Members :** No!

**Sen. The Hon. A. Ramlogan :** Both measures failed as they wilted under public pressure and capitulated to public pressure, but they did not see the need for consultation.

Did they see the need for public consultation on the aluminium smelter project?

**Hon. Members :** No!

**Sen. The Hon. A. Ramlogan :** Did they see the need for public consultation when they were introducing the Trinidad and Tobago Revenue Authority and sending home over 2,000 people?

**Hon. Members :** No!

**Sen. The Hon. A. Ramlogan :** Did they see the need for public consultation when they shut down Caroni (1975) Limited and put 18,000 people on the breadline?

**Hon. Members :** No!

**Sen. The Hon. A. Ramlogan :** Did the Member for Diego Martin North/East see the need for public consultation when in full flight and delusions of grandeur, he was going to build a rapid rail project to cost billions of dollars? Did they consult?

**Hon. Members :** No!

**Mr. Imbert :** Yes!

**Sen. The Hon. A. Ramlogan :** I do not know where the Member for Diego Martin West was, to ask that the population be consulted when they were going to buy a private jet for his Prime Minister. Did they consult the population on that, when they were having private meetings with Bombardier to purchase and acquire the jet?

**Hon. Members :** No!

**Mr. Warner :** And the *MV SU*.

**Sen. The Hon. A. Ramlogan :** Did they consult this nation when they were building a tsunami shelter, now called the Brian Lara Stadium in Tarouba? Did they consult the population on that?

**Hon. Members :** No!

**Sen. The Hon. A. Ramlogan :** Did they consult the country when they were going to introduce that pernicious property tax and we axed?

**Hon. Members :** No.

**Sen. The Hon. A. Ramlogan :** And they have the gall to try to introduce confusion in the minds of the population. They have the gall to come and say that we who axed the tax want to bring back the tax. Mr. Speaker, permit me to say to this Parliament that the hon. Prime Minister of this country is a woman to her word and when she axed that tax, rest assured that tax is not coming back. [*Desk thumping*]

They never consulted the country when they appointed an Independent Senator on about seven state boards; when they were constructing a Prime Minister's palace fit for the emperor, while there were no beds in the hospital. They did not consult the country then.

When they wanted to host the CHOGM and Summit of the Americas and waste money, they did not consult the population then.

Mr. Speaker, when they gave out \$46 million in private scholarships, without the nation knowing they did not consult "nobody" then either.

When Calder Hart was hiring his brother-in-law, friend and family and when the PNM was defending him, they did not consult with the population then either.

Permit me to say I found one instance when they consulted this country. During the period April 19—May 18, 2007, there was a report on a consultation held by the PNM administration submitted to Cabinet at the end of June 2007. That was a national consultation on crime, and it lasted April 18—May 18, 2007 and the recommendations were zero tolerance on crime; implement capital punishment—their own research—different categories for punishment for different degrees of murder; need for the death penalty; and reduce the delays in the criminal justice system. That consultation lasted one month and the cost was an astronomical \$4.73 million and still they hid all the recommendations. They

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acted on none. Did they implement capital punishment? No! Did they introduce different categories for murder? No! Did they see the need for the death penalty and tried to implement it? No! That is how it ran.

I find it strange to stay the least. Permit me to quote. In the debate, the issue was raised that it was not a deterrence. I was at pains to point out, during the course of my contribution, that this is not about deterrence. The death penalty is the law of the land, but there is an issue with respect to respecting, in a functioning, mature democratic society, the wishes of the people that elected you. The element of retribution is one that is very potent.

Permit me to quote from Dr. Louis Pojman, Prof. Emeritus of Philosophy from West Point Military Academy, in an essay entitled: “Why the Death Penalty is Morally Permissible”. This is what he said :

“People often confuse retribution with revenge...Vengeance signifies inflicting harm on the offender out of anger because of what he has done. Retribution is the rationally supported theory that the criminal deserves a punishment fitting the gravity of his crime...”

Retribution “is not based on hatred for the criminal”—retribution—“is the theory that the criminal deserves to be punished and deserves to be punished in proportion to the gravity of his or her crime, whether or not the victim or anyone else desires...”—that punishment—“We may all deeply regret having to carry out the punishment, but consider it”—justified and—“warranted.”

When a society fails to punish criminals in a way thought to be proportionate to the gravity of the crime, the danger arises that the public would take the law into its own hands, resulting in vigilante justice, lynch mobs, and private acts of retribution. The outcome is likely to be an anarchistic, insecure state of injustice.”

Mr. Speaker, permit me to quote further from the well-known famous case of *Gregg v Georgia*. I know I have a bit of injury time and I will wrap up. This is what Justice Potter said :

“The death penalty is said to serve two principal social purposes: retribution and deterrence...”

The instinct for retribution is part of the nature of man, and channeling that instinct in the administration of criminal justice serves an important purpose in promoting the stability of a society governed by law. When people begin

to believe that an organized society is unwilling or unable to impose upon criminal offenders the punishment they ‘deserve,’ then there are sown the seeds of anarchy—of self-help, vigilante justice.”

This is the position in the United States of America, and it is a position that is well researched and well documented. Who are we to volunteer that a victim of crime should starve because we do not like the meat that is being served? Who are we to judge for them? If this country wants the death penalty this Parliament as elected representatives of the people has a duty to respect and act in accordance with the wishes of the people of this country.

We have the power the—[*Interruption*]

**Mr. Speaker :** Two minutes more.

**Sen. The Hon. A. Ramlogan :** Certainly, Mr. Speaker. We have the power in our hands at this critical juncture in the development of our society as we confront a tsunami of crime that we have inherited. We have a solemn and sacred duty and responsibility to stop being obstructionist and pedantic, but to rise to the occasion together and join hands as a serious and responsible Parliament.

In this debate, I ask my colleagues on the other side to stand with the decent and innocent people and not stand with those that murder them. I ask you to stand with the victims of crime and not the perpetrators of crime. I beg of you, do not hold this nation to ransom by withholding your vote on the spurious ground that consultation is needed. Consultation for what purpose? It will be consultation and analysis paralysis. We will get nowhere. I ask them to stand for the 91 per cent that support the death penalty and not the 9 per cent that do not want it.

If the Opposition does support this measure, I want to signal that they would be signing their own political death warrant. It is political suicide. Their own seats, which dwindled in the last general election will dwindle to 9 per cent in the next general election. This is a time for serious and responsible governance. The country is at a critical juncture. I end by reminding my learned friends, I want them to remember, mercy to the guilty is cruelty to the innocent.

Mr. Speaker, with those few words, I beg to move and I thank you very much.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

**Mrs. Persad-Bissessar :** Mr. Chairman, given the importance of this measure, I want to propose to the hon. Leader of the Opposition that we suspend the House and meet. I know my Permanent Secretary had contacted—I am advised by my PS that we had asked to meet with the hon. Leader of the Opposition prior to the sitting today. I was advised that the hon. Leader was in a caucus and would not have the time to so meet. I am prepared, with the support of my colleagues, to ask us to suspend the House to facilitate a meeting with the hon. Leader of the Opposition.

**Dr. Rowley :** My understanding is that the Attorney General had spoken for you and the insults that came from him came from you as well. That is my understanding. [*Desk thumping*]

**Mrs. Persad-Bissessar :** Mr. Chairman, through you again, we see this measure as an important measure and should it be that the hon. Leader has taken the words in that regard, I would say that it is most unfortunate, because at the end of the day it would be the innocent people of this land who will suffer, so we proceed. Committee stage.

**2.35 p.m.**

**Mr. Chairman :** Could we have your undivided attention, Member for Diego Martin North/East?

*Clause 1 ordered to stand part of the Bill.*

*Clause 2.*

*Question proposed, That clause 2 stand part of the Bill.*

**Mrs. Persad-Bissessar :** We propose that clause 2 be amended as circulated, which is to say that the entire clause 2 be deleted.

*Question put and agreed to.*

*Clause 2 deleted.*

*Clause 3 ordered to stand part of the Bill.*

*Clause 4.*

*Question proposed, That clause 4 stand part of the Bill.*

**Mrs. Persad-Bissessar :** We propose an amendment as circulated to clause 4 which is to delete new sections 6A, 6L; renumber new section 6M as new section 6A and in the new section 6A as renumbered, the words to be inserted as circulated with the list of amendments.

- A. Delete new sections 6A to 6L.
- B. Renumber new section 6M as new section 6A.
- C. In new section 6A as renumbered—
  - (a) in section (2)—
    - (i) in paragraph (c), delete the word “or” at the end of the paragraph;
    - (ii) in paragraph (d), delete the full stop and substitute the word “or”;  
and
    - (iii) insert after paragraph (d), the following new paragraph:
      - “(e) the Minister and the Advisory Committee referred to in subsection (1C) of section 89 exercised their respective functions in relation to the person in accordance with that subsection and the person’s petition, communication or consultation under section 89(1B) has not been concluded or was concluded after the exercise of the respective functions of the Minister and the Advisory Committee.”
  - (b) in subsection (4), insert after the word “(Amendment)”, the words “(Capital Offences)”

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5.*

*Question proposed, That clause 5 stand part of the Bill.*

**Mrs. Persad-Bissessar** : Hon. Chairman, we propose that clause 5 be amended as circulated save and except in paragraph (1C) that the word “twelve months” be deleted and insert thereof “eighteen months”. And hon. Chairman, this was another area in which we sought to meet the request of the Opposition, our amendments to clause 4 were to meet the request of the Opposition, and our amendment here to clause 5 is following upon the request of the Opposition. So clause 5, Sir, is to be amended as circulated save and except that the words “twelve months” be deleted and insert thereof the words “eighteen months”.

Delete new subsection (1B) and (1C) and substitute the following new subsections:

“(1B) Subject to subsection (1C), an offender referred to in subsection (1) may petition, or communicate or consult with, any international human rights body whose competence to entertain petitions by or on behalf of the offender in relation to the offence or sentence in question, is recognized by the Government of Trinidad and Tobago pursuant to an international treaty.

(1C) The Minister and the Advisory Committee may exercise their respective functions under this section in relation to an offender referred to in subsection (1) at any time after the expiration of twelve months from the date of the dismissal of all appeals against the conviction of the offender, notwithstanding that the offender’s petition, communication or consultation under subsection (1B) has been concluded.

(1D) Nothing contained in subsection (1C) shall be construed as being inconsistent with or in contravention of section 4 or 5.

(1E) Subsection (1B) to (1D) apply to an offender who petitions, or commences communication or consultation with, an international human rights body under subsection (1B) on or after the coming into operation of the Constitution (Amendment) (Capital Offences) Act, 2011.”

**Mr. Chairman :** You wanted to say something, Member?

**Miss McDonald :** I just wanted to—I do not know if you reach so far as in (1C), is that what you are making the changes to? Is that what you are making the changes to from “twelve months” to “eighteen months?”

**Mr. Chairman :** Yes.

**Miss Mc Donald :** Okay.

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

**Mrs. Persad-Bissessar :** We propose that clauses 3 to 5 be renumbered as clauses 2 to 4 which will be consequential upon a previous amendment we proposed.

**Mr. Chairman :** We will deal with that.

**Mrs. Persad-Bissessar :** Thank you, Mr. Chairman.

*Preamble approved.*



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

*House resumed.*

*Bill reported, with amendment.*

**Mrs. Persad-Bissessar** : Division.

**Mr. Speaker** : This Bill requires a special majority and a division is required.

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

*The House divided :*      Ayes            29            Noes            11

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Warner, Hon. J.

Dookeran, Hon. W.

Mc Leod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.

Seepersad-Bachan, Hon. C.

Volney, Hon. H.

Khan, Hon. Dr. F.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Griffith, Hon. Dr. R.

Ramadharsingh, Hon. Dr. G.

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Ramadhar, Hon. P.

De Coteau, Hon. C.

Indarsingh, Hon. R.

Baker, Hon. Dr. D.

Partap, Hon. C.

Samuel, Hon. R.

Douglas, Hon. Dr. L.

Ramdial, Miss R.

Roopnarine, Miss S.

Seemungal, J.

Khan, Miss N.

NOES

Mc Donald, Miss M.

Rowley, Dr. K.

Cox, Miss D.

Hypolite, N.

McIntosh, Mrs. P.

Imbert, C.

Jeffrey, F.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Manning, P.

*Question negatived.*

**Mr. Speaker :** The Bill required a majority of 31 votes and has not met that requirement, and as such the Bill is defeated.

*Special Select Committee Report*

*Monday, February 28, 2011*

**2.45 p.m.**

**NATIONAL ECCLESIASTICAL COUNCIL OF SPIRITUAL BAPTIST CHURCHES OF  
TRINIDAD AND TOBAGO**

**Special Select Committee Report  
(Adoption)**

**Dr. Fuad Khan :** Mr. Speaker, I beg to move the following Motion standing in my name.

*Be it resolved* that the House adopt the report on a special select committee of the House of Representatives appointed to consider and report on a private Bill entitled an Act to repeal and replace the National Ecclesiastical Council of Spiritual Baptist Churches of Trinidad and Tobago and provide for the Ecclesiastical Council of Spiritual Baptist Churches of Trinidad and Tobago.

Mr. Speaker, on the advice from the legal advisor of the promoter, Miss Ria Joseph, they have withdrawn the Bill.

Mr. Speaker, I beg to move.

**Mr. Speaker :** Hon. Members, the question is that this House adopt the report of a special select committee of the House of Representatives appointed to consider and report on a private Bill entitled, an Act to repeal and replace the National Ecclesiastical Council of Spiritual Baptist Churches of Trinidad and Tobago and provide for the Ecclesiastical Council of Spiritual Baptist Churches of Trinidad and Tobago.

*Question put and agreed to.*

*Report adopted.*

**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 Friday, March 11, 2011 at 1.30 p.m., and to advise that on that day the Government proposes to debate a Bill entitled an Act to amend the Statutory Authorities Act, Chap. 24:01, Bill No.8 on the Order Paper and any such matter as may be advised before.

Mr. Speaker, I beg to move.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 2.46 p.m.*