

Leave of Absence

Friday, April 01, 2011

HOUSE OF REPRESENTATIVES

Friday, April 01, 2011

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, Dr. Keith Rowley, Member of Parliament for Diego Martin West, and Miss Marlene Mc Donald, Member for Port of Spain South, will be out of the country for the period March 31, 2011—April 03, 2011, and, as such, have asked to be excused from today's sitting of the House. The leave which the Members seek is granted.

PAPERS LAID

1. Notification of His Excellency the President, in respect of the nomination of Mr. Mervyn Cecil Richardson for appointment to the Office of the Deputy Commissioner of Police. [*The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal)*]
2. Police Service (Amdt.) Regulations, 2011. [*The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday)*]
3. Defence (Pensions, Terminal and Other Grants) (Amdt.) Regulations, 2011. [*Sen. The Hon. S. Panday*]
4. Assisted Secondary School Teachers' Pensions (Amdt.) Regulations, 2011. [*The Minister of Education (Hon. Dr. Tim Gopeesingh)*]
5. Teachers' Pensions (Amdt.) Regulations, 2011. [*Hon. Dr. T. Gopeesingh*]
6. Administrative Report of the San Fernando City Corporation for the year 2008-2009. [*The Minister of Local Government (Hon. Chandresh Sharma)*]
7. Sangre Grande Regional Corporation for the period October 2008 to September 2009. [*Hon. C. Sharma*]

ORAL ANSWERS TO QUESTIONS

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, there are three questions on the Order Paper for oral reply and no questions for written reply. The Government is in a position to answer all three questions today.

**La Brea Police Station
(Construction of)**

64. Mr. Fitzgerald Jeffrey (*La Brea*) asked the hon. Minister of National Security:

Could the Minister state:

- (a) When will construction commence on the new La Brea Police Station?
- (b) Where is the proposed site for the construction of this new Police Station?
- (c) The name of the contractor for the construction of this new Police Station?

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. Speaker, hon. Members are advised that the La Brea Police Station was among 19 police stations earmarked for construction. In order to answer the specific parts of the question, it should be noted that contracts for these 19 stations, including the La Brea Police Station, were entered into illegally by the former government, because there was no approval of the tenders committee. There appears to have been no approval of the tenders committee for the award of stage two contracts. A search of the available company documents has not revealed the existence of the tenders committee meeting to approve these awards as required by the company's procurement procedures. The awards were so designed as to specifically exclude local contractors.

The board appears to have entered into the contracts by way of the round robin process. The rules of UDeCott state that all directors must take part in the round robin process; however, only three of the five directors participated and signed the contracts. This decision was never ratified by a subsequent board meeting.

It was expressly stipulated that the Executive Chairman and the Chief Operating Officer were the authorized officers to execute the contract documents; however, an unauthorized official of UDeCott, who did not have the authority to do so, executed the contracts.

Some of these contracts were entered into at the time when there was no board at UDeCott. Despite having no board, the following contracts were entered into: May 11, 2010, 13 days before the general election, for \$75.4 million; on May 12, 2010, 12 days before the general election, \$82.4 million; on May 13, 11 days before the general election, \$179.3 million.

Mr. Speaker, at the time of the signing of the contract between UDeCott and the relevant contractors, in relation to the construction and refurbishment of police stations, many of the sites were not even identified, including the La Brea Police Station, neither was any funding identified for the construction of any of these police stations.

Hon. Members: Shame!

Sen. The Hon. S. Panday: The matters were drawn to the attention of the Cabinet, and today, as we speak, the hon. Minister of Planning, Economic and Social Restructuring and Gender Affairs will be meeting with the board of UDeCott to chart a new way forward, in order to expedite the construction of these police stations, with special emphasis on the use of local contractors, as far as possible, in the construction of these stations.

Therefore, in answer to Part (a) of the question, the Ministry of Planning, Economic and Social Restructuring and Gender Affairs is currently reviewing the construction programme with the Urban Development Company of Trinidad and Tobago (UDeCott), including new police station projects. Once this assessment is completed, further details relating to the commencement of construction of the new La Brea Police Station will be made available.

The site for the construction of the new La Brea Police Station is at the Corner of Brighton and La Brea Village Roads.

In answer to Part (c), the name of the contractor will be determined by the relevant government agency after all the processes have been completed.

Thank you.

Mr. Jeffrey: How long, hon. Minister, would you say it would take, for those hardworking police officers in La Brea to remain at those cramped premises?

Sen. the Hon. S. Panday: Hon. Member, the Government is acting as expeditiously as it can, but the Government does not intend to cut any corners, as has been done by the former administration, and end up with illegal contracts.

**Rousillac Hindu School
(Construction of)**

65. Mr. Fitzgerald Jeffrey (*La Brea*) asked the hon. Minister of Education:

- (a) When will the construction of the Rousillac Hindu School commence?
- (b) The name of the contractor for the new School?
- (c) The projected cost of the construction of the new School?

The Minister of Education (Hon. Dr. Tim Gopeesingh): Mr. Speaker, the construction of the Rousillac Hindu School is projected to commence in the fourth quarter of 2011.

With respect to Part (b) of the question, the tendering process for the design and construction of the school has not commenced as yet; as such, a contractor for the project has not been selected.

With reference to Part (c), it should be noted that the projected cost of construction of the school is dependent on the capacity of the facility. In the case of Rousillac, the student capacity is estimated to be 240 and, as such, the estimated cost of construction is estimated to be \$25 million.

Early Childhood Care and Education Centres (Details of Construction)

66. Mr. Fitzgerald Jeffrey (La Brea) asked the hon. Minister of Education:

Could the Minister identify the Early Childhood Care and Education (ECCE) Centres that will be constructed in the 2011 fiscal year?

The Minister of Education (Hon. Dr. Tim Gopeesingh): Mr. Speaker, our People's Partnership Government is in the quest, and we have as our objective and strategic intent to bring about universal early childhood education. If I am to be corrected, I believe we probably would be the only country in the world to achieve universal early childhood education. In doing so, it means that we have to provide facilities for 34,000 children; 17,000 each year between the ages of three—four years and four—five years.

At the moment, we are taking care of almost 12,000 students in the formal aspect of it. We have 200 early childhood education centres, of which 73 are being run by Servol at the moment, with assistance from the Government, to the tune of \$26 million annually. The others are in Government and Government-assisted schools.

With your last administration, you had planned to build 600 early childhood education centres by 2012. You know that was a distinct impossibility. We told you it could not have happened. It is not our intention to do it that way. As I mentioned, it is going to cost \$3 billion—\$3.45 billion to do so.

From our research study done at the Ministry of Education, we have determined that there are over 200 primary schools which are less than 70 per cent populated. We have almost 25,000 school places available in the primary school

setting, in their facilities. It is, therefore, our intention to work with the denominational boards to introduce early childhood education centres in these primary school settings, of course, looking at the demography, geography and infrastructure of the schools, at the moment. In that way, we will take care of another 12,000 children by utilizing these 200 primary schools with 60 students per school. So that is 24,000 children being taken care of.

That means we will be saving on the construction of 200 early childhood centres and saving approximately \$1 billion, because one early childhood education centre costs \$5 million to provide. The other 10,000 children will be taken care of by the use of the public sector/private sector partnership. There are over 735 kindergartens and nurseries “registered” with the Ministry of Education, providing early childhood education for children between the ages of three—five.

We intend to partner with the private sector and utilize 200 of the best of these kindergartens and nurseries, so we can provide education for these children in these kindergartens and nurseries. We will improve the infrastructure; we will assist them in training their teachers in the schools at the moment and, therefore, we will be able to provide in that way, 12,000 in the formal setting, 12,000 in the 200 primary schools and another 12,000 in the private sector/Government partnership. So we will be able to take care of 36,000 children in early childhood education centres throughout Trinidad and Tobago.

While we are doing that, we have to train approximately 3,000 early childhood education teachers at the certificate level and later on with the bachelor’s degree. We have already spoken to the Ministry of Science, Technology and Tertiary Education. We will be utilizing the University of the West Indies, the University of Trinidad and Tobago and the University of the Southern Caribbean to train approximately 900 certificate teachers per year, for the next three years, thereby producing the amount of teachers we need for these early childhood education centres.

While we are doing that, we have already completed four early childhood education centres. They are in Bon Air, Malabar, Clarke Road and Ragoonanan Road. Those four are completed already and are now available for students to be taken in.

1.45 p.m.

In one month's time we will be completing another 10 Early Childhood Education Centres. They are in Maraj Hill, Morvant, Aranguez, Valencia, Lower Cumuto, Bon Air, Union Hall, La Horquetta, Milton Road, Phoenix Road and

Carlsen Field. Mr. Speaker, these 10 will be completed and ready by the end of April for occupancy by students as well between ages three–five.

By the beginning of May we will embark upon the construction of another 24 Early Childhood Education Centres with the assistance of the IDB. Tenders are out already and we are going to be evaluating tenders for the construction of the following 24 centres, as you asked for in your question. So these are the centres that will be constructed for the fiscal year 2011, in addition to the four that are ready for occupancy and the 10 that will be completed by the end of this month. We expect that these 24 centres will be possibly completed before the academic year 2011 to 2012.

The following are the centres: Maracas—I think I made mention of that previously in an answer to a question for Port of Spain North/St. Ann's West.

No.	School	Address
1	Maracas	Corner Grand Pond Street and Reid Trace
2	Mt. Hope	Pioneer Drive and Sunshine Avenue
3	Bamboo	Jaffat Street, Bamboo Village No. 2, Valsayn
4	Barataria	Eighth Avenue and 12 Street
5	Arima New	Off Tumpuna Road, Opposite Malabar Branch Road
6	Jacob's Hill	Corner of Blueoglesby Street Tourmaline Extension Road and Tourmaline Street Jacob's Hill in Wallerfield (HDC site)
7	Arouca-Pine Haven S.D.A	La Resource Road D'abadie, Arouca
8	Malabar Phase 4	Corner Lennox Yearwood Expressway, Holly Betaudier and Flamingo Boulevard, Malabar Phase IV
9	Madrass Government	Madrass GPS, Chin Chin Road
10	Maloney Gardens 2	Jacana Avenue in Maloney Gardens
11	Cunupia—St. Ambrose AC Church	Jackman Trace, Cunupia
12	Palmiste	Brasso Caparo Valley Road via Longdenville
13	Brothers	73 Garth Road Williamsville Brothers Presbyterian

No.	School	Address
14	California Government Primary	Concerned Citizen Street, California
15	Buen Intento	Hillside Garden HDC site Buen Intento
16	La Ruffin	La Ruffin Rd, Moruga
17	Corinth Hill	HDC Site, Corinth
18	Pleasantville	Prince Albert Street, Pleasantville
19	Fyzabad	No. 22 Road Crest Camp, Fyzabad
20	La Brea Brighton	Belle View, Brighton, La Brea
21	Salazar Trace	Salazar Trace GPS, Salazar Trace, Point Fortin
22	Southern Gardens	Southern Gardens, Point Fortin (Primary School Site)
23	Quarry Village	La Brea Trace, Quarry Village, Siparia
24	Siparia	Park St., Siparia, between Multi Use Recreational Facility and the Community Centre

Mr. Speaker, I hope have satisfied the Member for La Brea in terms of his question. Thank you very much.

STATEMENT BY MINISTER

**OAS Hemispheric Summit
(Official Visit)**

The Minister of Foreign Affairs (Hon. Dr. Surujrattan Rambachan):
Thank you, Mr. Speaker. Mr. Speaker, I am authorized by the Cabinet to make the following statement with respect to the visit of the hon. Prime Minister and her delegation to the OAS Hemispheric Summit from April 4th to 6th in Washington. The Prime Minister will be accompanied by the hon. Minister of Foreign Affairs, the Minister of Arts and Muiticulturism and the hon. Minister of Planning Economic and social Restructuring and Gender Affairs.

Mr. Speaker, in Trinidad and Tobago we have made strides in gender empowerment as measured by the opportunities for women in economic and political life and the ability to participate in decision-making. Women's participation in governance has improved over the last 10 years. The proportion of women to men in Parliament has been increasing over the years with females

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holding positions in ministries. The proportion of women Parliamentarians rose from 10 per cent in 1991 to 27 per cent in 2002 and 29 per cent in 2010, which is above the average for the region of 23 per cent. Understanding the cross-cutting nature of gender, the People's Partnership Government has embarked on an effort to mainstream gender into the development planning. Government is in the process of legislative and policy review and amendment in order to ensure that all legislation and public documents are gender sensitive.

The Government recognizes the dual burden of women at home and at the workplace and, as such, intends to pursue policies to allow flexible working hours for women. Plans are also in train to make it mandatory for all public and private enterprises to have private spaces available to nursing mothers and make day-care centres as an essential element of all government workplaces, as well as to provide tax incentives to the private sector to achieve the same.

On the morning therefore of April 4th, the hon. Prime Minister, Mrs. Kamla Persad-Bissessar, will deliver a keynote address at the OAS Hemispheric Summit on Women's Leadership and Rights at Hall of the Americas. Her address will pertain to the theme of the Hemispheric Forum which focuses on the challenges of the democratic system to women's equality in Latin America and the Caribbean.

This three-day forum will provide a critical platform for examining these challenges, particularly women's political rights and representation, and will be attended by various high-level women politicians from throughout Latin America and the Caribbean as well as women leaders from a number of global organizations such as UN Women and the OAS.

The hon. Prime Minister of Trinidad and Tobago is also campaigning for a colloquium of women leaders in the margins of this year's UN General Assembly to address the plight of women and children, particularly girls. Therefore, in recognition of Trinidad and Tobago's hemispheric stature, the Prime Minister, Mrs. Kamla Persad-Bissessar, was invited to deliver the keynote address at this the first Hemispheric Forum on Women's Leadership for a Citizen's Democracy in Washington, DC on April 4th, 2011.

The Prime Minister will also hold talks with OAS Secretary General, Mr. José Miguel Insulza, and Assistant Secretary General, Albert Ramdin, the Brookings Institution. Trinidad and Tobago is a small country, relatively young at 49 years, but has long been able to influence global affairs. The country gained

international respect for its role in the conclusion of negotiations on the United Nations Convention on the Law of the Sea, and the establishment of the International Criminal Court.

More recently, along with our Caribbean neighbours, we have succeeded in having a high level meeting of the UN General Assembly on non-communicable diseases convened in September 2011 at the UN Trinidad and Tobago nationals having successfully been elected to leadership positions in international organizations which in turn provide avenues for the views of this small state to be articulated and advanced.

Mr. Speaker, currently Trinidad and Tobago is, as we all know, Chair in office of the 54-nation Commonwealth as well as Vice-Chair of the Commonwealth Ministerial Action Group (CMAG). Trinidad and Tobago is also represented on the international tribunal for the Law of the Sea, the United Nations Commission on Narcotic Drugs, the Commission on the Limits of the Continental Shelf and the Governing Council of the United Nations Environment Programme. Efforts are ongoing for Trinidad and Tobago, through the country's permanent representative to the UN, to serve as Vice-President of the UN General Assembly at its 67th Session 2012–2013.

Trinidad and Tobago has also held principal positions within the OAS and is actively involved in the Association of Caribbean States which is headquartered in Port of Spain, and of which organization I sit as the head of the Ministerial Council. The country will host the 3rd meeting of Ministers Responsible for Public Security in the Americas in November 2011 which presents an invaluable opportunity to secure hemispheric collaboration on initiatives aimed at improving public security.

1.55 p.m.

Mr. Speaker, though small, the strength of the nation's leadership and Trinidad and Tobago's championing of just causes across the globe enhanced the country's competitiveness and attractiveness. Trinidad and Tobago's active role in regional, hemispheric and global affairs therefore remains of primary importance. It is with this in mind, Mr. Speaker, that the hon. Prime Minister will deliver an address at the Brookings Institution that will focus primarily on Trinidad and Tobago's economy, looking at ways of strengthening and diversifying not only specific sectors, such as the energy industry, but also the Government's goals and projects for diversifying and expanding the economy as a whole.

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The Prime Minister will also raise social and developmental issues pertaining to Trinidad and Tobago, sharing the initiatives and aims of her administration for building upon the progress that has already been made, and for continuing to improve the quality of life in Trinidad and Tobago.

Mr. Speaker, the Brookings Institution, which she would address, is based in Washington. It is a non-profit, public policy organization, with an aim of strengthening democracy in the United States, and of securing a more open, safe, prosperous and cooperative international system. It is ranked as the world's top think tank, and is recognized as a trusted source of independent research, but more importantly, it has a profound influence on important policy debates and decisions in the US. It is also renowned for its innovative policy ideas and proposals on an international scale.

Mr. Speaker, in the new international environment that is emerging, Trinidad and Tobago must make every attempt and use every significant opportunity to help shape global thinking and global policies which have the potential to affect the developmental objectives of our country. Influential think tanks like the Brookings Institution have that capability.

Mr. Speaker, on Tuesday, April 05 the Prime Minister will participate in a Public Sector Leaders Forum. Whilst in Washington, she would be participating in this Public Sector Leaders Forum organized by Microsoft. This forum will bring together government leaders and other influential thinkers to share their views and vision on the role of information technology on an economic and educational level. The first day of the forum, Tuesday 05 will focus on participative democracy and health. On April 06 the main focus would be on education. The Prime Minister, who has had a distinguished role as a Minister of Education in transforming the education sector in Trinidad and Tobago and achieving universal secondary education as one of the MDGs, has been asked to give the keynote address on this day. Other keynote speakers are the hon. Luiz Inacio Lula da Silva, former President of Brazil and Brad Smith, Senior Vice-President of Legal and Corporate Affairs at Microsoft.

Mr. Speaker, the forum would also be attended by a number of senior persons at Microsoft, including Linda Zechner, Corporate Vice-President of Microsoft's Worldwide Public Sector Organization; Alvaro Celis, General Manager of Microsoft's Multi Country Americas region covering the Caribbean, Central America and South America; and Hernán Rincón, President of Microsoft Latin America.

Mr. Speaker, in meeting with these Microsoft executives, the Prime Minister will discuss Trinidad and Tobago's e-Connect and Learn Programme (eCAL), the programme responsible for administering the distribution and use of the laptops. She would discuss the Caribbean Investment Forum to be held in Port of Spain in June [*Interruption*] and Microsoft's agreement with the Commonwealth Secretariat and Commonwealth of Learning to improve access to, and use of, information and communication technologies to improve education in schools throughout the Caribbean region.

Mr. Speaker, the Commonwealth Secretariat—[*Interruption*]—the Commonwealth of Learning and Microsoft Trinidad and Tobago—

Mr. Speaker: Member for San Fernando East, Member for Point Fortin and the Member next to Point Fortin, could you allow the Minister of Foreign Affairs to make his contribution in silence. Could you continue, hon. Minister.

Hon. Dr. S. Rambachan: Thank you, Mr. Speaker. The Commonwealth Secretariat, the Commonwealth of Learning and Microsoft Trinidad and Tobago recently signed a letter of understanding on March 28th, agreeing to work together to harness the potential of technology and the Internet to improve education in schools in the Caribbean region—and I note, Mr. Speaker, in the Caribbean region—because we in Trinidad and Tobago and the Prime Minister know the responsibility of Trinidad and Tobago in the Caricom region as a whole. [*Interruption*]

Over the next two years the three organizations will collaborate to improve access to and use of information and communication technology in primary and secondary schools in 18 Caribbean countries and territories, [*Desk thumping*] 12 of which are Commonwealth member states: Anguilla, Antigua and Barbuda, the Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago and Turks and Caicos Islands.

Mr. Speaker, Trinidad and Tobago, in order to ensure its people are ICT ready, must engage in, collaborative venture with organizations like Microsoft. ICT readiness is a key component of a nation's competitiveness. The introduction of ICT into the school system will facilitate such competitiveness and innovation into the future. The participation therefore of the hon. Prime Minister in the public sector forum staged by Microsoft is a statement of her Government's commitment to develop an ICT literate society and an ICT knowledgeable workforce. [*Desk*

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thumping] This, Mr. Speaker, will have important impacts upon our ability to attract foreign direct investment and to achieve the economic transformation that is envisaged.

In addition to these most important meetings at Howard University, the Prime Minister and members of Cabinet will meet with and provide an update to members of the Trinidad and Tobago community. The People's Partnership Government is using every opportunity to inform and to listen to the diaspora. Other countries have gone further than us in having ministries dedicated to developing relationships with their diaspora, in recognition of the role of the diaspora as a contributor to their country of birth. In this regard, we in Trinidad and Tobago see the diaspora as an influential group in the thrust of Trinidad and Tobago to increase tourist arrivals, encourage marketing of our cultures as well as be a market for goods produced in Trinidad and Tobago. A powerful diaspora can be a strong voice and lobby for our country, Trinidad and Tobago.

On Wednesday, April 06, the Prime Minister and Ms. Helen Clarke, the UNDP's administrator, who was a former Prime Minister of New Zealand, will hold discussions that would centre on the Women Leaders as Agents of Change Programme. Women's leadership and empowerment, constitutional reform, the UNDP's work on the Caribbean Human Development Report on Citizen Security, Millennium Development Goals and the UNDP's activities in Trinidad and Tobago. A very important point of discussion would be the vision of the Government of Trinidad and Tobago, an engagement with the UN system and most importantly with the UNDP in the context of the net contributor country status and the new country programme document for the period 2012—2015.

Mr. Speaker, this is the first time that the head of the UNDP will be meeting with the Prime Minister, the Minister of Foreign Affairs, two key counterpart Ministries of the UN and the UNDP in Trinidad and Tobago, as well as meet with the Ministry of Planning, Economic and Social Restructuring and Gender Affairs. In particular, the Prime Minister will discuss the new UNDP programme for Trinidad and Tobago for 2012—2015 which programme will focus on four broad areas closely linked to four of the seven pillars of the People's Partnership Manifesto, "Prosperity for All". [*Desk thumping*]

Mr. Speaker, the intent is to ensure that the People's Partnership Government realizes the transformation envisaged in the seven pillars of its manifesto. These four are:

1. Poverty eradication and social justice;
2. National and personal security;

3. Knowledge intensive economy including environment issues; and
4. Good governance.

Mr. Speaker, the Prime Minister will discuss security matters with Mr. Stuart Levy, the US Treasury Undersecretary for Terrorism and Financial Intelligence. She would be joined for this meeting by the Minister of National Security. Mr. Speaker, you would recall that Trinidad and Tobago is keen on ensuring that it is able to engage in productive counter-terrorism strategies and anti-money laundering laws. The integrity of our country requires that we aggressively pursue strategies in this direction.

An environment that is perceived to deal effectively with threats of terrorism and money laundering as well as an environment that promotes the highest integrity with respect to its financial system, thus affecting the penchant for corruption will always be one which attracts investors and promotes excellent bilateral relations and a positive international image. This meeting will be used to further inform our thinking.

Mr. Speaker, as I conclude, the Government of Trinidad and Tobago, under the distinguished leadership of Mrs. Kamla Persad-Bissessar, at all times wants to properly inform the people as to the reasons for these important missions like this one to Washington. Trinidad and Tobago is a small nation whose interest can and will be affected by global decisions and policies. Such is the state of international affairs today. We cannot afford not to be part of the process as well as to be present and engage in discussions that would redound to our credit.

The diplomacy of engagement is now a necessary tool in international relations. Negotiations are not only done at a bilateral level but diplomatic engagements also now have to take place between countries and powerful organizations whose activities are daily shaping outcomes of the future. The adoption of leading edge technology in the way we conduct the nation's business will define our ability to have a sustainable economy and a satisfied population.

The reduction of the inequality of treatment to women and the creation of a facilitating environment that allows them to achieve their highest potential is a must not only in our country, but globally. It is for this reason and more the Prime Minister is urging a high-level meeting of women leaders on the margins of the next UNGA. This mission to Washington is therefore being undertaken with all of this in mind.

I thank you, Mr. Speaker.

TRAFFICKING IN PERSONS BILL

Bill to give effect to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime and for matters connected therewith or incidental thereto [*The Ministry of National Security*]; read the first time.

JOINT SELECT COMMITTEE REPORT**(Member's Appointment)**

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move that Mrs. Paula Gopee-Scoon be appointed to serve as a member of the Public Accounts (Enterprises) Committee in place of Dr Keith Rowley. [*Interruption*]

Mr. Speaker: Hon. Members, can I have your silence please—your attention!

Question put and agreed to.

JOINT SELECT COMMITTEE REPORT**Anti-Gang Bill****Bail (Amdt.) Bill****(Adoption)**

The Attorney General (Sen. The Hon. Anand Ramlogan): Thank you very much, Mr. Speaker. I beg to move the following motion standing in my name:

Be it resolved that the House adopt the report of the joint select committee established to consider and report on the Anti-Gang Bill, 2010 and the Bail (Amdt.) Bill, 2010.

Mr. Speaker, you may recall that during the debate on these two Bills in this honourable House, certain proposals were made by the Opposition and certain suggestions for improvement of the Bill that was before us. Those concerns were duly noted and it is for that reason that this matter was referred to a joint select committee.

Given the Prime Minister's often repeated mantra of listening before leading and given our own motto of working in esprit de corps with all factions of our society for the better governance of this country, it was decided that a joint select committee would, perhaps, be the best vehicle through which we should pass this law.

2.10 p.m.

Mr. Speaker, long gone are the days when the approach to governance would be one that is characterized by high-handedness, by arrogance and egocentric tendencies. The approach of the People's Partnership administration is one that has a hallmark and feature of inclusion and collaboration. This is not the first time we have referred matters to a joint select committee and we remain open and receptive to ideas from our friends on the other side, and indeed all stakeholders in our country.

Mr. Speaker, I ask you to note for the record that the Joint Select Committee on the Anti-Gang Bill and the Bail (Amdt.) Bill that I had the distinct honour to chair comprise the following members:

- Minister of Legal Affairs: The Hon. Prakash Ramadhar;
- Minister of State in the Ministry of National Security: Hon. Subhas Panday;
- Minister of Justice: Hon. Herbert Volney;
- Minister of National Security: Sen. The Hon. Brig. John Sandy;
- Minister of Trade: Hon. Stephen Cadiz;
- Opposition Senator: Sen. Fitzgerald Hinds;
- Member of Parliament and Minister: Mr. Jairam Seemungal;
- Independent Senator: Mrs. Corinne Baptiste-McKnight;
- Opposition MP: Miss. Marlene McDonald;
- Independent Senator: Mr. Elton Prescott SC; and of course last but by no means least
- The Member for Diego Martin North/East: Mr. Colm Imbert.

In December 2010, the Parliament appointed a Joint Select Committee to consider both Bills. During the months of January and February, under my chairmanship this Joint Select Committee, held eight meetings. I can safely say that, having chaired this Joint Select Committee, the experience was an enriching and rewarding one. There was a pooling of talent and a reservoir of information that led to an improvement in the law and in the Bill that was before this House. The kind of collaboration and consensus that that Joint Select Committee brought about from the Independent Bench, the Opposition Bench and indeed—perhaps

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not Independent Bench, perhaps from the Independent Senators, who were represented on the Joint Select Committee, the Opposition Bench and the Government side meant, Mr. Speaker, that several changes were made to improve on the legislation.

Mr. Speaker, the country, as we know, voted for change and this new attitude and approach towards governance and towards law-making has been criticized by some, but I make no apology for saying that the experience was a rewarding one and the discussions were quite fruitful and productive. Perhaps one may recall the often-repeated saying, “Do not follow where the path may lead, go instead where there is no path and leave a trail”, and that is precisely what we seek to do with the Joint Select Committee.

Mr. Speaker, I propose to discuss the recommendations of the Joint Select Committee on the Anti-Gang Bill and Bail (Amdt.) Bill separately. There are two pieces of legislation, but they complement each other and they are meant to work in tandem. For that reason I shall take them separately, but we will deal with them together, today. The Anti-Gang Bill to remind you, Mr. Speaker, had as the main purpose the suppression of associations formed and established for unlawful purposes, in other words, gangs, and to better preserve public safety and order.

To this end, the Bill had to create several offences which were directed at reduction of pervasive gang formation and gang activity. Gang activity has inundated and infiltrated every facet of civil society and we felt more punitive than usual measures were necessary to act as a potent deterrent. Special emphasis was placed, for example, on discouraging the recruitment of children into gangs, the involvement of security personnel in gangs, harbouring and concealing gang members and, of course, forfeiture of personal property use for the benefit of gangs to cut off the lifeblood that creates and spurs these gangs.

Many concerns were voiced by the Opposition during the course of the debate and although there was some general agreement with respect to the necessity and the need for the legislation some of the concerns expressed included the fact that they felt the penalties were too severe and too harsh and that they need to rationalize them. Another salient point made was that the penalizing of a person for merely professing to be a gang member was perhaps a bit too harsh.

Mr. Speaker, other concerns, or suggestions rather, included giving the court a discretion—when sentencing a family member for harbouring a gang member, where there was some intermediation on the part of the gang member who has a

family, inserting a definition for “gang leader” in expanding the concept of law enforcement authorities and having a more embracing provision that would deal with the question of pre-charge detention.

At the Joint Select Committee we received presentations from all stakeholders and we invited comment on the Bills. What we had was a presentation from the police service that was rather illuminating, enlightening but at the same time frightening. We also received comments from the Criminal Bar Association, and we had the benefit of legal advice from a former Attorney General, Mr. Russell Martineau, SC on the limits of the sentencing powers of magistrates.

The presentation by the police service, Mr. Speaker, perhaps fortified the results of this Government and that of the Joint Select Committee to actually bring this law to Parliament because, when the police service made its presentation, the statistics that confronted us revealed a very alarming picture.

Mr. Speaker, for the period ending 2008 to June 2010, the total number of gangs throughout the country increased from 93 to 110. That is nearly a 20 per cent increase in the space of 18 months. Mr. Speaker, forensic analysis for some of the data revealed as follows: In the Western Division, in 2008: 12 gangs. At the end of June 2010 that increased to 16 gangs. Northeastern Division, at the end of 2008: 8 gangs; June 2010, 13 gangs. Northern Division, 12 increased to 17. Eastern Division, 6 increased to 8. Central Division, 5 increased to 9. Southwestern Division, 1 increased to 3. Tobago, 2 increased to 5. Tobago is never left out in anything it seems.

Mr. Speaker, if I may, I will take you now to the provisions of the Bill itself, clause by clause, to show you what amendments were made. We started with the long title. We amended the long title which will now read as follows:

"An Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal activity and for other related matters."

The reason for the amendment to the long title of the Bill was that the Criminal Bar Association, in its representations, suggested that the long title did not adequately clarify and reflect the purpose of the legislation and it is felt that we should make clear that we were trying to discourage gang membership and gang-related activity and the suppression of gangs. So that the long title was amended to capture what is really the pitch and the aim and objective of the legislation and to elaborate on it.

The Preamble was amended as well and in the Preamble we inserted references to the Constitution and the fundamental human rights and in particular the Constitution recognizing the existence of the right of the individual to equality before the law and protection of the law, the duty of the State to protect, promote and fulfil the fundamental rights and freedom of right to all citizens; the rapid growth of criminal gang activity in Trinidad and Tobago and the fact that the criminal activity—the criminal activity about which we complain—infringes on the rights and freedoms of the individuals as enshrined in the Constitution; the right of every person to be protected from fear, intimidation, physical harm caused by the criminal activity of violent gangs, and that the criminal gang activity presents a danger to public order and safety, to the economic stability of the country and has the potential to inflict social damage.

2.20 p.m.

This was inserted in the Preamble, because one must understand that the severe penalties and the draconian nature of the legislation comes against the backdrop and in the context of the tsunami of crime that we face, which in itself is fuelled by the gangs and the gang-related activity. Whereas on the one hand we want to protect fundamental human rights and freedoms, on the other hand we must understand that the encroachment on fundamental rights and freedoms for decent, law-abiding citizens is such that, unless we deal with the gangs and suppress gang-related activity, we will, perhaps, find ourselves in a situation where the tail is wagging the dog. We cannot allow a small minority of persons who refuse to obey law and order to hold this country to ransom. The gangs have mushroomed and multiplied almost beyond control, and we are now trying to nip this in the bud.

The Criminal Bar Association had submitted that a more detailed Preamble should be considered and the Joint Select Committee felt that there was merit in this submission from the Criminal Bar Association. It is for that reason that we have made the changes outlined and we have included a more detailed and unambiguous Preamble that will perhaps make clear the reasons, purpose and object of this legislation and enable the provisions to be construed in a manner more consistent with the intention of Parliament.

In choosing an amendment for the Preamble, regard was paid to the South African model. In South Africa, the anti-gang legislation is similar and we borrowed from that Preamble and made modifications to it. We saw merit in the submission and, therefore, we accordingly expanded the Preamble to include reference to recognition for the rights and protection of fundamental rights and

freedoms; the right of the individual, and, of course, to make reference to the context of the legislation, namely, the escalation in criminal activity fuelled and inspired by gangs.

There was no change to the short title, the commencement and the constitutional clause, but there were changes, however, to the interpretation clause. We have changed the definition of “bullet proof vest” from something that is capable of providing protection from the penetration of bullets to meaning, “a vest or article of covering that is capable of providing or intended to provide protection from the penetration of bullets or other similar projectiles.” We have changed the definition of “gang” and “gang” now means, “a combination of two or more persons, whether formally or informally organized that, through its membership or through an agent, engages in gang-related activity.”

We have inserted a definition of “gang leader”. A “‘gang’ leader” means a person who knowingly initiates, organizes, plans, finances, directs, manages or supervises any gang-related activity.” We have modified the definition of “gang-related activity”, and simplified it. “Gang-related activity” now means, “any criminal activity, enterprise, pursuit or undertaking in relation to any offences listed in the First Schedule, acquiesced in, or consented to or agreed to, or directed, authorized, requested or ratified by any gang member, including a gang leader.”

We have inserted a definition for “harbours”. “Harbours” means “giving refuge or shelter to another person and encouraging or supporting, whether tacitly or explicitly, that person in committing any gang-related activity. We have expanded the definition of “school” to include “orphanage or any establishment for the conduct of technical or vocational training or social programmes designed for the youth.”

The amendments—the “bulletproof vest” firstly. It was expanded to include an article of covering. It was felt by the Joint Select Committee, based on what we have been told by the police, that some of the gangs have the capacity to invent or design armour that provides protection or which they think may be capable of providing protection against the police. To cover this point, the definition was expanded to cover the intention behind the design, so that a private citizen or someone who is not intending to use the article of covering for anything illegal will be protected.

If you are going to use it for illegal purposes, gang-related activity, or to perhaps protect yourself from legitimate use of law enforcement power to carry

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out criminal activity, then you will not be so protected. Whereas the original definition referred to “penetration of bullets”, we have expanded it to include “other similar projectiles”, since the casing of some explosives, such as hand grenades, and so on, become a lethal projectile when detonated.

With regard to the definition of “gang”, we felt that there were two basic components—more than one person pursuing gang-related activity, and it was suggested that some of the words were perhaps superfluous: “alliance”, “enterprise”, or other similar conjoining, and, as such, we omitted it. So we have simplified the definition while retaining the basic components.

Clause 5(2) of the Bill provides for a convicted person, who was a gang leader, to be liable for imprisonment for the remaining years of his natural life, a penalty second only to death. In keeping with the principle that legislation which affects life and liberty of the subject should be specific, the JSC was of the view that the definition of “gang leader” should be inserted and be made clear in the legislation, so that you will know, if you are heading the gang, then you are subject to a different regime when it comes to punishment.

Language normally associated with management concepts such as “organizes, plans, directs and supervises” was used in the definition which was eventually formulated and approved by the Joint Select Committee. The definition of “gang member” was left largely intact, however, the superfluous words, “or is legally accountable” or the inelegant expression, “cover-up phase” was changed to “concealment phase”.

Two significant changes were, however, made to the definition of “gang-related activity”. Having regard to the severity of the penalties that we are seeking to impose, it was felt that not any criminal offence committed by a gang should be subject to this legislation. It was felt that the proposed legislation contains far-reaching provisions with severe penalties, and some of the severe penalties are: forfeiture of property and pre-charge detention.

It was felt that persons who committed petty offences should perhaps not fall within the scope and ambit of this legislation, so what we have tried to do is to strike a balance, and gangs that commit what would now be “scheduled offences”, offences which are serious offences and are contained in the Schedule of the Bill, those offences committed by gangs and gang members would now be subject to this particular legislation. In keeping with this, the Joint Select Committee formulated a list of serious offences which will now be considered gang-related activity, and we have included it in Schedules to the Bill. I will come to the Schedules later on.

The other significant change to the definition was the exclusion of the possible reasons for the gangs' criminal activities. At first it was thought that one would want to penalize criminal activities if they are linked to increasing the size or control of the gang, whether it is in terms of the number of gang members or control for geographical turf, or to provide it with an advantage in any way over other criminal gangs or activity to exact revenge on members, to intimidate and eliminate witnesses or to otherwise gain some such benefit.

It was felt that if there was a distinct list of offences and we put it in the Schedule to the Bill, then we would not have to outline these factors, because the offences which are in the Schedule will, perhaps, cover it and take care of it. So it was for that reason the tier of proof—the requirement for proof—of one of those things, like expanding your geographical turf and so on, that would not be necessary anymore, and it simplifies the prosecution for any of the offences under the Anti-Gang Bill.

Harbouring and concealing persons, we felt these concepts were somewhat different and that they should be treated as such. It was for that reason we have inserted definitions to deal with “harbouring” and “concealment”. Harbouring a gang member, that is to say, giving refuge or providing shelter to the gang member would, in most instances, occur where the person, such as a parent, a guardian or a relative, or even a pastor, was taking the child in the knowledge that the child is a gang member, but with the intention to counsel and rehabilitate, as opposed to hiding the person from the law enforcement authorities. The latter, we felt, when you are deliberately concealing the person, when you know that they are wanted by law enforcement authorities, we felt that that is concealment as opposed to harbouring and that we should treat them separately, because we have come up with a different regime in terms of the penalties.

We have tried to strike a balance, really, because, on the one hand, we need to introduce in our legal system some concept of parental responsibility and, on the other hand, we do not wish to penalize innocent parents who are trying their best. I have often seen parents come before the magistrates and throw up their arms in utter frustration and despair to proclaim that they have tried their best with the child, but he is keeping bad company and he is not listening. We need to protect parents who are trying, genuinely, their best to rehabilitate and reform the child.

Equally, we need to protect society from those parents who turn a blind eye and pretend that they do not know what is happening in their own homes when they see their children changing sneakers for the most expensive brand; when we see their own children bringing in gold chains and earrings in a quantity that

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far surpasses what their income, if any, is, and we need to protect our society from those parents who will turn a blind eye to the fact that every time there is a concert, that the child suddenly gets a new outfit with a new belt with a big buckle that he wants to display in the middle, and he wants to have the latest jeans, or she wants to “dress up real fancy” and “bling” out, without any source of income, and the parent has reason to suspect that all is not well; that something is amiss and the parent is turning a blind eye to it.

If the parent is encouraging the child in criminal activity against innocent citizens and if the parent is enjoying the proceeds of the crime, then we introduce, for the first time, the concept of some form of parental responsibility, and if the parent is harbouring or concealing that child, then the parent will be guilty of an offence, and I will come to it.

As presently formulated, the definition of “harbour”, a person X will only be guilty of harbouring another person, Y, if in addition to giving refuge or shelter to Y, X also encourages or supports Y, whether tacitly or explicitly, in committing gang-related activity. The word, “tacitly” is used, for example, to cover the situations I have outlined, where, for example, the parent, as we know from the police, is engaged in selling the jewellery.

The parent takes the gold; all the gold chains they ripped off people’s necks; all the things they are cutting off people’s hands sometimes to get the gold; all the Mercedes Benz emblems they are ripping out and yanking out, all of that, when the parent takes it down to the jewellery shop to pawn it or to melt it, to make a nice chain for the mother to wear, we say that is wrong; you are encouraging; you are harbouring.

2.35 p.m.

But if the parent is simply giving refuge or shelter, or the pastor, or the pundit, or the priest, if they are simply giving refuge or shelter and they are not explicitly or tacitly encouraging by committing acts such as those, then they are protected.

So we believe that we have struck the right balance that will protect and safeguard parents who love their children and genuinely wish to protect them, and provide an opportunity to counsel them as opposed to those parents who encourage and actively support, and participate in the gang lifestyle of the child, that is where we draw the line. If you turn a blind eye, if you know, or by any reasonable measure ought to know, that your child is involved in a life of crime

underneath your own nose, in your own house, well then, “you better watch out,” because the long arm of the law is going to come after both the child and anyone who is harbouring the child to facilitate and encourage the commission of the crime.

Mr. Speaker, we have expanded the expression “law enforcement authorities”, but we have also now dealt with the concept of concealment. At first we did not differentiate, but harbouring now means something different from concealment. You will now conceal a gang member if he is wanted by the law enforcement authorities and you are trying to hide them. We agreed with the view expressed by the Opposition at the Joint Select Committee that the present definition of “law enforcement authorities” should be expanded to include the defence force and the prison service, and we have so included it.

At clause 9(2) of the Bill, provision is made for the recruitment of children, and that is within 500 metres of a school, and you are liable for a term of imprisonment of 20 years for that. The proximity to a school is considered an aggravating circumstance, since the recruitment of a child simpliciter attracts the maximum sentence of 10 years. Because of the prevalence and the seriousness of the offence, we were of the view at the Joint Select Committee that the definition of schools should be expanded, so we have now defined school—because the gang leaders they are targeting the school children. There are some schools in this country where we have police officers in the schools.

How could that be right in any civilized, functioning, democratic society, where there is respect for law and order and the rule of law prevails, that you would have to have police in the schools? That is where we have reached. And even with the police there. The gang leaders are waiting outside the school. So “when the young gyul come down and waiting for taxi, they harassing her, when the young fellas come down, they offering them a joint.” And it starts with a cigarette, it starts with a little money and from there it graduates. They woo you, they actively pursue you, and woo you. They offer you all sorts of inducements and blandishments, and then, bit by bit, once you take that bait, they reel you in, and you become a member of the gang.

That is why today the police tell us that there is a countermancuvre for everything they do. You start searching the young men and you start paying particular attention to them, what happens? “Young ladies carrying the weapons through.” Young ladies now play a more active role, so we have to look at the harsh and raw reality that confronts us, and meet it and deal with it. For that

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reason we have expanded the definition of “school” to include an orphanage, to include any technical or vocational institution that offers any training programmes and social programmes designed for the youths.

Mr. Speaker, clause 5 has been amended and we are now saying this is a provision that dealt with attempting to become a gang member and professing to be a gang member. With that provision in clause 5, we felt it would be difficult to prove “an attempt to become a gang member”, and we have deleted that. It was felt that to criminalize someone for simple bragging rights, professing to be a gang member, might be perhaps going a bit too far, because, given the current climate, young “fellas” sometimes want to impress somebody, a young lady perhaps, and you feel by professing to be a gang member, by dressing a certain way and “blinging” out, and you know as they say “spranging out”, you “bling” up yourself and you “sprang out” a little and you impress the young lady by saying, “I belong to gang X.”

Mrs. Mc Intosh: What is “sprang out”?

Sen. The Hon. A. Ramlogan: I will have to connect you. You see, your disconnect with the youths is apparent, so I will have to bring you back. I will have to teach you that, I will have to expand your lexicon.

You see, professing to be a gang member carries a term of imprisonment, and we felt that that might not be right. Several views were expressed at the joint select committee, and it was felt that peer pressure and simply trying to impress someone and so on, we should not cave in and capitulate and go too far in light of that. But at the other extreme, the view was expressed that anti-gang legislation was brought for the purpose of ridding the society not just of gangs but the fear of gangs; an attempt to weed out the culture of gangsterism in the nation.

This business of professing to be a gang member is something we discussed at length in the Joint Select Committee. You see, it is not as simple as saying it is a bragging right thing, because, by merely professing to be a gang member you could intimidate someone. For example, we must not forget there was a time in central Trinidad when hardware owners and businessmen were being targeted by people who dressed a particular way, and claimed that they belonged to a certain fundamentalist organization, and they were coming to extort protection money. So by professing to be a member of that particular organization, and dressing a certain way and extorting money, protection money, from people, we felt that that too is something that is important.

So that, professing to be a gang member was not as simple as it appeared to be at first blush. It was for that reason, we retained the concept, but we introduced a new element and we agreed unanimously to modify it to say, “in order to gain an unlawful benefit”. So if you profess to be a gang member in order to gain an unlawful benefit, that makes it criminal. In other words, mere boasting will not make you liable to anything, but if you are professing to be a gang leader or a gang member with the intention of soliciting some kind of illegal benefit, or you are trying in some way to extort money from people, then that will be criminal.

The gang membership is an indictable offence and carries a maximum penalty of 20 years. In the debate in this Chamber on the Bill, the Opposition had argued that the penalty was too severe, and there should be a tiered approach to sentencing of a gang member, that is to say, a lower penalty for first conviction than for a subsequent conviction. The view was put forward during our deliberations that gang membership should be dealt with swiftly by the courts, given the backlog that currently exists.

We received an opinion from Mr. Russell Martineau SC on the sentencing powers of magistrates. And it was felt that if the sentencing powers exceeded 10 years, then perhaps we may run into a constitutional problem regarding the jurisdiction of magistrates. Bearing all of this in mind, the Joint Select Committee recommended that the offence of gang membership should have a two-tiered penalty. A first-time offender should be tried summarily in the Magistrates’ Court and would be liable to imprisonment for 10 years. For a subsequent offence, in other words, if it is a second gang offence the person would be tried on indictment and liable to imprisonment for a term of 20 years.

We felt that the gang leader should be deserving of separate treatment. A separate offence was therefore formulated and inserted for gang leaders in clause 5(2), but the penalty, however, it was felt, was too harsh, and it has been reduced from natural life which could be the remaining years, and we have come down to a term of imprisonment of 25 years. We felt that will perhaps be more humane, so that perhaps a second chance and a possibility of some redemption may yet be possible.

2.45 p.m.

Mr. Speaker, we yielded to the Opposition on that particular matter. They voiced strong objection to the Government’s position, that gang leaders should be sentenced for the rest of their natural life. They felt that it was too harsh, and in the spirit of compromise we came down and said, “Okay, for natural life 25 years will be a compromise position.”

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Mr. Speaker, clause 5(3) was left largely intact. A member of the security or law enforcement personnel who is a gang member will be liable, on conviction, to 25 years. That is the same sentence provided in the Bill and matching the sentence recommended by the Joint Select Committee for a gang leader. So in other words, let me send a message to those involved in our security agencies, police, army and prison.

If the police or anyone in the law enforcement authorities gets involved in gang-related activity, supports the gangs, gives information about what the police is doing, sneaks out information, leaks information to the gangs to tell them when a roadblock is being set up or when they are going to crack down on place X or Y and rent out their guns, if they persist in that kind of behaviour they are going to be treated as though they are on par with the leader of the gang.

So I want to send a strong message to those involved in the law enforcement agencies, that if you involve yourself in supporting gang-related criminal activity, then in the eyes of law you are now going to be on par with the gang leader and subject to the same sentence, which will be 25 years' imprisonment.

Clause 6: we felt that there should be some introduction of the concept of coercion in clause 6. A person who by any means coerces, encourages, entices, aids or abets another person to be a gang member, commits an offence and is liable to indictment for 25 years' term imprisonment.

Mr. Speaker, concerns were expressed about persons who may be unwilling to join gangs or may be forced to do so, and in the reverse, people who want to leave gangs but may be prevented from doing so. This is an important area, and the Joint Select Committee spent a great deal of time discussing this particular issue. You see, it is not just a question of recruitment. Sometimes, young people have complained that they are forced into it, they are coerced into it, and, others who are into it and want to leave are prevented from leaving. This is why this law is so important, because the young people in our country need to understand that once you enter a gang that is a one-way ticket to the jail. Once you enter a gang there is perhaps no turning back. The feedback we have been getting is that once you enter they do not allow you to leave, and sometimes to enter they entice you in a way that involves some coercion.

Mr. Speaker, you have to go through a ritual to join some of the gangs, and sometimes that ritual involves robbing someone or showing that you could pull a trigger and kill a man. We have been advised that to join some of the gangs you have to show that you have the fortitude and the strength, you have to show that

you have the stamina and you are a real man, and, to prove that, you have to show that you could pull a trigger and kill somebody—an innocent human being whom you could watch in their eye and murder them in cold blood. “Blood in, blood out”, that is the motto. You have to shed blood to get into the gang, but to leave, your own blood may be shed. That is how it runs, and it is for that reason, in trying to recognize the problems persons may face in that scenario, we dealt with this provision at length.

Regarding the sentence for the offence, this is what we came up with. It was felt that the sentence should be a severe one since the perpetrators seem prepared to murder someone leaving the gang, and the perpetrator was encouraged in the existence of gangs, directly as well as indirectly, because when you kill one “not a dog bark” after that. When you kill one man trying to leave that gang, not a single “man jack” dares to say anything, or tries to leave that gang after. So, Mr. Speaker, we have now said 25 years if you are coercing or trying to prevent people from leaving the gang. That is what we say for anyone who is doing that.

Once you join a gang it is like a lifetime of crime. I want to appeal to the young people in this country that there are enough social programmes in this country, technical, vocational and otherwise, from Civilian Conservation Corps to technical and vocational training opportunities; help and assistance in every conceivable form. I think it is difficult to find another country in the world where there may be so many social programmes and opportunities for citizens. This Government has expanded and created more on those programmes and opportunities.

I hope that the young people will take advantage of those opportunities and not turn to a life of crime, because what we had in the past is the gangs sometimes controlling the turf in some of those programmes. So when my learned friends grumble about that, I want to tell them, “It is not what you were doing. It is how you were doing it.” We had to clean up some of these programmes, weed out the criminal elements and, in some cases, actually get the police to step in to actually amputate some of the gangs that were in control of some of these programmes.

Mr. Speaker, I now go to clause 8. In this particular clause, the “liability of a person to a fine” was deleted because we had deleted all references to fines. At the Joint Select Committee it was felt that the fines—the fines were about \$300,000 and so on. When you impose a fine on the gang members and they get bail, they will go and commit more crimes in anticipation because they want to save money to pay the fine. We felt that we should delete the fine and just deal with a strict term of imprisonment, so that way there will be no reason, no

motivation, for the gang member while he is out on bail to commit more crime, rob people to get money so they can save to pay their fine one day down the road.

Mr. Speaker, however, remember, we do have forfeiture provisions, so we strengthened the forfeiture provisions. At the end of the day, whilst we took out the fine, we strengthened the forfeiture provision so that we may end up getting more out of them than the fine that was there, because we may end up forfeiting assets worth far more than the fine.

We then went to the issue of the substantive provision in clause 7, which is now clause 9, to deal with the controlling or possession of bullet proof, firearms or ammunition and so forth, and we felt that there should be a mental element to this particular offence. The offence for possession of bulletproof vests, firearms or ammunition for the benefit of a gang, we felt that it should include a mental offence. It must also be now shown that the accused intended to use it, or ought to know that it might be used, for the benefit or at the direction of a gang or gang member and in the commission of a crime.

Mr. Speaker, I turn now to clause 10. This is the section that dealt with harbouring and concealing. I have explained the distinction in the definitions before, and we have looked at the legislation from Dominica, the Prohibited and Unlawful Societies and Associations Act. We have borrowed from it and we have modified it for our law, but the sentence of a parent or person acting in loco parentis in respect of an 18 or an under 18-year-old child who happens to be a gang member and who is convicted of harbouring such a child, we have introduced an important safeguard.

Concerns were expressed that, when it comes to parents, one wants to tread with some caution. As I mentioned, we want to criminalize bad parenting that transcends the normal understanding of bad parenting, but bad parenting in the sense of criminal parenting. We wanted to aim at that, but we did not, to discourage parents who may be trying their best. So, we came up with the sentence that if such a parent is, in fact, guilty of supporting and encouraging the life of crime; if evidence of attempts made by the person so convicted to reform or rehabilitate the child is produced, then that is a factor that the court is obliged to take into account in passing sentence, and we feel that is an important provision in the law.

Mr. Speaker, concealing a gang member or a person who is wanted by law enforcement authorities, that is a separate offence which is triable summarily and carries a sentence of imprisonment for 10 years. So if when the police come

knocking on your door, you know the young man is in the room, when the police come asking for him, if you lie to the police, if you know you told him to go and stay by his big brother in the bush, and he is hiding out, if you lie and you are the same one carrying food for him, you are the same one taking the money that he robbed people to spend, if you know all of that, then you will be guilty of an offence.

So, Mr. Speaker, the reason for the disparity in sentencing between concealment and harbouring is that we felt harbouring should take us a little step further, and harbouring is where you know that the law enforcement authorities want this person but you deliberately conceal them, trying to hide them from the police. While this is a serious offence in terms of harbouring, we felt that concealing takes it a step or a notch up.

Clause 11: recruitment of children. This clause is the recruitment provision that was located at clause 6(1)(d) of the Bill. It refers to persons who are not children. The 10-year sentence is a lowering of the sentence where it was 20 years before, but the provision now reads:

“6. (1) A person who...—

- (d) recruits or attempts to recruit a person”—who is not the child—
“to a gang, or otherwise solicits or invites support for the gang...”—commits an offence and is liable to 10 years’ imprisonment.

So gang membership—not a child, but above 18; adult—now carries a term of imprisonment for 10 years. It was 20 years. We have reduced it to 10 years because the Opposition felt that was too severe.

Mr. Speaker, on many occasions you will find that we gave in to the Opposition in a spirit of compromise in the interest of good governance in this country, because we feel that crime is a bipartisan matter. They felt that 20 years for recruiting gang members is too severe, and they wanted 10 years. We gave in to them reluctantly so, because we felt, quite frankly, 20 years is adequate and commensurate with the kind of problem we have in this country. But, in the interest of collaboration and compromise, we said fine, we will give in to them.

Mr. Speaker, remember we had a similar kind of compromise and collaboration when we were dealing with the death penalty? We collaborated and compromised, and we gave in to them at every conceivable step of the way. But yet still, alas, at the end, notwithstanding all of that, they did not give the country their support for the death penalty measure.

3.00 p.m.

May I say for the record, Mr. Speaker, that on that matter, we have prepared to share the legal opinions we have with them. Their biggest bugbear and sticking point was that the amendment should not be done in the Constitution. I hope when we share it with them at some stage, we can come back.

Mr. Speaker: Do not revise.

Sen. The Hon. A. Ramlogan: Certainly. Mr. Speaker, in clause 9(3), notwithstanding subclause (2), this is the provision that deals with the recruitment of children and committing an offence. The Joint Select Committee was of the view that recruitment of children into gangs was a matter of grave concern and we have increased the sentence from 10 to 15 years. We want to keep the gang leaders and the gang members away from where the young people are. We do not want them close to the schools so we have increased it from 10 to 15 years. If they are going there with the intention that they will use the schools and the tech voc as some kind of recruitment agency and a base, some target base, we hope that this will send the right message. We have agreed to a 20-year sentence for recruitment within 500 metres of a school or place of worship.

Mr. Speaker, we want to encourage the young people to go back to the mosque, the mandir and the church. We want to encourage them to go back there and we do not want them to be waylaid by gang members who are waiting there to harass them and call them “sorf man” and all kinds of derogatory terms because they are going to church. Mr. Speaker, we have to reverse that kind of thinking. A real man is the man who is going to church. That must be the thinking in this country. A real man is the one who stands up and says “no” to the gang member and the gang leader. That is the kind of thinking we have.

When the young ladies in our society have to choose a life partner, when they must choose a guy to dance or hold hands with, I hope they exercise that power responsibly and choose the right “kinda fella”. If you choose “the fella who wearing a pants off he hip, almost by he knee, and yuh choose ah fella who don’t have ah job, who don’t want to complete school and not even interested in learning ah trade, who cannot be ah father to yuh children to put ah meal on de table by ah decent day’s wage, by ah decent day’s work”, then you are encouraging the stereotype. So, we hope that we will reverse the kind of attitude that we see and the thinking that we see amongst our youth.

Mr. Speaker, because of the 10-year limit on the sentences which can be imposed by a magistrate, the offence was altered to one of summary conviction.

We have retained the powers of entry and arrest in clause 10 which is now clause 12, that is the clause that dealt with the right to enter and search premises and a dwelling house.

Mr. Speaker, clause 13: this is the clause that dealt with the pre-charge detention. In the initial draft, the police were allowed to detain a suspect for up to five days without charge and without the possibility of bail. And provision was made, however, for a police officer in the rank of a superintendent to review the detention of the suspect within 24 hours and decide whether that detention should continue or the suspect should be released. Comments were received from the Criminal Bar Association and it was felt that this kind of pre-charge detention had no bearing on the issue of bail, since the entitlement to bail, it arises only after charge. We decided in light of the submission from the Criminal Bar Association that the provision should be removed from the Bail (Amdt.) and be inserted in the Anti-Gang.

So with the full support of Members from the other side, we have agreed that the period now—we were trying to strike the right balance. The Opposition wanted 48 hours. They said that the practice is 48 hours police could hold you for up to 48 hours without charging you, they wanted 48 hours. We had in the original law five days, they wanted 48 hours, so we compromised.

What did we do? We reduced the number of days from five to three, and we felt that any further detention, instead of a superintendent of Police, after three days, an application should be made to the magistrate, so there can be a judicial authorization for the further detention. And the application process, we felt, should be swift so we actually created and drafted an application form and we put it in the Schedule to this Act, so the police just have to fill out the application form, take it to the magistrate, and you will get your additional time. The additional time, we felt, should be up to a maximum of three days.

So, we have moved now from the original position where you could have detained the gang member for a period of five days without charge and without going to court; we have come now to a position where you could detain them for the first three days, after that, you must take them to court, get authorization and you could get a further three days. But the catch to it is that we have moved from five-days pre-charge detention to six days pre-charge detention, because if the magistrate gives you an extra three days, well, it is three plus three, it is six days in all. So we have compromised with the Opposition, but in the end I think we came out with a better and a stronger provision in this law.

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So that, I want to say to the “rude” boys and gang boys, the police now have the right, without laying a charge, to detain you for three days and during that three-day period the police could complete their investigation and enquiries. The police could get further evidence for the prosecution and after three days you could go before a magistrate, fill out the application form that we drafted and get an authorization for a further three days. You could be behind bars—when the police pick you up—for six days before the police have to lay a charge.

So, we are equipping and empowering the police service with the cooperation of the Opposition, so that we can effectively deal with the crime problem in this country. Mr. Speaker, that is what we are doing. I wish to send a strong signal to both the members of the police service who are now being so empowered and authorized by this Parliament, and the persons who we are targeting, who are intent on gang-related criminal activity, watch out!

Clause 11, Mr. Speaker, we have recommended that the discretion “may” should now be made compulsory when it comes to the forfeiture of the gang member’s property. We have expanded that definition—before it was property in terms of real property and so on—to make clear the range of property relating to gang-related activity and the recruitment of gang-membership that can be forfeited.

Now, Mr. Speaker, all profits, proceeds and instrumentalities relating to the gang-related activity, all property used or intended or attempted to be used to facilitate the gang-related activity, all of that is liable to forfeiture. Mr. Speaker, this is important. Some gang members—the reason we formulated it so broadly—some gang members, they take the money that they get from kidnapping—“when people pay dey hard-earned money that dey save up for dey lil retirement, for dey lil medical emergencies, when yuh kidnap de people children and yuh have to pay out all dat money that yuh wuk yuh whole life, yuh whole lifetime yuh wuking and saving and yuh have to take up all that and just give it up and hand it over to dem people because dey kidnap yuh child”—Mr. Speaker, some people have taken the proceeds and they have invested it in business. So that is why we say the profit and the proceeds, if we could trace it, once we could trace it, we are coming after those assets including the proceeds.

3.10 p.m.

Mr. Speaker, it is not confined to the property actually used, but property that was intended or attempted to be used, and we authorized the court to give

directions for the storage, investment and disposal of the property so forfeited. We have maintained that the Act should remain in place for a period of five years as a sunset clause, as it were.

We come now to the Schedule of the Act. I mentioned earlier that we have created a Schedule. These are the offences where, if a gang commits them, the provisions of this Act and the penalties will bite: possession of imitation firearms in pursuance of any criminal offence, larceny of a motor vehicle, arson and receiving stolen goods in the course of gang-related activity. The receipt of stolen goods is part of the blood supply that fuels gang-related activities. People in this country must understand that it is a crime to receive and buy second-hand goods that you know to be stolen. If you are buying a gold chain for your wife or girlfriend, buy it from a reputable dealer. Do not buy it from a shady character.

Larceny of a motor vehicle, people going to “ah little fete and when you come back out you cyah find your vehicle and you mortgage your house to buy that vehicle. The bank eh have no sympathy to say: ‘Well somebody tief it ah go ease yuh up’. You have tuh wuk now and pay installment to the bank for the next 20 years for a vehicle that you mortgage your house to buy.” There are some cases “where de people mortgage their house to buy de vehicle to wuk taxi.” So, it was meant to be an income-generating asset. And when you “tief” that car the poor “fella” have to go and find something to do to pay back the bank, “otherwise he losing he house and de car.” That is the position you put people in. That is why I have put larceny of a motor vehicle here, because when “yuh tief ah car is not just ah car yuh tief.”

Arson, we have had too many cases of gang members “if dey feel yuh squeal and yuh give de police information, dey bunning down yuh house”; wanton destruction of property. We have put arson here.

Gang membership; coercing or encouraging gang membership; preventing a member from leaving the gang; participation in criminal activity in association with the gang; possession of a bulletproof vest, firearm and ammunition for the benefit of the gang; harbouring or concealing; recruiting children; threatening to publish with intention to extort; demanding money with menaces.

With respect to demanding money, there is a process, if somebody owes you money in this country, as to how to get it. There is a process. I want to say this for the benefit of the business community. If someone owes you money, there is a court of law. There is a process. You sue them. You get judgment in your favour, and then there is a process for the execution of that judgment, whereby a court

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marshal will go with you and levy on the assets of the person. That is the process. You could take away house and land. You could take away motor car. You could even have a summons to sell the land. The law provides for that.

“Somebody owing yuh money, you go tuh court. Yuh get yuh judgment and yuh enforce it.” You could levy on them with a marshal of the court and bailiff. You could take away everything, lead pencil, copy book. You could leave him standing by the road in “ah rubber slippers with ah jockey shorts and a tie on alone”, but what you cannot do is to hire gangs to go by the people without invoking the legal process, to hire gangs to go and recover you debt by threatening people, blackmailing them or threatening to interfere or kidnap their children. That is wrong, and if you do that, you too are encouraging the gangs and the gang-related activity that we are trying to prevent, and you too will be committing a crime.

Mr. Speaker—*[Interruption]*

Mr. Speaker: You have 10 minutes more. I just want to let you know so that you can—

Sen. The Hon. A. Ramlogan: Certainly. Thank you, Sir. I have to get down to the bare brief of the matter. The Schedule contains, needless to say—you like that—serious offences and we did not include all criminal offences, but they are serious offences: robbery, rape, robbery with violence, kidnapping, grievous sexual assault, kidnapping for ransom and the like.

I turn now to the Bail (Amdt.) Bill. The Bail (Amdt.) Bill is the sister or counterpart to the Anti-Gang Bill. What we have done is amend the Bail (Amdt.) Bill to insert the offences created by the Anti-Gang Bill and to insert some of the definitions which we have inserted in the Anti-Gang Bill. We have inserted definitions for “gang”, “gang member” and “gang-related activity”.

We have—in fact, up to this morning, the Member for Diego Martin North/East and I had discussions with respect to a particular provision. That provision is clause 6. We went, in the end—no bail for 120 days for a gang-related offence or any offence under the Anti-Gang Bill. But we have inserted a safeguard. If the court does not start the matter, and evidence is not taken, you could apply for bail. That does not mean you would get it, but you could apply for bail. You are not denied bail by operation of law. If you are convicted of an offence and you commit an offence within 10 years of your release from jail, no bail for 120 days. If you have two charges pending and you commit a third, three

strikes and you are out, no bail for 120 days. We are coming hard at repeat offenders, because the recidivism that is driving the criminal process and the gangs, we need to stamp it out and we need to take the problem by the root.

We have removed the pre-charged detention because it is not a matter properly for the Bail Act and we have put it in the Anti-Gang Bill, which deals with pre-charge detention.

The committee was of the view that it would be an exercise in futility to criminalize gang membership and gang-related activity, if persons charged for an offence under the Anti-Gang Bill were able to readily obtain bail and return to the streets. That is why we have denied bail to a person who is over the age of 18 and charged with such an offence. The need to implement strict measures in order to stymie the unbridled criminal activity that has plagued our nation for far too long cannot be overstated, and if we do not take steps to cut off these arteries that nurture, sustain and enable gang-related activity and other such endeavours to stop, we may all perish.

Mr. Speaker, the proposed new section 7 of the Bail (Amdt.) Bill would allow a person charged with an offence under the Anti-Gang Bill to apply to a judge for bail where no evidence has been taken within 120 days of the reading of the charge. That is an important safeguard, as I have mentioned.

Subsection (8), we come to the question of possession of a firearm, ammunition or ammunition without licence, certificate or permit. We have included a mental element, because we did not want to capture the law-abiding citizens who may, for example, forget to renew their firearm users' licence, so there is now a mental element inserted in that.

We have amended clause 7 to introduce all of the new offences that we have created in the Anti-Gang Bill. This is a revolutionary piece of legislation, because we are creating offences that were hitherto unknown to the criminal law. Almost all of the offences in the Anti-Gang Bill are new offences, so we have now had to insert them in the Schedule for the Bail (Amdt.) Bill

The responsible collaboration and the reasoned debate and analysis, the informed discussion and meaningful dialogue that took place at the Joint Select Committee has really come to fruition and has borne fruit. It is apt, at this very juncture to, perhaps, mention a quote, which I hope will guide Members of this Parliament as we seek to make law for all in this country. It is perhaps a motto that we on this side of the People's Partnership—under the distinguished leadership of the hon. Prime Minister Kamla Persad-Bissessar, her vision for the

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People's Partnership is one which is perhaps predicated and guided by this quote from Henry Ford: "Coming together is a beginning. Staying together is progress and working together is success." That, perhaps, best epitomizes what took place at the Joint Select Committee.

We began in this House with the presentation of a Bill. We debated it and we listened to the views expressed from the Opposition Bench. That was the beginning. We then, having listened to them and being receptive and open to suasion, referred the matter to a joint select committee, and there we stayed for two months with eight sessions, receiving submissions from the Criminal Bar Association, the police service and other stakeholders. We got legal advice from a former Attorney General and a distinguished Senior Counsel and there we stayed together and made slow but sure progress.

May I end by saying that now working together will be the real success. These Bills, the Bail (Amdt.) Bill and Anti-Gang Bill, are the result of responsible collaboration, informed and meaningful dialogue, and it is a testimony to the new spirit of leadership from this People's Partnership, under the guidance of Prime Minister Kamla Persad-Bissessar, whereby we will collaborate and we will hold hands and we will walk together in the interest of Trinidad and Tobago.

I beg to move. Thank you very much.

Question proposed.

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. Before I get into the meat of the matter, I need to deal with some of the outlandish statements made by the hon. Attorney General. I use outlandish in its most peaceful sense, not that it was absurd; it was just wrong. The Attorney General indicated that the approach of the Government, with respect to this matter, whereby there was collaboration with the Opposition and the Independent Bench, was the first time that anything of this kind had been done.

Whether he said it, implied that or insinuated it, that is what he meant. He said it was a new approach to consultation and this was evidence of the Government's desire to listen and work with the Opposition and he said that this has never been done before. The fact is, the Police Service Act, which may be addressed later in the proceedings, was the product of collaboration between the then Opposition UNC and the then PNM government in 2006. In fact, there were comprehensive reports laid in this Parliament outlining the intense, deep and meaningful collaboration between the Government and the Opposition at that time on the reform of the police service.

The deoxyribonucleic acid (DNA) Act, which went to a joint select committee chaired by myself, benefited from the knowledge and the input of hon. Members opposite, in particular the Member for Caroni East.

3.25 p.m.

Some of the other Members on that committee—yeah, believe it or not—have gone by the wayside. But the fact is, the DNA Act which required a special majority, went to a joint select committee, the committee did a lot of useful work, the government of the day, the PNM government, took on board all of the suggestions of the Opposition leading to a unanimous approval for that piece of legislation, the DNA Act.

Similarly, Mr. Speaker, just bringing a third example to put paid to that outlandish suggestion by the Attorney General, the Breathalyzer Act also went to a joint select committee, and also benefited from the input of the then Opposition, the UNC. I also had the privilege to chair that joint select committee, and that legislation came back to this Parliament, again it was passed unanimously, because of the consensus arrived at between the then PNM government and the then UNC Opposition. So it is simply not true that the collaboration between the Government and the Opposition now that the shoe is on the other foot, that they are in Government and we are in Opposition, is the first time something like this has ever happened. [*Desk thumping*] It is commonplace in this Parliament. It has happened on many, many, occasions.

But anyway, the fact is, Mr. Speaker, there were many meetings, there were eight, and if I could read the dates when the committee met: January 11, January 17, January 24, January 31, February 7, February 14, February 21 and February 28; in other words, the Joint Select Committee established to consider the Anti-Gant Bill and the Bail (Amdt.) Bill met every single week, for eight weeks, and the Attorney General was so intent on driving us like an old-time slave master, the only thing missing was a hat, a horse and a whip sometimes—a cork hat, yes.

Sometimes, Mr. Speaker, he would want to take us from 9:00 in the morning to three o'clock in the afternoon to the discomfort of his own Members. But the fact is, it is necessary to put on record that the Members of the Opposition did not shirk their responsibility—when you look at the attendance record, we were all there, bar one or two meetings where we had other engagements.

The three Members of the Opposition—myself, the Member for Port of Spain South and Sen. Hinds—participated vigorously in the deliberations of the

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committee, and, in fact, many of the amendments are the product of suggestions made by three of us. But there were, of course, other recommendations and interventions made by other members of the committee, such as the Minister of Trade and Industry and Member for Chaguanas East.

After a little, you know rough beginning when the Government sought to bully us, by the second or third meeting we settled down and we were able to work together as a team and I do also believe that the legislation is far better now than it was when it first came to the House as a result of the teamwork of both the Government and the Opposition on this legislation. We did it for free, they got paid and that is something that this Parliament needs to look at.

But the fact is, Mr. Speaker, that many of the draconian elements of the legislation have been removed, and I would like to go into some of the very oppressive measures that were first proposed by the Government. I do not know if they were flying a kite, or if they really wanted to do this and then good sense—I think the Member for St. Augustine was a member of the committee as well if my memory serves me right. Good sense prevailed and the Government recognized that the oppressive nature of the legislation simply might not be justifiable in our society.

But the first problem with the Bill that the committee solved was the question of: what is a gang. What is gang-related activity? And what was the policy, purpose and intent of this legislation? In the beginning the first Bill that was laid was so broad, so expansive, and so wide in its definition of a gang, gang membership and, gang-related activity that almost every person in Trinidad and Tobago could have been caught within the net of a gang or gang-related activity. The Government accepted a suggestion proposed by the Opposition that we tie it down by defining a number of serious crimes and making the formation of an association or a gang or group to commit these particular crimes the focal point of the legislation.

As a consequence, a schedule was produced called the Gang-Related Activity Offences—the Attorney General has referred to some of them, such as, larceny of a motor car, arson, coercing and encouraging gang membership, participation in criminal activity and association with a gang, threatening to publish with intent to extort, demanding money with menace, murder, shooting, robbery, assault, trafficking in a dangerous drug, grievous sexual assault, kidnapping, et cetera. So, the legislation changed from a very wide, amorphous piece of legislation that would have been quite difficult to enforce into a focused piece of legislation

where now, in order to be charged and convicted for a gang-related offence, there is a definition of what a gang-related offence is and essentially a series of very serious crimes.

That caused a change in the definition of gang-related activity to the following definition: “gang-related activity means any criminal activity, enterprise, pursuit, et cetera, in relation to any of the offences listed in the First Schedule”. So that, previously, gang-related activity was virtually anything, now gang related activity is the commission of these serious crimes: assault, robbery, larceny of a motor car, et cetera, where two or more persons act together as a gang. So that has tightened it up and has put some protection into the law for persons who might have unwittingly been charged as being a member of a gang, if the legislation had remained in its previous form.

The second fundamental change that was made to the legislation by the committee operating as a group, was reduction in the penalties. Previously, a first-time offender just for being a gang member, someone who had not even committed an offence per se, he or she was just a member of a gang, but had not yet committed any of these serious crimes such as robbery, et cetera, would have been facing possible conviction for 20 years. So it means that someone, for some reason they were coerced or they foolishly became a member of a gang, the sentence just for that would have been 20 years. Now it is changed to 10 years and for a second offence, 20 years.

Secondly, Mr. Speaker, which is more in line with the sentencing provisions in other pieces of legislation for offences of a similar nature, because you have to have consistency in sentencing, the other change that has been made is to remove the concept of life imprisonment because previously, if one was convicted of being a gang leader, one was subject to life imprisonment. The only country in the world that has legislation of that nature is Ireland which has to deal with the problem with the Irish Republican Army and terrorism, and they decided that because of their very serious gang problem, which is really very unique to that country, they would want to sentence gang leaders to life imprisonment. But the Government relented and now the penalty for a gang leader is imprisonment for 25 years, and, as the AG pointed out, we removed all the fines because they are quite pointless. Where would the gang members, in fact—if the Minister of Trade and Industry will allow—he has a tendency sometimes to jump before I finish my sentence.

3.35 p.m.

It was the Minister of Trade and Industry who made the point: where will the gang members get the money from? Why not just lock them up? We accepted that as a committee. The Attorney General has made the point that if you give the court a discretion that it could be either a fine and imprisonment or a fine, then a court just might decide to impose a fine and not imprison this person who has committed a gang-related offence. So we felt that the court should not be given that discretion and that the only discretion the court would have is the severity of the period of incarceration; so the fine came out.

The Attorney General has made the point that if you impose a fine of \$300,000 or \$500,000 on a young man 20 years old who has no assets, where would he get this \$500,000. He would go outside and commit some violent crime to get it. So we felt it best just to impose a custodial sentence from a practical perspective. Those are the two fundamental changes made to define what is a gang and what is gang-related activity and to make the sentences more consistent with reality and what exists in Trinidad and Tobago in legislation for similar offences.

Now, the third thing we on this side were very concerned about—and I believe that the Member for Laventille East/Morvant had made a point during her contribution that we should look very carefully at how we punish parents of suspected gang members because they may not be guilty of any crime; they may be trying to rehabilitate the young person and, therefore, it was wrong to incarcerate a parent who really has no association with a gang and who is not encouraging a gang member living in their house.

We had a lot of argument and discussion about this. Some of the Government spokesmen were adamant that there were parents who encouraged the young people who live in their homes to get involved in gang activity so that it finances the activities of the house; it pays for television, cable television, vehicles and food. There was a view from the Government side that there were parents who encouraged gang membership so that these young men and women would bring home money and finance the household.

We in the PNM were very strong on this because we felt that this would target some disadvantaged communities and one should be convinced that the parent or guardian is really associated with the gang or encouraging gang membership. As a result, the definition of “harbouring” was changed. In the definition were included words that would lead to a situation where the court would have to be persuaded

that the person was encouraging and supporting the gang member in his activities. The definition was, therefore, changed and “harbours” now means, “giving refuge or shelter to another person and encouraging or supporting, whether tacitly or explicitly, that person in committing any gang-related activity”.

We felt that this was sufficient to give the parent a defence. We are still not too happy about this because it throws the burden of proof on to the parent, away from the usual legal situation where the burden of proof is on the police to prove that the person has committed an offence. This now requires the parent to put up a defence that they are not encouraging or supporting a gang member in gang-related activity.

Anyhow, in the spirit of cooperation, we felt it was a reasonable solution although not the best. This would also apply to church leaders and so on—a person in the mosque, a person in a mandir, a person in a church, who might give refuge or shelter to the suspected gang member and find themselves exposed to a charge of harbouring a gang member.

There would be situations where a gang member might want to hide in a church or other place of religious worship for a short period, while the Imam or the priest is encouraging that person to give themselves up to the police and face the consequences. However, during that one day, that person may be exposed to a charge of harbouring or concealing a gang member, which attracts quite a serious penalty.

A penalty for harbouring is five years and a penalty for concealing is five years. It is important for parents to understand the difference between harbouring and concealing. When one is concealing a gang member, one knows or ought to know that the person is a gang member and is wanted by the law enforcement agency. Take a typical scenario. A parent has reasonable cause to believe that their son is a gang member because, as the Attorney General has pointed out, he is coming home with large amounts of cash; he may be coming home with illicit substances like narcotics and so on. The police may come looking for him; knocking on the door: “Do you know about the whereabouts of John?” And the parent tells John to hide; lets him out the back door and tells the police no. That is the crime of concealment. You know or ought to know that your child is a gang member; is engaged in gang-related activities and you hide the person from the police. Again, because of the parental bond, we are not too happy with this but, in the spirit of compromise, we felt that we could reluctantly go along with these provisions because it gives the parent a defence that they were not concealing and so on.

I do believe that this is experimental law and we will see whether a number of parents now will find themselves incarcerated for no good reason because that will destroy families. We believe that this is a problem and it is something the Parliament needs to deal with seriously.

The next issue we looked at is the whole question of children. What do you do with a child who is accused/suspected of being a gang member? We felt we needed to separate adults and children; that you would not treat a child in the same way that you would an adult, consistent with general practice, not just in Trinidad and Tobago, but all over the world. This has two sides. The person who is below the age of 18 is not treated in the same way as the person over 18.

The second piece of legislation, the Bail (Amdt.) Bill, distinguishes the age of the person by saying that a person who is over the age of 18 and charged with an offence under the Anti-Gang Act would be denied bail for at least a period of 120 days. You have to be over the age of 18. If you are under the age of 18, you would still be able to get bail in certain circumstances.

We felt, from the perspective of the person who is not an adult, that they should not be treated as harshly as the person who is an adult. On the other hand, if an adult recruits or attempts to recruit a child, then we felt that the penalty should be more severe. For example, in the legislation now, a person who attempts to recruit a person who is not a child to a gang, he is liable upon conviction to imprisonment for 10 years, whereas a person who recruits to a gang a person who he knows or ought to know is a child, is liable, upon conviction, to imprisonment for 15 years. We felt that if a gang member or leader is targeting a child to recruit that child into a gang, then that gang leader or member; or even if it is not a gang member, that person should be subjected to a harsh penalty.

Similarly, in keeping with legislation dealing with illegal drugs, we also felt that if someone is caught trying to recruit a child within 500 metres of a school or place of worship, that person should be liable to imprisonment for 20 years. It is a step-up principle. If you are trying to recruit an adult, you are going to be imprisoned for 10 years; if you try to recruit a child, 15 years; if you try to recruit a child within 500 metres of a school, 20 years. We felt that this approach to the legislation was more logical than the previous approach, which was just a catch-all 20 years and life imprisonment.

The other issue that we spent a lot of time talking about is the question of detention without bail. The Government wanted to detain persons for five days. We felt it was unreasonable. Indeed, in many other jurisdictions, persons cannot

be detained for more than 48 hours. We had a lot of discussion about it and we came up with a compromise that we feel balances the rights of the person against the rights of the society and the effect of what we agreed on was that the police could detain somebody suspected of a gang-related offence for two days.

If they want to hold the person for a third day, then they need to get a senior police officer involved; a police officer at the rank of superintendent or above, and that officer would review the request by the junior police officer to keep the person detained without charging him for another 24 hours. It is left up to the senior police officer to decide whether the person can be kept for another day or released.

After the expiry of the three days, that senior officer—now you are taking it out of the hands of the constable, corporal or the sergeant and putting it in the hands of a First Division officer—would need to approach a court to continue the detention of the person and a magistrate would be limited to allow the detention of the person for a further three days.

So the way it would work, if the police detains someone for two days and they think they need another day to do further investigations to determine whether the person is guilty of the offence, then a senior officer can extend it by another day and then the court gets involved and a magistrate, having listened to all of the evidence and circumstances, would determine whether or not the person would be detained for another day, two days or three days, up to a total of six days.

We felt this was a good balance because the argument from the Government side was that the police need this time in order to do the investigation to gather evidence in order to secure a conviction. If they cannot detain the suspected gang member for this period of time, then the gang member may get back outside, destroy the evidence, threaten witnesses, et cetera. So we understood the problem and we felt that this was a good balance. The police have jurisdiction for the first three days and the court for the next three days.

3.50 p.m.

So that, Mr. Speaker, the problems with this legislation, by and large, have been settled. The first problem was the fact that the Anti-Gang Act would have been so wide it not only would have been difficult to enforce but it would have picked up virtually every crime committed by everybody in Trinidad and Tobago. The second problem was the question of the sentences and the Government has quite wisely agreed to reduce the sentences to meaningful and reasonable levels.

The third problem was the question of how do we treat with the parents of a suspected gang member. How do we balance the whole question of, as I said, the parental bond between a child and a parent and the fact that parents may use children to commit crimes? How do we do that? That has been settled by giving the parent a defence that they were not encouraging the gang member or they were not benefiting from the proceeds of that person's membership in a gang.

Now the Attorney General spent only a few minutes on the Bail Bill, and I see he is not here. I do not know why you chose to run away because we had a lot of discussion in the committee stage and there was really no need for the Attorney General to explashiare in the manner that he did. Because when things go to a committee it is not expected that you would speak for 75 minutes thereafter, simply repeating things that had been said in the debate. [*Crosstalk*]

Dr. Gopeesingh: So you are ending now?

Mr. C. Imbert: But I need to deal with the Bail Bill because he did not and there are problems with the Bail Bill and this morning I had serious discussions with the Attorney General and we spoke several times. There is a problem with clause 6 of the Bail (Amdt.) Bill, and I will explain it to the Parliament, Mr. Speaker. Clause 6 of the Bail (Amdt.) Bill reads as follows—it introduces a new subsection 5 of the Bail Act:

Subject to subsection (7).

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

- (a) over the age of eighteen...; and
- (b) charged with an offence under the Anti-Gang Act”.

So if you take that literally, which we must, it means that once you are an adult and you are charged with an offence under the Anti-Gang Act, no bail. That is clear, no ambiguity there, but when you come down to the next subsection, it says:

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

- (a) “charged with an offence listed in paragraph (b), (c) or (d) of Part III of the First Schedule if the offence involves the use of a firearm” or
- (b) a gang member who is charged with an offence listed in Part II or Part III of the First Schedule”. And when you go to the Schedule you will see that what the Government is seeking to do is to introduce a series of gang-related offences into the Bail Act. And the Government is seeking to

amend Part II of the First Schedule of the Bail Act by introducing these offences, gang membership, coercing and encouraging gang membership, preventing gang member from leaving group, participation in criminal activity in association with a gang and so on.

So that this subclause that I have just referred to states that if a person is a gang member charged with any one of these offences, which are all gang offences, then they shall not be denied bail unless they have been convicted of at least one such offence within the last 10 years or they have two pending charges for such offences.

So when you read the two together, they contradict each other. The first one says that once you are charged with a gang offence, no bail. The second one says you could get bail if you are charged with a series of gang offences if you have been convicted of at least one such offence within the last 10 years or you have two pending charges for such offences. That does not make any sense.

So I would think a person would be able to demand that they be dealt with under the second subsection where the question of a first offence and two pending charges comes in rather than the first subsection which makes it absolute; whether you are a first-time offender or second-time offender. You get no bail if you are charged with an anti-gang offence. And we had a lot of discussion because this is a drafting problem. I am being polite. This is a drafting problem. This same issue with the question of the absolute no bail, when you are charged with an offence under the Anti-Gang Act and then the condition as to the first offence and two pending charges, it is a drafting problem. And the Attorney General gave me an assurance that it will be addressed.

However, it is never a good idea, Mr. Speaker, to amend legislation over the telephone. It is never a good idea to amend legislation in haste and I am reminded of that because when I came into the Parliament this afternoon, something struck me, that I think I had better go and take a look at the most current version of the Bail Act. And I am not saying this in any pejorative way. Something just came to me. When you look at the existing Bail Act, one sees that bail is denied to a person who has three previous convictions for an offence listed in Part II of the First Schedule or has two previous convictions for an offence listed in Part III of the First Schedule.

Now Part III of the First Schedule is violent offences: manslaughter, shooting or wounding with intent to do grievous bodily harm, assault occasioning actual bodily harm, et cetera. These are violent offences and the existing law states that

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you have to have two convictions for these violent offences or three convictions for the other offences such as larceny of a motor car, receiving stolen goods, et cetera. [*Crosstalk*]

Sen. Ramlogan: So the amendment is not necessary?

Mr. C. Imbert: “Yeah”, so that I think there is a problem because it needs to be cleaned up, but I do not think we could do that here today. Because the intention obviously was that if a gang member is charged with these violent offences and charged with the specified offences or was convicted and so then that person would be treated specially. Because at this time any person who has three previous convictions for Part II offences, such as larceny of a motor car, receiving stolen goods, if you have three convictions, no bail; if you have two convictions for manslaughter, robbery with aggravation, et cetera, no bail.

But what this Bail (Amdt.) Bill was seeking to do is, if you are a gang member you step it down one more, but especially if you are a gang member. We have to take this whole thing in context. And therefore, I think we should leave the gang member in subclause 8 but you need to look carefully at subclause 6 because there is a conflict between subclause 8 and subclause 6. And I think it needs some mature reflection. As I said, I do not think we can fix this today.

As far as I am aware—lest I am wrong, Mr. Speaker, this matter has to go to the other place. Am I correct, hon. Attorney General? So this matter has to be debated in the other place. So I am suggesting that we leave it as is, leave the report as is for the time being and fix this drafting problem in the other place. Because I do not think it was our intention to step it down from three convictions to one. You realize that is what you are doing? You are not stepping down three convictions to two, you are going from three convictions down to one. [*Interruption*]

Sen. Ramlogan: And what is wrong with that?

Mr. C. Imbert: Well I do not think that was our intention. And even in the previous debate in the other the recent debate in the other place, about bail, I do not think it is the Government’s policy that if at this time in order to be denied bail you need to have three convictions, I do not think it was the Government’s policy to reduce that to one conviction. I do not believe so. [*Interruption*]

Sen. Ramlogan: May I?

Mr. C. Imbert: Sure.

Sen. Ramlogan: May I clarify that, hon. Member, for the purpose of the Anti-Gang Bill, that is, in fact, the intention and that was always the intention, that we feel that gang-related offences are so serious, having regard to the fact that we scheduled the offences for serious and violent crime, that we felt that once you have one conviction and you commit, as a member of a gang, one of these serious violent offences, then you should be deprived of bail for 120 days.

4.00 p.m.

Mr. C. Imbert: Thank you, Attorney General. We are talking at cross purposes here; we are on the same wavelength. The current document attaches it to a person who is a gang member. So, for a person who is a gang member, you are going to deny that person bail, and a person who is a gang member who has one conviction for these other offences or two pending charges, you are going to deny that person bail. This morning, in our discussion, we were trying to find a solution to the conflict between clause 6(6) and clause 6(8). As I said, it is never a good idea to amend legislation over the telephone.

When I came and reflected upon it, the policy has to be that we step it down for gang-related offences. It cannot be for any and all and sundry offences and that is why the wording of clause 6(8) whereby bail would be denied to a gang member who is charged with an offence listed in Part II or Part III of the First Schedule and has one previous conviction or two pending charges is correct, and we should leave it like that, but you need to look carefully at clause 6(6) which denies bail for a person who is charged for any offence under the Anti-Gang legislation, whether they are first-time offenders or not. I am saying between now and the time this matter arrives in the Senate that you look at that.

Now, the Attorney General also did not speak about one of the most important matters that we discussed this morning, and that is the question of parents. *[Interruption]* What we felt—the other thing is, I do not know where they are going to find space in the jail for all these people. I wonder if this Parliament understands what it is doing. All of these people are going into the remand yard, because they are awaiting trial. You are now sending everybody who is charged with a gang offence into jail, and you are sending persons charged with a combination of offences into jail, and the Government has changed the period for bringing an accused person to court from eight days to 28 days. So, I do not know where you are going to find space in the remand yard for all these accused people. *[Interruption]* I said remand yard, I did not say Rienzi Complex.

On a more practical point, I think the Government needs to carefully study what this legislation is going to do in terms of the prison population, because you are now denying bail for four months to a whole host of persons who are going to be in remand for four months. So, I think you need to look at that matter very seriously. This will result in overcrowding in the remand yard which is already overcrowded. We already heard how terrible the conditions are in remand, so I think you need to look at that very seriously as we try to balance dealing with the menace to society that these gangs pose and the whole question of the rights of the individual.

Now, this morning the Attorney General and I were discussing what you do with a parent who is charged with harbouring or concealing a gang member. Should they also be locked up for four months without bail? I hope we have reached an agreement that for that particular offence that the parent would not be locked up for four months while awaiting trial, and would be incarcerated only for 60 days. I hope we have been able to reach an agreement on this.

Sen. Ramlogan: Mr. Speaker, may I indicate to this honourable House that an agreement has, in fact, been reached and it will be honoured. With respect to parents, we share those concerns, and we have decreased the no-bail period from 120 days to 60 days. So that when it comes to parents and persons in loco parentis it will be 60 days. I did not mention it, but I wanted to leave it for my learned friend in light of the fact that we had discussions early this morning.

Mr. C. Imbert: This is good news, and I am glad that there is some humanity on the other side after all, because sometimes it is impossible to tell. Anyway, there is still a problem with 6(6). It is in conflict with 6(8), but I am suggesting that you leave subsection (8) severely alone; leave it alone, because that is definitely the policy we discussed, that you treat persons charged with gang-related offences differently, and you treat gang members differently, and you deprive them of their liberty, because of the mere fact that unfortunately they have been accused of committing an offence that is related to gang-related activity. You need to look at it very carefully.

And so, as I said, there was no need for the Attorney General to talk for 75 minutes. [*Crosstalk*] I have not even spoken for 45 minutes, because my speaking time has not been extended. I can say that the work of the Government and the Opposition on this Bill has resulted in much better legislation. As I said, they tried to bully us at the beginning, but afterwards we had some genuine collaboration. I would hope that this would be the way forward when we are dealing with a matter that is of national importance. I would hope that in the future there would be

genuine collaboration and respect for the opinions and the proposals of the Opposition, as it has manifested itself in the latter sessions of these committee meetings.

I would say every single member of the committee was and is committed to dealing with this problem. Speaking for the Opposition, I would say that at the end of the day, we got to a point where we were all grappling for solutions, and trying to arrive at legislation that strikes a balance between the rights or the common good and the rights of the individual, and I think we got close. As I said, we are not terribly happy about the way parents are being treated but, as I said, it is experimental legislation, and we will see and I would hope that if the Government realizes that parents are being unduly penalized, that it would make the necessary adjustments to the legislation in due course.

As I said, I have not asked for an extension or received one and, therefore, I am well below the Attorney General's 75 "minutes explashiation". I want to say that we were happy to participate. We did not like the fact that our Mondays were destroyed by the Attorney General. He kidnapped us and held us captive for three to four hours every Monday for eight weeks in a row; "no bail, no pay, water and bread". That was the sentence. [*Crosstalk*] It was important and I think, we have more or less arrived at good legislation and, therefore, I would commend this report to this House, except for the adjustment that I have referred to with respect to the conflict between clause 6(6) and 6(8) of the Bail Bill, and I look forward to the Government's amendment with respect to the reduction from 120 days to 60 days with respect to parents who are accused of harbouring or concealing gang members.

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

Mr. Speaker: I have been advised that no one else would be speaking. I call on the Attorney General to speak. [*Desk thumping*]

The Attorney General (Sen. The Hon. Anand Ramlogan): Mr. Speaker, I am obliged. Mr. Speaker, I thank the hon. Member for Diego Martin North/East for his enlightening contribution. Coming on the heels of his recent disappointment, I found him to be rather focused on the task at hand. It is good to know that you are not easily derailed.

Mr. Speaker, I chaired this Joint Select Committee, and I hear my learned friend, the hon. Member for Diego Martin/North East, accusing me of being a hard taskmaster—a slave master he says—I pause to note the irony of my learned friend accusing me of that, being the descendant of indentured immigrants. In any

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event, this was an important piece of legislation. The country is crying out for us to do something about the criminal situation. Citizens feel that they are under attack, and they feel we have a collective responsibility, as the representatives of the people, to deal with this in an effective and strong manner. This is strong legislation, because desperate times require desperate and dramatic measures.

I make no apology for being a hard taskmaster, but pause simply to note that the level of cooperation and support I received from Members of the Joint Select Committee from the Opposition and the Independent section of the Senate was nothing short of superb. The amendments that we have come back to this House with are really the genuine product of our collaborative approach and the consensual negotiation and compromise. It is not that the Opposition made them, the Government made them or the Independent Senators on the committee made them. Many times there were Members from the Government side who raised issues that the Opposition agreed to. Some of the concerns that we all shared, we were able to deal with them in a manner that led to an amicable resolution of the concerns.

I am very happy to say that I chaired this Joint Select Committee, and we have been able to report within the time frame set by Parliament on this matter. Mr. Speaker, it was a very enlightening and rewarding experience to chair this Joint Select Committee. It was my first time chairing a joint select committee and participating in such an exercise. It is interesting to see in our Westminster system of parliamentary democracy how, outside of the House, when you arrive at the joint select committee, the individual Member of Parliament or Senator actually takes off the hat that he wears when he is in the Chamber and contributes. The original scholarship and the high level of intellectual dialogue that one witnessed was a sight to behold.

As the chairman, I saw Members of the Opposition, the Independent and the Government side—I remember we benefitted tremendously, for example, from the experience of lawyers of the criminal court. We were very fortunate at the Joint Select Committee to have the experience of persons with such practical experience. The practical experience was; we had, of course, the hon. Minister of Legal Affairs, Minister Prakash Ramadhar, who is a very experienced, skilled and accomplished criminal defence lawyer. [*Desk thumping*] We had, of course, Minister Subhas Panday who is a magistrates' court poor man's champion in his own right. No one else has probably frequented and practised in the magistrates' court as often as Minister Subhas Panday, and he has defended many a person from all walks of life.

Of course, we had similar cooperation and a similar level of participation from Sen. Fitzgerald Hinds. Mr. Hinds, of course, himself being a criminal defence lawyer, was able to bring to bear his wisdom and experience in the criminal courts. As a former Member of Parliament, during his apprenticeship days—I pause to note that the Member for San Fernando East is not here—but during the days when some dubbed Sen. Hinds as an apprentice, Mr. Hinds represented the constituency of Laventille, and was able to gain great social experience as a Member of Parliament that was very much educational and informative in the joint select committee.

Sen. Hinds did not act as an Opposition Senator in the debate, in the same way as the Government Ministers and Members of Parliament did not, and the Independent Senators. What you found was that Sen. Hinds brought to bear the experience of being a Member of Parliament in a crime hot-spot and in a crime-riddled area, and he had first-hand knowledge of what his constituents experienced.

4.15 p.m.

In fact, some of the changes that took place were inspired by that kind of discussion and the healthy debate and dialogue we had from the criminal practitioners, who had the experience of representing persons who may have belonged to gangs before.

Of course, the Committee's work would not have been complete without the formidable presence of the Minister of Justice, The hon. former Justice, Herbert Volney. Minister Volney brought to bear his insightful experience as a judge and was able to help us tweak this legislation to understand what would be difficult for the prosecution to prove, how we can improve on the prosecutorial process, because there is not much point in having a law if you do not have a simple and effective prosecution process that will allow you to actually prosecute and convict.

So, we also had of course, the military experience of Sen. The Hon. Brig. John Sandy, Minister of National Security. We had, of course, representation from the layman and you could not ask for a better layman than the affable and avunculous, Minister Stephen Cadiz. We had, of course, the grass roots representation from Mr. Jairam Seemungal. We had, of course, coming on the heels of what I publicly said was an excellent representation in this House, Miss Marlene McDonald and we had Sen. Elton Prescott S.C, who gave us the benefit of his experience. To Independent Sen. Prescott S.C, and Mrs. Baptiste-McKnight, I say a special thank you for joining us in this collaborative exercise.

Mr. Speaker, we have in fact agreed to lower the no bail period from 120 days to 60 days for the parents. Mr. Speaker, we have tried our best in the spirit of compromise, and in an attempt to do what is best for this country and spend the

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least possible time on this Bill. We have compromised as much as possible, without destroying the backbone and linchpin of this law. That has remained intact and that is to attack the criminal gangs and that has remained intact. But I wish to thank all members who served on this Joint Select Committee and thank this honourable House for giving us the opportunity to be of service to this Parliament and the country.

Mr. Speaker, I beg to move.

Question put and agreed to.

Report adopted.

Thank you.

BAIL (AMDT.) BILL

[SECOND DAY]

The Attorney General (Sen. The Hon. Anand Ramlogan): Mr. Speaker, I beg to move that the Bill be committed to a Committee of the whole House to consider an amendment to clauses 6 and 7 of the Bill, please?

Question put and agreed to.

House in Committee.

Clauses 1 to 5 ordered to stand part of the Bill.

Clause 6.

Question proposed, That clause 6 stand part of the bill.

Dr. Moonilal: Mr. Chairman, the Government will accept an amendment to Clause 6.

Mr. Imbert: Yes, but we have not received it. It is somewhere around; if you could just wait a minute.

Dr. Moonilal: The amendments are being circulated.

Mr. Imbert: Is it possible to get an explanation for this or we are going to add—we are going to wing it? Could somebody explain this? It is two pages. All right, let me take a look. Leader, just give me a minute. Just let me read it.

Dr. Moonilal: Okay, sure.

Mr. Imbert: We have some little issues here because, based on the discussion in the debate, we really should only be looking at the amendment that is on the second page as follows: where a person is charged under section 10(1) of the

Anti-Gang Act with harboring a person as a child and is the parent or person acting in loco parentis of the child and it is brought before the court but no evidence has been taken within 60 days of the reading of the charge, that person is entitled to make an application to a judge for bail. That should really be the only amendment we are making.

Mr. Ramlogan: No, there are consequential amendments on that—(d), (e) and (f).

Mr. Imbert: But (e) is not consequential, eh; (d) is based on the telephone conversation we had. I think we should leave the words “gang member” in subsection (8), rather than put this in.

Mr. Ramlogan: But let us take them in turn and we will.

Mr. Imbert: Sure, sure.

Mr. Imbert: (a), (b) and (c) are okay, (d) is okay (f) is okay and forget (e). So 6(a), (b), (c), (d) are okay, (f) is okay and 7 is okay.

Mr. Ramlogan: Your concern is (e).

Mr. Imbert: Yes, let us strike out (e) for now and you can deal with that in the Senate.

Mr. Imbert: The Attorney General and I have reached an agreement but I do not know if—you have not reach agreement with me?

Mr. Ramlogan: No, we feel that (e) is necessary to take care of the point that you would raise with respect to there being no repeat.

4.25 p.m.

Mr. Imbert: The problem is that when you take out the words “gang member” you then do not associate these offences with gang-related offences. That is what I said in my contribution.

Mr. Ramlogan: That is what we want.

Mr. Imbert: But you want to step it down from three convictions to one conviction for persons who are associated with gang-related activity.

Mr. Ramlogan: Yes.

Mr. Imbert: But this does not do that.

Mr. Ramlogan: Yes it does.

Mr. Imbert: No it does not.

Mr. Ramlogan: Why do you say that?

Mr. Imbert: Because when you look at what is in the report—look at clause 6 of the Bail (Amdt.) Bill in the report. Do you have it? When you look at clause 6(8)(b), it says:

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

(b) a gang member, who is charged with these offences”—and has one previous conviction, et cetera.

Mr. Ramlogan: We are now taking out “who is a gang member”.

Mr. Imbert: Then that no longer associates the denial of bail with gang-related activity.

Mr. Ramlogan: No, but it does, because you will now be denied bail if you are charged with an offence listed in Part I, Parts II or IV, and you have two pending charges.

Mr. Imbert: But those are not gang-related offences.

Mr. Ramlogan: “Yeah”, but it is three strikes and you are out.

Mr. Imbert: But this is not three strikes.

Mr. Ramlogan: Yes, two plus one is three.

Mr. Imbert: A charge is not a strike.

Mr. Ramlogan: Yes.

Mr. Imbert: No, you are not convicted.

Mr. Ramlogan: It is for the third offence. When you are charged with a third offence, if you have two pending charges before, two convictions—

Mr. Imbert: But it is not convictions, it is not saying that. It is saying one conviction or two pending charges, and we had agreed that condition, where you would have one conviction or two pending charges—you could have no convictions, but two pending charges would apply to persons who are gang members.

Mr. Ramlogan: I understand what you are saying.

Mr. Imbert: So I am suggesting, leave the thing as is with the gang member, for now, and between now and the Senate look at your policy, because the policy

was that if you were a gang member, you would reduce it from three convictions to one, even in a situation where you would have charges and no convictions. Do you follow?

Mr. Ramlogan: It can be argued both ways, but in the interest of time, give me one second. [*Pause*]

Mrs. Persad-Bissessar: What is the rationalization for such a proposal?

Mr. Imbert: No, no, no; in the committee we agreed that if you were a gang member and you had one previous conviction or two pending charges, you would be denied bail, because we were trying to associate the denial of bail with gang-related activity. However, earlier on in the legislation, it speaks to no bail whatsoever for a person charged with an offence under the Anti-Gang Act. So you would not need to have one conviction or pending charges. Once you are charged under the Anti-Gang Act, no bail, first time offence.

At the top of this page it says “First-time offender charged with anti-gang offence, no bail”. Lower down it says that if you are a gang member and charged with gang-related offences, you have to have one conviction and two pending charges, so the two clauses conflict each other. We were trying to find a solution to the conflict, but in trying to do that we have made it worse. I am suggesting that we just leave it like this, because currently you are denied bail if you have three previous convictions, and this is stepping it down to one. So it is bypassing two previous convictions and going straight to one, and we felt you could do that if it was gang-related activity.

Mr. Chairman: Members, it is now 4.31.p.m. We want to suspend the committee proceedings and we shall resume at 5.05 p.m.

4.31 p.m.: *Committee suspended.*

5.05 p.m.: *Committee resumed.*

Mr. Chairman: I just want to remind Members that we are in the Committee Stage and we are dealing with clauses 6 and 7 of the Bail (Amdt.) Bill.

Mr. Ramlogan: Mr. Chairman, we have agreed with a proposal from the hon. Member for Diego Martin North/East. We have looked at it and arrived at a compromise. With respect to clause 6, we shall delete subsection (9)(b) and (d).

Mr. Imbert: This is the new (9), the new (b) and the new (d)?

Mr. Ramlogan: So (b) and (d) will come off.

Mr. Imbert: What about (c)?

Mr. Ramlogan: No, (c) would remain.

Mr. Imbert: Are you sure? I think you have to take off all.

Mr. Ramlogan: It will now be written as one clause, so it will capture the gang member. It will be (a) and (c) alone, because (b) and (d) would remain.

Mr. Imbert: How would it read?

Mr. Ramlogan: “A Court shall not grant bail to a person who is charged with an offence listed in paragraphs B, C or D of Part III of the First Schedule if the offence involves the use of a firearm or in Part E of Part III of the First Schedule or...and who has in relation to the offences listed in Part II of Part III of the First Schedule been convicted of at least one such offence within ten years of having served the sentence for one of those offences, whether the conviction was for an offence arising out of a separate transaction or a combination of offences arising out of a single transaction.”

Mr. Imbert: I am not sure that captures what we are trying to achieve, because what you are doing is reducing—you are expanding the denial of bail to a person who has one conviction.

Mr. Ramlogan: Yes, one.

Mr. Imbert: When I discussed it with your officers—

Mr. Ramlogan: I thought we had agreed that one conviction—

Mr. Imbert: But you have to be a gang member, you have to be associated with gang activity.

Mr. Ramlogan: Sure.

Mr. Imbert: This does not associate it with gang activity. What we were discussing over there was just to take it all out, because once you are charged with a gang offence, you get caught by subsection (6).

5.10 p.m.

Mr. Ramlogan: Yes, sorry, Mr. Chairman. Mr. Imbert, yes we will, the original suggestion of taking off (d) will go, and we will leave it as is.

Mr. Imbert: Take it out.

Mr. Ramlogan: Okay?

Mr. Imbert: Yes. So how will it read? Let us be clear.

Mr. Ramlogan: It will read as is except (d) comes off.

Mr. Imbert: Read as is—

Mr. Ramlogan: Except that (d) comes off. Remember you were saying to take off (d).

Mr. Imbert: What will read as is?

Mr. Ramlogan: I beg your pardon.

Mr. Imbert: What is in the report or what is in the amendment?

Mr. Ramlogan: Could somebody pass this consolidated version?

Mr. Imbert: Just pass it to that guy there.

Mr. Ramlogan: Perhaps, if you can look at page 3, we take off (d) at the bottom.

Mr. Imbert: So, what this does—but it does not relate to the gang offence?

Mr. Ramlogan: Sorry.

Mr. Imbert: How does the gang offence come into play here?

Mr. Ramlogan: It is related to a gang offence.

Mr. Imbert: How?

Mr. Ramlogan: When we say in (a) and (b); 9(a) and (b)—look at 9(a) and (b). You see?

Mr. Imbert: Okay. All right. It is the scribbling that is confusing me.

Mr. Ramlogan: Yes, of course.

Mr. Imbert: So, it is 9(b), “charged with an offence under the Anti-Gang Act”. That is what is happening? So, I have to go over on the left here “charged with an offence under the Anti-Gang Act” and so and so? That is how you read it?

Mr. Ramlogan: Read it out let me hear.

Mr. Imbert: “A court shall not grant bail to a person who is charged with an offence under the Anti-Gang Act and who has in relation to the offences listed in Part II and Part III of the First Schedule been convicted of at least one such offence within ten years.” Is that what we are doing?

Mr. Ramlogan: Yes, that is correct.

Mr. Imbert: Could I just get confirmation? So, we are adding into (b) “charged with an offence under the Anti-Gang Act”? Yes? Right.

Mr. Ramlogan: Yes.

Mr. Imbert: If that is what it is, no problem.

Mr. Ramlogan: That is what it is.

Mr. Imbert: Well then, you need to read for the Speaker and the Clerk.

Mr. Ramlogan: Well, you have my copy, so read it. You have my copy so if you just read it over. Thanks.

Mr. Imbert: For me to read?

Mr. Ramlogan: Yes, thanks as you have it.

Mr. Imbert: Okay.

Mr. Ramlogan: He is going to call it out.

Mr. Imbert: All right, Mr. Chairman, in the renumbered proposed subsection (9), and I am on the second page of the list of amendments as circulated on E, middle of the page, and it should read as follows—in the renumbered proposed subsection (9), paragraph (b) should read as follows: “charged with an offence under the Anti-Gang Act”, is that correct?

Mr. Ramlogan: You are going correct, yes.

Mr. Imbert: “charged with an offence under Anti-Gang Act and who has—”

Mr. Chairman: What is the amendment? We are interested in the amendment that is being proposed.

Mr. Imbert: That is the amendment I am saying. Okay, in the renumbered paragraph proposed subsection (9) in paragraph (b), delete the words “Part II or Part III of First Schedule” and insert the words “under the Anti-Gang Act”.

The Clerk: This is it. Delete the words—you are not deleting the words “gang member who is ...”

Mr. Chairman: We are not deleting the words "the gang member who is", we are leaving that?

Mr. Imbert: The amendment will read as follows, in the renumbered proposed subsection (9) in paragraph (b) delete the words “Part II or Part III of the First Schedule” and replace them with “under the Anti-Gang Act”.

Mr. Chairman: Just reread it slowly so that we can write.

Mr. Imbert: In the renumbered proposed subsection (9) in paragraph (b), delete the words “Part II or Part III of the First Schedule” and replace them with the words “under the Anti-Gang Act”. So, I can read what the amended clause would look like. I can read it for you, Mr. Chairman.

Mr. Ramlogan: Is there a (b)?

The Clerk: In paragraph (c)? What is there now?

Mr. Imbert: We are leaving (c) and (b) as far as I know. Are we leaving (c) and (b) or are we taking out (c) and (d)?

Mr. Ramlogan: (d) comes out.

Mr. Imbert: Also in the proposed, in the renumbered proposed subsection (9) delete paragraph (d).

Mr. Chairman: We have no paragraph (d). What we have before us here we do not have paragraph (d).

Mr. Imbert: The original one has paragraph (d), the Bill before the House has a paragraph (d) in it.

The Clerk: This Bill?

Mr. Imbert: Consolidated version?

The Clerk: The original Bill, what is the amendment to the original Bill?

Mr. Imbert: You are testing my patience. I am on this side, not that side. Mr. Chairman, if you go to the Bill in the report, are we dealing with the Bill in the report or are we dealing with the Bill before the House?

Mr. Chairman: You cannot touch that. You have to go back to the original Bill.

Mr. Ramlogan: The original Bill.

Mr. Chairman: We cannot deal with the report and the Bills that are contained in the report. You either have to go back to the original Bill and make amendments or we can then entertain them.

Mr. Ramlogan: I wonder if we should take five minutes and talk? Let us take five minutes.

Mr. Imbert: Just give me a minute.

Mr. Ramlogan: Let us take five minutes.

Mr. Chairman: Members, I suggest that we suspend for a few moments to get your thoughts together, but in doing so may I remind Members, the report that we have before us and the Bills contained therein are not up for negotiations in terms of amendments.

Mr. Ramlogan: That is correct.

Mr. Chairman: If you want to go back to the original Bail Bill, you can do so. So stay far from the report and Bill and the amendments that are contained in those two Bills, please.

So, I would like to suspend the committee's proceedings until maybe quarter to 6.00. So, I will give you all enough time to come up with something proper, please. Do you all need all that time? How much time will you need, Sir? We say half past 5.00 and make sure it is half past, please. Thank you.

5.19 p.m.: *Committee suspended.*

5.50 p.m.: *Committee resumed.*

Mr. Chairman: Okay, let us go.

The Clerk: The proposed amendment to clause 6:

A Delete the proposed subsections (6) and (7) and substitute the following:

“(6) Subject to subsections (7) and (8), a Court shall not grant bail to a person who is—

- (a) over the age of eighteen years; and
- (b) charged with an offence under the Anti-Gang Act.

(7) Subject to subsection (8), where a person is charged with an offence mentioned in subsection (6) and brought before the Court but no evidence has been taken within one hundred and twenty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.”

B Renumber subsections (8) and (9) as (9) and (10);

C Insert after the proposed subsection (7) the following new subsection:

“(8) Where a person—

- (a) is charged under section 10(1) of the Anti-Gang Act with harbouring a person who is a child; and
 - (b) is the parent or person acting *in loco parentis* of the child, and is brought before the Court but no evidence has been taken within sixty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.”.
- D Delete the renumbered subsection (9) and substitute the following:
- “(9) A Court shall not grant bail to a person who is charged with an offence listed in paragraphs (b), (c) or (d) of Part III of the First Schedule if the offence involves the use of a firearm or in paragraph (e) of Part III of the First Schedule and who has, in relation to the offences listed in Part II or Part III of the First Schedule, been convicted of at least one such offence within ten years of having served a sentence for one of those offences, whether the conviction was for an offence arising out of separate transactions or a combination of offences arising out of a single transaction.”.
- E In the renumbered proposed subsection (10) delete the words “(8)” wherever they occur and substitute the words “(9)”.

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

The Clerk: In paragraph (c)—

- (i) renumber paragraphs (g) to (j) as paragraphs (i) to (l) respectively;
- (ii) insert after paragraph (f) the following paragraphs:
 - “(g) coercing or encouraging gang membership;
 - (h) preventing gang member from leaving gang;”
- (iii) delete the word “and” after the renumbered paragraph (k);
- (iv) in the renumbered paragraph (l) delete the words “harbouring a child who is a gang member or recruiting a child to be a gang member.” and substitute the words “recruiting a child to be a gang member;”

Bail (Amdt.) Bill

Friday, April 01, 2011

Baksh, Hon. N.
Griffith, Hon. Dr. R.
Ramadhar, Hon. P.
De Coteau, Hon. C.
Indarsingh, Hon. R.
Ramadharsingh, Hon. Dr. G.
Partap, Hon. C.
Samuel, Hon. R.
Douglas, Hon. Dr. L.
Ramdial, Miss R.
Roopnarine, Miss S.
Seemungal, J.
Khan, Miss N.
Hypolite, N.
Cox, Miss D.
McIntosh, Mrs. P.
Imbert. C.
Jeffrey, F.
Browne, Dr. A.
Thomas, Miss J.
Hospedales, Miss A.
Gopee-Scoon, Mrs. P.

Question agreed to.

Bill accordingly read the third time and passed.

ANTI-GANG BILL

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

Mr. Speaker: This Bill requires a three-fifths majority.

Anti-Gang Bill

Friday, April 01, 2011

The House voted:

Ayes 36

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Warner, Hon. J.

McLeod, 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, Dr. F.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Griffith, Hon. Dr. R.

Ramadharsingh, Hon. Dr. G

Ramadhar, Hon. P.

De Coteau, Hon. C.

Indarsingh, Hon. R.

Partap, Hon. C.

Samuel, Hon. R.

Douglas, Hon. Dr. L.

Ramdial, Miss R.

Roopnarine, Miss S.

Anti-Gang Bill

Friday, April 01, 2011

Seemungal, J.

Khan, Miss N.

Hypolite, N.

Cox, Miss D.

McIntosh, Mrs. P.

Imbert. C.

Jeffrey, F.

Browne, Dr. A.

Thomas, Miss J.

Hospedales, Miss A.

Gopee-Scoon, Mrs. P.

Question agreed to.

Bill accordingly read the third time and passed.

6.05 p.m.

POLICE SERVICE COMMISSION NOMINATION

(MR. MERVYN CECIL RICHARDSON)

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move the following Motion standing in my name:

Whereas section 123(3) of the Constitution of the Republic of Trinidad and Tobago, Chap. 1:01 (“the Act”) provides that the Police Service Commission shall submit to the President a list of the names of the persons nominated for the appointment to the office of Commissioner or Deputy Commissioner of Police;

And whereas section 123(4) of the Act provides that the President shall issue a Notification in respect of each person nominated under subsection (3) and the Notification shall be subject to affirmative resolution of the House of Representatives;

And whereas the Police Service Commission has submitted to the President the name Mr. Mervyn Cecil Richardson as the person nominated for appointment to the office of Deputy Commissioner of Police;

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[HON. DR. R. MOONILAL]

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And whereas the President has on the 21st day of March, 2011 issued a Notification in respect of the nomination;

And whereas it is expedient to approve the Notification:

Be It Resolved that the Notification of the President of the nomination by the Police Service Commission of Mr. Mervyn Cecil Richardson to the office of Deputy Commissioner of Police be approved.

Mr. Speaker, the Government in keeping with the constitutional requirements and specifically the laws of Trinidad and Tobago, Legal Notice No. 102 of 2009, presents to this honourable House the nomination from the Police Service Commission received from His Excellency the President, to fill the position of Deputy Commissioner of Police created by the Deputy Commissioner of Police, Mr. Maurice Piggott who proceeded on pre-retirement leave on January 04, 2011.

Mr. Speaker, you will recall in June 2010 the Government brought a nomination matter to the Parliament for its approval. In that instance, the matter involved the appointment of the Commissioner of Police and three Deputy Commissioners of Police. Mr. Maurice Piggott was one of those Deputy Commissioners of Police. The procedures in Legal Notice No. 102 of 2009 established an overall process involving a series of consequential steps that must be followed.

The steps involve the engagement by the Director of Personnel Administration, on behalf of the Government, of a firm experienced in conducting assessments of senior police managers. The firm would advertise nationally, regionally and internationally for interested candidates and would receive, screen, vet, assess and determine in its judgment the most suitable applicants who meet the qualifications and experience criteria for both offices, Commissioner of Police and Deputy Commissioner of Police, as established by Parliament.

The firm so contracted will submit to the Police Service Commission a shortlist of candidates deemed suitable for selection to both offices. The commission would then consider the short list for both offices submitted by the firm and make its own assessment of not more than five highest grade candidates, establish a merit list from those candidates and nominate to His Excellency the President the highest graded individual on the merit list together with a dossier of the person so nominated. The President will then notify the House of Representatives of the nomination of the commission.

Today, Mr. Speaker, the Parliament is informed that Mr. Piggott has proceeded on pre-retirement leave and is to retire from the Trinidad and Tobago Police Service on April 23, 2012. To ensure that the filling of the existing vacancy is attended to with quick dispatch whilst adhering to the tenets of the constitutional provisions that govern these matters, the Government has moved with haste to ensure that the matter is brought before this honourable House in a most timely matter.

Mr. Speaker, the Police Service Commission, after giving due consideration to the order of merit list that was established in June 2010, after the selection process was completed for the filling of the vacant positions of Deputy Commissioners of Police, now makes its nomination to fill the current vacancy. Mr. Speaker, you will remember that the said selection process involved the hiring of Pennsylvania State University Justice and Safety Institute to undertake the entire process for the creation of priority list of candidates for the Police Service Commission. That process involved the expenditure of over TT\$3 million. Emerging from that process and after due deliberations by the Police Service Commission, a merit list for the position of Deputy Commissioner of Police was created. The list gave us Mr. Stephen Williams, Mr. Maurice Piggott, Mr. Jack Ewatski and now Mr. Mervyn Richardson.

Mr. Speaker, some may ask the question as to whether Mr Richardson is well suited for the job. I want to indicate that Members of the Opposition have been furnished with a copy of the CV and other related material of the said Mr. Richardson. Mr. Speaker, in the interest of our continued thrust to address the crime situation in a most frontal manner it is necessary to fill the vacancy on time.

I do not anticipate that this will be a very long debate and there is no need to detail. Unlike the matter earlier in the evening, I do not think this will create any great hype and there is no need to detain Members with going into any history of what happened before—when we had a situation where several of the vacancies were not filled and there was great delay and deliberate delay in creating the vacuum in the police service. We will just recall that it was the Government of the People's Partnership that moved with haste to ensure that we solidified the leadership of the police service by appointing, through the constitutional process, a Commissioner of Police and Deputy Commissioners of Police. [*Desk thumping*]

Today we take this action to ensure that competent officers are at the helm to manage and motivate their charges to deal effectively with the crime surge—the crime situation that the nation is experiencing. Mr. Speaker, one also needs to recall that the People's National Movement government on July 4th, 2008,

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brought a motion of a notification from the President for the nomination of the Police Service Commission for Mr. Stephen Williams to be appointed to the office of Commissioner of Police. Mr. Speaker, the then PNM Government voted against their own Motion denying Mr. Williams the opportunity to fill the position of Commissioner of Police. The Motion, for the historical record, was piloted by the Member for Diego Martin North/East in his capacity as Leader of Government Business.

Mr. Speaker, on that rather bizarre day, the Leader of Government Business then, the Member for Diego Martin North/East, created some history by voting against the Motion tabled in his name. In his contribution to the Motion he detailed all the qualifications of Mr. Williams and indicated that Mr. Williams was eminently qualified. However, he proceeded to say that Mr. Williams, Senior Superintendent then, associated with the Court and Process Branch was not fit to be Commissioner of Police. In fact, he accused Mr. Williams of never managing an operational division and a major field in the police service. That left a situation where the Trinidad and Tobago Police Service stood without a substantive Commissioner of Police for approximately 18 months—no solid leadership for 18 months in the Trinidad and Tobago Police Service.

6.15 p.m.

The Government will never duplicate such behaviour of gross irresponsibility. As a responsible Government, we perform our constitutional and governance duties to ensure that the Trinidad and Tobago Police Service has the managerial capacity to perform its functions efficiently and effectively.

The credentials of Mr. Richardson have been circulated, as mentioned. Mr. Richardson has enormous experience in the police service. He holds a certificate in public administration from the University of the West Indies, a certificate in public safety from the US Justice Department, a Bachelor of Laws degree from the University of London, a BSC in Government and, indeed, he is pursuing other qualifications. He has spent 36 years in the Trinidad and Tobago Police Service, and has worked in several areas, including the Special Anti-Crime Unit of Trinidad and Tobago.

He has a very illustrious career and has received long service medals, medals for merit and good conduct and has no disciplinary charge before him, apart from attending an array of various short-term courses to enhance his skill and expertise. Just for the record, we have all the certificates of his academic qualifications appended. The candidate before us is eminently qualified to hold this position.

I would just like to indicate to the House as well that this is in keeping with the list established in June 2010, and to record that during that debate on the appointment of the Commissioner of Police, the Government did commit to reviewing the process by which these appointments are made. It was a commitment made by the Government and the Prime Minister, and I also want to record that the Attorney General has, indeed, taken steps to seek consultation with the relevant stakeholders to ensure that we have the best advice and the best guidance and we participate with the major stakeholders, so that we will be coming in due course with some alternative method and some amendments to the existing law. The Attorney General has pursued that and has written to all stakeholders, including the police service.

The order of merit list that was established last June included Mr. Stephen Williams who is now appointed, Mr. Maurice Piggott who was appointed, Mr. Jack Ewatski, who was also appointed. One other candidate, Mr. Jack Colette, was approached. He was also on the order of merit list but declined to accept the office. He was next on the list. He indicated by email dated March 15, 2011 that he was no longer interested in the position of deputy commissioner of police, and the next name on the order of merit list is, indeed, Mr. Mervyn Richardson.

There we are. Members opposite have been furnished with the relevant material and we are here for this very simple matter of approving the nomination of Mr. Mervyn Cecil Richardson to the position of Deputy Commissioner of Police.

I beg to move.

Question proposed.

Miss Donna Cox (*Laventille East/Morvant*): [*Desk thumping*] Thank you very much, Mr. Speaker. Mr. Speaker, we are here this afternoon to approve the nomination by the Police Service Commission of Mr. Mervyn Cecil Richardson to the office of Deputy Commissioner of Police. I heard the Member for Oropouche East mention just now that this is a simple matter. We, on this side, do not view it as a simple matter, because this is by all means a critical appointment since the person appointed will be in the leadership of the police service, at a time when forward-thinking and enlightened leadership is absolutely necessary. [*Desk thumping*]

Our concern this afternoon is whether the process we are embarking on is a fair one. This responsible Opposition is only interested in having the most competent person for the job, regardless of class, creed or ethnicity. However, I

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am concerned, because only last week we were informed by the chairman of the Police Service Commission of the absence of persons of Indian descent at the top positions in the police service. If someone did not join the service, how could they reach to the top? Our concern, really, is to choose the best person for the job and that that person is fairly chosen. The Chairman of the Police Service Commission implied that the reason for this situation is because of racial discrimination. The question is discrimination by whom? Was it under Ambassador Thomas or Mr. Lalla, who served the longest since his appointment in 1990, as Chairman of the Police Service Commission?

The police service is too critical an institution, given the current crime situation facing this country, for anyone, much less the Chairman of the Police Service Commission, to make baseless, irresponsible and divisive statements, which are only meant to create divisions within the ranks of the police service and in the wider society. [*Desk thumping*] We all agree that this is an institution which must close ranks in the fight against crime. As you are aware, I am a former Minister of State in the Ministry of National Security and, therefore, worked with many elements in the police service. While we are asleep, while we run from crime, these men and women of the police service run to crime. Whether it is 3.00 a.m. or 3.00 p.m., when these men and women go to a crime scene there is no time to think about ethnicity. They watch each other's back while protecting us.

According to Legal Notice No. 103 of 2009, the Order of Merit list is valid for one year. We were not furnished with the information on the date of the order of merit list. We are interested in knowing if this list is still valid; who is on the list and in what order. We are told that Mr. Richardson is number five on the list, but we were just informed by the Member for Oropouche East that there was someone else who declined. Do we have any proof that this person declined? Where is that information? We were not furnished with that information.

There is talk all over Trinidad and Tobago that a senior Government Minister is being investigated with regard to the conspiracy involving Dansam Dhansook, and the now exonerated recently elected chairman of the PNM, Mr. Franklin Khan. I call on the Commissioner of Police, the highest paid Commissioner in the Western Hemisphere, the million-dollar man, to tell this country what is the status of the criminal investigation involving the Attorney General/who is the investigating officer—[*Desk thumping*]

Dr. Moonilal: What investigation?

Mr. Speaker: Wait. Do not go there. I have already mentioned, under 36(10)—you started off by talking about a Government Minister; you have now gone a step further; you talk about the Attorney General. He is a Member of this honourable Parliament, that is, in the Senate. Do not raise the conduct or the character of any Member of this honourable House. Standing Order 36(1) is very clear. If you want to do so, do so on a substantive motion. Do not do it in an ordinary debate. So I ask you to stay clear of that and proceed, please.

Miss D. Cox: Thank you, Mr. Speaker. I am speaking about the position of Deputy Commissioner of Police, because at this time Mr. Raymond Craig is acting in the position of Deputy Commissioner of Police.

Mrs. Persad-Bissessar: Will you give way?

Miss D. Cox: No.

Mrs. Persad-Bissessar: Well, I will answer you.

Miss D. Cox: Mr. Raymond Craig is acting in the position of Deputy Commissioner of Police. I brought this up because I understand that Mr. Raymond Craig is supposed to be the investigating officer, so I was wondering why his name was not on the list. Well, we did not get the copy of the list so that is why I asked about it. Okay? That is why it came up.

I am confused, because if this person is acting in the position; if he is good enough to act, how come his name was not brought to be appointed in the position? We would like to get an answer on this. We have nothing personal against Mr. Richardson; the issue is about due process. We are called to do a duty and we are doing just that.

As we speak about promotion, I heard recently that there was an exam—this week, actually—from superintendent to senior superintendent, and I understand a lot of persons were looking at one another “cut-eye” in the exam, and I am led to believe that this is because of the irresponsible statement made by the chairman of the Police Service Commission who this Government gave us, despite our strong objection to a serial politician being put to head an independent commission. What did they expect from appointing this man? If you put a chicken in the oven to bake, what would you get?

Mr. Warner: Turkey.

Miss D. Cox: Baked chicken. Do you expect bread? Not bread. It will be baked chicken. What did they expect by appointing a serial politician to an independent commission?

There is a view in the national community that the utterances of Mr. Nizam Mohammed reflect the sentiments held by many of his friends in Government. It is alleged that the Attorney General, on a tour of the Special Anti-Crime Unit from where Mr. Richardson came, asked about the ethnic composition—

Mr. Speaker: Again, please, hon. Member for Laventille East/Morvant, I am saying that the moment you begin to reflect on the character or the conduct of a Member of Parliament, you are in violation—let me tell you of the two Standing Orders. You are in violation of Standing Order 18(1)(g)(vii). That is the first Standing Order that you are in violation of. You cannot reflect on a Member's character or conduct unless you are bringing a substantive motion. Number two, I have already warned you of Standing Order 36(10). Do not go there. We cannot take what happened at SAUTT. That is not our business here. Once you are going to reflect on a Member's character, we do not use the cover of SAUTT to assassinate a Member's character. So stay clear from there and focus on what is before us. This is my second warning to you, please.

Miss D. Cox: Okay, Mr. Speaker. I do not think that I am—but I will move on.

Mr. Speaker, in the *Express* newspaper the First Division officers expressed concerns about a Member. Mr. Speaker, could I now not call the Member's name? Am I not supposed to call the person's name? But in the *Express* there was information about the First Division officers stating, and being concerned, because of the statements made about a Member on the opposite side making comments about ethnicity.

Mr. Speaker: Just a second again. I just want to remind all Members, newspapers are not the subject of any debate here. A newspaper could make allegations against any Member, but no Member can take a newspaper and quote it in this House and use that as a cover to assassinate or to violate or breach any of the Standing Orders. I am saying that any reference to a Member's personal conduct or his character, stay clear of that. Any Member wishing to raise that, bring a substantive motion and give us 12 days' notice and it will be put on the Order Paper for debate. Do not use a newspaper as a cover to assassinate any Member's character. It goes for the Government side—they cannot do it—and it goes for the Opposition side; I would not permit it. So stay clear and get back to the matter before us.

Miss D. Cox: Mr. Speaker, there is no plan to assassinate anyone's character. I think people are capable of doing it themselves. [*Desk thumping*]

6.30 p.m.

Mr. Speaker, we are interested in the process. All we are interested in is that the process is fair, and the person is competent for the job. We do not care how he look: He could be called Harold Cumberbatch and he is of Indian descent; She could be called Bridget Gosine and she is of African descent.

This Government was voted into power by persons of every race. Did the country give them the mandate to fix their perceived imbalance? In other words, to put people in positions who are not qualified or incompetent because of their race.

The Public Service Commission Chairman said and I quote—and this is with regard to promotion and with regard to ethnicity where promotions are concerned—“I intend to address this with the help of the Parliament of Trinidad and Tobago.” Is he hinting that he wants to amend the Constitution to give himself more power to fulfill his own agenda? Is that why Mr. Mohammed now needs the help from his friends opposite?

The current legal position of the Police Service Commission is as a result of bipartisan talks between the PNM and the UNC. There was an agreement between the both parties with regards to the role of the Commissioner of Police and the Police Service Commission.

Who put him there? Who has the majority in this House that he will decide what he is going to bring here? And that is why he wants to bring it here, but we the PNM put them on notice that we are ready. [*Desk thumping*]

The Chairman of the Police Service Commission does not have the constitutional authority to address any perceived ethnic imbalance in the service. [*Desk thumping*] He now wants to step out of his ambit of authority, but let him “take basket” and let him come.

In all of this we must not forget the incident which took place on Henry Street, where it is alleged that there was an abuse of power with regards to the Chairman of the Police Service Commission and two police constables.

Hon. Roberts: Mr. Speaker, 38(1), that was a substantive motion that has been dealt with.

Miss D. Cox: Mr. Speaker, they are always—

Mr. Speaker: Hold on that. You said what 38(1)? No there is no such Standing Order relevant in which you said. But I want to make the point that we have a matter before this honourable House dealing with the approval of a notification. I am giving the hon. Member a lot of elasticity, but you are bordering on 36(1), but try your best to focus on the matter that is before this House. I have not heard you said one word yet about Mr. Mervyn Cecil Richardson. So all I am saying to you, I am allowing you some space because I believe you are going to get there. So continue hon. Member.

Miss D. Cox: Yes, Mr. Speaker, I did mention, Mr. Richardson. But there are always complaints about promotions. If we make a check in any service or organization there is always someone who has a grievance about not being promoted. The promotion of members of the police service is in full view of the public, and we can see it by the stripes they wear on their uniform.

According to one of the past Chairmen of the Commission, Mr. Lalla, and I quote “one of the pressing issues of a police service is moral and promotion”. And that is why today we are proposing that the government make sure that the process of the appointment of Deputy Commission of Police is lawful and just, because we were not sure, not given the information, not given the list, not given the names on the list, not given the names of the five persons, and who that fourth person was. And Mr. Speaker, I am aware that the process of selection for the Commissioner of Police and the Deputy Commissioner of Police positions in the Police Service are vigorous—the Member for Oropouche East gave us some information on it—thorough, and was conducted by officials of Penn State University. I hope that no one who was interviewed through this process felt threatened by the faces of the officials of Penn State University, because, I understand the President of the Police Service Welfare Association wrote a letter to the Commissioner of Police, and the Chairman of the Commission with regard to the ethnic composition of the promotions advisory board, which stated inter alia and I quote: “he felt threatened and unsafe.” And asked for the commission to address the issue. The same police advisory board that he went before for the post of Corporal and Sergeant. I did not hear any officer who applied for senior positions in the service felt threatened by the presence of persons from that Penn State University. So the President of the Police Service and Social Welfare Association is now backtracking on his statements, but he, too, is playing games.

Given the daily increase in crime in our beloved country the detection rate of the police must increase. The current murder rate stands at 106 according to tcrime.com. It is now evident that there is need for speedy detection rates in order

to curb the scourge of crime in our country. The detection rate of the Trinidad and Tobago Police Service is definitely too low in comparison to the crime rate. My cry has always been and continues to be that much more importance must be placed on catching the criminals. And we are here to approve the appointment of one man to improve the Police Service. And for the last seven years in our administration apart from education, national security received a large share of the budget: 65 per cent of the resources were directed to the police service and, for example, for vehicles and other resources.

With regard to the promotion, we are here to debate today, the system put in place for promotions which was implemented by our last administration. The introduction of the model station concept which this present government has accepted was again implemented by the PNM government. We brought money, machines and manpower, and the Members opposite claim we wasted money and that same money was spent on building and training members of our police service and other resources. [*Desk thumping*]

Mr. Speaker, we are aware that we must depend on the hardworking and efficient men and women of the police service, before a person could be brought to court. And emphasis therefore should be placed on improving the capacities of the police service to detect and solve crime, and the implication of means to tackle the root causes of crime, and that is what the PNM Government was doing. That is why all our programmes are being continued and being pursued vigorously. [*Desk thumping*] This emphasis can only be enhanced with a police workforce that works in tandem with each other whether amongst themselves or other protective services regardless of ethnicity.

The leadership of the police service must be strong, visionary, creative, intelligence-driven and they must lead by example. Those who have ascended to leadership positions in the police service would have served this country over 30 years, many of them moving from the rank of constable to where they are today based on merit.

An organization is as good as its leaders. And the issue here is not about personality, the issue is about due process, and we have a responsibility to the people of Trinidad and Tobago to ensure justice, transparency and fair play in all our decisions. Many of the officers have worked long and hard in the service, and it is only right that they be treated fairly with regard to promotion, and that is why I cannot support any one gerrymandering the process.

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If, Mr. Richardson, is in fact on the order of merit list because, as I said, we did not get the list. If the list is valid because I know in the legal order the list is valid for one year, and I would like to get the proof that the date of the order list, which we do not have. Then we on this side will not deny Mr. Richardson, what is rightly his. So I hope the questions asked will be answered during the course of this debate so that we will be clear, and we will be satisfied that due process in this appointment be followed. I thank you, Mr. Speaker.

6.40 p.m.

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. We are here today to debate the notification of the President, which reads as follows:

“Pursuant to section 123(4) of the Constitution of the Republic of Trinidad and Tobago, it is hereby notified that the Police Service Commission in accordance with section 123(2) of the said Constitution, has nominated Mr. Mervyn Cecil Richardson for appointment to the office of Deputy Commissioner of Police.”

Now, before we debate the merits of the nomination, I think it is necessary for this House to understand the changes that were made to the Constitution by way of the Constitution (Amdt.) Act, 2006 and, also, the associated changes that came to the management of the police service by way of the Police Service Act, 2006. If hon. Members opposite understood those two pieces of legislation, then they would have called upon the President to revoke the appointment of the incumbent Chairman of the Police Service Commission.

Mr. Speaker, in 2006 the Constitution was amended, and it was amended in this way—I am reading from Act No. 6 of 2006:

“6. The Constitution is amended by repealing section 123 and substituting the following section:

123. (1) The Police Service Commission shall have the power to—

(a) appoint persons to hold or act in the office of Commissioner and Deputy Commissioner...of Police;”

Let me repeat. The Constitution, as it now reads in section 123(1), gives the Police Service Commission the power to appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police, only.

Now, if we go to the next substantive section in this Act, section 7, it says:

“The Constitution is amended by inserting after section 123 the following section:

- 123A. (2) The Commissioner of Police shall have the power to—
- (a) appoint persons to hold or act in an office in the Police Service, other than an officer referred to in section 123(1)(a), including the power to make appointments on promotion and to confirm appointments;”

So, by this amendment to the Constitution in section 7 of this Act No. 6 of 2006, the Police Commissioner was given the power to make appointments on promotion and to confirm appointments to everybody in the police service with the exception—*[Interruption]*

Mr. Sharma: We know that.

Mr. C. Imbert: I do not think you know—of persons referred to in section 123(1)(a), and those persons are commissioner and deputy commissioner, only.

This means that the conjoint effect of sections 6 and 7 of Act No. 6 of 2006 is that the Commissioner of Police is the only person who has the authority to make appointments on promotion to offices in the First Division, including assistant commissioner, senior superintendent, superintendent and an assistant superintendent.

Again, for the benefit of Members opposite, the First Schedule of the Police Service Act of 2006 lists the following offices in the First Division of the Police Service: Commissioner, Deputy Commissioner, Assistant Commissioner, Senior Superintendent, Superintendent and Assistant Superintendent. By the amendment to the Constitution, through Act No. 6 of 2006, the Police Service Commission was given the power to make appointments to commissioner and deputy commissioner, and the Commissioner of Police to positions of assistant commissioner, senior superintendent, superintendent and assistant superintendent.

Now, the notification that we are about today is a notification that has come from the Police Service Commission, and it has come here by way of the Order, Legal Notice No. 102, that was made by the President under section 123(2) of the Constitution. In that Legal Notice No. 102, it described the procedure for the selection for appointment to the offices of Commissioner of Police and Deputy Commissioner of Police, and indicated that the Director of Personnel

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Administration shall, in accordance with the Central Tenders Board, contract a firm experienced in conducting assessment of senior police managers and so on.

That firm shall select from the applications received the most suitable candidates for the assessment process, and then the firm shall submit to the commission the results of its assessment process in the form of a shortlist with a report, et cetera. The commission—listen carefully—headed by the current Chairman, will then conduct its own assessment of not more than the five highest graded candidates on the shortlist, and then establish an order of merit list.

So persons who are desirous of being appointed to the position of deputy commissioner of police will submit an application—very similar to the application that has been circulated to us. The application submitted by this gentleman, Mr. Mervyn Richardson—to the firm that has been selected by the Director of Personnel Administration. The firm does its assessment and submits a shortlist to the Police Service Commission. The Police Service Commission does its own investigation of the five highest graded candidates on the shortlist, establishes an order of merit list and then sends the highest graded candidate on the order of merit list to the President, in accordance with the procedure set out in section 123 of the Constitution.

Now, Mr. Speaker, this means that the Police Service Commission, headed by the present Chairman, has the authority—[*Interruption*]

Mr. Sharma: We are in Government, we know all of that.

Mr. Speaker: Please.

Mr. C. Imbert:—to do its own investigations, do its own assessment, change the order on the shortlist, put No. 5 as No. 1, No. 3 as No. 2 and No. 2 as No. 4. So the current Police Service Commission, headed by the current Chairman of the Police Service Commission has the ability to take the list of the five ranked candidates, change it and put No. 5 as No. 1, and so on. Having done that, it sends its merit list—which, as I said, it could be a complete reversal of the assessment process done by the firm—to the President and then it comes here. So, we are debating here the candidate selected by the Police Service Commission, headed by the current Chairman of the Police Service Commission.

Now, let us take a look at that individual, because that individual, the Chairman of the Police Service Commission, can have a profound effect on the merit list, the order of merit, the ranking of candidates and the notification that has come before us. At a meeting in this Parliament on March 25th or 24th,

2011—I am not sure of the exact date—the current Chairman of the Police Service Commission made some statements which have not found favour with the vast majority of persons in this country and, by way of evidence, because I know that there are some people who may not be bothered, there are quite a few people who are upset, and one of the persons who is upset is no less than the Prime Minister of the Republic of Trinidad and Tobago. The Prime Minister’s office issued a statement on March 28, 2011, I believe, and in that statement the Prime Minister categorically condemned the reckless, senseless and divisive comments of the Chairman of the Police Service Commission.

The Prime Minister went on to say that the Chairman—I am not calling the person’s name

“...must be held accountable for his inflammatory and unwise remarks which in no way represent the views of the Government:

The five leaders that formed the political grouping that brought this Government to power is the broadest-based representation ever held in this nation and the insularity propagated by the Chairman’s reckless and senseless comments run against the very grain of the philosophy that now governs this country.”

The Prime Minister went on to say that the Chairman “must be held accountable”.

At that particular meeting as well, the Minister of Health condemned the remarks made by the Chairman, and a Government Senator, Sen. Abdullah, also condemned the statements made by the Chairman. The Minister of Works and Transport, Jack Warner, being described here in this article as being very quick out of the blocks, expressed his hurt and disappointment, saying that, had he been in his shoes, he, the Minister of Works and Transport would have resigned immediately. The entire police executive has come out publicly against the Police Service Commission. The Congress of the People, an integral component of the coalition government, met in an emergency session to discuss the comments of the Chairman, and called on the Prime Minister to advise the President that his appointment be revoked with immediate effect. [*Desk thumping*]

Now, this person described in this way—it is not this Member for Diego Martin North/East who has described him so. I have said nothing. I am simply repeating what was said by the head of the Government, by the Chairman of the United National Congress, by the Congress of the People and by the five leaders of the parties that make up the coalition. This is not Imbert’s words. These are the

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words of the Prime Minister, the Chairman of the UNC, the Congress of the People, the Chairman of the TOP, the Chairman of the MSJ, et cetera, et cetera. Now, the fact is—[*Interruption*]

Dr. Rambachan: What about Stephen Williams?

Mr. C. Imbert: I will get there. Do not worry—that this person has the authority, as the Chairman of the Police Service Commission, to conduct his own assessment of the five highest graded candidates and also establish the order of merit.

Now, Mr. Speaker, let us go to the Police Service Act, because I am of the view that the outrage that has been expressed by the Government was appropriate, but misguided, because, for all the legal luminaries that they have on their side, they did not see the real point. The Chairman of the Police Service Commission said the following words—I watched the video myself. To make sure that I am not misquoting anybody, I looked at the tape. He made a reference to the Parliament and said:

“...when they see the hierarchy of the police service, it is as imbalanced as is reflected in these figures, and the Chairman of the Commission intends to tackle these things... I intend to address this with the help of the Parliament of Trinidad and Tobago. We need the protection.”

Now, this entire controversy arose because the Chairman of the Commission made a statement about the composition of the First Division of the police service and indicated that there was an imbalance, and that as Chairman of the Commission he intended to correct that imbalance. Let us go to the Police Service Act. I repeat that only the Commissioner of Police, under section 123(1)(a) of the Constitution, has the power to appoint persons within the First Division.

6.55 p.m.

The Commissioner of Police, according to section VII of Act No. 6 of 2006 has the power to appoint persons to hold or act in an office in the police service other than an officer referred to in 123(1)(a) which is just the commissioner and deputy commissioner.

So only the Commissioner of Police and not the Chairman of the Police Service Commission can appoint persons to be superintendents, assistant commissioners of police, senior superintendents, inspectors and so on. Only the Commissioner of Police can do that. So where on earth did the Chairman of the Police Service Commission get it into his head that he had the power to correct

this perceived imbalance. What law is the Chairman of the Police Service Commission going to use? What business is it, what business is it of the Police Service Commission to get involved in appointments to the rank of assistant commissioner, senior superintendents, superintendents and so on? [*Desk thumping*]

Mr. Speaker, we have debated this whole question of new arrangements for appointments to the police service ad infinitum in this House. This thing went through this Parliament for 10 years. It was first mooted by the government of the UNC, when you had the escape of an accused drug trafficker from the Princes Town Police Station, I believe Mr. Mantoor Ramdhamie, and the then Prime Minister, Mr. Panday, was so outraged at what had happened that he called upon the then Opposition, the then PNM—this was back in the 90s—to come together in a bipartisan manner and work with the then government to come up with new arrangements for the reform of the police service.

Well, events overtook that very good intention, the government changed, the PNM came into office in December 2001 and the PNM government continued with the process. It took a very, very long time from 2001 to 2006. There were discussions, there was another bipartisan team involving the assistance of the now deceased Sir Ellis Clarke, and eventually, in 2006, we had what I have referred to in a previous debate, an example of Government and Opposition working together, and we had consensus, and the new arrangements for promotion and appointment in the police service were entrenched in law.

Significant feature of those arrangements was that the commissioners of police over the years—whether it was under the NAR government, whether it was under the UNC government or the previous PNM government—commissioners of police had complained. There was even a commissioner of police who said he felt like a toothless bulldog because he had no power to promote and discipline the men under his control. And the whole point of these new arrangements was to give the commissioner of police the power to make appointments within the police service up to the rank of assistant commissioner. So that commissioner of police would have the authority and the power to make promotions and appointments and enforce discipline within the police service all the way up to just the top four positions: commissioner and deputy commissioner.

We all saw this in this Parliament as revolutionary, we all saw this as cutting edge in terms of legislative arrangement. We believed then that if you are telling the commissioner of police that he is responsible for fighting crime, if you are telling the top man in the police force that he has to take responsibility for dealing with criminals, then he must be given some sort of authority to control the men

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under him. And one of the most important things was appointments to the ranks below the rank of commissioner and deputy commissioner. It was not done willy-nilly, not at all, because in this same Police Service Act, 2006, the way promotions are done—I am now reading from Part IV of the Police Service Act, 2006, the heading of the section is Appointment and Promotion of Police Officers:

“16(1) In the exercise of the powers vested in him by section 123A(2)(a) of the Constitution,”—which is the power to appoint police officers all the way up to Assistant Commissioner—“the Commissioner shall take into account—

- (a) in the case of promotion to and within the First Division, the results of the Assessment Centre; or
- (b) in the case of promotion in the Second Division, the recommendations of the Promotion Advisory Board,...

So, when you are dealing with First Division officers, you use an organizational creation called the “Assessment Centre”, and when you are dealing with Second Division officers, you deal with a Promotion Advisory Board. So, the way this was set up, you have two distinct streams: First Division, Second Division. Second Division, there will be a Promotions Advisory Board that will make recommendations to the commissioner, and First Division, you would have an Assessment Centre that will make recommendations to the commissioner, and the Promotions Advisory Board will do their interviews, do their investigations, conduct whatever research they require on candidates and applicants for promotion and so on with respect to persons in the Second Division, and the Assessment Centre shall do its research and its assessment of persons within the First Division, and submit the recommendations to the commissioner.

When the commissioner receives these recommendations, the commissioner has the power to discuss the recommendations with the Promotions Advisory Board in the one case or the Assessment Centre in the second case, and at the end of the day a merit list will be established, and then the police commissioner is the one who would make the decision with respect to promotions within the police service. We felt this was all in keeping with modern management techniques. We felt that it was wrong to have a commission appointed by the President where elected members have no say, where the people within the police service have no say in determining who should be promoted, who should be disciplined and who should be appointed within the police service.

There are so many horror stories, Mr. Speaker. I remember a particular story of a particular police officer who was suspended for a number of serious offences, accused of burglary, accused of larceny of a motor car, I mean—as a matter of fact, if it was now, he would get no bail, I am just now thinking about it, with the legislation that we have approved today, he would get no bail—but this was a police officer who was accused of a number of serious offences and was suspended. While on suspension, he committed a number of other serious offences, including larceny and burglary and all sorts of things, and stayed on suspension for 15 years until he reached retirement age, and then he applied for full pension.

The Police Service Commission, under the law, was not empowered to give him the pension, it had to come to the Cabinet and I remember this matter coming to the Cabinet, furious arguments in the Cabinet. When you look at the record, the man had actually been charged with multiple offences, definitely not a good police officer, and arguments about whether this person should be promoted or not. The Police Service Commission making the recommendation to us “Look, promote the man, give him his full pension and so on.” And it was things like that, where things are so palpably wrong, so obviously wrong within the management of the police service that caused this Parliament, in a bipartisan manner, to come together and decide that it would vest the promotion and discipline authority within the hands of police commissioner.

We have come a long way, Mr. Speaker. Yes, we have a foreign Commissioner. One hopes that at some point in time in the future we will have a local. One of the things I am happy about is that the candidate which is recommended before us is a Trinidadian. I am happy for that. I am not sure what I heard from the Leader of Government Business in this merit list, which would have been established by the Police Service Commission chaired by that Chairman, that a foreigner was somehow put at the top and this brings me to another point.

During this week, we on this side have asked the Government to provide us with important information because, essentially you are asking us to fly in the dark here. We had asked how many applicants were there for the position, how many people applied, who were they? Who were the persons who were put on the original shortlist by the firm and who were the persons put on the merit list by the Commission? We had asked all these questions.

Dr. Gopeesingh: Mr. Stephen Williams was on top.

Mr. C. Imbert: That was in another time. It is intriguing, Mr. Speaker, the first time we debated the appointment of a Commissioner of Police with the new system, all of them on that side were complaining that we did not provide them with any information, we did not tell them how many applications there were, we did not give them information on the merit list, we did not tell them about the shortlist. There was noise from every single Member on that side, Mr. Speaker, when we did the first debate on the appointment of the Commissioner of Police; noise!

7.05 p.m.

Then, when we came back here and we did the second debate, where Mr. Gibbs is now Commissioner of Police, same issue arose. And the Government gave assurances on the last occasion that they would provide Members of the Opposition with very basic information on the process, because all we have been asked to do here is to look at Mr. Richardson's CV. That is all we got. We got Mr. Richardson's curriculum vitae. It is impressive, when you go through it. He has 36 years in the force. All of the investigations on him come up clean, no financial problems, no problems in terms of suspected criminal activity. He is obviously a person who is involved in continuing education. He is continuing to improve himself, in fact, to the point of doing a Master's Degree at a university in Cambridge, one of the best Universities in the world—certainly not a diploma mill; it is a recognized university. But, the fact is that all we have been asked to do is to look at Mr. Richardson's CV. We do not know where he was on the shortlist. Was he No. 5? Was he No. 3? Was he No. 4? And this is where the question from the Member for Laventille East/Morvant is pertinent, because the Leader of Government Business tried to be clever and say that Mr. Richardson was No. 2 on the merit list. That may be true. But was he No. 2 on the shortlist? Because, you see, it is the firm—and I believe it is Penn State in this case—that does the professional assessment of the candidates and comes up with 1, 2, 3, 4, 5. And then the Commissioner takes 1, 2, 3, 4, 5 and makes it 5, 4, 3, 2, 1; and they have the power to do that.

We had asked the Government to tell us where was this gentleman on the shortlist? Where was he on the merit list? Who were the other applicants? Because, in the absence of that, all you are really looking at is one man's qualifications. You have nothing to compare it to. You do not know what happened with the process. You do not know if the Police Service Commission, under that chairman, changed the ranking and put somebody else. We do not know if the foreigner, who was No. 1 on the merit list, who declined, was actually

No. 5 on the shortlist. We do not know. We do not know if the Commission took the foreigner and took him from 5 to 1. We have no idea. And the Leader of Government Business has not provided us with this information.

This is now the second time we are debating the appointment to one of these positions, commissioner of police or deputy commissioner of police, where we are not provided with this information.

Speaking for myself, Mr. Speaker—*[Interruption]*

Dr. Moonilal: You cannot speak for the others.

Mr. C. Imbert: Speaking for myself, Mr. Speaker, there is nothing in Mr. Richardson’s résumé that one can challenge; nothing. He has good academic qualifications, and he has a good service record. Unlike some other applicants, Mr. Richardson has significant experience in the field. He has worked with the Special Anti-Crime Unit, he has worked with the Anti-Kidnapping Squad.

In fact, in his application he indicated:

Prior to my attaining executive responsibility for investigations within SAUTT, kidnapping was at an all-time high, with one occurring every six days. After assuming the role of Deputy Director, I wrote a policy document on the prevention, investigation and detection of kidnapping that has been adopted throughout the English-speaking Caribbean. Simultaneously, the offence of kidnapping went from the major crime affecting the country to one of obscurity under my astute leadership. *[Interruption]*

Dr. Moonilal: What?

Mr. C. Imbert: “Dat is wah he say”. That is what “de” man say. When you have this kind of thing put before you—you know it is interesting. I hope when this gentleman’s appointment is confirmed that the recent spate of kidnappings will once again decline into obscurity. Because one of the features is, yes, it was at an all-time high, it declined into obscurity, it is coming back up again. I have noticed that that is not coincidental. That is after a series of actions taken by this Government, with respect to the systems that were in place to deal with kidnapping.

I would hope that the Government—*[Interruption]*—no, no, no the blimp and various other things, the Special Anti-Crime Unit, the interception of communications and so on, those were all tools used in the fight against

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kidnapping. I would hope that the Government would eventually come to its senses and realize that there was some merit in some of these things, and they would re-examine their position on some of these things, and hopefully when this gentleman, with his experience in dealing with prevention of kidnapping, is appointed, we can see a decrease once again in that horrible crime of kidnapping.

But the point is, Mr. Speaker, that we in this Parliament really need to be treated with more respect. On the last occasion, Mr. Speaker—*[Interruption]*

Mr. Speaker: Please, please, allow the hon. Member to speak.

Mr. C. Imbert: I am now speaking for everybody on both sides, because when the Leader of Government Business piloted—I think it was you—the previous nominations for deputy commissioner of police, he did not tell us that there were issues with one of those candidates. You did not tell your colleagues. You did not. And it is the manner in which the Government does this. They do not tell us who the candidates are, they do not tell us who the applicants are, and they do not tell us the process.

In doing the research for this matter, I did some research on one of the current Deputy Commissioners of Police, which I am sure the Members opposite do not know. It was a gentleman who was approved by this Parliament, by way of a nomination very similar to what we have today. I shall read into the record an item from CBC News Canada, January 03, 2007, and it is entitled:

“Controversial Winnipeg police chief to step down

Winnipeg police Chief Jack Ewatski will step down later this year, a decision that he said has nothing to do with criticism he faced last year during James Driskell’s wrongful conviction inquiry.”

Now, this gentleman who is currently the Deputy Commissioner of Police in Trinidad and Tobago—and, in fact, I had the opportunity to meet him recently when there was a police meeting in the Maraval Community Centre—was the Commissioner of Police for the City of Winnipeg in Canada, and he mysteriously retired at the age of 55; five years before his official retirement. He said at the time that the reason he retired was that he had reached a milestone in his life.

“Ewatski told CBC News on Wednesday that his decision to retire”—as Chief of Police —“was based on an upcoming milestone—his 55th birthday...”

But he is here in Trinidad. So he retired as the Chief of Police in Winnipeg, because he reached the age of 55. *[Interruption]* He did not like the cold? And he decided to take up a job in Trinidad and Tobago as Deputy Commissioner of Police?

Mr. Speaker, I know they do not want to hear, but another point from this article is:

“Ewatski has been under fire in 2006, during the public inquiry looking into Driskell’s wrongful murder conviction.

Ewatski had been accused of withholding information about the 1990 murder of Perry Dean Harder that was crucial to Driskell’s lawyers.

Driskell spent 12 years behind bars for Harder’s slaying. His first-degree murder conviction was quashed by the federal justice minister in 2005.

During the inquiry, Driskell told reporters he would like to see Ewatski resign as police chief.

Retired Winnipeg criminologist...said Wednesday that while Ewatski will also be known for his ‘very aggressive stance’ on street gangs and outlaw motorcycle gangs, his tenure will be better remembered for problems, such as his handling of the Driskell matter.

Under Ewatski’s leadership, the Winnipeg Police Service was also accused of racism by aboriginal leaders, who said he did not do enough to improve trust between police and native people.”

At the same time, he received a medal from the Governor General and the Queen.

The point is, Mr. Speaker, this gentleman is now our Deputy Commissioner of Police. When we did the last debate, none of us in this Parliament knew that he left his job as Chief of Police in Winnipeg, under very questionable circumstances. None of us knew that.

Dr. Gopeesingh: That is the system that you put in place.

Mr. C. Imbert: A system that we put in place? Okay, so, Mr. Speaker, I am now hearing from the hon. Member for Caroni East that the system, the current system, is flawed.

I shall now refer to a debate in the House of Representatives by the hon. Member for Chaguanas West. Now, what did the hon.—*[Interruption]*. He could talk I did not say anything bad about him. What did the Member for Chaguanas

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West have to say on the last occasion? This is June 24, 2009, contribution of the Member for Chaguanas West on the Motion to negative the Commissioner of Police and the Deputy Commissioner of Police Order, 2009.

“Mr. Speaker I wish to raise the following objections to this Order. It appears that the Director of Personnel Administration has unfettered power “to appoint a firm of his choice. Whom does the DPA consult with, in determining this firm? Could the Director of Personnel Administration be acting under the instruction of the Ministry of National Security” or the Attorney General?

The Member for Chaguanas West was scathing in his condemnation of the process which has resulted in the nomination of Mr. Mervyn Cecil Richardson. He went on to say, Mr. Speaker:

“There is no transparency. In fact, this” new “process is shrouded...in more mystery...”

And he called upon the then government, the then PNM government, to reform the system for the selection of the Commissioner of Police and the Deputy Commissioner of Police. And his main argument was that the Director of Personnel Administration can hand-pick the firm that will do the shortlist of five. That was his argument, and that in so doing the Director of Personnel Administration could be subjected to influence from a Minister of National Security or an Attorney General. Those were the views he held then. What has changed now, Mr. Speaker?

The coalition Government has been in power for almost one year. They have brought a barrage of legislation to this Parliament about all sorts of things. But, despite the scathing condemnation of the process by the Member for Chaguanas West in 2009, despite the views of the Member for Caroni East that the process is flawed, they have done nothing. They have done absolutely nothing to change the system, and they have perpetuated this whole concept of secrecy. They have perpetuated this whole concept of secrecy.

The problem that this Parliament is faced with today is to approve the nomination of Mr. Richardson, without having a clue as to who were the four other people who were measured against Mr. Richardson; not a clue, Mr. Speaker. We do not know what has transpired. We do not know if Mr. Richardson came first and then was put second. I will say it five times. Do you know why I will say it five times? It is because the person who has influenced the changing of order from the shortlist to the merit list is none other than the person who holds the office of Chairman of the Police Service Commission. [*Desk thumping*]

If I have to say that 55 times, we have a Chairman of the Police Service Commission who has the power to change the order of merit of persons who have been interviewed by Penn State for the office of deputy commissioner of police. He is the man. He is the Chairman of the Police Service Commission. He could take No. 5 and make that No. 1. In addition, that is a gentleman who has this misguided belief that Police Service Commission—and he has the power to appoint persons to the rank of assistant commissioner, senior superintendent, and superintendent.

7.20 p.m.

It is really disturbing, Mr. Speaker, because what the Government essentially did was copped out, “eh.” When you look at the comments made by the Prime Minister, what did the Prime Minister say? The Prime Minister said that. The Chairman “...must be held accountable for his inflammatory and unwise remarks...”. What does that mean? It means nothing. The Member for Chaguanas West said: “If it were me I would resign.” What does that mean? Nothing. What does it mean, Mr. Speaker? If the Government really had any integrity what the Government would have done was send a letter to the President calling on him to revoke the appointment of the Chairman of the Police Service Commission. [*Desk thumping*]

They did not do that, Mr. Speaker. They did not do it. At least the Leader of the Opposition, the hon. Member for Diego Martin West, he made his position unequivocal. [*Desk thumping*] He called for the revocation of the position of the Police Service Commissioner. He made his position very clear. The Prime Minister danced all over the place, saying, “It was unwise, reckless, insensitive. He should not “ah” say “dat.” I “eh” like “wat” he say, I “eh” like how he say it,” but stop—because this article, Mr. Speaker, that I was reading from says the statements stop short of calling for the chairman to be fired. You see they know exactly what “dey doing, dey know exactly what dey doing” on that side, Mr. Speaker.

You see, the problem with the administration, the current administration, is that they just want things to become a raging inferno. They want everything to burn out of control. We saw it with so many other things—with the SIA appointment. They allow things to burn out of control. If this Government had the strength, the courage and the moral authority to act decisively, from the time that the Chairman of the Police Service Commission had made his remarks—and I am not talking about the remarks that are the subject of public opprobrium, you

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know. I am not talking about the question about imbalance. I am not interested in that. Mr. Mohammed is being condemned by others for that, I will not get into that race talk. I am not in that.

What I am talking about is this misguided idea that the Chairman has that he can make appointments to the assistant commissioner of police, to the senior superintendent level and the superintendent level. That is what is bothering me. [*Desk thumping*] Where on earth did the Chairman of the Police Service Commission get this crazy notion that he can redress the imbalance in the First Division of the Police Service? And that bothers me, Mr. Speaker.

You see when you go to the law one sees that the Constitution was amended to allow the President to revoke the appointment of a member of the Commission for the following reasons, and this is section 5, Act No. 6, Constitution (Amdt.) Act, 2006:

“The President shall, after consultation with the Prime Minister and the Leader of the Opposition, terminate the appointment of a member of the Police Service Commission, if the member—

- (a) fails to attend four consecutive meetings...
- (b) is convicted of a criminal offence...
- (c) becomes infirm in mind or body; fails to perform his duties in a responsible or timely manner;
- (d) fails to absent himself from meetings of the...Commission where there is a conflict of interest”—and here is the one—
- (e) “demonstrates a lack of competence to perform his duties;”

Now what could be more incompetent than a person who is talking about his intention to redress the imbalance in the ranks of the First Decision, when he has no lawful authority to do so? [*Desk thumping*] “Ah” telling the President by way—through this Parliament, that the President should revoke the appointment of the Chairman of the Police Service Commission for his incompetence, because he does not—

Hon. Gopeesingh: You are not supposed to call the President into this. You cannot call the name of the President in your discussions.

Mr. C. Imbert: I am telling the President—I can tell the President what I want. I am not making a comment about—Mr. Speaker, through you, I am not

casting any aspersions on the Office of the President. I am speaking to you, Mr. Speaker. I am calling on the President to invoke—yes, Mr. Speaker, I am calling on the President to revoke—

Mr. Speaker: Hon. Member, I would ask you to stay very clear of the Office of the President. The Standing Order is very clear that we ought not to bring the Office of the President into any debate and we are debating a matter and we are calling on the President, based on what you are saying, to do certain things. I am saying, do not refer to the President any further in this debate. Move on, please.

Mr. C. Imbert: Thank you very much, Mr. Speaker. I shall, therefore, modify what I was saying [*Crosstalk*]*—*Oh be quiet, and I am calling upon section 122(a)—

Mr. Speaker: The speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mr. N. Hypolite*]

Question put and agreed to. [*Desk thumping*] [*Crosstalk*]

Mr. C. Imbert: Mr. Speaker, I want to thank hon. Members, especially the Members opposite, especially the Leader of Government Business who I saw send a message to his colleagues saying “doh play de fool” and extend my time. I want to thank all Members opposite because—yes, I thank you, thank you.

The point is, Mr. Speaker—

Mr. Warner: For the last time. [*Desk thumping*]

Mr. C. Imbert: Yeah, Mr. Speaker, I think the Member for Chaguanas West does not realize my time was just extended by 30 minutes. I was about to wind up you know. You “doh have to misbehave”.

The point is, Mr. Speaker, that this particular debate that we are engaged in today is serious business. We are trying to blend elements of the North American system and the British Westminster System. That is what we are trying to do. In the United States when you have to appoint someone to the United States Supreme Court you have a hearing, more like an inquisition. Those of us who are old enough, and I would count the Member for Chaguanas West among that number, would remember the famous hearings of a particular individual who was accused—

Hon. Member: Calder Hart?

Mr. C. Imbert:—of sexual harassment. I am talking about—in the United—appointment to the United States Supreme Court. You remember Anita Hill, remember the allegations? I think Clarence Thomas is the judge in question that I am speaking about. And he had to go through gruelling interrogation, subject himself to all sorts of allegations, innuendo and so on. At the end of the day Clarence Thomas was appointed Justice of the United States Supreme Court, I think the first black judge if my memory serves me correctly. I just said if my memory serves me correctly, I think he was the first black justice.

The whole point is that in the United States they take these things very seriously. Appointments to the office of sheriff, for example, in many towns is by election. People vote, the population gets involved in the selection of the chief of police, they go to the ballot—yes true, you cannot win them all. [*Crosstalk*] “You self”—but the point is, Mr. Speaker, we are seeking to blend the North American system of complete transparency, complete openness where a person who is going to be appointed to an important office is subjected to the most personal inquisition—that is the American system—and the British system which was correctly described by the Member for Chaguanas West as shrouded in secrecy. Those are the two extremes that we are trying to blend, so this Parliament is trying to forge its own path.

Mr. Speaker, it is really quite senseless and quite pointless to replace the Prime Minister’s veto, which is what we have been accused of. We are being accused of replacing the Prime Minister’s veto or the Prime Minister’s assent for that matter with the veto or assent of the party in Parliament that has the majority of seats.

7.30 p.m.

Mr. Speaker, as I said before, the current police service’s system for appointment was a bipartisan arrangement. It is easy for the Members opposite to disassociate themselves with it. They can do that, but the record will show that the requirement that it come to the Parliament and be debated was a proposal that emanated from the UNC. You asked for that and we all agreed. We all agreed, in 2006, on the understanding that when we come here to debate something like this, at least we will get basic information so that we will know whether we are making an informed judgment.

What is really the point of this exercise, Mr. Speaker? [*Interruption*] Forty-eight minutes to be exact. We look at Mr. Richardson. We say he is a good man.

What else? *[Interruption]* Why bother? Why not go back to the system of the prime ministerial veto and the prime ministerial agreement and you all just do it. You are coming here to debate serious business, but you are holding back information. The way the Member for Chaguanas West described it as being shrouded in secrecy, you are holding back.

I heard the Member for Oropouche East mumble something: “Well, Mr. Richardson was No. 2, you know; No. 1 resigned; a foreigner.” He said this under his breath, just mumbling, his head down. That is the information that—

Dr. Moonilal: Well, I was not mumbling.

Mr. C. Imbert: This hon. Member for Oropouche East is something else, you know. I sent him an e-mail yesterday. He played like he did not receive it. *[Interruption]* I sent him an email; not a blog. In the email, I reiterated the request made of him by the Opposition Chief Whip.

On Monday, we were having our parliamentary caucus and the Opposition Chief Whip telephoned the Leader of Government Business in my presence and pointed out that all he had sent us was the curriculum vitae of Mr. Richardson and gave the Leader of Government Business a list of requests—how many applications; who is on the merit list; who is on the short list; what was the procedure?

Dr. Moonilal: It was the same merit list from last year.

Mr. C. Imbert: Sure!

Hon. Member: What is the date?

Mr. C. Imbert: Do not worry with them. The Member for Oropouche East—*[Interruption]* It is okay; I have my time now—said he did not know anything about that and he would get back to us. That was Monday. What happened on Tuesday? We got a call from the Ministry of National Security where the staff, very helpful, trying to assist us and so on, but indicating to us that they received no information. It was just playing games.

So we called the Leader of Government Business, who piloted the Motion. We said we required this information. He said: “I doh have it” and he tells the Ministry of National Security to call us. When they called us, they said they do not have it because they did not get it from the Member for Oropouche East. So, you spin around, spin around, Monday, Tuesday, Wednesday; so on Thursday I decided to send an email to the Member for Oropouche East just to reiterate our request. He did not reply.

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So here we are today. We have asked the Government since Monday and the Government, in the manner so properly condemned by the Member for Chaguanas West, has decided to make a mockery of this entire exercise. What can we in the PNM do? We have to support Mr. Richardson. We have no choice. When you look at the man's résumé, he is a good man. We have to support the gentleman. There are no blemishes on this record.

In fact, I must say that when you go through this man's résumé, he is really exemplary. He has no chronic diseases. If I speak to the Member for Barataria/San Juan, no chronic diseases; no serious health problems; he passed a lie detector test; he is highly qualified; he worked in many operational field divisions of the police service; he has 36 years. [*Interruption*] You told us that a foreigner was No. 1 and dropped out.

As the Member for Laventille East/Morvant has pointed out, where is the proof? We have no document from anybody in authority telling us what the shortlist was and what the merit list was. All we have are the utterances of the Member for Oropouche East. We do not know what the facts are.

So, I expect that on the next occasion when we in Parliament are debating an appointment to the office of Commissioner of Police or an appointment to the office of Deputy Commissioner of Police, which, I want to reiterate, are the only offices that the Chairman of the Police Service Commission, Mr. Mohammed, has any influence over, I would like the Government to tell us how many applicants there were, what were the shortlist and the merit list.

I thank you, Mr. Speaker.

The Minister of Works and Transport (Hon. Jack Warner): Thank you, Mr. Speaker. Normally, Friday, the last day of the working week, is a long, hard day for those of us who work. When you have to come here to listen to the contributions on that side, especially the last one, it makes Friday doubly hard.

I would only hope that the Member will bear in mind that it is very difficult for us to listen to repetition; to listen to half-truths and total irrelevance in many parts. All I can say is that I will try my best to be different.

Normally, the Member for Laventille East/Morvant would be on target. I guess today was not one of her better days.

Miss Cox: You did not like what I was saying. That is all.

Hon. J. Warner: I liked what you were saying, but for a person who spent about 10 years in the Ministry of National Security—*[Interruption]* I said about 10 years. Five is about 10; six is about 10; seven is about 10—one would have thought that her views would have been different.

In the first case, the Member said that the views of Mr. Mohammed reflect the views of the Members of the People's Partnership Government and I say that something has to be wrong. Either the Member has not been reading, listening, seeing or hearing. That is totally untrue. I want to put that on record. It is totally untrue. Furthermore, she said that we on this side do not represent diversity, or words to that effect. I want the Member to open her eyes and look at the diversity on these Benches.

Miss Cox: I did not say that.

Hon. J. Warner: Okay. Well, I inferred that from what you said. I repeat: look on this side; look at the diversity. Look at the broad base that comprises the partnership. Look at the membership of the People's Partnership and the diversity of the individual leaders who have come together to run this Government. More importantly, look at the diversity of our candidates, both at local election and general election; look at the broad spectrum of persons on state boards and you will understand that this Government, the People's Partnership Government—*[Interruption]* Member for Point Fortin, Member for Point Fortin—is diversity personified. Therefore, anybody who says anything else about this Government and diversity could not be honest.

More importantly, the Member for Laventille East/Morvant said she is concerned; she wants to make sure the process is lawful and just. What is unlawful about the process? What is unjust about the process? Let me tell her the process. On February 22, 2010, the post of Deputy Commissioner of Police was advertised.

Mr. Imbert: Well, now we know that?

Hon. J. Warner: Listen and learn. The number of persons who applied, we were advised, was 115. *[Interruption]* Well, listen and learn. I am coming to you just now. They did not say how many were for commissioner or deputy commissioners. Twenty were shortlisted. You kept talking about the short list; I understand your penchant for the shortlist and the merit list; well 20 were shortlisted.

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What was the name of the firm that conducted the selection process? Penn State Justice and Safety Institute. You asked me what year it was conducted. It was January 04, 2010 to May 22, 2010; two days before your demise. You have the nominees on the merit list: Stephen Williams, appointed; Maurice Piggott, appointed; Jack Colette, appointed; Jack Ewatski, declined; Mervyn Richardson and Roland Mostry said he was no longer interested and, therefore, we had Mervyn Richardson. Whom do you want?

What you want us to do is to do like you and waste \$2.3 million in an eight months process; money needed for road and bridges in Cucharan Trace and Oropouche West. We are not doing that. What is so unjust about this?

On March 18, 2011, of course with the order, the Police Service Commission submitted Mervyn Richardson's name to the President in accordance with the procedure of the Constitution. Two weeks later, look where we are. We are bringing the name here to you and asking that it be approved; and he is not acting. If you all cannot learn from that model, you will stay there for life; but not you and not the Member for Point Fortin. You are wasting time.

I do not understand. When the Member says it is unlawful and unjust, what you are implying? You said you cannot support anyone gerrymandering the process. What in this process has been gerrymandered? *[Interruption]* Well, if you do not know, you do not know; but do not impute motives to people. *[Interruption]* February 02, 2010.

Mr. McLeod: They were in charge.

Hon. J. Warner: February 02, 2010, you were in charge.

Mr. Imbert: I do not know.

Hon. J. Warner: What do you not know?

Hon. Members: *[Inaudible]*

Mr. Speaker: Hon. Members, it is 7.44 p.m. Could you allow the Member for Chaguanas West to speak and you can take notes. Everyone has the right to speak; but allow the Member for Chaguanas West to speak with some degree of attention and silence.

Hon. J. Warner: Thank you, Mr. Speaker. I really like you, so I will ease you up. It is late. It is Friday.

Let me go to the Member for Diego Martin North/East, to whom Members on this side sometimes refer as Vice-Chairman, almost. Let me make the point that

you are making. You are saying that the President should revoke the appointment of the present Chairman of the Police Service Commission.

7.45 p.m.

I said if I were him I would resign. Because I know the only person who could do the—I do not have to do this. Hold on! Do not worry yet. Furthermore you said—and you gave us some documents, some papers and so on and some quotations which we all aware of; which we are all know and so on. And then you said, the commissioner of police can only appoint people to act at the level of the deputy commissioner of police. Right? [*Interruption*]

Mr. Imbert: The Police Service Commissioner?

Hon. J. Warner: Okay, fine; you said that. I quote you here. And you made the point also that the merit list we are using is, of course, not the correct one. The merit list we are using is from June 2010. [*Interruption*]

Mr. Imbert: “All yuh do that.”

Hon. J. Warner: “We do that?” [*Crosstalk*]

Mr. Sharma: That is a manufacturer’s defect.

Mrs. Persad-Bissessar: But Nizam was not Chairman.

Hon. J. Warner: And that list we have here was compiled between February and May when Nizam Mohammed was not Chairman of the PSC. [*Desk thumping*] He was not Chairman when this was compiled. [*Crosstalk*]

Mrs. Persad-Bissessar: And the Member for Laventille East/Morvant was the hon. Minister—

Hon. J. Warner: So I do not want to forget that at all. This list that was compiled here was compiled by your Chairman, His Excellency. I would not call his name and so on. [*Interruption*] “So what Nizam Mohammed?” But I will come to you again just now.

Miss Cox: That is only valid—

Hon. J. Warner: Moreover you say that the Prime Minister’s Office issued a statement condemning the Chairman of the Police Service Commission. Yes, so what? [*Crosstalk*] Furthermore you said: “What business is it of the Chairman of the PSC to get involved in the promotion or anything by the Commissioner of Police and the Deputy Commissioner of Police.” [*Interruption*]

Mr. Imbert: That is the fact.

Hon. J. Warner: I agree. But if he chooses to do that he will pay the price for that as he has paid. What that has to do he has to face his criticism as everybody else. At one point in time when you criticized the appointment of Mr. Mohammed, you know what you said? You said that you were against Mr. Mohammed. *[Interruption]*

Mr. Imbert: Me?

Hon. J. Warner: Yes. When I say “you”, I mean “you on that side”. *[Crosstalk]* You say you are against Mr. Mohammed because he is a politician. *[Interruption]*

Mr. Imbert: I never said that.

Hon. J. Warner: Your leader—he was a politician and he was pursuing a hidden agenda for persons on this side. That is what your leader said. Your leader speaks for you. That is what he said—*[Crosstalk]*

Mr. Sharma: Why the leader “doh” speak for him?

Hon. J. Warner: But today, however, that allegation has been proven to be false. Right? *[Crosstalk]*

Mr. Imbert: How?

Hon. J. Warner: Because the fact is, Mr. Mohammed has spoken and we on this side have chosen to condemn what he has said and we have said so. But you said that we appointed him because he is “we boy”. *[Interruption]*

Mr. Imbert: I said that?

Hon. J. Warner: Okay.

Mrs. Persad-Bissessar: Your side.

Hon. J. Warner: Okay, let me put it this way, your side said so, right. Your leader said so. *[Crosstalk]*

Mr. Imbert: All right. Good.

Mrs. Persad-Bissessar: Which one?

Hon. J. Warner: Then you said, of course, we are accused on this side of not giving you all enough information.

Mr. Imbert: That is a fact.

Hon. J. Warner: You know something that is not true. But if even it were true, we on this side, if we ever did that, it is because we are trying to match you all on that side when you were here; [*Crosstalk*] when you were here. You forget that we here used to beg you all for information and so on? You forget that?

Mr. Imbert: “How it feel?”

Hon. J. Warner: But we have lifted the bar and we have given you all not only information but we even answer all your questions as well, every one, all we have done. Moreover you said also too—I will leave that for a while. You talked about, of course, we on this side with Parliament. I quote you now: “We need to be treated with more respect.” My note here is: “What a joke”. I felt that I was in Queen’s Park Savannah by Mr. Peters’ grandstand, you know. It has to be the joke of the year. You are asking us to treat you with more respect when not a single day, not a single month we here could ever say that we have been afforded the same. Not once! That has to be a joke.

And I repeat, we have come here today and we have given you all the information you want on Mr. Richardson. [*Interruption*]

Dr. Moonilal: After the fact.

Hon. J. Warner: After the fact, okay, after the fact.

Mrs. Persad-Bissessar: During the debate. We have not voted yet.

Hon. J. Warner: My last point to you—and this is the joke of the year. [*Crosstalk*] If the Government had any integrity the Government would have sent a letter to the President asking for the Chairman to resign. [*Crosstalk*]

Hon. Sharma: Has to be foolish.

Hon. J. Warner: I know today is April 01, but do not bring that here. [*Laughter*] The fact is, the authority to move the Chairman of the PSC or any member is the President.

PROCEDURAL MOTION

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move that this House continue to sit until the completion of the business before the House as well as a Private Members Bill.

Question put and agreed to.

**POLICE SERVICE COMMISSION NOMINATION
(MR. MERVYN CECIL RICHARDSON)**

Hon. J. Warner: Thank you, Mr. Speaker. I will tell you what you want to know. The Prime Minister does not have the authority to remove the President or the Commissioner of the Police Service Commission. She does not have that. [*Crosstalk*]

Mrs. Persad-Bissessar: We are guided by the Constitution.

Mr. Sharma: It is an independent body.

Hon. J. Warner: The fact is, we on this side have to be guided by the Constitution. So therefore I am saying to you—the PNM and your supporters—you are, of course, spreading the notion that the People’s Partnership Government and the Prime Minister must remove the PSC Chairman. You know better than that, man. You know it cannot be done. But you are spreading this thing all over the place and so on. And the Leader of the Opposition, the Member for Diego Martin West, knows better because he too met the President a few days ago and he knows it cannot be done, but “he want to gallery”, and give the appearance of course that he is working at—to slow down, to pace himself. He has a long way to go. [*Crosstalk*]

Miss Cox: Bad choice.

Hon. J. Warner: The fact is—I am saying under Act 6 of 2006, all of you know very well that the power to remove the chairman or anybody else is in the hands of the President. And therefore I am saying to you that it is foolish to ask the Prime Minister, or this Government, to do what we do not have any constitutional power to do. But you believe that you could—what? [*Interruption*]

Mr. Imbert: “Yuh have no power to write a letter?”

Hon. J. Warner: To move the President. This Government, through the Prime Minister, has issued a statement indicating that we are not part of what the PSC Chairman has said. We reaffirm our commitment to equality. [*Interruption*]

Mrs. Persad-Bissessar: And equity.

Hon. J. Warner: To equity. We are not about affirmative action. We are not about that. Furthermore, I want to make a point here. The Opposition Leader, the Member for Diego Martin West, has done and said the same thing that Nizam Mohammed has said. You know that? [*Interruption*]

Mr. Imbert: You are talking about the person next to you.

Hon. J. Warner: I will help you. On October 27, 2003 from a document entitled “Social and Economic Policy Framework”—do you know this document? This document was a package of budget documents. Page 38 of the Social and Economic Policy Framework 2004, the PNM proposed:

“Establish targeted recruitment programmes for male Trinidadians, aged 17—24, especially Afro-Trinidadian males.”

Mr. Imbert: What a shame.

Hon. J. Warner: What did you say then?

Mr. Sharma: Nothing.

Mr. Imbert: When was that?

Hon. J. Warner: Are you condemning them? You know the Leader of the Opposition voted for that and furthermore the Minister of Finance then, Sen. Conrad Enill, in the budget debate told the other Chamber, the other place, that it was a typographical error? That was in 2004. [*Interruption*]

Mr. Sharma: He knows about it. He is just pretending, just ignore him.

Hon. J. Warner: You were not born then? “Look it here”, and then you say it is an error. But more than that, the Member for Diego Martin West at the time was Minister of Planning and Development—and I am sure the Member for D’Abadie/O’Meara remembers that—said it was not an error. That is what he said. What did you say then? You come on a high horse now, jumping. Mr. Mohammed may have erred in what he has said. He can talk for himself.

7.55 p.m.

What did you say then when the Member for Diego Martin West said so? What did you say then when it was printed here? What did you say when the Member for Diego Martin West defended the government and blamed the terminologies on the American consultants? Suddenly now, you get very holy and pure. What did you say then to this?

Hon Member: Righteous!

Hon. J. Warner: Yes, and righteous. Furthermore, in the budget debate of October 23, 2003, at the time, Sen. Mark was speaking and I quote him. He said:

“My hon. friend, can I ask for clarification, Madam President, through you, I know the Senator is developing to be one of the decent persons on that side. I want to ask him, because I know it falls under his portfolio, but I think it is

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important for the hon. Minister to clear the air on what this section of the social and economic policy framework matrix, under human capital development that is going to be carried out by the College of Science, Technology and Applied Arts of Trinidad and Tobago (COSTAATT)...”—Please tell us whether it is a typographical error—“It says, Madam President, through you to the hon. Minister, under principal strategies and measures, to establish targeted recruitment programmes for male Trinidadians aged 17 to 24, especially Afro-Trinidadian males.”

Sen. Mark is asking this in the Senate.

Mr. Imbert: To whom?

Hon. J. Warner: He is asking this to Danny Montano.

Mr. Imbert: Or!

Hon. J. Warner: It continues:

“I would like to know if this is a typographical error, or if this is a deliberate policy to discriminate actively by the PNM, and you are the person whom I believe is best placed to clarify this point. Is this a Cudjoe quota system?”

Sen. Mark asked. Listen to Danny Montano in part, and I quote Danny Montano:

“It is very clear. It says exactly what it is. If he wants to know why, it is very simple. That is where we have a major social problem. We must address the social problem very specifically. It is not any form of affirmative action. It is a social action to deal with a social problem. End of story. There is nothing mysterious about it. Any segment of the society that needs special attention by this Government will get it. It is as simple as that.”

What did you say then for African males?

Mr. Sharma: Nothing!

Hon. J. Warner: What did you say then for African males? Nothing at all! Nothing! You see, you are saying that we had no integrity and that we should have gone to the President and so on. I am saying to you, you sat very quiet, and that does not make it right, and if it is wrong, it is wrong. It is wrong for Cro Cro; it is wrong for, of course, Sugar Aloes. [*Interruption*] When it is wrong it is wrong, but do not label all of us as that. That is all I am saying to you and, as such, therefore that to ask the Prime Minister to make this thing is foolish. Now, I go further. At this stage, do you remember a thing called the Centre for Ethnic Studies?

Mr. Imbert: In 1992?

Hon. J. Warner: In 1992.

Mr. Imbert: Nineteen years ago?

Hon. J. Warner: Were you not born then? [*Crosstalk*] The then PNM government had established a committee under Dr. Selwyn Cudjoe and Prof. John La Guerre. Do you remember that? Do you remember in 1993 the committee had a report on employment practices in the public and private sectors of Trinidad and Tobago? Did you read it? You see, it is in the Parliament's library. I am saying to you that was discussed in Parliament and outside Parliament. What Mr. Mohammed said is nothing new.

What is new is that he, as Chairman of the PSC, erred to say it, and to say that he, of course, has a remit to correct in Parliament. Fine! I am saying there is where he erred, but it is nothing new. So, do not get on a high horse. The fact, I am saying to you, is that this was the prelude to the Equal Opportunity Commission. That is how it came about, because of things like these. Why make this a big issue? The issue here is, Mervyn Richardson—[*Crosstalk*—it is a big issue. [*Crosstalk*] I said that simply because, as Chairman of the PSC, it was the wrong thing to say.

We formed the Equal Opportunity Commission that you all starved for funding, until this Government came into being to give them funds. So, therefore, I am saying, if you are asking us here on this side to try to bring back what you all had before about affirmative action, we are not going to do that.

We are here about equality; we are here about equity; and we are here on a policy based on meritocracy. We evaluate persons and we, of course, take their race out of consideration. We look at their qualifications, their performance and their suitability to be on the job. Mervyn Richardson, Mr. Speaker, has been nominated by the President for the post of Deputy Commissioner of Police and the process was gone through by the Police Service Commission.

Mr. Speaker, we on this side are not looking at race or ethnicity. We, of course, believe that the process was fair and legal and it gives us the best candidate for the job with objective criteria. Mr. Speaker, we accept the recommendations on this side. We support the appointment and there is no other consideration except that he is the best person for the job.

Mr. Speaker, do you know what it is interesting? It is this same Police Service Commission, headed by this same Nizam Mohammed, that recommended Mervyn

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Richardson for the post of Deputy Commissioner of Police. Is that not strange? Do you not find that strange? [*Crosstalk*]

Miss Cox: Who applied? Who on the list?

Hon. J. Warner: “But stick break in yuh ears or what? Stick break in yuh ears?” I just told you who applied.

Dr. Moonilal: He said that already.

Hon. J. Warner: I just told you who applied.

Dr. Moonilal: The same people who applied last year.

Hon. J. Warner: The same persons who applied last year are there on the list, and you were there last year but—

Miss Cox: We do not have it.

Hon. J. Warner: “But stick break in yuh ears.” So, Mr. Speaker, on this ground, Sir, I would like to end by saying that, as far as we are concerned, Mr. Mervyn Richardson is the best person for the job, and we wish to commend, Sir. I thank you. [*Desk thumping*]

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, we have come to the end of a short but very interesting debate on the Motion before us. There have been a few issues raised by Members opposite and the Member for Chaguanas West has been very articulate in addressing them and placing on record the facts.

You see, in my opening presentation, I chose deliberately to be a bit subdued, and not to inflame passions on both sides, because I thought that this was a simple enough matter to be dealt with. You see, I knew where the Opposition Members were going, because if you follow the news, you will know where they are going and what they wanted to say. In doing that, they ended up in a sort of confusion talking about statements from Ministers, Prime Minister and all sorts of things, and because they were compelled to raise issues extraneous to this matter, they sought, of course, to bring into the debate ongoing matters of a nature that is properly before another place and another authority. Mr. Speaker, being an Opposition—and some of us who have spent some time there—we understand the dilemma they find themselves in and they must, of course, appear as if they have something to say.

Mr. Speaker, the matter is the appointment of the Deputy Commissioner of Police, and just to respond to a few matters, the information we have—and I want

to confess and indicate to the Member for Diego Martin North/East that it may well be that the Member for Diego Martin North/East did, indeed, send me an email requesting some information. You see, I actually do receive some emails from the Member for Diego Martin North/East, but all of them deal with “Jahangir Bhar, Jahangir brahim”, a blog. So, when I see his name normally, instinctively, I would delete. I cannot say now, Mr. Speaker whether or not I—it may well have been that I thought it was another blog and deleted it.

I am not at all suggesting that the Member did not send me that, and he may well have. I will have to be extremely cautious now, because he may be sending me something important. I am going to look at it. [*Crosstalk*] I do not follow these blogs. I do not have the time to read every one, and sometimes we just delete messages in a group. [*Interruption*] I want to tell the Member that I will have to look and make sure that he is not blogging all the time.

The Member also made another point that Members of the Government did not supply information and so on and, indeed, the Member for Port of Spain South, the Chief Whip, did call for some information to be given. We were in contact with both the Ministry of National Security and we were in contact with the Parliament, and during the week we sought to provide as much information as possible to Members opposite, and I think they received a 20-page document with a letter of application from Mr. Richardson, a CV and some accompanying material which the Member read into the record.

The Government also received information from the Director of Personnel Administration who plays an important role in this matter. So that the information we share in the debate—I want to make the point that the Member for Chaguanas West speaking after me placed the information during the debate to all Members of the House. This is the information that the Director of Personnel Administration has provided.

Miss Cox: Why did he not send it out?

Hon. Dr. R. Moonilal: Mr. Speaker, the information that we share with the Parliament suggests—you see, there was an attempt, as one could expect, to make mischief to suggest that the current Chairman of the Police Service Commission in some way had a hand to play, and would have influenced and so on. Mr. Speaker, just for the record, I want to say again that we are dealing with an order of merit list that was compiled for June 2010. [*Interruption*] I said that in the beginning!

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The Police Service Commission under Mr. Mohammed came into being in July, and we debated here on July 02, 2010 a Motion to appoint a new Police Service Commission. They would have taken office in July or maybe even in August. This was done through a process during January 04—May 22, 2010 when they were in office, and the Member for Laventille East/Morvant was Minister of State in the Ministry of National Security. [*Crosstalk*]

Mr. Speaker, I am saying that the Director of Personnel Administration has informed us that this assessment was conducted during January 04—May 22, 2010. The list was compiled in June.

Miss Cox: I was not there. Do not call my name.

Hon. Dr. R. Moonilal: The assessment was done and the list was compiled, Mr. Speaker. This is the information we have from the Director of Personnel Administration. On this list there are five names: Mr. Stephen Williams, he was appointed already; Mr. Maurice Piggott, he was appointed already; Mr. Jack Ewatski, he was appointed already; Mr. Jack Colette, he declined; and Mr. Mervyn Richardson is next.

Miss Cox: Making excuses!

Hon. Dr. R. Moonilal: Mr. Speaker, this is a list which was compiled. What the Opposition is asking for—they have asked for it and I heard them—is to tell them the process; tell us how many persons applied. That was done by Penn State when you were in office and it cost \$3 million. That was done under your watch. So, you want us to tell you what the process is. It was done under your watch and the merit list was compiled.

This list, the Member for Laventille East/Morvant correctly said that the list is valid for one year, and it was compiled in June 2010. [*Interruption*] I am telling you this is the information we have. This is not information that I am creating.

Mr. Speaker: Could I ask for your cooperation and allow the Member to speak? The crosstalk is interrupting the Hansard Reporters from properly recording, so I would ask Members to just listen in silence. Continue, hon. Member.

8.10 p.m.

Thank you very much, Mr. Speaker. The list we are dealing with is assessments conducted January to May 2010—a list compiled June 2010, valid for one year until June 2011. We are running through the same list we have and

we have reached to Mr. Mervyn Richardson, who is probably more than adequately qualified for the position and we are here to approve his appointment.

So, Mr. Speaker, I am at a loss to know what else would be needed, what else would be required. Now, the Members opposite also raised a matter that there is an officer acting at the moment in this position. But, Mr. Speaker, that officer never applied for anything, and if he applied, he was not on the list. He is not before us so we cannot consider him. He is not before us on an order of merit list. We cannot consider him. So he is acting in a position but had never been—and, Mr. Speaker, this process, according to the laws passed when my friends opposite were in government, is a long drawn-out process.

This is not a case of putting two ads in the newspaper and saying, “Who interested apply”, and sit down with a committee of three and decide. This is a thing that took \$3 million to go through all types of assessments with Pennsylvania State University, with experts from all over the place; applying, going through all sorts of testing, polygraph and drug and all types of things. This is a serious process. You cannot just throw an ad in the newspaper and say, “Anybody interested tell us”. No, this is not so. There is no new process. We are working with the merit list compiled in June as result of assessment, January to May 2010. So there is no hand of anybody else involved in this. This is how it is.

Mr. Speaker, my friends opposite also raised the matter that the process is drawn-out, the process is not the best and so on, and what have we been doing. I indicated in the beginning that the Attorney General has reported that he has taken steps to write the relevant institutions and stakeholders to solicit their views on amendments to strengthen and maybe simplify this process—he has taken steps. But you know eight or nine months after forming the government, Members opposite would stand and tell us, “What have you done?” “What have you done?”

Mr. Speaker, in July 2008 we came to this Parliament—I was opposite—and we debated a Motion that the government brought and voted against to appoint Stephen Williams. What did they do from July 2008 to May 2010? What did they do to simplify the process, having acknowledged in 2008 that the process was flawed? Having acknowledged that the process was flawed in July 2008, what did they do until May 2010? They did nothing, Mr. Speaker. And now, a few months into this administration, asking, “what we doing”. This is the chronic, pathological hypocrisy every week. Mr. Speaker, this is the chronic, pathological hypocrisy

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that we are exposed to every week—calling on the new government, “What did you do?”, “What did you do?” and in every area; three years, five years, four years, 10 years, nothing happened—nothing happened.

Mr. Speaker, I do not want to get into any other matters related to their elections and so on. This is the advice that we have received from the Director of Personnel Administration and I am authorized to repeat that. Mr. Speaker, the Government also places on record that it is not our policy, it is not our approach to have officers in the police service acting in a position for an unreasonable period of time. We are not about that.

We need to solidify and stabilize the leadership in the police service; in the protective services. They had somebody acting for 18 months as Commissioner of Police, and that person—if you listen to the Member for Diego Martin North/East, the person who was acting had powers to promote while he was acting for 18 months. They supported that, they defended that, they endorsed that.

Mr. Speaker, a man who is on a month-to-month contract, imagine a Police Commissioner—someone sitting in the chair of Commissioner of Police—“when the 31st of the month reach”, he does not know if he is working on the 1st, but yet he has power to promote. So who is he promoting? What is he promoting?

“What you think this man will be doing” in a position on the morning of the 31st? He does not know “if he coming to work the next day”. He does not know. Because, it is up to another authority whether he works or not, but yet he had that power for 18 months to promote in the police service and they said nothing, they did nothing. They endorsed that. That is their policy. You can put somebody to act forever. But, Mr. Speaker, I want to tell you, this Government, “it eh have no acting. This is reality”. This is reality. There is no acting about this. This is reality.

We solidify leadership. We have leadership in every area. You need predictability, certainty. When you are planning, you have a three-year, a five-year approach. We have strategies to deal with the criminal elements. Today is a historic day. Path-breaking landmark legislation was passed in this Parliament today, and that is how we are approaching it. But to implement the law we cannot have people on this 10-day operation in the police service. We cannot do that. And the gentleman has served and he is in an acting position. I imagine he will revert to whatever position he was in before, and the country is grateful for the service. The Government and the country thank him for his service in the position, but we must move ahead now, and that is why the Government has moved quickly to deal with an urgent matter and we have filed the appropriate Motion.

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Mr. Speaker, I do not think there was another matter raised by my friends opposite that the Member for Chaguanas West did not deal with. The other matters, extraneous and so on, I think, have been dealt with by the Member for Chaguanas West, very well. So, Mr. Speaker, with those few words I beg to move. [*Desk thumping*]

Question put and agreed to.

Resolved:

That the notification of the President of the nomination by the Police Service Commission of Mr. Mervyn Cecil Richardson to the office of Deputy Commissioner of Police be approved.

ASSOCIATION OF REAL ESTATE AGENTS (INC'N) BILL

Question put and agreed to, That a bill for the incorporation of the Association of Real Estate Agents and for matters incidental thereto, be now read a second time.

Bill accordingly read a second time.

Bill referred to a special select committee of the House appointed by the Speaker as follows: Dr. Fuad Khan (Chairman), Mr. Jairam Seemungal, Mr. Stephen Cadiz, Mr. Nileung Hypolite, and Mrs. Patricia McIntosh.

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, April 08, 2011 at 1.30 p.m. And, Mr. Speaker, to put the Opposition on notice, on that date it is the intention of the Government to debate through all its stages the Bill entitled the Trafficking in Persons Bill, 2011.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 8:19 p.m.