

HOUSE OF REPRESENTATIVES*Friday, November 18, 2011*

The House met at 1.30 p.m.

PRAYERS[MR. SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

Mr. Speaker: Hon. Members, I have received communication from the following Members who are currently out of the country and have asked to be excused from sittings of the House: Hon. Winston Dookeran, Member of Parliament for Tunapuna, during the period November 15—20, 2011; the hon. Rodger D. Samuel, Member of Parliament for Arima, during the period November 17—22, 2011; the hon. Dr. Delmon Baker, Member of Parliament for Tobago West, during the period November 14—25, 2011.

**JOINT SELECT COMMITTEE
(APPOINTMENT OF)**

Mr. Speaker: Hon. Members, I wish to read the following correspondence from Sen. Lyndira Oudit, Vice-President of the Senate:

“The Hon. Wade Mark, MP

Speaker of the House

Office of the Speaker

Level 2

Tower D

The Port of Spain International Waterfront Centre

1A Wrightson Road

PORT OF SPAIN

Honourable Speaker

Appointment of the Joint Select Committee to consider the Legislative Proposals to provide for Public Procurement and Disposal of Public Property and to Repeal and Replace the Central Tenders Board Act.

Your letter dated November 14, 2011 on the subject at caption refers:

I wish to advise that at a sitting held on Tuesday, November 15, 2011, the Senate agreed to the following:

‘BE IT RESOLVED that a Joint Select Committee be established to consider the Legislative Proposals to provide for public procurement and disposal of public

Joint Select Committee
[MR. SPEAKER]

Friday, November 18, 2011

property together with the Legislative Proposal to repeal and replace the Central Tenders Board Act which were laid in the House of Representatives on Friday June 25, 2010 along with the work of the previous Committee appointed in the First Session of the Tenth Parliament:

AND BE IT FURTHER RESOLVED that this Joint Select Committee be mandated to:

- (a) consult with stakeholders, experts and other interested persons;
- (b) send for persons, papers, records and other documents;
- (c) recommend amendments to the proposals with a view to improving the drafts;
- (d) submit a report to Parliament within three (3) months from the date of appointment.'

Accordingly, I respectfully request that you convey this decision of the Senate to the House of Representatives.

Respectfully,
Sen. Lyndira Oudit
Vice-President of the
Senate.”

PETITION

National Ramleela Council of Trinidad and Tobago

The Minister of Local Government (Hon. Chandresh Sharma): Thank you, Mr. Speaker. I wish to present a petition on behalf of the members of the National Ramleela Council of Trinidad and Tobago of No. 72 St. John Trace, Avocat, in the island of Trinidad and Tobago (hereinafter referred to as “NRCTT”). The petitioners are desirous of constituting NRCTT into a corporate body by a private Bill, so that its aims and objectives could be more effectively achieved.

I beg now that the Clerk be permitted to read same petition.

Petition read.

Question put and agreed to; That the petition be granted.

PAPER LAID

Annual report of the Teaching Service Commission for the year 2010. [*The Minister of Education (Hon. Dr. Tim Gopeesingh)*]

ORAL ANSWERS TO QUESTIONS
Minister of Energy and Energy Affairs Travel
(Ghana)

23. Mrs. Paula Gopee-Scoon (*Point Fortin*) asked the hon. Minister of Energy and Energy Affairs:

Could the Minister state:-

- (a) The purpose of the Minister's travel undertaken in April 2011 to Ghana;
- (b) The current status of Ghana's Gas Infrastructure Development Project and the involvement of the National Gas Company of Trinidad and Tobago?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, on behalf of the hon. Minister of Energy and Energy Affairs, the response to question No. 23 is as follows:

The purpose of the Minister's travel of Ghana in April 2011 was to explore the investment options available to Trinidad and Tobago in the development of the natural gas industry in Ghana and to hold discussions with the Minister of Energy of Ghana. This was based on a request from the Trinidad and Tobago High Commissioner to Nigeria with accreditation to Ghana.

The Government of Ghana is currently engaged with the China Development Bank with respect to the financing of the Ghana gas gathering project. The Government of Trinidad and Tobago remains in discussions with the authorities in Ghana to explore the possibility of providing support for the development of their gas-based sector.

Mrs. Gopee-Scoon: A supplemental question, please. Would you say that the Ghanaian project with its overall objectives has failed under the watch of your Government?

Hon. Dr. R. Moonilal: This is an ongoing matter. As I have stated, we are in continuing discussions with the authorities in Ghana. The matter is ongoing so I do not think one can label it as such.

May I also indicate that I am not in a position to take supplemental questions on this matter but the Member is free to file questions. I am sure the Minister of Energy and Energy Affairs will be happy to respond.

**Joint Venture Partner
(Trinmar)**

24. Mrs. Paula Gopee-Scoon (*Point Fortin*) asked the hon. Minister of Energy and Energy Affairs:

Could the Minister state:

- (i) Whether the Government sought to find a joint venture partner for Trinmar;
- (ii) If the answer is in the affirmative, could the Minister state what efforts have been made during the past year to find a joint venture partner?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, on behalf of the hon. Minister of Energy and Energy Affairs, the response to question No. 24 standing in his name is as follows:

There is a need to, first of all, provide some context to this question as regards Trinmar. It should be noted that from 2004—2010, there was a steep decline, and an alarming decline, in oil production in Trinmar, from an average of 35,000 barrels per day in 2004 to approximately 23,000 barrels per day in 2010. This decline was as a result of a lack of investment and a lack of strategic focus on Trinmar in the period 2004—2010. During the same period, the then leadership of Petrotrin, under the guidance of three former Ministers of Energy of the previous government, the People's National Movement, focused on the gas optimization programme and the now infamous gas-to-liquids project (GTL). In the case of the former, there has been a massive cost overrun, and in the case of the GTL project, Petrotrin has spent close to \$2.5 billion and has not realized a drop of product.

With regard to the issue of a joint venture partner, the Government of the Republic of Trinidad and Tobago has not sought to find a joint venture partner for Trinmar. Petrotrin, however, has been exploring arrangements other than joint ventures that can provide the necessary technical and financial assistance to ramp up oil production at Trinmar. Petrotrin's Trinmar operations offer significant upside potential which, if pursued, will result in increased production and reserves. Realizing this potential requires financial, technical and project management resources which could be brought to the table by a joint venture

partner or partners. A joint venture partner, however, involves transfer of equity to that partner which may not be desirable at this time.

Another method of doing this is by way of a field development model with parties who can bring the necessary resources at their cost and recover such cost from a portion of the incremental production that results from their efforts. This model does not involve transfer of equity and is the model that is currently being pursued. There are several successful international examples of this approach, for example, Colombia, Mexico and Ecuador.

It should also be mentioned that under this administration and in keeping with the priority to increase oil production, Petrotrin is currently engaged in a 21-well infill drilling programme at Trinmar. Thus far, 15 of these 21 wells have been drilled. This programme has already resulted in an increase in oil production with production at Trinmar currently close to 23,000 barrels of oil per day. [*Desk thumping*] This is the first increase in oil production at Trinmar in seven years. [*Desk thumping*]

1.45 p.m.

Mr. Sharma: Repeat that.

Hon. Dr. R. Moonilal: This is the first increase in oil production at Trinmar in seven long years. [*Desk thumping*] In the period 2012—2014, Petrotrin plans to spend US \$709 million to revitalize oil production at its Trinmar operations. This includes plans for infrastructure upgrade and the revitalization of the South-West Soldado oilfield.

In the case of part (ii) of question No. 24, it is therefore not applicable. Thank you.

Expansion of Coronation Park Sporting Facility (Details of)

25. Mrs. Paula Gopee-Scoon (*Point Fortin*) asked the hon. Minister of Sport:

Could the Minister state:

- a) whether the Government approved moneys for the expansion of the Coronation Park sporting facility;
- b) if the answer is in the affirmative, could the Minister state when will the project begin, and what is the expected completion date?;

The Minister of Sport and Youth Affairs (Hon. Anil Roberts): Mr. Speaker, with regard to part (a) of the question, the Cabinet has approved a total

of \$1,044,341,069, for the development of 16 community sporting centres across Trinidad and Tobago, of which Coronation Park in Point Fortin is one. Estimated cost for development works to this park is \$66 million and is scheduled for Phase II of the Community Sporting Centres Programme. Due to the myriad of issues: economic, budgetary, design, tendering award and mobilization, it would be imprudent to proffer a definitive response to part (b) of the question at this juncture. I would like to remind the Member for Point Fortin and all Opposition MPs that anything they would like to know, “Ask Anil”. [*Desk thumping*]

Mrs. Gopee-Scoon: Supplemental question to the Minister. Do you see the commencement of the Coronation Park expansion during this fiscal year?

Hon. A. Roberts: I do not see into the future as “Pena” but I can tell you that in this fiscal period we shall start Phase I, Point Fortin Coronation Park is in Phase II.

Mrs. Gopee-Scoon: Mr. Speaker, what is the likely date for the startup of Phase II of your sporting project?

Hon. A. Roberts: I will repeat for the hon. Member, part (b) of the question: “Due to the myriad of issues: economic, budgetary, design, tendering award and mobilization, it would be imprudent to proffer a definitive response to part (b) of the question at this juncture”. Thank you very much. [*Desk thumping*]

**Queen’s Park Savannah
Construction Contracts for Carnival 2011
(Details of)**

13. Miss Marlene McDonald (*Port of Spain South*) asked the hon. Minister of Arts and Multiculturalism:

Could the Minister state:

- i) All construction contracts which were undertaken for the Queen’s Park Savannah in preparation for Carnival 2011;
- ii) The date of invitation to tender for all construction contracts;
- iii) The date of the competitive bids review for each construction contract;
- iv) The date of submission for the competitive bids review?

The Minister of Arts and Multiculturalism (Hon. Winston Peters): Thank you very much, Mr. Speaker. Let me take the opportunity to wish my colleague from Port of Spain South a very happy birthday on this day. [*Desk thumping*]

The answer to part (i) of the question, that would be the Grand Stand. Answer to part (ii) of the question, the North Stand: erection and dismantling. Part (iii) of the question: dismantling and removal of two stands.

Hon. W. Peters: Part (b)—

Mr. Sharma: That is a lot of stands.

Hon. W. Peters:—question (iv): Grand Stand and perimeter fencing.

Hon. Member: More stands.

Hon. W. Peters: It is a lot of stands—I took a stand to make sure I built that. And part (e), sewerage and infrastructure work for the Grand Stand and North Stand. Part (ii) of the second part of the question, there was no invitation to tender for (a) to (e) of the above.

Mr. Speaker: The question that you are asked to answer is question No. 13. I do not think that you are answering it. Maybe you have it mixed up with another response, but if you could deal specifically with question 13, please.

Mr. W. Peters: I am indeed answering question No. 13, I did not want to—Mr. Speaker—

Mr. Speaker: No, I did not ask you about what you wanted to do, I just thought for instance you were not answering question 13, but if you are, continue.

Mr. W. Peters: I was answering question No. 13.

Mr. Speaker: Okay, continue.

Mr. W. Peters: That is the answer to it. Mr. Speaker, may I continue with part (iii) of that question. There were no competitive bids for review. There was no date of submission for competitive bids review.

Miss McDonald: Thank you, Minister. Minister, I am looking at part (ii), the date of invitation to tender for all construction contracts and you have said no. Is this the policy, is this your policy that there will be no tenders, people submitting tenders for contracts in the Ministry?

Mr. W. Peters: No that is not the policy, but because of the time that we had to put this whole Carnival thing and make sure that there was a place for people to have their Carnival, apart from having the stands out in the street where the people did not want to be, we had to do that; it is not the policy.

**Queen's Park Savannah Carnival Centre
(Details of)**

14. Miss Marlene McDonald (*Port of Spain South*) asked the hon. Minister of Arts and Multiculturalism:

Could the Minister state:

- i) The actual expenditure of the construction of the Carnival Centre at the Queen's Park Savannah;
- ii) The date of invitation to tender for the construction contract for the Carnival Centre;
- iii) The date of the competitive bids review for each contract and date of submission of such bids;
- iv) The source of funding for the project;
- v) The structures being erected are permanent;
- vi) If the response to (v) above is in the affirmative, and with the likely effect of these permanent structures on the Grand Stand, is the Government committed to construct a Carnival Centre?

The Minister of Arts and Multiculturalism (Hon. Winston Peters): Mr. Speaker, the answer to part (i) of the question: the original cost of construction for the project was \$46,087,963.50, VAT inclusive. The total sum certified for payment to date on the Grand Stand is \$42,921,450, VAT inclusive. Work is currently being undertaken to arrive at a final amount.

The answer to part (ii): there is no date of invitation to tender for the facilities, and, as I mentioned in the first question, this one follows the same thing: because of the expediency for us to have a proper Carnival in Trinidad and Tobago, we had to rush and have this done in the way that it was done. So it was due to expediency and the urgency to be ready in time for Carnival 2011, works were undertaken for the completion of the project. [*Desk thumping*]

The answer to part (iii): there being no invitation to tender therefore the response to question (iii) is in the negative. The answer to part (iv): the source of funding for the project was a bank loan guaranteed by the Ministry of Finance.

Part (v): the Grand Stand structure is permanent and enhancement work is continuing. Mr. Speaker, when it is finished you would love it. Part (vi): the Grand Stand is likely to form part of the proposed Carnival Centre. Trinidad and Tobago needs a centre where people can house our Carnival, where we can hold

20,000 or 30,000 people. As it is now, we have expanded the Grand Stand to a capacity of between 14,000 and 15,000 persons [*Desk thumping*] and when the North Stand is erected, we can hold as much as 22,000 people. [*Desk thumping*]

**Immigration into Trinidad and Tobago
(Details of)**

15. Miss Marlene McDonald (*Port of Spain South*) asked the hon. Minister of National Security

Could the Minister state with regard to immigration into Trinidad and Tobago:

- i) the total number of persons admitted into Trinidad and Tobago between July 2010 and June 2011;
- ii) a breakdown of the total number of persons admitted by country of nationality/origin?

The Minister of State in the Ministry of National Security (Hon. Collin Partap): Mr. Speaker, in answer to question 15(i): a total number of 876,436 persons were admitted into Trinidad and Tobago between the months July 2010 and June 2011. [*Desk thumping*]

Hon. Member: What year was that?

Hon. C. Partap: That was 2010—2011. In answer to part (ii), the breakdown of this number by country of nationality/origin is as follows, and we will start alphabetically:

Afghanistan—and you know Afghanistan is a Middle-Eastern country: four people from Afghanistan visited Trinidad between those months.

Albania—a country in Europe close to the Mediterranean: six people visited between those intervening months.

Algeria—11 people visited from Algeria into Trinidad and Tobago. As you can see, the Minister of Tourism is doing work, people are coming in from all over the world into this country.

America (USA)—180,221 persons, and that is due to the Minister of Arts and Multiculturalism with his expansion of Carnival and making it so vibrant and again the Minister of Tourism with his tourism drive, Americans are coming in in droves.

Mr. Speaker: I know you would like to elaborate; this is not the time for that. Just answer the questions as they are given and leave the frills for somewhere else. Continue, please.

Hon. C. Partap: I am guided, Mr. Speaker.

2.00 p.m.

COUNTRY OF NATIONALITY/ORIGIN	TOTAL
American Samoa	5
Andorra	3
Angola	20
Anguilla	66
Antarctica	1
Antigua/Barbuda	5,236
Argentina	1,364
Armenia	2
Aruba	2
Australia	1,502
Austria	741
Azerbaijan	26
Bahamas	1,230
Bermuda	433
Bangladesh	165
Barbados	15,534
Belarus	9
Belgium	562
Belize	738
Benin	5
Bolivia	260

Bosnia	5
Botswana	147
Bouvet Island	2
Brazil	2,772
British Indian Ocean Territory	2
British	46,680
Bulgaria	158
Burkina Faso	2
Burma	227
Cambodia	10
Cameroon	32
Canada	54,733
Cape Verde	5
The Cayman Islands	136
Chad	2
Chile	690
China	3,022
Chinese Hong Kong	1
Colombia	3,985
Congolese, Democratic Republic	9
Congolese, People's Republic	12
Costa Rica	1,019
Croatia	461
Cuba	2,067

Cyprus	17
Czechoslovakia	161
Denmark	1,067
Dominican Republic	1,699
Commonwealth of Dominica	2,538
Holland	6,510
Dutch Antilles	85
Ecuador	561
Egypt	64
Emirates	7
Equatorial Guinea	4
Eritrea	1

My apologies, it is a very long and exhaustive list.

Estonia	337
Ethiopia	19
Fiji	13
Finland	416
France	6,445
French Guiana	4
Gabon	2
Gambia	18
Georgia	15
Germany	6,289

Ghana	305
Greece	459
Greenland	2
Grenada	12,909
Guadeloupe	7
Guatemala	727
Guinea-Bissau	4
Guinea	10
Guyana	38,019
Haiti	493
Honduras	454
Hungary	129
Iceland	23
India	4,860
Indonesia	1,641
Iraq	9
Iraq/Iran	29
Irish	1,757
Israelis	271
Italian	2,255
Ivory Coast	13
Jamaica	12,838
Japan	815
Jordan	15
Kazakhstan	34
Kenya	58

Kuwait	5
Lagos	1
Latvia	164
Lebanon	43
Liberia	14
Libya	21
Liechtenstein	2
Lithuania	94
Luxembourg	39
Macedonia	20
Madagascar	8
Malawi	15
Malaysia	565
Maldives	10
Mali	3
Malta	32
The Marshall Islands	3
Martinique	8
Mauritius	4
Mauritian	47
Mexico	2,513
Micronesia	1
Moldova	9
Mongolia	2
Mongolian	2
Montserrat	124

Morocco	28
Mozambique	2
Namibia	9
Nepal	36
The Netherlands	18
New Zealand	336
Ni-vanuatu	1
Nicaragua	264
Nigeria	1,268
North Korea	41
Northern Mariana Islands	1
Norwegian	1,684
Onani	2
Pakistani	327
Palestinian Occupied Territory	3
Panamanian	1,575
Paraguayan	35
Peru	1,218
Philippine	4,222
Pitcairn Islander	1
Polish	1,216
Portuguese	540
Puerto Rico	2
Qatar	1
Romania	348
Russian	464

Rwandan	10
Saint Helena	5
Saint Lucia	6,695
Salvadorian	425
Samoa	9
Saudi	5
Senegalese	16
Serbia Montenegro	71
Seychelles	9
Sierra Leone	49
Singapore	185
Slovak	69
Slovakian	73
Somalia	4
South Africa	575
South Georgia and the South Sandwich	1
South Korean	666
Spanish	2,865
Sri Lankan	118
St. Vincent and the Grenadines	16,090
Norfolk Islander	2
Sudanese	10
Surinamese	5,470
Svalbard and Jan Mayen Islands	1
Swaziland	5
Swedish	1,522

Swiss	1,215
Syria	144
Taiwan	224
Tajikistan	2
Tanzania	29
Thailand	38
Togo	5
Trinidad and Tobago	369,714
Tunisia	16
St. Kitts and Nevis	1,523
Turkey	259
Turks and Caicos Islands	46
Uganda	58
Ukraine	863
Uruguay	159
Uzbekistan	11
Vatican State	13
Venezuela	20,327
Vietnam	142
Virgin Islands	233
Yemen	2
Zambia	44
Zimbabwe	74

**STATEMENT BY MINISTER
Universal Children's Day, 2011**

The Minister of State in the Ministry of Gender, Youth and Child Development (Hon. Ramona Ramdial): Thank you, Mr. Speaker. I take this

opportunity to address you today as we will observe on Sunday, November 20, 2011, Universal Children's Day and commemorate the World Day of Prayer and Action for Children, which is dedicated to creating a world in which joyous childhoods exist, away from the heinous acts of violence, which are all too frequently present in our media and our lives.

Not too long ago, we were thrown into mourning over the gruesome demise of nine-year-old Daniel Guerra. With this in mind, the Government of Trinidad and Tobago vowed that one child lost to violence was too many and our Prime Minister publicly issued the "Daniel Guerra Decree"; an initiative designed to create a platform to deal with critical issues of crime, child neglect and abuse, while allowing for an interactive educational environment, geared at equipping both parent and child with ways to ensure safety at all times.

In keeping with UNICEF's mission, which advocates the protection of children's rights in helping them meet their basic needs, while expanding their opportunities to attain their full potential, we, as a Government have ensured that every child is given an equal opportunity to free education. This entails the distribution of free books and free laptops upon entering secondary school and free transport via an efficient bus service. According to a progress report on the UN millennium development goals, every 3.6 seconds, one person dies of starvation. Thankfully, our children receive a nutritious breakfast and lunch via the School Feeding Programme.

As a Government we find it necessary to equip the future of our nation with these essential tools to help them achieve their greatest potentials in becoming the future leaders of our beloved nation. However, we do not stop there. The rights of our nation's children are protected under the Children's Authority Bill, which seeks to promote the well-being of all children in Trinidad and Tobago.

2.15 p.m.

This Bill allows for the provision of care and protection of our vulnerable children. No wonder in a recent Commonwealth report, Trinidad and Tobago was listed among the first top three countries in the world where it is best to grow a girl child, and make no mistake we are heading for the top position, as we put in the various mechanisms and pieces of legislation on gender equality which will not only improve the lot of women and girls, but seek the best interest of men and boys.

I remind you of the words of the late US President John F. Kennedy who once said: "Children are the world's most valuable resource and its best hope for the

future". My fellow citizens, a child is a joy not a burden and as a nation we have a responsibility to all our children. For far too long we have witnessed these acts of violence on our innocent children and I assure you that this trend of brutality against our young ones will come to an end. I say to you here today that saving the children is the responsibility of not one, but all of us, for if they perish the future is hopeless. Violence in whatever form leaves scars no amount of time can heal, and violence against children is no different.

A child subjected to a life of violence lives in constant fear and is left unable to efficiently function academically, emotionally and physically. Our Government has been engaged in moving legislation forward, and introducing other initiatives geared at advocating the protection of children, the promotion of child welfare, the preservation of children's rights and the prevention of child abuse.

The United Nations estimates that 270 million children, just over 14 per cent of all children in developing countries, have no access to health care services. Thankfully, last year the Children's Life Fund Bill was passed in Parliament bringing us one step closer to ensuring that children in need can access funds for life saving surgery and tertiary level health care services.

According to the World Health Organization, over 1.6 million people worldwide die as a result of violence each year. They also estimate that 40 million children below the age of 15 suffer from abuse and neglect but, sadly, we cannot help these victims unless the code of silence is broken.

As we commemorate Universal Children's Day and the World Day of Prayer and Action for Children, we pray for those whom we have lost, for those suffering in silence, for those too afraid to speak out, those who think they have nowhere to turn, those waiting to be healed, and those fighting for a change.

As our Prime Minister has often said, the values we impart to our children today, consciously and unconsciously, will have a major impact on society tomorrow, for if we continue to leave the teaching of values to chance, we, as a nation, risk losing an integral piece of our culture altogether.

This is how we would like to begin as we celebrate with the global community, this World Day of Prayer and Action for Children to whose conveners, Arigatou International, UNICEF and other partners, we say thank you for placing much needed spiritual and social emphasis on today's children who will be the leaders of tomorrow's generation. And we do so painstakingly remembering children here in Trinidad and Tobago and everywhere who have fallen prey to the actions of idle hands and evil minds.

I say this to reemphasize what the organizers have so brilliantly imagined, that each of us must come to care about everyone else's children. We must recognize that the welfare of our children is intimately linked to the welfare of all other people's children. After all, when one of our children needs life-saving surgery someone else's child will perform it. If one of our children is harmed by violence, someone else's child would be responsible for the violent act. Therefore, the good life for our own children can be secured only if a good life is also secured for all other people's children.

But fellow citizens, such noble ideals must have a beginning and I humbly submit that the sojourn begins with us, who are the real role models for the young and impressionable for what they see is what they learn and would invariably practise. In this context, let me hasten to add that whilst prayer is one component of the remediation process, action is where we must focus attention. I urge you as citizens of nations scarred, broken and grieving families, friends and loved ones with concerns to take action and as the late Mahatma Gandhi once said: "Be the change you want to see in the world".

I thank you, and may God bless all of our dear children. [*Desk thumping*]

**JOINT SELECT COMMITTEE
(APPOINTMENT of)**

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

Be It Resolved that this House appoint the following six Members to serve with an equal number from the Senate on the Joint Select Committee established to consider the legislative proposal, to provide for public procurement and disposal of public property together with the legislative proposal to repeal and replace the Central Tenders Board Act.

Mr. Prakash Ramadhar, MP;

Dr. Tim Gopeesingh, MP;

Mr. Herbert Volney, MP;

Mr. Collin Partap, MP;

Dr. Keith Rowley, MP;

Mr. Colm Imbert, MP.

Question put and agreed to.

**ADMINISTRATION OF JUSTICE
(INDICTABLE PROCEEDINGS) BILL, 2011**

Order for second reading read.

The Minister of Justice (Hon. Herbert Volney): Thank you, Mr. Speaker. I beg to move,

That a Bill to repeal and replace the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, and to provide for a system of pre-trial proceedings relating to indictable offences and other related matters, be now read a second time.

Mr. Speaker, in all humility and with great pride, I have the privilege to present this Bill so entitled to this honourable House. This Bill is being presented in the context of general knowledge that the criminal justice system is bursting at its seams. The Ministry of Justice was created by this Government with the mandate to transform the criminal justice system, and this Bill serves to expedite the judicial process in indictable or serious criminal matters.

Mr. Speaker, we all know the legal maxim, “Justice delayed is justice denied”. There is much delay in our justice system in which one of the major culprits is the prevailing pretrial criminal procedure known as the preliminary enquiry. The procedure is set out in the Indictable Offences (Preliminary Enquiry Act). There presently exists in our courts an endemic backlog of cases in the Magistrates’ Court awaiting preliminary enquiries.

Prior to an indictable offence being heard in the High Court, before a judge and jury, there must be a preliminary enquiry. This is a protracted hearing held before a magistrate; the purpose of the enquiry is essential. Our Government has not lost sight of the fact that these hearings were intended as a filtration safeguard.

Mr. Speaker, by way of explanation, before a case is sent to the High Court for trial, the prosecution must first establish a prima facie case against an accused person. Over the years this preliminary hearing before a magistrate has become the nightmare of the justice system. And now they long outlived their usefulness as the dynamics of volume, sheer volume and systems have changed. It is quite remarkable that this situation has been allowed to continue for all these years until now; until today; until this signal moment in this, the people’s Parliament of the House of Representatives.

Mr. Speaker, allow me to share just one small example with you. An accused young man is charged with a serious offence and is taken before the Magistrates’ Court. His matter is continually adjourned until finally a date is set for his

preliminary enquiry to begin. I interpose here to say that in that intervening period, every time he comes to court either he, or his family, has to take out a set of blue notes and to pay to a lawyer. Also the witnesses, including police officers, who have been involved in the investigation have to come to court. Those of us who have spent any time in the Magistrates' Courts would know what it looks like in the corridors of the courts especially in the morning. It is like a marketplace, a total waste of manpower hours of persons whose families are charged, who care about their loved ones, of persons who have been the victims of crime, including victims themselves, as well as police officers whose time would be better spent on the streets, manning the streets and giving the public that sense of confidence and of security while on our streets.

At the enquiry there is extensive cross-examination by defence counsel, persistent adjournments and complex legal submissions. Witnesses are required to come to court and give evidence. Such a protracted system allows the opportunity for bribery, for intimidation of witnesses, for harassment of parties involved and even the culling of witnesses. Physically and psychologically challenged witnesses, such as the elderly, children and victims of sexual offences are forced to relive their traumatic experiences; they endure robust cross-examination; this is a harsh and apathetic judicial environment for all categories of witnesses. By the time the enquiry has been completed, months and often years have elapsed, but that is not all, Mr. Speaker.

The accused still has to wait for his trial at the criminal sessions of the assizes to begin. This wait is often made all the more punitive where the accused has been denied bail, cannot afford the bail which has been set, or is on trial for a non-bailable offence; and trust me, Members present, you will have the odd person or you will have the person who is innocent and who has fallen through the crack of the system, who remains incarcerated awaiting his trial, so that he can be exonerated of the charge.

2.30 p.m.

As it stands, there is no DNA protection for those innocent people, so that they can be exonerated without having to go through this process. So, this is but one of those measures that will stand in defence of the innocent and that will surely bring closure for those victims of crime quickly and decisively and exhibit for our country a sense of confidence that justice will be served and served swiftly. [*Desk thumping*]

The reason we often hear that an accused is now facing trial years after having committed a serious offence, Mr. Speaker, is that, at the beginning part of the

criminal justice system, we have systemic deficiencies. Of recent note is a 27-year-old case of larceny. Previous legislative attempts to address these problems were ineffective. The paper committal system is one such example. Such a system was first introduced in 1994 and again an attempt was made in 2005, on each occasion, by those on the other side of this House.

It was then felt that, by introducing the witness statements of accused persons, instead of having such witnesses attend court to give oral evidence, a reduction in the length of the hearing would be achieved. This, however, did not help in eradicating delay since the legislation made provision for cross-examination of the maker of the statement and a full preliminary enquiry inevitably resulted. Accordingly, Mr. Speaker, a complete overhaul of the procedure was seen by our Government as critical, crucial and urgent. Our Government heeded the call of stakeholders to abolish preliminary enquiries. In so doing, we have followed the international community in reforming this pretrial process.

Since 2001, committal proceedings for indictable offences in the United Kingdom were abolished and new provisions were introduced in the Crime and Disorder Act, 1998. Similarly, Antigua and Barbuda amended its magistrate's code of procedure and St. Lucia introduced criminal procedure rules. These measures effectively abolished preliminary enquiries and imposed sufficiency hearings. From all accounts, the new system in these territories has been working effectively and the intention is to have similar changes in other OECS countries.

The new procedure proposed for Trinidad and Tobago provides for a case management system, which would force cases to move quickly through our courts. It will hold sacrosanct the human rights of unconvicted, accused persons, who would otherwise remain in jail with the weight of a criminal charge over their heads, by eliminating their torment and that of their families who suffer for extended periods for want of closure. This reform initiative will remedy the obvious defect of the system as now obtains through the achievement of swift justice.

Our Government realizes this intrinsic necessity and, what is more, there has been an overwhelming support for this initiative. I wish to quote first from the Honourable the Chief Justice of Trinidad and Tobago at the opening of the law term on September 16, 2011, when he said, and I quote:

“In the area of Court Procedures, there are major changes that have been in the planning stages and will be rolled-out in the coming year.”

That is September 16.

“The most significant will be the elimination of Preliminary Inquiries. Draft legislation has been prepared after extensive consultation and I am assured that it will be brought to Parliament within a few weeks.”

Like my friend, the Member for Chaguanas West, I say, “Delivered here today! Done!”

“This is expected to bring a major transformation to the criminal litigation landscape. The best available statistics show that, at present, it takes 5½ years, on average for an indictable matter to move from the stage of the laying of the information to the filing of an indictment in the High Court.”

I am still referring to what the Chief Justice has said.

“Historically, this has been due, in part, to a lack of resources, but it has exposed witnesses to undue risk and eroded the quality of testimony and delivery of justice as a whole by the mere fact of delay. We confidently expect”—the “we” meaning the judges of Trinidad and Tobago—“that, with the employment of the criminal case management rules that have been proposed, the average age of indictable matters in the system will fall drastically, thereby ensuring speedier justice. It will also have a knock-on effect at the level of the magistrates’ courts...As some of that workload is reduced it is expected that magistrates will be able to devote more time to summary trials, thereby reducing the average time to completion.”

Mr. Speaker, we have the support of the Judiciary behind this measure. I also cite from the *Trinidad Guardian* an article dated October 05, 2010, entitled “Lawyers all for end to preliminary inquiries”. The article reads, and I quote:

“President of the Law Association of T&T, Martin Daly, says he supports plans by Justice Minister Herbert Volney to do away with preliminary inquiries at the magistrates’ courts. In a telephone interview yesterday, Daly said since the middle of 2009 the association gave its written consent to the abolition of inquiries.”

Even Opposition Senator Pennelope Beckles-Robinson, an attorney, who practises extensively in the criminal courts of Trinidad and Tobago, and as I stand here, I do not see a single attorney on the Opposition side who has probably walked into a Magistrates’ Court and stood at the Bar representing a person charged with a criminal offence.

This is what she said, and I quote:

“Opposition Senator Penelope Beckles”—

This is reported on online *Trinidad Express* on March 02, 2011, that is this year. She noted the current backlog of cases at the Magistrates’ Court. She spoke of the need for proper case management and steps to target increased efficiency of the justice system.

Mr. Speaker, this Bill has answered the clarion call of many. I am certain that my colleagues on the other side, who have taken the time to read the legislative measure and to understand that it will not be parsimonious and that it will rise—the *de jure* and *de facto* leaders opposite included—in order to support the measure as well as support the measures we wish to adopt to improve the workings of our criminal justice system.

This country and this House would very much like to hear what the Opposition has to say on this measure. This country would very much like to hear what the hon. Member for San Fernando East, who has the longest standing in this House, has to say on this measure; not outside of the Parliament, but on the floor of this Parliament. [*Desk thumping*]

Permit me, Mr. Speaker and hon. Members, now to address you on the salient aspects of this Bill. The Bill, which is divided into four parts and comprises 35 clauses, would be inconsistent with sections 4 and 5 of the Constitution and is, therefore, required to be passed by a special majority of three-fifths of the Members of each House of Parliament.

Our Constitution recognizes that Parliament may abrogate the rights provided under the Constitution where the measure is reasonably justifiable. It is well established in every democratic society that the rights of the individual must be balanced against the interest of national security, the public, the economic well-being of the country and the effective functioning of our criminal justice system.

When these interests conflict, the public interest or the common good must prevail where reasonably justifiable. It is sometimes necessary, therefore, that individual rights are abrogated where there is a threat to the public good. In other words, Mr. Speaker, the rights of each individual must be balanced against the right of the State to protect all individuals collectively.

I will now address those provisions of the Bill, which would be inconsistent with the Constitution. Clause 31 of the Bill would restrict the printing or publishing of information regarding certain matters at a Sufficiency Hearing. This

provision would, therefore, be inconsistent with the right of freedom of the press, which is guaranteed in section 4(k) of the Constitution.

It should be highlighted that the present Indictable Offences (Preliminary Enquiry) Act does have a provision at section 41, which is similar to clause 31 of the Bill. However, the penalty for contravention of this clause has been increased from a fine of \$2,000 or imprisonment for four months to a fine of \$250,000 and imprisonment for five years, as it was felt that the current penalty was an insufficient deterrent.

Also, information about witnesses cannot be published and this is necessary in the interest of safety in order to protect the identity of witnesses. Mr. Speaker, freedom of speech and of the press is an intrinsic right, which every democratic nation must guard jealously. The right to free speech is thought to be protective of our most basic and inalienable right. No right is unlimited in scope, however, and freedom of speech and of the press does not include the right to libel or slander another person; to intentionally inflict emotional distress and intrude on personal privacy; or to incite public disturbance, for example.

2.45 p.m.

This restriction, therefore, Mr. Speaker, is essential to protect the integrity of proceedings in serious criminal matters and witnesses who are essential to the proceedings. Additionally, clause 4 of the Bill will interfere with the concept of due process of law.

In the case of *Hilaire v Baptiste*, their Lordships of the Privy Council stated:

“The right to be allowed to complete a current appellate or other legal process without having it rendered nugatory by executive action before it is completed is part of the fundamental concept of due process.”

I think, perhaps, the Member for La Brea would like me to read that over so he could understand it.

“The right to be allowed to complete a current appellate or other legal process without having it rendered nugatory by executive action before it is completed is part of the fundamental concept of due process.”

Provision is made in clause 4 of the Bill to allow pending cases to benefit from this new procedure, where either party so chooses. Once there is such an election the matter must be transferred to the High Court. Mr. Speaker, it is submitted that the power of the prosecutor to terminate a preliminary enquiry without the consent of the accused, in the event that the enquiry is proceeding in his favour, would be inconsistent with the concept of due process. But as I mentioned earlier, Mr. Speaker, these freedoms enshrined in our Constitution are not absolute.

The legislative objective of this Bill is to ensure that an accused person is before the court without delay, and that the matter proceeds in a timely fashion, as opposed to the accused sitting in a prison cell for years awaiting his day in court.

Although some of those persons in prison may eventually be found guilty of the offence charged for others who are innocent but are forced to sit behind bars awaiting the determination of the matter, it is, indeed, a grave injustice that they are forced to endure at the hands of the present slow-moving criminal justice system. For the vast majority of cases, the accused will elect to benefit from this new system.

For the very first time, the accused is able to benefit from a fast track criminal procedure that intends to expedite the trial process and significantly reduce the time spent in the remand yard. Mr. Speaker, even though the Bill gives the prosecutor the power to terminate a preliminary enquiry, one must consider that the new procedure still affords the accused a right to a fair trial.

Those opposite may wish to argue that in the event where the prosecutor chooses to bring proceedings under the new law it would be unfair to the accused if he opposes. I would like to draw their respective attention to the case of *Hilroy Humphreys v the Attorney General of Antigua and Barbuda*, reported in 2008 Privy Council reports. In that case, the appellant Mr. Humphreys was charged with indictable offences at the time when preliminary enquiries were in existence under the law in Antigua and Barbuda. The law was later modified and preliminary enquiries were substituted by committal proceedings similar to that which is being proposed in the Bill before this House. It provided that the magistrate would make the decision to put the accused on trial or discharge him entirely on the basis of written witness statements and exhibits submitted by the prosecution, and if he chooses to submit them, by the accused as well. There is no right to cross-examine or call or give evidence. The new procedure applied to Mr. Humphreys' case; he brought judicial review proceedings claiming that the abolition of the preliminary enquiry infringed his constitutional rights. The Privy Council held:

“...defendants in criminal proceedings do not have a vested right to any particular procedure and there will generally be nothing unfair in applying whatever procedure is in force when the case comes to court.”

Mr. Humphreys also argued that the abolition of the preliminary enquiry deprived him of the right to a fair hearing guaranteed by the Constitution of Antigua and Barbuda.

On that score the Privy Council held:

“It is one thing to say that if the procedure for bringing someone accused of an indictable offence to trial includes a preliminary inquiry, that inquiry must be conducted fairly, by an impartial court and so forth. It is another thing altogether to say that one cannot have a fair hearing without a preliminary inquiry. In the Board’s opinion it is a mistake to argue that because the old system provided a fair hearing, the change or abolition of some element of that system results in the new system being unfair. Systems of criminal procedure may differ widely without being unfair.

The question is not the extent to which the new committal proceedings differ from the old preliminary inquiries but whether the new system of committal proceedings and trial, taken as a whole, satisfies the requirements of section 15(1).

The question in each case is whether the requirements of a fair hearing are satisfied. The Board agrees with the Court of Appeal that they are. The committal proceedings are not determinative of guilt but act as a filter to enable the magistrate to screen out those cases in which there appears insufficient evidence to justify a trial. They are conducted by an independent magistrate to whom both sides may submit evidence and make submissions. The restriction to written evidence applies to both prosecution and defence. The specific requirements...of the Constitution are all satisfied by the composite procedure of charge, committal proceedings, indictment and trial. In particular, the accused is entitled at the trial to cross-examine the prosecution witnesses and give oral evidence in accordance with section 15(2)(e).”

Mr. Speaker, this explicit judgment delivered by the highest court in our land, the Privy Council, categorically affirms that the abolition of preliminary enquiries does not infringe upon the right to a fair trial. And this is the Privy Council, this is not any European Court of Human Rights, this is the Privy Council; this is our highest authority; our highest court in Trinidad and Tobago.

Part I of the Bill comprises clauses 1—10, and would provide for preliminary matters. The Bill will come into operation on such date as is fixed by the President, by proclamation. This is essential, Mr. Speaker, because our Government is not unmindful of the fact that the agencies involved in the criminal justice system must be au courant with the new procedure and be able to facilitate the changes.

There is need for greater efficiency on the part of the police in gathering admissible evidence. The Forensic Science Centre, in processing that evidence, the DPP's office in promptly bringing the case before the court and the Judiciary, itself, in ensuring that there are no obstacles in expeditiously dealing with the cases. Mr. Speaker, granted that the agencies would require time to put their houses in order, the Bill will come into force once all procedural and administrative support mechanisms and initiatives are in place to facilitate the effective operationalization of the Bill.

Our Government is aware that the delay must not be shifted from one area to another. We do not want the cases to go quickly to trial, and then get clogged by an overburdened High Court. This is precisely why the Government has already embarked on projects that will result in the construction of four additional High Court buildings; each with four High Courts; purpose built, state of the art High Courts, two in east Trinidad; that is one in the Trincity area and one in the Sangre Grande area, one at Carlsen Field in the central part of Trinidad, and another in Siparia to cater for the large number of cases that would soon be ready for trial.

Mr. Speaker, the Indictable Offences (Preliminary Enquiry) Act has been on our law books since 1916. Certain provisions of this Act have been retained in the Bill such as the law relating to search warrants, summons and arrest warrants are not contained in this part of the Bill.

Clause 6 would provide for the institution of proceedings, Mr. Speaker, after consultation with the Judiciary and the Director of Public Prosecutions. This Bill which is unique and indigenous and allows proceedings to be instituted by an indictment filed by the Director of Public Prosecutions where he so chooses. This would apply in cases where the DPP has all the relevant information and evidence at his disposal from inception and he would have conducted an evidential assessment of the case.

Clause 8 would provide for arrest warrants. Where an accused is apprehended upon a warrant he must be brought before a judicial officer without delay. And where there is delay the police officer will be required to provide reasons for the delay. The intention here is for persons who have been arrested, for the commission of indictable offences, to be brought promptly to the High Court. There may be instances, however, where it will be more practical to bring the accused before a magistrate, for instance, where the person has been arrested in outlying districts and immediate access to the High Court is impractical. In such an instance, the accused would have to be brought before the magistrate and thereafter transferred to a master whose functions are set out in Part II of the Bill.

Clause 10 would provide for the concurrent jurisdiction of masters and magistrates. The role of the magistracy in preliminary proceedings such as issuing summons, arrest warrants and search warrants is critical to the efficient functioning of the process, and the Bill preserves these functions.

Part II of the Bill, Mr. Speaker, comprises clauses 11 through 18. Clause 11 would provide for an initial hearing to be held before a master of the High Court. Suitable persons for this position will be selected by the Judicial and Legal Service Commission. The number of masters and the extent of their role will be a matter for the Judiciary. Masters will relieve the burden on High Court judges who will be focused on presiding over trials. The introduction of this new office of criminal master has several advantages. The post allows for upward mobility of magistrates, and also ensures that the indictable offence case management is not bifurcated in any way between the Magistrates' Court and the High Court.

Magistrates would now be able to concentrate on summary trials as judicial time at the Magistrates' Court is currently at a premium. At the initial hearing, Mr. Speaker, preliminary issues will be addressed. The master would also entertain applications for bail and adjournments at this stage. Arising from the initial hearing will be a document called a Scheduling Order which is set out in Schedule I of the Bill.

It introduces case management features to the criminal justice system. One of the substantial reasons for delay in the progression of a hearing is the absence of legal counsel.

3.00 p.m.

The Scheduling Order would specify the dates by which the accused must retain an attorney-at-law or a legal aid attorney who must be appointed. The Legal Aid Authority must satisfy an order of the court to appoint a legal aid counsel within three weeks of the initial hearing. This three-week time frame is realistically feasible, given that the representatives of the Legal Aid Authority suggested it. The Scheduling Order would also set time frames for disclosure by the prosecution and the defence. The parties are expected to abide by these time frames which were devised after much stakeholder consultation.

The prosecution has a three-month period to file evidence it intends to use at the sufficiency hearing, and serve on the accused. The accused can utilize this three-month time frame to secure legal representation and obtain legal advice from his attorney. The accused is granted an additional 28 days after the

prosecution files its documents, to file any evidence he intends to use at the sufficiency hearing.

Currently, the time that the prosecution takes to file witness statements in certain cases is lengthy. Some notable examples which were provided by the Criminal Bar Association are as follows: in the case of Kyle Bobb, charged with murder in October 2009; first witness statement filed in October 2010, one year later; Daniel Dyer, charged with murder in December 2009, first witness statement filed in June 2010; Ravindra Maltoo, charged with murder in February 2010, first witness statement filed in January 2011. The three-month timeline would certainly serve to reduce this delay. Mr. Speaker, once these documents have been filed, and served by the prosecution and the defence, the court has a 28-day time frame to list the matter for its next stage, which is a sufficiency hearing.

Clause 12 provides for the summary trial of certain indictable offences. The DPP would have the exclusive jurisdiction to determine whether such offences should be tried in the High Court or the Magistrates' Court. This would apply to that category of offences called "triable either way", and the offences, as currently exist, have been listed in Schedule 2 of the Bill.

Clause 13 provides for the notice of alibi. The definition of evidence in support of an alibi remains consistent with what is provided in the current law, and the accused would be required to provide this evidence within 48 hours of the initial hearing. This change in the law is as significant as it is necessary, given that in the current system, an accused is asked to give notice of his alibi within 10 days of committal which could take years during which time the notice might contain fabricated information. *[Interruption]* Mr. Speaker, there is an echo in the Chamber that is quite annoying to me. Yes, please.

Mr. Speaker: I would ask Members who are speaking, which ought not to be taking place in this Chamber, to do it in undertones so that, at least, everyone would be able to hear what the hon. Minister is saying. Continue, hon. Minister.

Hon. H. Volney: Much obliged, Mr. Speaker. In the case of the High Court of *Trinidad and Tobago v Garrison Adams, 2008*, Justice Anthony Carmona commented on the need to amend the laws of Trinidad and Tobago in relation to alibi notice. In that case, the accused was found guilty of possession of a dangerous drug for the purpose of trafficking. Justice Carmona described the alibi put forward by the accused as being bogus and based on conflicting evidence. He stated that the law in its current form afforded accused persons the opportunity to fabricate alibis and, by extension, to manipulate the criminal justice system.

Justice Carmona—a son of Fyzabad, I am told—[*Desk thumping*] further stated, and I quote:

It is the humble opinion of this court that there is a need to address this, and it can be easily done, that details of an alibi be sent to the DPP's office at the moment of arrest or at most within seven days of arrest. It is this type of stricture that will preempt the use of bogus alibis. The concern expressed by this court for prompt notice of alibi and details of same is not prosecutorial. It serves the laudable purpose of checking out the alibi of someone arrested, and once verified, the arrested man may well be freed forthwith rather than suffer the injustice of languishing in jail for months or years.

It works much in the same way, Mr. Speaker, as the use of DNA profiling to ensure that the innocent is not charged. So it can benefit the person arrested.

It certainly would prevent worms from coming out of the woodwork when the matter comes to trial.

Mr. Speaker, alibi evidence can be described in some cases as unpunished perjury. The cost to the defendant of providing pretrial notice must be weighed against the benefits which that notice affords the criminal justice system. The right against self-incrimination must be weighed against the fact, that this is a mere procedural change. The accused is still required to give particulars of his defence before the trial.

The difference is that he must now do so sooner at a time when it should be fresher in his memory, Mr. Speaker, and this is a departure from what currently obtains. It creates the possibility of and for exoneration at a much earlier stage, and avoids the accused sitting in remand when he could be a free soul. There is also the safeguard at clause 14 of allowing alibi evidence to be given at the trial, although not provided within 48 hours of the initial hearing where certain conditions are met.

Clause 16 provides for adjournments at an initial hearing. I will reiterate that masters must be alive to their responsibility to limit adjournments in order to achieve the overall objective of this legislative measure, which is the timely and efficient disposal of cases, a feat that cannot be achieved by the court readily granting adjournments without good and sufficient reason.

Mr. Speaker, Part III of Bill comprises clauses 19—31 and introduces the sufficiency hearing which is the second major stage of the pretrial process. Clause 19 provides that the sufficiency hearing must be held before a master by

providing that the master conducts this hearing as opposed to a judge, there will be no issue having to implement measures to ensure that the same judge conducting a sufficiency hearing is prevented from presiding at the substantive trial. In the overall interest of expediency, Mr. Speaker, this clause provides that a sufficiency hearing may proceed in the absence of the accused unless there is ample reason to adjourn in his absence.

Clause 20 provides for the conduct of the sufficiency hearing itself. The master must review witness statements, documentary evidence and exhibits as well as hear submissions from the prosecutor and the accused, if any, in order to make a determination of whether the accused should be put on trial.

Clause 21 of the Bill provides for the admissibility of prosecution witness statements, and the conditions attached thereto. Since the evidence being submitted that the sufficiency hearing would largely be in the form of witness statements, the Bill ensures that the removal of the right to cross-examination by the defence is balanced by certain safeguards in the form of admissibility conditions for such witness statements.

Mr. Speaker, I wish to remind you and the Members of this honourable House, that this Bill has been the subject of much consultation with stakeholders. The Criminal Bar Association has requested that witness statements be typewritten since manuscript witness statements are quite often illegible and force counsel to spend many hours deciphering their meaning. Typewritten copies of the witness statements would help to facilitate the allotted time frames and, ultimately, the speedy determination of the matter.

Further conditions stipulate that witness statements prepared outside the jurisdiction must be notarized. Where a witness statement refers to any other document as an exhibit, the statement must be accompanied by a copy of that document. Mr. Speaker, this clause further provides that depositions taken and exhibits admitted in proceedings instituted prior to the coming into force of this Act will be admissible as evidence at a sufficiency hearing. This would ensure that evidence already admitted by the Magistrates' Court at a preliminary enquiry can be utilized at the sufficiency hearing. Additionally, provision is made for audio or video recording statements, as well as transcript of proceedings before the Integrity Commission or a commission of enquiry, and evidence obtained under a mutual legal assistance treaty to be admissible as evidence at a sufficiency hearing.

Clause 24 provides for the discharge of an accused where the evidence does not disclose a prima facie case against the accused. The master is required to

state his reasons for the discharge of the accused in open court. This clause also provides for a situation where an accused is discharged, but additional evidence in support of the same offence later becomes available. In such an instance, the prosecutor may apply to a master for a further sufficiency hearing. A discharge is not an acquittal and, therefore, the accused cannot claim that there is an abuse of process. A discharge means that there was not enough evidence to put the accused on trial and, therefore, there is no issue of double jeopardy. In the interest of justice where more evidence is gathered, the sufficiency hearing would be continued. The prosecution would have seven days from the date of the application to file this additional evidence.

Clause 25 provides for an order to put an accused on trial where the master finds that a prima facie case is made out against the accused, and the order is listed in Schedule 5 of the Bill. A further case management function of the master is introduced in this clause. After the indictment has been preferred, the master must satisfy himself that the case is ready for trial, so that any outstanding matters must be dealt with to ensure that there would be no delays at the trial stage.

Clause 27 of the Bill provides for the sole discretion of the DPP to prefer an indictment. However, there is major concern regarding the late filing of indictments on the part of the DPP over the years. For instance, in the case of Prince Edwards, charged with indecent assault, committed to trial in February 2005, indictment filed in December 2009; 4 years later. Camille Dyer, charged with possession of firearm and drugs, committed to trial in 2007, indictment filed in November 2010, three years later. Justin Kendell, charged with murder in April 2001, committed to trial in August 2007, Mr. Speaker, indictment filed in June 2011, 10 years after being charged.

Leandra Clarke, charged with murder, in custody since July 2006, committed to stand trial in March 2009, still awaiting indictment to be filed.

3.15 p.m.

This delay in filing indictments has caused much chagrin not only for the accused persons and their families but also state agencies that are being approached to assist with this abhorrent situation. For instance, the Office of the Ombudsman in a letter dated July 27, 2011, sought assistance from the Ministry of Justice to determine what could be done to address complaints by prisoners regarding the inordinate delays in the service of indictments. These excessive delays are precisely why the Bill provides that in instances where the DPP does not proffer an indictment within 12 months, the accused may apply to a judge for

a discharge, and the judge may discharge the accused if having considered the reason for the delay in proffering an indictment he is satisfied that in all the circumstances of the case it would be just to do so. This would not apply to certain offences outlined in Schedule 6, such as murder and rape where the ends of justice outweigh such delay.

Mr. Speaker, clause 28 provides for an accused who wishes to plead guilty at a sufficiency hearing to be ordered for sentencing before a judge within 28 days of entering the guilty plea. In this regard, when the plea-bargaining system is reinvigorated with the necessary safeguards in it, this provision is likely to bring closure at a very early stage to those who want to see the face of justice by submitting themselves to the mercy of the court.

Part IV of the Bill comprises clauses 32 through 35 and would provide for miscellaneous matters. Clause 32 would provide for the Rules Committee established by the Supreme Court of Judicature Act to make rules of court to explicitly set out procedural guidelines in connection with the Bill.

Clause 33 provides for the repeal of the Indictable Offences (Preliminary Enquiry) Act, and also the continued application of that Act where applicable. Clause 34 provides for the discharge of the accused on the grounds of delay.

Mr. Speaker, very often a lot of judicial time is spent hearing applications for staying indictments, for quashing indictments on the ground of delay; this is a matter of grave judicial concern that I can speak of from my previous incarnation as a judge, and I can say that many times cases have had to be stayed on this ground of delay. This provision creates a mechanism that would effectively free the system of those desiccated cases that are suffering from a want of prosecution, except in the case of matters listed in Schedule 6, such as murder and rape, and what I would like to refer to as the blood crimes, where the matter commences under this Bill and has not been determined at the sufficiency hearing within 12 months after the proceedings are instituted, the master has the discretion to discharge the accused on the ground of delay.

Also, except for the offences so identified, the so-called blood crimes, where the time of coming into force of this Bill the trial at the assizes has not commenced within 10 years—and this will necessitate an amendment at the committee stage—of the proceedings being instituted, the judge shall discharge the accused.

Mr. Speaker, and Members of this honourable House, this Bill aims to put efficiency and fairness on equal footing. The criminal justice system as it

presently exists cannot be allowed to continue in this matter because it will only get worse.

The upsurge in criminal activity has contemporaneously resulted in an increase in the number of criminal charges and by extension the number of cases before the courts. Should we be favoured and the DNA Bill approved, the level of detection will be raised significantly and more matters will come quicker before the courts. This Bill decrees for a favourable intervention to alleviate the current pitfalls of the criminal justice system, without which a catastrophic result will ensue. This Bill advances a much needed revolutionary change to the justice system. Mr. Speaker, prior to the May 24 General Elections we promised this change, I promised it to the over 10,835 people from my constituency of St. Joseph who returned me. I promised it and here it is I am delivering this—[*Desk thumping*]*]*—not just for St. Joseph, but for the whole of Trinidad and Tobago. They could not do it, we are doing it—finally, it is being done.

We are talking about a paradigm shift, not simply a movement of pretrial hearings from the Magistrates' Court to the High Court, any such conclusion would be nothing short of absurd. This Bill will turn the tide of the criminal justice process, introduce robust case management principles and sanctions for non-compliance, afford justice to persons who have had their rights stifled by an overburdened system, and invest greater resources in the agencies that would drive this change.

Mr. Speaker, representatives from the Judiciary led by the Chief Justice; the Office of the Director of Public Prosecutions, led by the Director of Public Prosecutions; the Criminal Bar Association, led by the President of the Criminal Bar Association and the Law Association; the police, the prisons, the Legal Aid Authority, and the Forensic Science Centre, have all been involved in extensive consultation—this is their collective will. This is—and let there be no doubt about it—this is the Bill of those people who work in the criminal justice system—and let that be heard by those over there, by the hon. Members, my hon. colleagues on the other side, including the honourable birthday Member, the hon. Marlene McDonald of Port of Spain South.

A subcommittee of the Judiciary has been set up with key stakeholders, including personnel from the Ministry of Justice, with the mandate of formulating definitive strategies to ensure that these agencies are in a state of readiness when this very pivotal piece of legislation comes into effect. Having regard to the forgoing submissions, I commend the Administration of Justice (Indictable

Proceedings) Bill, 2011, to the representatives of the people of Trinidad and Tobago and this honourable Chamber. Mr. Speaker, I beg to move.

Question proposed.

Mr. Colm Imbert (*Diego Martin North/East*): Mr. Speaker, there is a middle class view that in countries following the Westminster system there is a creature called the loyal opposition, and I have heard this view espoused by persons who really do not understand the nature of our society. When I listened to the hon. Member for St. Joseph—I have to use the word screaming—screaming and shouting at the top of his voice and throwing words for Members on this side, he also screamed at us and told us not to be parsimonious. Mr. Speaker, the Member opposite is being “previous” as we say in local parlance, he is being “precipitate” as we say in the Queen’s English—you are taking in front.

Mr. Speaker, this legislation that we are debating today is a far cry from the DNA Bill that we debated last week. That Bill was atrocious, and that Bill was exposed not only in this place but in the other place, causing an hon. Member to utter some rather injudicious remarks which have been the subject of critique by persons within and without the media.

Mr. Speaker, the Minister of Justice—what a title—told us that this Bill is unique, it is indigenous, it is his Bill, it is new, it is all of his work, it is the work of his Government, it is a promise fulfilled, all sorts of things; the Minister however, as is his wont, did not disclose that the former Attorney General—and it is well published, well recorded in the media, it is a matter of public record from July, 2009—

Miss McDonald: July 05, 2009.

Mr. C. Imbert: —July 05, 2009, I am being told by the hon. Member for Port of Spain South. The former Attorney General had, in fact, drafted a Bill that would have had the effect of abolishing preliminary enquiries in cases of serious crime.

3.30 p.m.

I heard the hon. Member opposite tell us—[*Interruption*]

Mr. Speaker: Please, ignore that Member.

Mr. C. Imbert: Ignore him?

Mr. Speaker: Just focus on me.

Mr. C. Imbert: The Minister? I cannot ignore the Minister, Sir.

Mr. Speaker: I thought you were going to respond to what he said.

Mr. C. Imbert: No, I cannot ignore him.

There was a Bill drafted by the former Attorney General that was sent to a committee of judges to examine, and there was a series of deliberations. What the Minister has been studiously silent about is that the concern of the Judiciary, which he has not told us about, he has not disclosed, is that when preliminary enquiries are abolished there is a serious and a practical concern.

The Member for St. Joseph spoke proudly about the four state-of-the-art courts to be built. The impression he gave was that they were already built: one in Trincity, one in Sangre Grande, one in Carlsen Field, one in Siparia. Have you moved a blade of grass in Trincity, in Siparia, in Sangre Grande or Carlsen Field? Have you excavated a single foundation? Have you put up one profile for the construction of these four brand new state-of-the-art judicial centres? These are rhetorical questions, Mr. Speaker, because the answer is no, no, no. [*Desk thumping*] There is a concern of the Judiciary, and it is a practical concern. That is why there was an aspect of the Minister's contribution that I was very happy to hear. I was very pleased to hear a certain statement that he made—and we in this Parliament shall hold him to his words—that he would simply be moving the backlog of cases from the Magistrates' Court into the High Court.

I had the opportunity to look at a report done on cases in the Magistrates' Court recently. If my memory served me correctly they have 10,000 new cases per year, some number like that, a significant number of which have all the requirements for a preliminary enquiry. So that once this Bill is passed, you are going to have a situation where thousands—not hundreds, thousands of cases are going to arrive in the High Court. That is why I am holding the Minister to his words—I took careful notes—where he said that the Bill had a proclamation clause. I am glad he referred to this. Let me quote him correctly. He said, “Once all the procedural and administrative mechanisms are in place, the Bill will be proclaimed.” I am taking the Minister at his word that this legislation will not be implemented until the necessary systems are in place, so that we do not have a situation where judges in the High Court are going to have to deal with hundreds of cases.

I am not talking about the committal hearing. I am talking about the actual trial itself, because what you are doing is fast-tracking. What you have told us is that you will be fast-tracking matters. You quoted the case of *Humphreys*, which

means I do not have to quote it, where you indicated that the Privy Council had found that if you changed a procedure, that was not taking away the accused right to a fair trial, per se, that you had to look at the whole thing in context. Mr. Speaker, I am speaking to the Minister through you. In context, you have to look at what has been done and determine whether you have breached the person's right to a fair trial. It is obvious that it is the intention to apply this legislation immediately it is proclaimed of course, once it is proclaimed.

Let me qualify: as soon as you have your systems in place you will proclaim this Bill. It means that people who have matters in progress would now be subjected to the new procedure, once the prosecutor or the accused opt to do so. So you are going to have hundreds of cases going before judges, thousands I dare say, because it would take you some time to build those courts, and it would take you some time to deal with the rules.

I also noticed that the Minister did not talk about the rules at all. Let me just say at the outset, since we on this side are not going to oppose this Bill, but we have reservations which we hope the Minister would listen to, it is incumbent on us to deal with the issues that the Minister did not deal with. The Minister did not deal with the fact that in Trinidad and Tobago, unlike so many other Commonwealth jurisdictions, there are no criminal procedure rules. We do not have them. We have civil proceedings rules. They are quite detailed.

If you go to the United Kingdom, they have criminal procedure rules. I could not bring them today because those rules constitute over 300 pages in the United Kingdom. We do not have them. We do not have criminal procedure rules in force in Trinidad and Tobago today. We do not have them. One of the things we are going to ask for, that before you proclaim this Bill that we most certainly would see those procedure rules laid. I assume, like the civil proceedings rules they would be laid here so we could look at them and make sure that they are just and fair, before you implement them.

You see, there is a lot of talk about what happened in England in the 1960s and the years following, leading up to the 2002/2003 Criminal Justice Act in the United Kingdom. One of the things the Minister did not tell us was that when they abolished the system of preliminary enquiries, they introduced very stringent rules of disclosure, case management and other rules designed to give the accused a right to a fair trial. I am sincerely hoping that the Minister was not just giving us lip service here today when he told us that this Bill would not be proclaimed until the other systems are in place; because in England, unlike Trinidad and Tobago, there are rules that deal with the whole question of disclosure of evidence. I have

brought them with me, the whole question of rules relating to committal for trial, the whole question of the disclosure required by the prosecution, the disclosure required by the accused. This is Part 22 of the Criminal Procedure Rules 2011.

I have the most up-to-date copy of the Criminal Procedure Rules in England. Part 22 deals with disclosure. The prosecution in England is required to disclose his case. If there is an infringement of the rules, the accused has certain rights. The accused can ask for a review of the process, he can ask for the case to be thrown out because the rules have not been complied with. I do not know why we do not have criminal procedural rules in Trinidad and Tobago. I do not know why. I am told that some judges have prepared a draft. I was told that was done some time ago, but really we need to have these safeguards in our system if we are to agree with the proposal before the House today.

Mr. Speaker, let me see if I can lower the Minister's blood pressure, because he was screaming and throwing all sorts of words for us, anticipating that we would object to this legislation. But since it was our administration that had proposed the abolition of preliminary enquires in 2009, it would indeed be parsimonious of us to come in 2011 and object to the principle of the abolition of preliminary enquiries. [*Crosstalk*] Whatever the word is; it is not a word that I use often.

The Minister should consider himself fortunate that he is not in Jamaica, because the preliminary enquiries bill, the Bill to abolish preliminary enquiries got into some hot water in Jamaica, got into some trouble in Jamaica. The Opposition objected to it. I have an article from the *RJR News* in Jamaica, and it is of recent vintage. I will quote from it:

“On Tuesday [October 04],”—which was just last month—“legislators suspended deliberations of the Committal Proceedings Bill following objections raised by members of the Opposition.

Justice Minister Delroy Chuck, who is piloting the bill, sought the suspension after the Opposition expressed doubt about the feasibility of ending preliminary enquiries arguing that it would create new problems for the justice system.

Western St. Andrew MP, Anthony Hylton, said he could not support the bill because he was not convinced that abolishing preliminary enquiries will advance the justice system.”

What eventually happened was that debate on that Bill in Jamaica was suspended, because the Opposition objected vociferously to the abolition of preliminary enquiries.

To deal with the Minister's—let me be kind—declaration, I was going to use “boast”—that this is an indigenous, unique Bill, this is a Volney Bill, under section 12 of the Committal Proceedings Act in Jamaica, written statements of any person whose statement has been given in evidence or whose deposition may be admitted into evidence, if the person is dead, or unfit, by reason of his bodily or mental condition to attend the trial, or is outside of Jamaica and it is not reasonably practicable to secure his attendance—can be admitted into evidence. I have seen a remarkably similar provision in the Bill before us.

In fact, when one goes through the Bill, what the Minister has done, to use his words, he has culled material from various jurisdictions. I would not be rude and say he has cut and paste, but what we see here is what obtains in several other jurisdictions around the world. Because it is the trend in many jurisdictions to move away from the system of preliminary enquiries, as I said, we on this side are not going to beat up on the Minister today. Can the Minister explain to us—now, I am no fan of the media, I do not think they like me too much either, but the fact is I would like to know why are you moving the fine for publication of what has taken place in a preliminary enquiry from \$2,000 or imprisonment for four months, to a fine of \$250,000 and imprisonment for five years? This is a draconian change.

I would like the Minister in his summation to explain to us why the fine is moving from \$2,000 to \$250,000 and from imprisonment for four months to imprisonment for five years, if the media is injudicious enough to publish details with respect to a sufficiency hearing, other than the name, address and so on, of the person. That seems to be the kind of penalty for trafficking in narcotics or it comes out of the integrity in public life legislation. Mr. Speaker, \$250,000 and five years jail if you dare to publish the proceedings of a sufficiency enquiry, other than the name and address of the person? I think the Minister should explain to us, because there are protocols and there are formulae with respect to penalties, with respect to the severity of the offence. Perhaps you could explain to us when you are winding up, why you consider this offence to be so severe that you want to increase the penalty to such an extent.

The other point that struck me in the Minister's statement, and he spent some time on this, was a clause that bothered me; the one that deals with the question of alibi. In the question of alibis, this is clause 13(1):

“At an initial hearing, a Master shall address the accused in the following words or words to the like effect: ‘I must warn you, that you shall not be permitted at trial to give, or to call witnesses to give, evidence of or in support of an alibi, unless you have earlier given particulars of the alibi and of the

witnesses in support thereof. You may give those particulars now to this Court or in writing to the Director of Public Prosecutions within forty-eight hours.”

3.45 p.m.

Now this clause replaces the clause in the existing law, which is clause 16 A. And in 16(1) of the existing Indictable Offences (Preliminary Enquiry) Act it states:

“...You may give those particulars now to this Court or in writing to the Director of Public Prosecutions not later than ten days from the end of these committal proceedings.”

As the Minister has quite rightly said, the preliminary enquiry proceedings, now, take a long time, and we have some very controversial preliminary enquiries progress. Some of the enquiries have attracted comments from all sorts of people. We have the Piarco 1 and the Piarco 2 for example, those preliminary enquiries have been going on for a long time. I think Piarco 2 started some time ago and is still going on.

So there are cases in our local jurisdiction where it does appear that persons who have access to lawyers, and access to advice, can stretch out the length of a preliminary inquiry. There are cases, I have just given you two—Piarco 1 and Piarco 2—and I would most certainly have thought that the Piarco 1 and Piarco 2 cases could have benefited from a law of this nature because those matters may have gone to trial long ago and decisions already made and so on and it might have continued throughout the appellate court and so on.

But in the existing law a person is entitled to give particulars of alibi witnesses 10 days after the end of the preliminary enquiry. So, let us say that a preliminary enquiry goes on two or three years, then the person has two or three years to give particulars of the alibi witnesses. Now you are going to tell the person that at the initial hearing—this is not the sufficiency hearing, this is the initial hearing—we are just writing down the particulars of the case, what are charges, what is the name of the accused and things like that; you are telling this person at the initial hearing that they have 48 hours to advise the DPP of their alibi witnesses.

Now, I am a bit concerned about that. You have gone from a situation where a person has a considerable length of time, too long, as you correctly say, now you are giving him two days to come up with alibi witnesses.

There is a clause, Mr. Speaker, the next clause, clause 14 does give some protection to a person who finds himself before an initial hearing and cannot give

the alibis within 48 hours but, Mr. Speaker, I would ask the Minister to take another look at that. If you think that two days is sufficient time, people may be traumatized: find themselves in handcuffs, find themselves before a court, they may have been beaten, they find themselves before the master and they have two days to come up with their alibi witnesses.

I would ask the Minister to take a look at that and I would suggest a little longer time. I see no reason why you cannot have the 10 days that is in the existing law, but 10 days from the start of the initial hearing; but that is up to you. Those things, I am sure, will be tested in due course because when we go to clause 14, Mr. Speaker, the question of whether an accused person can produce an alibi witness later on, that he has not disclosed at the initial hearing, is up to the court.

So I am sure that this is going to be tested in due course: whether 48 hours is sufficient, whether that is enough time when a person is before the court that you tell him that he has two days, come up with the alibi now. We shall see whether that is so or not.

Mr. Speaker, if we on this side are going to not oppose this legislation, I think we need to do what the Minister did not do, and that is to let the wider population understand exactly what we are about here today.

One of the things that struck me when I was looking at the whole question of the abolition of preliminary enquiries was, why did you have a preliminary enquiry in the first place? Why did the jurisprudence, why did the laws throughout the Commonwealth allow for preliminary enquiries in the first place? And what has happened now that would lead us to conclusion that you no longer should have preliminary enquiries?

The history of preliminary enquiries goes back, yes, it has its genesis in its present form, in the form that we find ourselves in the Indictable Offences (Preliminary Enquiry) Act in Trinidad and Tobago—it dates from the Prisoners' Counsel Act of 1836, and the Indictable Offences Act of 1848. That is what my history tells me, correct? I thank you I see you acknowledge that I can do some research.

So that we are looking at a system of preliminary enquiries that dates back 180 years—1836, 1848—and what are the features of the preliminary enquiries that we are taking away? The main feature, Mr. Speaker, is the right to cross-examination. That is the main feature because what causes these preliminaries

enquiries to go on for a very long time, not just the fact that a person is entitled as of right to call and cross-examine witnesses, Mr. Speaker, what happens is that it is giving of evidence by the prosecution and the cross-examination of that evidence by the defence, and the giving of evidence by the defence and the cross-examination of that evidence, those witnesses by the prosecution. This is what takes the time, Mr. Speaker.

The Minister himself spoke about it. He said one of the reasons why we have to do this is that you know, all of this delay, witnesses are old, they forget, witnesses are intimidated; it gives people time to cull witnesses, you know, to go and coerce witnesses into giving false testimony or withdrawing their testimony and so on. That is what he said.

And what we are about today, if I could summarize in one paragraph, what we are effectively doing is creating a paper committal system that removes the right to cross-examination of witnesses at the committal stage. And I do not know why the Minister would want to say that that is not so, because that is what this Bill is doing.

So, in the old system it was recognized that a person could be set up, you get charged for a matter, you could be set-up, there could be no case against you, there could be no evidence against you, they just pick up you and charge you, and for that reason, Mr. Speaker, it was believed at the time that the person would have a right to test the evidence, to see whether the prosecution witnesses are lying, to see whether they even exist, to see whether the prosecution really has evidence that could lead to a conviction. That is where this preliminary enquiry thing came from.

What we are doing today in this legislation is taking away that right. What we are replacing it with, Mr. Speaker, is a system of statements, written statements and oral submissions by attorneys; that is essentially what this is all about. It is a whole series of procedures that lead to written statements being tendered to a master, the master would examine the written statements together with other evidence, and he would receive oral submissions from the prosecution and the defence—the lawyers. But the accused cannot face his accuser; the accused cannot cross-examine and test prosecution witnesses.

That is why, Mr. Speaker, there has been so much heated debate about the abolition of preliminary enquiries. There is nothing new about this, you know. Jurisdictions all over the world have argued as to whether you should abolish preliminary enquiries or not. All over the world jurisdictions have argued about this for years and years and years.

I looked at Australia, they argued about it for 100 years, from 1902 they were quarrelling about preliminary enquiries and whether they should be abolished or not. Whether you should have a hybrid system, and I would like the Minister to tell us why he has not considered a hybrid system. Because there are some jurisdictions, primarily in Australia, there are some jurisdictions where the judge has the right to order cross-examination of witnesses if the judge is of the view—in this case it would be the master—if the master is of the view that it is necessary. He looks at the statements and he might find that a witness statement tendered by a prosecution witness, or even a defence witness, is so outlandish that he thinks that it is necessary to put the witness in the box and establish whether the person is credible or not.

So, could the Minister, through you, Mr. Speaker, tell us why you have not adopted that hybrid model that finds itself in many jurisdictions where the judicial officer is entitled to make a decision as to whether he would call witnesses for cross-examination or not, and why you are going to a straight paper committal?

Just tell us. There are other jurisdictions with straight paper committal. I am asking you, in the Bill, why are you going to a situation where there is no cross-examination of witnesses at all?

Mr. Speaker, there are jurisdictions that have decided to go this way. I would say what the Minister has come up with is one of the more extreme approaches to committal proceedings in the Commonwealth. One of the more extreme approaches because there have been many, many discussions on the whole question of what should be done to reform the criminal justice system in the Commonwealth, in countries as I looked particularly, Mr. Speaker, at what has been taking place in Australia and New Zealand. There has been substantial debate, there has been public consultation, there have been papers written on it, there have been all sorts of proposals as to what should be done with respect to the reform of the criminal justice system.

I have here a paper—and this is recent vintage—Report No. 34, Northern Territory Law Reform Committee, looking at the whole question of preliminary enquiries and why we should abolish them or not, as the case may be; what are the functions of a preliminary enquiry. And let me just read from this:

“Historically the primary function of a preliminary examination—preliminary enquiry—is to screen charges to ensure that a defendant does not stand trial unless there is a sufficient case against him or her.”

Now, what the Minister is doing is putting in a charge-screening system, calling it a sufficiency hearing, but taking away the right of the prosecution and the defence to cross-examine witnesses, and sending the person straight to trial after the master looks at the papers and says, all right, you have a case to answer.

And this has engendered tremendous debate in the Commonwealth. As I said in Jamaica, the Minister of Justice did not have it so easy; the Opposition protested vociferously. I have another article here from Jamaica:

“Debate on Committal Proceedings Bill heats up.

Veteran Parliamentarian and attorney-at-law, Robert Pickersgill, has thrown cold water on a bill which, if passed, will abolish preliminary enquiries in the local justice system.

The House of Representatives” this is in Jamaica—” resumed debate on Tuesday, September 27 on the Committal Proceedings Bill, which was brought for debate last week by Delroy Chuck, the Minister of Justice.

Mr. Pickersgill stated he was not convinced that if the bill is approved in Parliament it would reduce the back log of court cases.

The former Cabinet Minister instead argued that he foresees further problems being created in the justice system.”

And it is the same issues that we have here.

4.00 p.m.

“The fast tracking of cases from the resident magistrate’s court will cause”—sic—“a bottle neck to be in the high court. We don’t have enough courtrooms,”—well, in Jamaica, he said—“we are borrowing the seabed building at the moment for two additional courtrooms and we don’t have enough high court judges, crown counsel to take the traffic of cases which will be fast tracked to the high court islandwide...”

So, in Jamaica the Government has run into serious opposition with respect to the abolition of preliminary enquiries, serious opposition. [*Interruption*]

No, you do not. [*Interruption*] No, you do not, and we are not seriously objecting to this Bill, Mr. Speaker. [*Laughter*] We are not seriously objecting to this Bill. But, the fact of the matter is, Mr. Speaker, as I said, it is incumbent on the Opposition to go into the whole concept of what a preliminary enquiry is, why you have a preliminary enquiry and why one would want to abolish a preliminary enquiry. It is a fact, I got the impression that the Minister was quoting from a

book without stating the source; that is a bit of plagiarism there. I have in front of me an extract from a book called *Commonwealth Caribbean Criminal Practice and Procedure*, by someone we know well, Dana Seetahal SC, page 172—the learned attorney deals with the abolition of preliminary enquiry, and while I am on it, for your information Minister, the President of the Law Association is Dana Seetahal SC, not Martin Daly SC. [Interruption] You were not talking then; you were not talking then.

In that book on page 172, under the rubric “Abolition of Preliminary Enquiry,” the book reads as follows:

“The Antigua Magistrate’s Code of Procedure (Amendment) Act, 13 of 2004, became law in November 2004. It provided for substantial changes for procedure in the magistrates’ court. Among them was the effective abolition of preliminary enquiries which are now replaced by what are termed “committal proceedings”. A new section 42(A) was created which provides:

“All committal proceedings shall be instituted under the direction of the Director of Public Prosecutions by the filing of—

- (a) one or more written statements of witnesses in support of the charge; and
- (b) a list of exhibits...”

As was recognized by the Privy Council in *Hilroy Humphreys v The Attorney General of Antigua and Barbuda*—that is why I said I thought you were quoting without giving the source—Privy Council No. 8 of 2008, there is now no longer any right to the oral hearing of evidence or cross-examination. The defence only has an option after being served with the evidence to make submissions in law.

And it goes on to talk about the *Hilroy Humphreys* case.

In St. Lucia the Legislature has gone one step further and removed any decision-making authority from the magistrate. By Act No. 11 of 2008, St. Lucia amended the criminal code to create one criminal division. The amendment Act also enabled the Chief Justice to make rules of practice and procedure in criminal matters. These amendments convey the essence of the new procedure that replaces committal proceedings. There are no longer committal proceedings in the magistrates’ court.

The St. Lucia Criminal Procedure Rules contained in Statutory Instruments Nos. 115 and 116 and effective in December 2008, set out in detail the procedure

that must be followed at both the initial hearing before the magistrate and the sufficiency hearing before the judge.

Where are the rules, Minister? Mr. Speaker, through you, where are your civil procedure rules? You seemed to have copied the St. Lucia legislation. You seemed to have taken the bulk of your legislation from St. Lucia and bits and pieces—[*Interruption*—yes, criminal procedure—and taken bits and pieces from Jamaica and other places. But, in St. Lucia, Mr. Speaker—[*Interruption*] Well, as I said, I would not say that he is cutting and pasting; he is just being very selective; he is just going into various jurisdictions and cutting out what they have in their law and bringing it here—

Hon. Member: Harvesting.

Mr. C. Imbert:—harvesting legislation from other jurisdictions and bringing it here for us. [*Laughter*] Therefore, the Minister’s claim that this is indigenous, that this is the Volney Bill, is a bit—[*Interruption*—what shall I say? [*Interruption*] I am trying to use a word that is not unparliamentary, Mr. Speaker.

Hon. Member: Untrue.

Mr. C. Imbert: Untrue. I think “untrue” is the word I can use. But, Mr. Speaker, what the Minister did not tell us as well, is that in St. Lucia there is something called a criminal code, and the criminal code has 1,249 rules in it. So, when St. Lucia abolished their preliminary enquiry they brought in a criminal code and in this criminal code—in St. Lucia, which as I said has 1,249 sections, they dealt with all of the issues such as disclosure, case management and so on.

Mr. Speaker, all the noise that the Minister made here today, until and unless Trinidad and Tobago has something similar to the St. Lucia criminal code; until and unless—this is 611 pages long, by the way, Mr. Speaker. Again, I could not print that; that is too big—we have a criminal code like the 600-page criminal code in St. Lucia; until and unless we have criminal procedure rules like the 300-page criminal procedure rules in the United Kingdom; until and unless these courts are built, then, all we are engaging in today as an academic exercise are semantics! [*Desk thumping*]

Defence lawyers are going to “make mass” if you attempt to implement the system without putting the rules in place, without having the necessary number of judges, without having the necessary facilities, without having the support staff, the judicial service officers and all of the apparatus that goes with a judge. A judge is not just a single person; there is an entire bureaucracy that surrounds a

judge, and the hon. Member for St. Joseph, through you, Mr. Speaker, he was a judge, so he would know of the infrastructure that is required to support a judge. He would know that by sending all of these cases up to the High Court now, he would be sending hundreds, perhaps thousands, of cases into the system in the Supreme Court.

He would know that in order to manage a system like that you need a lot of infrastructure that surrounds every master and every judge. He would know it would take years? How long in Trinidad and Tobago do you think it takes, Mr. Speaker, with the best systems in the world to build a judicial centre? *[Interruption]* It would appear, Leader of the Opposition, perhaps, he does think it would take two weeks. But to construct a high-tech, state-of-the-art judicial centre as the Minister has said he would do in Trincity, Sangre Grande, Carlsen Field and Siparia, would take a minimum of two years, and that is if you are lucky. It could take three years, and then you have to outfit the building, then you have to equip the building, then you have to hire all of the staff and train all of the staff that have to operate within this judicial centre.

So, we are talking three/four years down the road before this Bill can be fully implemented, and the Minister knows that. He could get up in this Parliament and say it is not so. He would not be here in this Parliament when this system is fully implemented. *[Desk thumping]* Because we all notice despite the sotto voce comments from the Member for Oropouche East, about they would vote for you again, and again, and again; we all know this is the Minister's swansong. *[Interruption]* This is the last time that the Minister will be regaling us in this Parliament, Mr. Speaker. We all know that.

Mr. Warner: "Full maxi-taxi and you would see." *[Laughter]*

Mr. C. Imbert: But, Mr. Speaker, in the little time that the Minister has to deal with it, I would ask him—you know, it is not an easy thing to construct a modern state-of-the-art building in Trinidad and Tobago. It is not an easy thing to do.

I heard the Member for D'Abadie/O'Meara carrying on about what he was doing is sports. But, he has been in the office for 18 months and not a blade of grass has been moved on a number of recreation grounds in Trinidad and Tobago. *[Desk thumping]* It is easy to talk you know. It is easy to come into this House and "gran charge", gallery and carry on and say you would do this and you would do that. In the budget debate, I pointed out—

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

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

Question put and agreed to.

Mr. C. Imbert: Thank you, Mr. Speaker. As I was saying, it is one thing to get up in this Parliament and promise to do things, it is another thing to do them, and I gave the example of the very high-decibel Member for D'Abadie/O'Meara—[*Interruption*] [*Laughter*—who told us of all the things he is going to do but I know in my own constituency, the northern savannah, where I have been looking at a patch of weeds on that ground for 18 months—

Dr. Browne: Shame! [*Desk thumping*]

Mr. C. Imbert:—and I brought that matter up in this Parliament one year ago. One year ago I brought it as a matter on the Adjournment and the weeds have stayed there for 12 months. [*Interruption*] So, it is one thing to say you are going to build four judicial centres and it is another thing to actually build them.

Mr. Volney: “Watch I!” [*Laughter*]

[*Member scoffs*]

Mr. C. Imbert: You hear the Minister proudly proclaim, “watch me, watch me.” [*Interruption*] You cannot even draft a proper DNA Bill, you could build four judicial centres? [*Desk thumping*] I tell you! [*Crosstalk*] What is that you said, the contract was awarded in a bar? [*Interruption*] “Nah, I not in that, I ent come for bacchanal today.” [*Laughter*]

Mr. Speaker, there is a document I have here which goes into some great detail on an examination, as I said, of the procedure in Australia with respect to preliminary enquiries. In fact, it is the country in the world where this thing has been most hotly debated, as I said, for over 100 years. At the end of this document, it is called, “Preliminary Hearings” they gave a number of options, and perhaps the Minister, if he is so minded, if he is not uptight—[*Interruption*—because, remember, Mr. Speaker, we are taking away people's rights. This Bill requires a special majority, and this Government, having 29 seats, is clearly of the view that it can come to this Parliament every Friday and bring a Bill that would take away fundamental rights that are enshrined in sections 4 and 5 of the Constitution and just use their majority and pass bad law. [*Desk thumping*]

We are taking away people's rights! *[Interruption]* And, Mr. Speaker, if we are going to participate in that, we need to let people understand what is going on, why it is being done and why it is considered necessary in certain circumstances. So, in Australia they looked at various options after a long examination of the whole question of preliminary enquiries and what should be done with them, because the general consensus was that something had to be done. There is absolutely no doubt, the previous Attorney General thought so and that is why he drafted a Bill and submitted it to the Judiciary for discussions and the current Minister of Justice thinks so, and, as I said, we on this side are not going to oppose this Bill.

But the option that they examined in Australia was "Option A"—easiest of all—"Retain preliminary hearings without"—any—"significant change." But, the paper says: "There are compelling arguments in favour of reassessment of the preliminary hearing's usefulness and there is considerable scope for reform." So, they "dissed", to use the local parlance, they dismissed Option A, they decided they are not doing that. "Option B: "Limit the offences for which a preliminary hearing is available". I would like the Minister to talk to us about that. There are jurisdictions where preliminary enquiries are abolished for serious fraud, serious crimes, but not all indictable offences, and perhaps the Minister can explain to us why, in this legislation, you are removing the PI in all indictable offences. *[Interruption]* For all!

4.15 p.m.

And, Mr. Speaker, for those who do not know, an indictable offence is just like a felony in the United States, it is a serious crime, that is all it is. It is just the English have a way with words. They use the word "indictable" and you wonder what is that, what is the magic in that. There is no magic in it. In Trinidad and Tobago we actually define indictable offences in legislation, so that we determine whether an offence has to be prosecuted in the High Court or summarily in the Magistrates' Court or either way, as the Minister has told us, it can be tried either in the Magistrates' Court or in The High Court. It depends more, by and large, on the severity of the offence, the complexity as well of the offence, Mr. Speaker.

"Option B: Limit the offences for which a preliminary hearing is available." The paper tells us:

"This course has been taken in several jurisdictions. England has decided that preliminary hearings should not be available in cases of serious or complex fraud which may result in lengthy trials and are proved largely by the production of voluminous amounts of documentary evidence..."

So, Piarco 1 and Piarco 2 for example, fit that. Those are complex fraud trials where you have voluminous documentation. In fact, I am told it is millions of documents. I think that was the—not thousands, millions of documents have been produced in Piarco 1 and Piarco 2.

“or sex offences or offences of violence or cruelty committed against children. In each case the restriction is based upon specific public policy consideration.”

So could the Minister tell us, Mr. Speaker, through you, what is the public policy that has driven the Government to abolish preliminary enquiries for all indictable offences? And if I am not correct you can—I will give way and you can tell me if I am—okay, so you have agreed that you are abolishing the preliminary enquiry for all indictable offences. And what is the public policy consideration, because in England they take these things very seriously. You have to have a declaration of public policy, a declaration of policy on the part of the Government, that it is in the interest of the public to have preliminary enquires abolished for specific crimes. What is the public policy consideration in Trinidad and Tobago? I hear the Minister say, paradigm shift. Well, perhaps you can elaborate on that in your winding up.

But they go on to say—they critique the Option B to say:

“...the usefulness of a preliminary hearing depends not on the particular offence but on the issues to be raised at trial, and blanket limitations may deny the benefits of a hearing to those cases which would benefit the most.”

“Option C: Retain preliminary hearings, but alter them to improve their effectiveness as a ‘charge-screening’ mechanism.”

More or less this is what this Bill is doing, although there is the removal of the right to cross-examination.

“Some jurisdictions have raised the threshold test for committal, from that of a ‘*prima facie* case’ to one requiring assessment of whether there exists a ‘reasonable prospect of conviction’...”

And there is something in the legislation I would like the Minister to explain to me, because when you go to that particular clause in the Bill, where we look at the instructions that the master is being given or the guidelines or rules that the master is going to be subjected to, I see a mixture of a *prima facie* case and conviction.

And clause 23:

“For the purposes of a sufficiency hearing, a *prima facie* case against an accused is made out where a Master finds that the evidence, taken at its highest, is such that a jury, properly directed, could properly return a verdict of guilty.”

So I am seeing here that there could be a situation where the bar is being raised beyond a basic *prima facie* case. But the Minister, could of course elaborate on that. So let me go back to Option C:

“Some jurisdictions have raised the threshold for committal, from that of a ‘*prima facie* case’ to one requiring assessment of whether there exists a ‘reasonable prospect of conviction’, in order to make the preliminary hearing a more effective charge-screening mechanism. Fewer matters relying on testimony of questionable weight will be committed to trial. Also, the prosecution would be obliged to present more than a bare case for committal, thus providing greater disclosure to the defence of the case against it.”

On a simple English reading of clause 23, I do get the impression that you are requiring the prosecution to present more than a bare case for committal. But, as I said, I would like the Minister to confirm or clarify that matter.

“On the other hand,”—and this is why that clause was drawn to my eyes—“raising the threshold for committal has created its own problems of interpretation and application in the jurisdictions which have adopted that course. If the enquiry focuses upon the likelihood of conviction after trial, the magistrate may be required to sit as a ‘hypothetical jury’, and so usurp the function of the jury.”

So are you asking the master, by clause 23, that the master find that the evidence taken at its highest is such that a jury, properly directed, could properly return a verdict of guilty? Are you asking the master to perform in some way the functions of a jury?

So in all seriousness, Mr. Speaker, I know the Member for Oropouche East has a problem with the word serious, but in all seriousness I would ask the Minister to re-examine the words in clause 23, and see whether you are not putting yourself into trouble. Because when you have these types of words, the preliminary hearing may become a preliminary trial resulting effectively in there being two trials of the same cause with the first having all the benefits of a rehearsal.

“Option D: Retain preliminary hearings but allow use of evidence of witnesses at the trial.”

Well you are not doing that.

“A major objection to the abolition of preliminary hearings is their usefulness to the defence for observing and cross-examining witnesses and tying them down to testimony which may later be used as a basis for cross-examination at trial.”

I do not think the honourable former judge would deny that. That is a major utility of preliminary hearing, that the prosecution witnesses are put in the box, cross-examined and they will have some difficulty later on at trial changing their testimony.

However: “A major criticism of preliminary hearings is that witnesses are burdened by having to give evidence in an adversarial”—forum—“on two occasions...”

I agree. The Minister made that point, and it is a point that I agree with. It is, and it would be burdensome to someone to come to a preliminary enquiry and then give evidence and you are terrorized by the defence or the prosecution lawyer, you are terrorized by the defence attorney or the prosecution attorney and then you have to come back four, five years later and give the same evidence all over again. It can traumatize elderly people and it could traumatize young people, I accept that. And that is perhaps, Mr. Speaker, one of the most compelling arguments for the abolition of preliminary enquiries, because the witnesses have to give evidence twice. They have to give evidence twice.

“One option may be to retain the preliminary hearing and the defendant’s right to cross-examine witnesses, but to record that testimony...by way of video-tape—to be re-played to the jury in the trial at the option of the party calling the witness...”

Well that is one of the options that they looked at; have a preliminary hearing, video-tape it and keep it for the trial.

“Option E: Retain preliminary hearings solely for the function of charge-screening and find alternatives for the disclosure and discovery functions.”

“Charge-screening, of course, was the historical purpose of the preliminary hearing. Perhaps it may be retained for that purpose, and its important incidental functions excised and replaced by more effective and more efficient

alternatives. Much of the disclosure of the Crown case is now effected by reference to the prosecution's traditional disclosure obligations, which are being progressively formalized by guidelines..."

And again, there is an undercurrent in all of the learning that we need to have proper guidelines, there need to be proper rules, there need to be proper procedures in terms of disclosure and discovery if we are going to move to this trial. Several opinions may be considered—Mr. Speaker, how much time do I have by the way?

Mr. Speaker: Five more minutes before tea and 10 minutes thereafter.

Mr. C. Imbert: Okay, thank you very much.

"Several options may be considered.

- (1) The present practice, with the prosecution calling witnesses and presenting evidence.

The prosecution would only need to present such evidence as would be necessary to obtain a committal, and it may be the magistrate could indicate when he or she is satisfied that there is sufficient evidence for that purpose.

- (2) Base the decision to commit for trial solely on written or other material disclosed by the prosecution and submissions.

This option is, in effect, a 'paper committal' of the type available in several other jurisdictions, where the magistrate considers the case disclosed and supporting submissions to decide whether the test for committal has been satisfied...

- (3) Base the decision to commit for trial on written material disclosed by the prosecution, with an option to require a hearing, or to hear the evidence of witnesses;.."

Mr. Speaker, as far as I am concerned that is something that the Government should consider. But leave it up to the court to decide whether they wish to have the option to hear the evidence of specific witnesses, because I do believe that that hybrid system is better than a pure paper committal. [*Desk thumping*] I do believe so.

I hear the Minister saying that has been considered already. Well you will tell us considered by whom—yes you will tell us—and you will let us know who said what, when, where and how. Because as I said, we on this side, we have an

obligation to let the public know the nature of the rights that are being taken away by the Government through this legislation. [*Desk thumping*] The Government is not doing that.

You know, I have seen some media personnel saying, that if the Government had its way we would all be sent to New Zealand or Australia for stealing oranges. You know, I think I read that—[*Interruption*]

Dr. Moonilal: Colour me orange. [*Laughter*]

Mr. C. Imbert:—orange jerseys—I think I saw a report in the newspaper that if the Minister of Justice had his way, some of us would be sent to a penal colony for stealing oranges. There is a certain mindset that is coming through in this Government where they are bringing legislation to the Parliament, they are saying it is to deal with the criminal justice system, but each piece of legislation is eroding and eating away at the fundamental rights of the citizens of Trinidad and Tobago. [*Desk thumping*] I also get the impression that the Minister has no sense of proportionality, [*Desk thumping*] no sense of proportionality; none whatsoever.

Dr. Rowley: Go and hang them in the square!

Mr. C. Imbert: Yes, go and hang them in the square. Yes I remember that as well. I think the hon. Member for St. Joseph had at an earlier stage, had proposed hanging people in Woodford Square. That is a sort of antediluvian, pre-colonial mindset that finds itself in harmony with the thinking of the 1830s, the squire period as the Member for St. Joseph. I see he is laughing. This is no laughing matter, Mr. Speaker; this is no laughing matter, because every week I understand this Government is going to be bringing legislation to take away the rights of people in this country. [*Desk thumping*]

Last week they brought the DNA Bill. We told them that Bill was going too far on one side. You had public interest on one side and individual rights on the other side. We warned the hon. Minister that he was going much too far towards erosion of individual rights and in favour of what he deemed to be the public interest, Mr. Speaker. Of course, as I said, they have a majority in this place, so they railroaded their majority through and found themselves in trouble in the other place where they do not have a built-in majority.

Let me move on. These are the opinions that the Minister has not spoken to us about. He has not explained why he has come to this Parliament and is introducing a Bill that is essentially a pure paper committal, Mr. Speaker. He has not told us why. He has not told us why he is removing the right to cross examination. [*Interruption*]

Mr. Speaker: Hon. Members, I would like to propose at this time that we suspend the sitting for tea. This sitting is now suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. C. Imbert: Mr. Speaker, as we took the tea, I was going through the number of options and the permutations available for modification of the law as it relates to preliminary enquiries, and to recap, I am in favour of a hybrid system. I notice the Minister is not here; symptomatic of his dismissive approach. *[Interruption]* You know, I hear them talking, but during the recent state of emergency the Member for St. Joseph said that curfew breakers will be shot on sight! I see the Member for St. Augustine laughing.

Miss McDonald: Shoot first!

Mr. C. Imbert: Shoot first and ask questions later. All right, so he is not here; we will move on without him.

Option G: Abolish the preliminary enquiry and leave the functions it serves to the Crown.

This is the position in the case of serious frauds in England. Under this scheme the prosecutor screens the charges brought by the police or investigators by applying clear and published criteria, which are intended to be more effective at removing undeserving cases from the process.

I see the Minister is here. Welcome back. I had cause to complain.

Mr. Volney: I heard you.

Mr. C. Imbert: Yes, I am glad you came. Since the Minister is back I will go to Option G: Abolish the preliminary hearing and leave the function it serves to the Crown; a position in England.

Under this scheme the prosecutor screens the charges brought by the police by applying clear and published criteria which are intended to be more effective at removing undeserving cases from the process than the test of sufficiency of evidence presently applied at a preliminary hearing. After certifying that there is a sufficient case to warrant a trial, the case is transmitted directly to the court of trial.

That is the situation in England with serious fraud. The prosecutor just makes a decision with respect to whether the matter should go to trial or not.

The conclusions of this paper—it was a paper looking at debate on the need for reform in Australia with respect to the preliminary enquiry system:

The preliminary enquiry in its traditional form while fulfilling many useful functions...

Mr. Speaker, I am tempted to use a phrase; I am hearing a drone. Could you quiet down the Members on the other side?

Mr. Speaker: I will ask the Members on the Government Bench to pay attention in silence to the contribution of the hon. Member. *[Interruption]* Please, please.

Mr. C. Imbert: And of course, one of the main offenders, the Member for Lopinot/Bon Air West.

The ability to tie a prosecution witness down to a story, the chance to establish inconsistencies which might tactically enable cross-examination at trial; the opportunity to enjoy a rehearsal of the trial, are understandable objectives from the perspective of a defendant. However, they are incompatible with a modern criminal justice system.”

This is what this paper concluded. They went on to say:

The criminal justice system we know today is a product of many centuries of development, piecemeal, often haphazard. The institutions we now take for granted and describe as fundamental rights, were once themselves radical innovations introduced to remedy specific problems, which, with the wisdom of hindsight, appear inefficient, ineffective, unjust. It is only proper that the criminal justice system be periodically reassessed against the purpose it is meant to serve, reformed and improved if there is scope to do so.

And what they said at the end of it:

The best practice model recommends that some formula must be found to require the service upon the defence of witness statements that the prosecution will rely upon in the trial. Some avenue must be made available to ensure that disclosure is sufficiently comprehensive so as to reveal all relevant evidence. Some mechanism for discovery must be provided by which the defence can obtain relevant evidence or satisfy itself that there has been disclosure.

Now, the Member for St. Joseph was a judge, and he might be tempted to think that he is still a judge, but he is an ex-judge, and the rules of procedure in our courts—*[Interruption]* Mr. Speaker, there is a drone behind me.

Mr. Speaker: I do not think you should say “a drone”, but, Member, I am hearing you myself, so would you allow the Member? He only has a few more minutes—five more minutes. Allow him to say his piece in silence.

Mr. C. Imbert: The Minister may be tempted to think that it is his purview to make the rules of procedure for our judicial system by implanting them into legislation. I would caution the Minister, he is no longer a judge. Court procedures are the purview of the Judiciary. While the rules come to this Parliament; they have to be laid in the Parliament; they are subject to negative resolution, they are made by the Judiciary, and I would expect that arising out of this legislation that we will, very soon, see criminal procedure rules or criminal case management procedures made by the Judiciary, not by the Member for St. Joseph.

I would urge the Minister to explain why he has opted not to follow the hybrid model where you allow the court its inherent jurisdiction; its discretionary power to decide whether it should allow cross-examination of particular witnesses where it may find that the witness statement is outrageous or it thinks it is necessary to establish whether the witness statement has any credibility or not. I would favour that model, leaving the discretion to the court to decide whether there should be any oral examination of witnesses within a committal procedure.

Of course, the Minister will tell us why he did not do that and he will explain that to us. The fact is that one of the saving graces of the Minister’s presentation was the fact that he gave a commitment that this new system of sufficiency hearings will not be implemented until the administrative and other systems are in place. As I said, we on this side will take him at his word. We need more courts; we need more judges; we need masters; we need judicial support officers in order to implement this system. And most importantly, I cannot stress, it is surprising to me that Trinidad and Tobago is one of the few common-law jurisdictions that do not have criminal procedure rules. I am not a practitioner; I have never said that I was, but the fact is, it is surprising to me in doing the research on this legislation, so many other jurisdictions have rules. As I said, St. Lucia has it codified in their criminal code, all 600 pages of it.

In conclusion, I noted that the Minister indicated that there is a provision in the legislation which will allow a judicial officer to discharge an accused person if there is a delay of 10 years, presumably between the time the charge is laid and the matter goes to trial. Is that what it was?

Mr. Volney: Yes, except in blood cases.

Mr. C. Imbert: Yes, except in blood cases. I mean, it is interesting, you know. The Minister is not conscious of his own history, because there was a case in Trinidad and Tobago where the Privy Council indicated that because of the effluxion of time—even though they were minded to case a retrial too much time had elapsed and it would be unfair to the persons involved to retry the matter. That is a case very familiar to the hon. Minister of Justice, the Brad Boyce case.

I thank you, Mr. Speaker.

Mr. Roberts: Standing Order 33(4), Mr. Speaker.

Mr. Speaker: The Member misquoted you?

Mr. Roberts: Absolutely, Sir.

Mr. Speaker: You will have a minute to just answer.

Mr. C. Imbert: Mr. Speaker, he has not spoken.

Mr. Speaker: Listen; no, it is true.

Mr. C. Imbert: You have to speak. He has not spoken in this debate.

Mr. Roberts: So he could mislead the House.

Mr. Speaker: No, no. Member for D'Abadie/O'Meara, you have not spoken so, therefore, you cannot be misrepresented. If you speak and somebody came after you and said something that misrepresented you, then you would be allowed to speak.

Mr. Roberts: “That is lie, boy!”

Mr. Speaker: Listen, Member, I am on my legs, and withdraw that term—

Mr. Roberts: Withdrawn.

Mr. Speaker: Thank you. May I have your cooperation? I keep saying no matter how strongly a Member might feel about what another Member says, courtesy, decorum, respect and dignity must be demonstrated at all times, please, and show respect for the Chair. This Chair has been very liberal. I have not brought down the rules on Members. I do not want Members to believe that because the rules have not been enforced, that is a sign of weakness or rudeness towards the Chair. So just respect the Chair. I try to be very liberal, but do not take that to mean that I am weak as a Speaker, please!

5.15 p.m.

The Minister of Legal Affairs (Hon. Prakash Ramadhar): Thank you very much, Mr. Speaker. As I rise, let me just compliment a most robust and audacious presentation by the Minister of Justice. In this society, a lot of wrong things are allowed to pass and then we talk about looking at options when no action is taken. We have exercised the option of action in relation to what is necessary in our society.

Mr. Speaker, let me just, on an almost trivial issue, put to rest what appeared by the length of time spent on it, to be an important issue in the mind of my friend from Diego Martin North/East, when he spoke about the lack of rules. May I direct my friend to clause 32 of the Bill that reads:

“The Rules Committee established by the Supreme Court of Judicature... may make Rules of Court for the purpose of proceedings under this Act.”

It is a matter for the Judiciary, and what will come as a great surprise to Members on the other side, is that there is a sense of comity, a sense of cooperation with the Judiciary, that I think has never before been seen in this nation. It is with the confidence of working together, in terms of providing the Judiciary with the material that they require to deliver justice to our citizens. That is the business, that is the duty of any responsible Government. We are not here to decide on how things have gone wrong and then look at options and do nothing about it.

Let me put to rest also this argument from my learned friend from Diego Martin North /East, when he says, “What is the public policy?” The public policy of this Government is very simple—and I think anyone whether they are educated or uneducated, whether they are dangerous or not dangerous, should understand—it is that justice has to be served. The courts are there to administer justice but if they are not given the necessary tools and equipment, justice will not be served. And whether it is long in coming or short in coming, if there is a society that does not really treasure the delivery of justice, you will have an unjust society. And luckily, we were delivered in a large part from that on May 24, last year. We take steps to build things, to do things. And I could assure Members on the other side that the provision of these courts certainly will not take as long as the delivery of the Brian Lara Stadium, nor will it take as long as the delivery of the Oncology Centre, nor of the Scarborough hospital. You could talk about promises, yes, but we deliver on our promises. That is the first step to anything. [*Desk thumping*] The first step in governance is to develop trust.

[HON. P. RAMADHAR]

I have heard Members on the other side say they do not trust this Government, they do not trust this Government for the very reason that we are dealing with things that they have not been able to do for more than a generation. They do not trust us because they know as we continue as a strong partnership—the COP playing its part and all of us working together in the interest of this nation—that in due course the very substance and the foundation upon which they sustain themselves will be gone.

When they talk about race and so and the provision of statements in this honourable House, where an allegation was made—and when we talk about delivery of justice, we have to look at it in the context of a society that honours fairness, that honours justice, that honours truth. An allegation was made, it was read in this House and given currency from the highest House as if it were true. I made comment about that here; I have been pilloried on the outside, called uneducated, dangerous and all sorts of things, but I am not here to defend me, I am to defend the honour of this nation, and to defend the future of the country.
[*Desk thumping*]

Mr. Speaker, let me say that the very systems which we inherited—the learned judge as he was then, and I as a defence counsel, we were part of it but we knew the rot that existed within. These preliminary enquiries took many years to complete, during which time witnesses died from the passage of time, from natural causes and most heinously from killings. Because when you have a period of years—months even, where witnesses who would determine whether an accused person is convicted for a serious offence, be it robbery, murder or kidnapping, where murder: they would possibly suffer the penalty of death; kidnapping: life imprisonment; robbery: 15 or more years; where life had become not valued and cheap, that our witnesses could have been picked off one by one; one by one. This new system will bring together the act of criminality with the punishment, once this system delivers justice, so that the guilty are convicted and the innocent go quickly free.

It slipped from my friend's lips when he spoke and condemned the issue of the alibi notice of 48 hours. When he said "In the old days,"— that is at present and before—"You were given 10 days—you know to do what? In his own words, "To come up with an alibi". You do not have to come up with an alibi if you have an alibi. The moment you are arrested and you are told you are charged for the robbery of Mr. X on Harris Promenade in San Fernando at so and so time and so and so place, and you could show that you were really in the company of my friend

from Diego Martin North/East, having a drink, having a good conversation, the moment that date and time is brought to your attention, you may very well remember that you were with your friend from Diego Martin North/East. And the moment that that comes to you, you know what, innocence screams at the top of its voice, as to where you were, who you were with, and “this person could vouch for me.” But when given time, and the experience has been, that when a person is brought in on a charge or even as a suspect and they are allowed to go free, either on bail or on continuing enquires they really do come up with alibis.

There is a matter that came to me just a few days ago actually, where an accident occurred—and I shall not go into the details—and the first response of the driver after the accident, the first response, suffering still from the trauma that he endured, he was able to explain how it happened. And guess what, it was borne out by video footage of the thing, and the police I understand have taken no decision to charge because of the potency of the immediacy of the innocent speaking.

Your first statement is generally grounded closer to the truth, than if you have time to think about it, to come up with an alibi or to create witnesses for your alibi. So there is, as they say “Justice delayed is justice denied”, all this is part of justice because justice is not just a word, it is about delivery of truth to our citizens. And I have spoken about that before. That is something we will never truly understand if we do not start practising it and understand, as I said in my last debate, and I do not like repeating myself, about the truth shall set us free.

With the removal of preliminary enquiries, what you have is if you commit an offence today, and with the new detection equipment and the new techniques and technology that we are introducing and giving resources to like DNA, with the camera system, the closed- circuit television and other new scientific developments, that a person who commits an offence and go through a successful trial—and that is the issue, you must have your trial because the presumption of innocence must always be there—and you are found guilty, the penalty you pay must refer to the crime you committed. When I hear of a 27-year-old case, is that person the same person who is today convicted, twenty-something years ago?

Now, I want to just say something here, I want to say this in the most positive and loving tenor that I possibly can. My friend from Port of Spain South, little people know, I have known her for twenty-something years. We were neighbours in Barbados. And the loving, warm, strong person existed then is even more so now. [*Desk thumping*] Her circumstances have changed because she is an example of grit, determination and hard work, and shows that if you have what it

takes within, then whatever you require on the outside will be provided, and you can rise to the highest office in this nation. I am so proud of you because I know your background; we were together as friends, as neighbours. However—

Miss. McDonald: You want to get in our business.

Hon. P. Ramadhar: —there are persons on the other side who believe that whatever they want they must just reach out and take. They must steal from our people, not only their physical assets but sometimes their very lives. And until we get back to that position where the punishment fits the crime—and that could only happen when there is some level of correlation between when you do it and when you pay for it—there will be no fear. There must be consequences to your actions. There has grown in this nation a belief that you could commit crimes. First of all, you will not be arrested and if you are arrested, there will not be sufficient evidence, and even if you have witnesses, we are going to kill them, or they will die, or they will be intimidated, and therefore, you will go to a trial, laugh, walk out on the steps of the Hall of Justice; you will lift up your lawyer in celebration that you walked free, not from a fair trial, you know, but of a sham, where the institutions of justice have now become monuments to injustice. And we want to change that and the way you change it is the speed with which you deliver the justice.

When preliminary enquires last for years, innocent persons—you all remember Dhanraj Singh; I was one of his lawyers. I cross-examined that main witness in Mayaro Magistrate's Court for five consecutive days, at the end of which he was the laughing stock, to the extent that when taken before a jury in Port of Spain the cross-examination was read to that jury; and Dhanraj Singh was acquitted in no time. But he spent so much time there. Not only did he lose his sanity, he was unwell. He got very sick; he was diabetic. He lost almost everything. The poor man coming from San Fernando one day at the intersection at Grand Bazaar—innocent as he was in that van, a vehicle plowed into them, he lost his face even. People do not know that. He is now dead and gone. But I used to be with him regularly, and I know the trauma of an innocent man who has been set up, but we had to wait years for justification; for the jury to say “not guilty.”

How many of us know Dr. Naraynsingh? I too was in that case. The preliminary enquiry took so long, but let me tell you why it is important sometimes to have patience. In that case it turned out that the evidence—and I cross-examined the witnesses for days in that matter. It turned out that when they claimed he was part of a conspiracy to have killed, he was in Jamaica. He was discharged in the Magistrates' Court on a no-case submission. His beloved wife,

Seromanie—who knows her will know that this woman is nothing short of an angel on the earth—had to endure a charge of murder. I used to visit her in the prison and she would always lift my spirit, because she knew of her innocence and her faith in God that justice would be served. And guess what, in San Fernando a jury refused to hear any more evidence in the matter having heard the cross-examination of the two purloin witnesses and their evidence; but that is the trauma of the innocent.

The guilty will always avoid or attempt to avoid a fair trial and a speedy trial. Unless, of course, they have confidence that the system will not work, and that is where we had arrived; where you could have killings right on the Brian Lara Promenade in broad daylight and you walk casually away, because there was no sense of consequence or of justice.

Removing the preliminary enquiry will hear every bit of criticism; will hear all the options that are available everywhere in the world, but why was it permitted? We hear that things were drafted and everything else, but why was there no improvement in our delivery of justice? Why? We analyze until we paralyze. We do nothing. But, working together as one unified people, with the Judiciary, with the Ministry of Justice, with the Ministry of the Attorney General—

5.30 p.m.

I see the Chief Parliamentary Counsel and some members who have done yeoman service for this nation. When we are asleep, they are awake preparing legislation and drafting and fixing and finessing, as we proceed; we go forward.

Today, I know with all confidence that this Bill will be passed. We may not have all up and ready to say that we get the best benefit at this point in time, but when I hear the most learned Member for Diego Martin North/East saying: “Yuh going tuh send the gridlock up to the High Court”, I ask this question: is this Bill creating new crimes? Are those crimes not being committed and persons being charged and prosecuted and, therefore, going before the Magistrates’ Court? You prefer the clog to be down in the Magistrates’ Court to go through the ordeal once again, of a five-year wait and then same clog comes to the assizes? Or do we not take a frontal approach so that those who are criminally-minded will know “dat if yuh ketch yuh before the assizes within the year”, and with the new evidence we have you would more likely than not be convicted and sentenced in accordance with law?

What message would that send to those who are considering crime? Let us understand what that is. It is a very chilling thing to know that you would pay for your crime, so we expect that as we move forward—and you know that this Government is very serious about it—that it will have a dampening effect on those criminally-minded persons.

Apart from that, do you know what happens? We have heard where witnesses go before the preliminary enquiry, they give evidence, they are cross-examined and years from that date, under the present system, they go before the assizes again. I am almost embarrassed to tell you that I have won many, many cases on previous inconsistent statements. Human frailty of the mind and memory—when you go six and seven years after having sworn—[*Interruption*]

Dr. Rambachan: They have to get some ginkgo.

Hon. P. Ramadhar:—no ginkgo, nothing will help you then because it is a different world altogether. You too have changed. Your memory has changed. Your whole will, everything has changed. The accused looks totally different. Everything is foggy. And I have to stand there. That person would put their hand on the *Holy Bible*, the *Quran* or the *Bhagavad Gita* and swear to tell the truth, the whole truth and nothing but the truth. They then start and, to the best of their memory, they give the evidence. Then you who just pull your deposition, which is what it is called, sworn testimony, years ago and say: “Did you not say so and so?” “No, I never said that.” “Really? and you get—the long and short of it is they prove to be lying when they may be honestly mistaken witnesses.

With this new process you are a witness today and you will be giving evidence, first, by your statement and then you come to the assizes after that person has been indicted within a short period of time, and if you do not do it within the year after your sufficiency hearing you can ask for a discharge. So, we put pressure on the system to make it work. Nothing moves without a force and this is the force that this law is providing. Within that time frame your memory is fresh. There is less likelihood that your witnesses will die, and therefore, you are more likely to serve justice. It is a simple policy issue. How could it be that anybody would have doubt as to what we are doing?

I hear criticisms that the master at the sufficiency hearing will have only statements and, therefore, looking at it, will have to decide whether a prima facie case has been made out. He read it. It is now in the *Hansard*. That is exactly the test that is used to determine whether a prima facie case has been made out. The question as to whether a witness should be called to be cross-examined for the

master to determine the credibility of that witness—well, big surprise. Do you know what the law is in this country? It is for a jury to determine creditability.

We have done many, many cases in the preliminary enquiry where you totally destroy the credibility of a witness, like in Dhanraj Singh and like in Naraynsingh, but you are met with a ruling from the court that matters of credibility are for the jury. You know, it is just a matter of time as you go to the sssizes within a day or two, you will be freed. Do you know what you have to do if you are on murder and no bail? Sit and wait. Is that the kind of system that we want, that the innocent will perish and be punished because of the system—*[Interruption]* Yes, yes, you are supporting but you—sorry I am not going to talk to you. The system needs—I was on the point about the credibility issues and you have to sit and wait for your day in court. What we are doing is bringing that court date earlier. So, once again forgive me for repeating this a thousand million times, the innocent goes free and the guilty pays the penalty.

Mr. Speaker, I am not going to trouble you much longer. But, I have heard, once again, from the most learned Member for Diego Martin North/East, about the rush, basically, that all the matters that will be going this route would be indictable offences. Of course! But, the DPP has the authority under this Act to suggest summary offence. That means that an indictable case—we call them hybrid offences that are triable either way, like some robberies or larceny of a motor car—it does not have to go this route. The DPP could suggest, this can go summarily, so you send that back to the Magistrates' Court. "Hear wha we doing." Let us not forget that we are not just using a one directional approach to things, we are also strengthening the Magistracy. We are giving them the equipment, electronic recording systems, so that they could do their work faster.

Guess what? Even simple things like a liquor licence, I have already sent to the Ministry of the Attorney General, recommendations from the Ministry of Legal Affairs, the whole licensing regime where, for days people with bars, people who have jewellers' licences, you name it, whatever licence has to be given out, they have to go and line up in the court. Sometimes for days a magistrate has to hear applications when there are even no objections.

The new regime that we have suggested, and approved by the Judiciary, is that no longer will you have to go before a magistrate to get any of those licences. *[Desk thumping]* You go before the Clerk of the Peace and once all the necessary approvals are there, "yuh pay money and yuh gone." We are unclogging it in that manner, freeing up the magistrates to do a lot of those very serious offences that, in the past, many of them could have been tried only indictably, or generally done

[HON. P. RAMADHAR]

indictably. We are now giving the capacity to the Magistrates' Court to deal with a lot of those. The burden is heavy, but our will is strong, and we will continue doing, whether they are big things or small things, to deliver justice to this nation.

Mr. Speaker, I am hearing, and maybe the wrong impression could be given, that we are taking away rights that are so sacred and so sacrosanct that it is almost a wicked thing that we are doing, but they are supporting it because they know the need for it. [*Interruption*]

Mr. Imbert: "Who said it wicked?"

Hon. P. Ramadhar: Forgive me, please. I could say something innocently here and I have been—as I repeat, been dangerous and uneducated, so I would like to make it simple. Do you know, that under our present law, if a witness gives evidence in a preliminary enquiry and you are given the option to cross-examine—I would give you an example. As soon as the witness is finished you are asked: "Do you wish to cross-examine?" You have the right to cross-examine. Very often lawyers will say: "Cross-examination reserved." Do you know if that witness should die, that deposition can be introduced at your trial? I have always said as a defence counsel your worst enemy is a dead witness. Put a live witness in the box, I would cross-examine and be able to show the truth from that witness. But, what is on paper goes to the jury, of course, with certain warnings and directions. But a witness who is dead, their statement or evidence on deposition has been used and it has been approved in the Privy Council. In fact, we take guidance from a case that came out of the very Jamaica you spoke about, for the use of deposition evidence.

The right of cross-examination, of course, is a very important one. But, the court also recognizes and the law also recognizes "yuh cyah cross-examine ah dead witness," and, therefore, allows for the use of depositions without cross-examination. But, the cross-examination, as I repeat this for my friend as he leaves, in a preliminary enquiry is to weaken the credibility, ultimately, of the witness, but the place that is truly tested is at your trial. The right to cross-examination of witnesses continues at your trial where it really ultimately matters.

Mr. Speaker, I do not know if I really need to trouble you after that comprehensive dispensation from our learned Minister of Justice, except to say once again and I will repeat this every single time I have an opportunity and hope that my friends do not get angry with my saying it; that this nation has to return to truth. We must set the right examples. We must not take things out of context, go out there or even in here, attack colleagues, attack Members by twisting things

and creating more heat than light in the nation. Those who aspire to leadership roles may probably better learn from their former leaders and act with a level of class sometimes and not rush to judgment and pass word without even understanding or taking the time to understand what was actually said of others. It is very important, because if we set the example that is other than that, we can expect no better from the nation. Mr. Speaker, I thank you and I congratulate the Minister of Justice.

Miss Marlene McDonald (*Port of Spain South*): Thank you, Mr. Speaker and thank you for the opportunity to join this debate this evening, the Administration of Justice (Indictable Proceedings) Bill, 2011.

Allow me to state from the outset that there is, from this Bench, general support, in principle, of this Bill. [*Desk thumping*] Let me state that, as I always do, once there is something that is brought here, that is in the best interest of the citizenry of this country, this Bench will be responsible enough to support.

Mr. Speaker, I am not going to be long as my colleague from St. Augustine, because I think that we have heard from the Minister and, of course, a very detailed response from the Member for Diego Martin North/East. What I want to do—as I always say, I speak to the national community, more particularly to my constituents of Port of Spain South—is bring it at a level that people can understand; anyone sitting in the parlour, watching in a bar or at home could understand what is happening with this particular Bill.

I want to state that there is, again, general support. I think we support it in principle. I want to tell the Member for St. Joseph, the Minister of Justice, this was not a new idea. I went back and I looked. I researched and basically, this PNM Bench supported, back in 2009, when the then Attorney General discussed with us the abolition of the Indictable Offences (Preliminary Enquiry) Bill. We supported it then and we support it now. I just think we should put that on record.

Mr. Speaker, this Bill seeks to repeal and replace the existing Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01. It seeks to replace, as the Minister said, for indictable offences, a sufficiency hearing before a master of the High Court. This new sufficiency hearing system will replace the burdensome preliminary enquiry.

5.45 p.m.

Mr. Speaker, let us understand exactly what is meant by preliminary enquiry. By way of historical perspectives, the preliminary enquiry had existed in the

United Kingdom in one form or another for many centuries, from its introduction as a function of the Justices of the Peace, from the 16th Century, until its reform in the 19th Century; where it was basically inquisitorial in nature which demonstrated then the police functions of Justices of the Peace. In its current form it is a combination of two pieces of legislation, the Prisoners' Counsel Act of 1836, out of the United Kingdom and the Indictable Offences Act of 1848, also of the United Kingdom. Here in Trinidad and Tobago we have adopted this preliminary examination approach—that is for indictable offences and so we have placed it on our statute books in 1917 by an Act called the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01; that is the sort of genesis.

Mr. Speaker, we see preliminary enquiry—and it is often described as a trial within a trial—and the formal purpose—just putting it in a way that everybody could understand—of a preliminary enquiry is to determine whether the State has enough evidence to justify a trial. It is that sort of safeguard which is built into the system, so no one feels disadvantaged, and if after hearing the evidence, and that magistrate is satisfied that there is enough evidence the person could be convicted, then the person is committed to trial in the High Court.

Mr. Speaker, the preliminary enquiry looks just like or is identical to a trial, in that witnesses are brought in, they are cross-examined, all under oath, but the difference in the preliminary enquiry is that the defence case is not presented. What is allowed is the State's evidence and when we know exactly—*[Interruption]*—could if they want, okay. What is examined is the State's evidence, and when we know exactly what the evidence is in detail, then the defence can prepare to answer.

Mr. Speaker, however, over the years—because it is 94 years that we have been utilizing the preliminary enquiry—this system has become almost, I will put it, like an albatross around the criminal justice system in this country. It contributes to long delays in the Magistrates' Court, by the police complainants having to spend all day waiting for adjournments. It also contributes to witnesses having to come over and over again. As a matter of fact some of them even have to testify twice, during a preliminary enquiry and also at the trial. So that is a waste of human resources with respect to the complainants.

I say there is also a financial loss and I say financial when I look at the fact that there is a transportation logistics with the transport of prisoners from the jail to the court; and I believe that goes into millions of dollars on a monthly basis. And what is the driving force behind that? It is the preliminary enquiry process

which takes much time; and, as I said, I am speaking in a language where the man on the street could understand me.

Indeed, Mr. Speaker, the Chief Justice in his address at the opening of the 2011/2012 law term on September 16, 2011 recognized the malaise in the system of PI, when I say PI, I mean preliminary enquiry.

This is what he said, and I quote him:

“...it takes 5 ½ years on average for an indictable matter to move from the stage of the laying of the information to the filing of an indictment in the High Court.”

Mr. Speaker, basically what he is saying here is that from the time the person is charged, you are looking at the actual hearing of the PI, which would include your disclosures and your exhibits. It takes between the person being charged, to the indictment being laid in the High Court, five and a half years, and that is not even the beginning of the trial; it is not even the beginning of the trial. So five and a half years to get to the High Court and maybe another three to four years to be heard. So on average it is taking about—I would say 10 years. What contributes to this? The preliminary enquiry process.

Mr. Speaker, it is also a known fact that the Magistrates’ Courts are overburdened, and let me demonstrate the annual caseload by districts, and I am going to highlight a few of the districts. This is for the period August 01, 2010 to July 31, 2011; Arima, annual caseload—and these are for indictable matters only:

- Arima, 28,000
- Chaguanas, 12,314
- Point Fortin, 8,000
- Princes Town, 9,144
- San Fernando, 25,475
- Sangre Grande, 16,959
- Siparia, 8,953
- Port of Spain, 58,492
- Tobago, 1,707
- Tunapuna, 8,977

And these figures, the source, this is from the Annual Report of the Judiciary for 2011/2012. It is within this context that we see a speedier justice system replacing the PI for indictable offences with this proposed sufficiency hearing before a master of the High Court.

Mr. Speaker, what currently obtains is that all indictable matters go to the Magistrates' Court, but with the introduction of this sufficiency hearing my understanding is that the indictable matters will now—all of them will now go to the High Court; but if a request is made for a matter to be determined summarily then it goes back to the Magistrates' Court. So it is not a hard and fast—there could be some indictable matters which could be tried summarily.

So under the new system, Mr. Speaker, in clause 11 there is an initial hearing, where you deal with the formalities of the matter, and from there it goes to—well, through the master, of course, the master of the High Court; then it goes to a sufficiency hearing. If the master finds that a prima facie case has been made out against the accused, then the accused will go on trial.

Mr. Speaker, these are the words of the Chief Justice, that a criminal trial, this type of system would allow a criminal trial—will begin in less than one year from the time an accused person is charged with the commission of an offence. It is also generally felt that as the workload is reduced in the magistracy it is expected that they would be able to devote more time to deal with summary matters, thereby reducing the average time to completion.

I looked at the report and again, the Chief Justice said: “At the moment in the magistrates' courts, the disposition to filing ratio...” “and, Mr. Speaker, that means the number of matters filed in comparison to the matters completed, is just close to one, which means to say it is not a very good ratio, and if you abolish the PI system, basically you are sending these indictable matters to the High Court; you are freeing up the magistracy to do summary matters, some indictable matters, and we believe that you would have removed the bottleneck. But I have my own questions and concerns, because, as my friend from Diego Martin North/East has stated, though we agree with this, there are other things which would need to be put in place to make this system successful and workable. I will head in that direction in a short time.

Mr. Speaker, let us look at other jurisdictions which have abolished the preliminary enquiry procedure. United Kingdom has abolished some three decades ago, they have abolished the PI system and has replaced it with paper committals; and here matters are seen by the magistrate and in turn committed to the High Court.

There are two countries in the Commonwealth Caribbean which have abolished the preliminary enquiries, and they are Antigua and St. Lucia. I suspect that St. Lucia is the model which we are basically using. When I looked at the model in St. Lucia, the only little difference I saw there is that the magistrate would be the one holding the initial hearing, and then the judge, the master would be dealing with the sufficiency hearing. Whilst here under this new proposed system, it would be the master, the criminal master dealing with both the initial hearing as well as the sufficiency hearing.

Mr. Speaker, the Legislature has removed any decision-making authority from the magistrate in St. Lucia. By Act No. 11 of 2008, St. Lucia amended the Criminal Code to create one criminal division. This amendment Act enables the Chief Justice to make rules of practice and procedure in criminal matters. One of those rules would include the initial hearing by the magistrate and the sufficiency hearing by a judge.

Now, Mr. Speaker, in the case of St. Lucia there is the Criminal Procedure Rules, and these rules set out in detail the procedure which must be followed—as a matter of fact, it is 600 pages long, and like my colleague from Diego Martin North/East, I could not walk with it all. This sets out the rules for both the initial hearing as well as the sufficiency hearing.

Mr. Speaker, so far as—just an update—St. Lucia is reporting that their new criminal procedural rules have already improved the court system and the administration of justice. As a matter of fact, they are saying that as far as 10 sufficiency hearings may be completed in one day, which is quite good.

In Antigua, they too have abolished the preliminary enquiry system, through the Magistrate's Code of Procedure (Amdt.) Act. They too have a system of something called committal proceedings, and all the defence—the defence only has an option after being served with the evidence to make submissions in law. The magistrate makes the decision to commit, based entirely on written statements and exhibits of the prosecution and the accused if he so wishes.

Mr. Speaker, I looked at another Commonwealth country, I looked at Canada and Canada experienced the same problems as Trinidad and Tobago, the undue delays, the witnesses coming and having to give evidence at a trial—at the preliminary enquiry on maybe two/three occasions; and as a means of reducing the time it takes to bring criminal cases to trial, what they have done, they have taken a sort of midway road.

It is like a hybrid. They did not want totally to abolish the preliminary enquiry procedure and they preferred to narrow the scope of the preliminary enquiry and reduce the numbers. That is what they did in the Criminal Law (Amdt.) Act, 2001, and one of the highlights of that Act was to make the preliminary enquiry procedure optional and more focused.

6.00 p.m.

In Canada, where a preliminary enquiry is requested, the scope of it is limited in accordance with agreements which would be arrived at between the defence and the prosecution. So, Mr. Speaker, that is by way of history, what has gone on, the origin and purpose of it; why the Government believes there are shortcomings, and we look at other jurisdictions.

There are two clauses that I have looked at and the Minister, when he is summing up, can tell me whether we can go along with it. That is clause 7. Clause 7 makes provisions with respect to the issuing of a summons for the appearance of an accused before a master. This clause appears to be in line with the Summary Courts Act, with respect to the issue of summons. However, the Summary Courts Act, Sir, does provide for an issuance of a summons not less than 48 hours before the appearance of the accused. It goes further, which is something we would like to see incorporated here, by providing for additional safeguards.

If we look at subsections 42(3) and (4) of the Summary Courts Act, subsection 42(3) says:

“The Court may, if it thinks fit, with the consent of parties, hear and determine a complaint, notwithstanding that the said period of forty-eight hours may not have elapsed.”

And the second part, subsection 42(4), says:

“The court may, if it thinks fit, issue a summons directing a defendant to appear forthwith in cases where an affidavit is made by the complainant that such defendant is likely to leave Trinidad and Tobago within forty-eight hours.”

These are added safeguards built into the Summary Courts Act that you may be mindful, Mr. Minister, through you, Mr. Speaker, to include.

Mr. Speaker, I look at clause 19 that has caused me a little confusion. Clause 19 provides for the holding of a sufficiency hearing before a master. Clause 19(3) uses “shall”. It says:

“Subject to subsection (5), the prosecutor and the accused shall attend a sufficiency hearing.”

So it makes it mandatory for the accused to attend the sufficiency hearing. Now, this is subject to provision 19(5). Subsection 19(5) says:

“A sufficiency hearing may proceed in the absence of the accused, except where the accused proves to the Master—

- (a) that he is ill or injured...
- (b) any other matter which the Master deems fit to allow...”

Now 19(5), Mr. Minister, does not list the instances where the hearing can take place without the accused. It lists the instances where the matter would be adjourned and, if it is not adjourned for one of the reasons stated there, it can proceed in the absence of the accused. I want the confusion cleared in my mind that 19(3) is making the accused’s presence mandatory while 19(5) is saying the contrary—it can take place without the presence of the accused. I need some sort of justification on that.

Mr. Speaker, as I said, this was not a new idea, this preliminary enquiry. If we look at *Sunday Newsday*, dated July 05, 2009, a story by Andre Badoo entitled, “Preliminary Inquiries To Go”. It basically stated that the then Government was in the process of drafting legislation to abolish the PI procedure. This is what the then Attorney General had to say. I am quoting from the *Newsday*, Sunday, July 05, 2009, a story by Mr. Andre Badoo. This is what was said.

“...Jeremie revealed that the Office of the Attorney General and the Ministry of National Security are working on legislation to abolish the procedure which is used in the Magistrates’ Courts to determine if a prima facie or first instance case is made out against an accused person. Noting that a draft Bill has already been prepared to introduce a new procedure in place of the enquiry, Jeremie gave an overview as to how the system would work.”

I continue the quote:

“‘Instead of having an enquiry amounting to a number of years, the matter will go before a preliminary judge so that would take some time out of the process.’...‘That judge will be a judge in the Assizes who then looks at the evidence and who then decides whether or not the matter will proceed to the High Court.’”

When my colleague, the Member for Diego Martin North/East, made the same point I made, you said that Bill was thrown in the garbage. That is immaterial,

Mr. Minister, because the point is that, in principle, the then Government supported the idea of abolishing the preliminary enquiry. So whether or not the Bill was good, it was the principle behind it. You also had 18 months in office before bringing it. We started it in 2009, but I am happy to see it here this afternoon. I just thought I should put that on record.

Mr. Speaker, anything that would make this process, the indictable matters process, more efficacious would be welcomed by this Bench. The criminal justice system has to be shown to be working and the citizenry must have confidence in the criminal justice system in this country.

In the midst of this transformation—and this is where my debate is really—I have basically four concerns. I was heartened when you said, Minister, that before the proclamation date, all the concerns would be answered. So, as we move from one system to the next, we will have all these mechanisms in place and have a smooth transfer from the preliminary enquiry system to the sufficiency hearing system in the High Court. As I said, my problem is that there is a high risk that this Bill would be passed but the support systems that need to be in place to have this working and for it to be a success would not be there.

So, I want to state the first one and this is one that my colleague, the Member for Diego Martin North/East, spoke about—the non-existence of the Criminal Proceedings Rules. In order to explain that, I need to say exactly what it is because we have Civil Proceedings Rules. I will say what is meant by Civil Proceedings Rules and we extrapolate for the Criminal Proceedings Rules.

The Civil Proceedings Rules are necessary to set timelines and to ensure that parties to proceedings have a clear understanding as to the rules and guidelines that will bind the parties in an action. If you look at the Criminal Proceedings Rules now, we need to have them, Mr. Minister, especially as we are now implementing the sufficiency hearing. I know you have been looking at St. Lucia. If you look at St. Lucia, they have their Criminal Proceedings Rules. Those countries that have abolished the PI system, if you look at them, there is a fine thread that runs through all of them. They all have some form of Criminal Proceedings Rules in their statute books. So we need that, Mr. Speaker.

St. Lucia has a criminal code. Likewise, the United Kingdom has the Criminal Proceedings Rules. *[Interruption]* You have them? They are implemented?

Hon. Member: *[Inaudible]*

Miss M. McDonald: Right, you have them. Do we have them in Trinidad and Tobago?

Hon. Member: On the way.

Miss M. McDonald: I am sure that before the proclamation date—you give that undertaking—that they will be operational. Yes? I am sure that the Rules Committee should comprise senior members of the legal fraternity, the Judiciary and not you, Mr. Minister. I will tell you what. We want to keep political interference from that Rules Committee and we want to keep the separation of powers; no mixing up with the Judiciary. I see two groups of people there—the Judiciary and senior members of the legal fraternity. So we are on the same page.

Mr. Speaker, the *Trinidad Guardian* published on Friday, December 24, 2010, in an article called “Lawyers express different views”, attorney at law, Mr. Keith Scotland, commenting on the abolition of the preliminary enquiry proceedings, said that the pros and cons should be carefully considered, particularly with the availability of resources in the Judiciary.

This leads me to my second concern, which is inadequate human resources in the Judiciary. This is a critical issue, which can lead to either the failure or the success of this new sufficiency hearing proceeding. One of the systems plaguing the Judiciary is the limited number of judges and court personnel in the High Court.

I am asking the question: what will happen in the High Court currently if you flood the High Court with all these—I just read it out—thousands of indictable matters which were in the Magistrates’ Court, without the necessary human resources available? The bottleneck which this Bill would have been trying to remedy in the magistracy would now be transferred to the High Court. That is my problem.

The Minister speaks of criminal masters to oversee these new sufficiency hearings, but have you hired any of these masters as yet, Sir? The masters who are currently operating in the High Court, I think there are four of them, they all have their backgrounds in civil law and this new envisioned system will require an intake of Masters with a criminal law background.

Even though the proposed Act, if you look at the interpretation section, says:

“‘Master’ means a Master of the High Court appointed to conduct proceedings under this Act;”

But we have not done that; there is no actual provision for such appointment in this Bill.

Now, a Master of the High Court cannot operate on his own. He has to have support staff. You need to hire because he is operating a High Court. As my colleague said, you are a judge yourself, so you know the type of human resources you need around you. Have you started that process of hiring the support staff for the masters? Even more, I ask: have you hired criminal masters? We will get to that.

6.15 p.m.

Mr. Speaker, back in 2009 the then, AG—because we recognized it, although he claims everything for himself—I will tell you what we were saying back then as a Government—the then Attorney General John Jeremie noted that this new envisioned system would place additional pressures on the judges of the High Court by increasing their workload. So as a result the Government “is to make moves to increase the number”—this is what he said:

“In principle you would need more judges. We will go to Parliament and ask for an increase in the number of judges. In particular, you will need more people who are versed in criminal law.”

Jeremie said:

“The preliminary inquiry is regarded as an important check against an abuse of the criminal justice system and is meant to act as a sieve to cases that cannot move forward.”

Mr. Speaker, I dare ask the Minister this evening; where are you going to get these—when I looked at it—these criminal masters from? Good, and you said it during your debate; you said the magistracy. Of course, the magistracy, they are the ones with the experience because they have been doing the preliminary enquiries for over a number of years. They have developed a treasury of experience there. So now, Mr. Minister, you have said it, you are now going to place a run on the magistracy. And not only there, so you are going to take four out of the system. What about the DPP’s office? What about all the human resources to go with it? Perhaps what you can do, and this is just a suggestion not that I am trying to go into the magistracy and take out the magistrates and talk about, as you said, an elevation to the bench. Perhaps you can look at retired judges, over a period of five—[*Crosstalk*] It is a suggestion, “doh shake yuh head”, it is a suggestion, Sir. You remember what happened with the DNA Bill? You remember when I stood here and I went through clause by clause and I showed you all the pitfalls; you will have to come back now to me. Right here, you have to come back! [*Desk thumping*] So just listen! Just listen! I listened to you, “yuh” know, I listened, I took notes. So I want you to do that for me, please.

Mr. Speaker, I was saying we could look at retired judges and have a programme of training for the criminal masters and set yourself a timeline, five to seven years—it is a suggestion—rather than try to place a run on our magistracy at the moment. We now want them to focus on dealing with their summary matters and whatnot because they have been overburdened for quite some time.

Mr. Speaker, even the leader of the St. Kitts main opposition party, Mr. Lindsay Grant—hope I can find him—is welcoming the move, because even St. Kitts is moving to abolish the preliminary enquiries system too, “eh”—but you know what, they are not putting the cart before the horse. Even from now they are saying that with the transfer of cases to the High Court it would just exacerbate the problem of a case backlog at that level. He recommends that there is a need to hire new judges to assist with the load the resident High Court judges currently bear. So they could even think about it; they are doing the opposite to what we are doing. They said, listen, let us put our systems in place. They have recognized that if they should just move in and bring this to abolish and they move the cases to the High Court, they would be creating what you call a logjam, according to—I am using the language of the Chief Justice—they would be creating a logjam in the High Court.

So we have put the cart before the horse, and we need now—now that this Bill may go through—as you said, and you gave that undertaking that before the proclamation date, that all these considerations all these things that need to make this system work—And I dare say, I now look at these other mechanisms along with the sufficiency hearing, I now categorize them as, what you call it, complementary goods. They “cyah” go, the PI “cyah” work without these mechanisms being suggested here.

Mr. Speaker, I turn now to another concern of mine, that is inadequate infrastructure. That is my third concern. Can the existing—I asked a question—infrastructure in the High Court accommodate the increased human resources needed to operationalize this new system? And the answer is no, absolutely not!

Now the Minister said it is envisioned that Trinidad would be divided into six High Court regions each with a judicial centre and a master as well as other judicial officers. And I understand that there is supposed to be the construction of four new judicial centres at a cost of between \$800 million to a billion dollars; those are your figures. These new facilities—and I want to say it here—are meant to support the abolition of the preliminary enquiry procedure: They were meant, that is the whole point about—These facilities are meant to support the abolition of the PI system and to support the new system of sufficiency hearings. Where

will they be operating from? You are supposed to build them at Trincity, at Sangre Grande, at Siparia and at Carlsen Field. Those are four new ones and the two that you will use which are existing will be the Hall of Justice and the Supreme Court, San Fernando. [*Crosstalk*]

Mr. Volney: And Scarborough! Scarborough!

Miss M. McDonald: And you will be doing one in Scarborough too, so that is seven. So that is seven, because I thought that you were going to use one of the masters on a rotational basis in Tobago. So you are going to give Tobago one, because I am reading your stuff and you said one of the masters will be on a rotational basis in Tobago. So you have just added a seventh centre, have you?

Mr. Volney: [*Inaudible*]

Miss M. McDonald: Okay, thanks. Additionally, Mr. Speaker, it is proposed that—[*Crosstalk*]

Mr. Member: Shame!

Miss M. McDonald:—three new Magistrates' Courts will be constructed. Now, Mr. Speaker, there are 13 Magistrates' Courts existing, and they are all in dire need of refurbishment. I just want to state this afternoon that; courts yes, I know for political expedience to build three new Magistrates' Courts will bring you a lot of PR and a lot of fanfare, but I am urging that you do not forget and you give a commitment that you do not forget the refurbishment of the 13-odd existing Magistrates' Courts around the country. [*Crosstalk*]

Mr. Speaker—you have been elevated, you just listen now. [*Crosstalk*] I go to my fourth concern and that is, no safeguards against abuse. And in countries where the PIs have been abolished, there exist safeguards to ensure that there is no abuse by the prosecution machinery as well as the police machinery. I am looking at a *Newsday* article of July 5, 2009 with the former Attorney General, Mr. Ramesh Lawrence Maharaj SC, and this is what he had to say:

“The preliminary inquiry is an important safeguard whereby an accused person is able to scrutinize the case. If this is abolished that would no longer be there, and innocent people could be convicted in a situation where there are concerns about political interference with the prosecution system. In countries in which preliminary inquiries were abolished it was after...laws were set up to regulate and record police investigations by, for example, recording all interviews.” [*Crosstalk*]

I think you are being very malicious.

“In these countries you have proper safeguards to protect the administration of justice.”

Mr. Speaker, in Trinidad and Tobago, no such safeguards exist. And so I would want you to look at England and look at Wales, even the United States, those three and see, exactly, what safeguards are there and for us to put them into our system before proclamation of this Bill.

Mr. Speaker, those concerns I have stated, as I close: the lack of criminal proceeding rules, the inadequate human resources in the Judiciary, the fear of backlog in the High Court, the hiring of criminal masters, the issue of inadequate infrastructure and developing safeguards in the system to protect accused persons from the police and political intervention; these are real and apparent concerns. As I said, ego has no place in making laws; we are the legislators in this country.

Last week I looked at the spectacle when we stood here and we itemized clause after clause all the changes that we think might have been—

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

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

Question put and agreed to.

Miss M. McDonald: Thank you, Mr. Speaker. I merely have just a few more minutes. [*Crosstalk*]

Mr. Sharma: We like you dear.

Mr. Roberts: Thank us over here too.

Miss M. McDonald: I was going back to there. Yes, and I thank you on that side also, Member for D’Abadie/O’Meara.

Mr. Roberts: Happy birthday.

Miss M. McDonald: Thank you too. And I must say thanks to both sides of the House for wishing me happy birthday. [*Crosstalk*]

Mr. Sharma: You look very nice.

Miss M. McDonald: And you see I am in the service of the people, I am here; I could have been chosen to be elsewhere, but I am here doing the people's business, on my birthday. [*Desk thumping*] [*Crosstalk*]

Mr. Roberts: Yes, I like that.

Mr. Sharma: “Nobody eh invite yuh no way?”

Miss M. McDonald: I want your DNA—[*Crosstalk*] [*Laughter*—an intimate one. [*Desk thumping*] Mr. Speaker, you see I learnt my DNA very well in one week, so I now know the difference between the non-intimate and the intimate samples. [*Crosstalk*]

Hon. Member: Only when we consent.

Miss M. McDonald: No consent. [*Laughter*] That is what the Bill says. Mr. Speaker, I was having a conversation, through you, with the Member for St. Joseph and, as I said, I saw last week the spectacle of us sitting here and going through the Bill clause by clause. Mr. Speaker, as I said, there is no room for ego here. We have made, we have sat, we have studied this Bill and we are in support of it in principle. All we are asking is that you give due consideration to what we have said, especially those concerns which should go along with this Bill before the proclamation date. I am sure, Minister, you might be reasonable enough to sit and look at it carefully.

We cannot legislate all the time to get it 100 per cent right, but what we can do is try to get it to that point where it could satisfy most of our citizens' scrutiny. Mr. Speaker, with those few words, I thank you.

6.30 p.m

Mr. Speaker: Is there anyone else?

Dr. Keith Rowley (*Diego Martin West*): Thank you, Mr. Speaker. I am just rising to say a few words on this very important Bill. I do not want to detain the House much longer—I gather we are going towards closure on it—but I think, Mr. Speaker, there are a couple of observations I would want to make in support of this Bill.

Our support on this side, as said by my colleagues, is based on the fact that we are resolute in our commitment to support any measure which we believe would be improving the public interest in Trinidad and Tobago, and the corollary of that is to oppose what we figure might not be in the public interest. This particular Bill has the potential, if properly implemented, to bring about some significant

improvement in the quality of life of our citizens [*Desk thumping*] and on that basis, our support is available.

Mr. Speaker, one needs to look at this Bill against the background of where we are at this time, with respect to public administration in general. Ever so often we get statistics—let us take the police statistics—the police statistics about crime—[*Interruption*]

Mr. Speaker: Please, please, Members!

Dr. K. Rowley:—and we might take comfort in the fact that somebody might be saying to us that the number of cases of this type of crime or that kind of crime has fallen. I do not know how many persons take those statistics, but as a Member of Parliament interacting with a community and people who are exposed to criminal conduct, I take the statistics on crime with a great deal of salt, in that I do not believe they present the true picture, because in many instances crimes are committed and the victims do not even bother to even report the crimes, because they have come to a position that it is not worth it; they are not going to be investigated; they would not be successfully detected or some other reason. Therefore, the statistics of reported crime, it is my view, does not necessarily reflect the situation.

I say this against the background of the number that my colleague, the Member for Port of Spain South, mentioned a while ago, of cases in the Magistrates' Court. I say, suppose we had a better level of crime detection in the country, and more detected crimes resulted in more arrests, those numbers reported today as the situation of cases in the Magistrates' Court could easily be higher, because it appears as though, in a low detection rate environment, many instances of crime may not be detected; nobody is charged and, therefore, that number does not get before the court.

So those are minimum numbers we are looking at and, therefore, some citizens might be wrong and might take the position, look, given how the courts are functioning; given the length of time to get justice; and given the cost of justice, I might as well just not bother. I might suffer the hurt and the injustice than proceed, even though I have a good case. It is against that background that I am saying that if we implement a system of reduction or removal of the preliminary enquiry, we believe that that would lead to speedier justice; we believe that it would result in better functioning of our justice dispensing system, and if that is achieved, then persons could look to doors of the court with more confidence as against a situation where people would say, I am not going to

bother because the system is so clogged. Some people go as far as to say the system is not working or might not be working in their favour, and if that is so, Mr. Speaker—if that thought exists in the minds of citizens, we have a problem. At both ends of our spectrum of justice dispensing, we have a serious problem.

At the end of the beginning of process, the preliminary enquiry, and matters being dealt with in the Magistrates' Court, by virtue of the volume, the officers could be overwhelmed; the system is sluggish; people do not believe they are getting justice; and people do not approach the court for justice and we cannot say then that that is a perfect system, or not just perfect, but acceptable. It is not acceptable.

But then, at the other end of the spectrum, it is not a problem, in that our highest court under our Constitution is the Privy Council. So if you do manage to get through what can happen from the Magistrates' Court, High Court and Appeal Court and you manage to get a judgment, and you are not happy with it and you need to access the final court of appeal available to our citizens, you would come up against a situation where that court resides in London—in a foreign country, across the Atlantic Ocean—and to access it you have to pay your lawyers in pound sterling; you have to pay huge costs to yourself and the lawyers to get to London to argue in a situation where our Constitution says that our final court of appeal is the Privy Council, but the average person in this country cannot approach the Privy Council purely on the basis on finance alone.

So you might think you have a good case to appeal, but when you look at where you have to go to make this appeal, what it is going to cost you, you might just say, "Well look, I had better not bother because I cannot afford it, I cannot run the risk." The exchange rate in London just for your hotel room alone, if you do go to London, with the exchange rate being what it is—the cost of accommodation in London being what it is; the basic minimum cost for a barrister's chamber in London being what it is; you have a right under the Constitution, but it is a right that you cannot access, and then that being the case only those with deep pockets can access what is provided to all of us, and then in the eyes of those who cannot afford, they then believe that justice is only available to those with deep pockets.

That is the scenario with respect to the view of justice for the people of Trinidad and Tobago, and it is against that background that we should see this effort at this end of the spectrum to treat with the preliminary enquiry, which if properly implemented will take away from the public this view, that the courts are

overloaded; the system is sluggish; the system is not working and I am being denied justice on that basis. That is why I regard this particular measure before this House to be so important.

Mr. Speaker, it was not only the Magistrates' Court that was clogged to the point of destruction. In the not too distant past, the High Court and the Appeal Court had a similar kind of picture, but efforts were made in recent years to try to treat with the matters in the High Court and the Appeal Court.

I was very pleased at the opening of the law term, last year, that the Chief Justice gave a rundown on the situation of that matter of the clogging of the High Court and the Appeal Court, and he did report much to our satisfaction, that considerable progress was being made with respect to the dispensing of justice at the level of the High Court and the Appeal Court. So some progress has been made, but I do not know that we have made any significant progress at the level of the Magistrates' Court and, therefore, given the fact that we took some comfort in the fact that we were making progress with what was getting before the High Court and the Appeal Court, it would be a tragedy, indeed, if we come now and take action, well-meaning as it is, to treat with the Magistrates' Court situation, in particular, and find that we would have moved the problem from one level where it is pretty much chronic, to an area where progress has been made and some light is being seen at the end of the tunnel.

It is against that background that I want to appeal to the Minister that with our support, we will pass this Bill and the laws are going to be on the books, but whatever you do, for whatever reason, do not go back on your word and try to implement it without ensuring that all the supporting i's are dotted and all the supporting t's are crossed. This might sound repetitive, Mr. Speaker, but if I am cynic, I have good reason to be, because two things that happened recently that have shaken my confidence, in the words of my colleagues in the Chamber, are: I asked the very Minister a question in this House, and Members of Parliament are required to—especially when answering questions and so on, the information is required to be believable. I asked the Minister a question about the hiring of a particular officer in his Ministry, and the Minister gave me an answer, and the answer was not correct, and the minister, I presumed he knew it was not correct, because he carefully told me that it was information provided to him.

I thought a Minister of Government answering a question in the House should not be couching it in the language of: "This is what they tell me." When you bring it here it is yours; take ownership. And then I went and checked and I

realized that the officer that we were talking about, contrary to what we were being told had left the job a month a before. I am pretty sure that with a little effort and a little forthrightness, the Minister would have known and would have answered the question in a forthright manner indicating that the officer was not there, as I was enquiring as to what was happening with the appointment. But anyway, that is another thing. That is a minor one as compared to the Government's handling of the anti-gang legislation.

I must say, Mr. Speaker, I am still astounded; I am still shocked; my faith has been shaken in our system with respect to how the Government set about to handle the use of the anti-gang legislation. Every time I hear somebody try to tell me about something wrong with law in that particular matter, I am unimpressed, because we in this House, when we dealt with that legislation—Members can get up and contradict me—having passed that legislation and having provided this tool to treat with persons who are damaging us out there on the streets and elsewhere—it was never the intention of this House that the letter and spirit of that law was to allow police officers to go and pick up people without evidence or with insufficient evidence and try to get them prosecuted. That was never the intention.

When I see people, especially Government's spokespersons now and the police saying that it is new law and we had to go and rehearse it and practise it please, Sir, with this new change, there should be no attempt to rehearse and practise it, because we do not want the problem at the Magistrates' Court to be transferred to the High Court and the Appeal Court.

Mr. Speaker, I make this point to ensure that the progress that we are making in the middle of the system is not damaged or interfered with, and I know that some time in the not too distant future, we will have to treat with the issue of our highest court being unavailable to the average citizen, and that would be the debate of the CCJ. That is going to come. And this one is the mountains of matters at the Magistrates' Court which, hopefully, when we get this operational, magistrates would not be tied up in long sessions of preliminary enquiries, and then that would mean that there will be more trial time available to actually try matters, and a lot of what is now strangling the officers on the bench at the Magistrates' Court will not be an assignment for them anymore; this will reduce or eliminate a serious component of the current workload.

So when a magistrate is taking months and months with one case that kind of case will disappear from the system, and hopefully, that will result in greater effectiveness at the level at the Magistrates' Court.

6.45 p.m.

We expect that it will take some time when the Bill is passed to put the physical infrastructure in place, to put the human infrastructure in place, the human infrastructure being the training and recruiting of people, and I am sure we do not want to say that persons in the magistracy should not graduate upwards in the system to masters and the bench above.

So what we expect is that there will be some significant movement of a number of magistrates from where they are upwards into the system to treat with the new arrangements. That being the case, then we should in parallel and in expectation of those movements, take the necessary steps to recruit new people, to recruit additional magistrates so that the system would move smoothly when this law is assented to, that we have a smooth movement of people.

I want to reiterate what my colleague said. I hope, in case it is misunderstood, when we talk about using retired members of the bench as a holding arrangement, that is not to block persons from coming up from the magistracy. If we manage very quickly to put the physical infrastructure in place we may find that some of these retired judges, whether it is for three years, four years, five years, could be in an arrangement of contract but operating at the masters level to treat with this huge flow of material that is going to come from the magistracy. And if we do that then we would have increased human resource available for a period of time—that initial period to handle it until it becomes a normal flow of matters from the initial proceedings in the Magistrates' Court all the way up to the Appeal Court.

Mr. Speaker, having said that, I just want to congratulate my colleagues from Port of Spain South and Diego Martin North/East for the excellent research and job they have done in presenting this matter for public conception, and we look forward to supporting the Bill. I thank you.

The Minister of Justice (Hon. Herbert Volney): Thank you, Mr. Speaker. Mr. Speaker, I am very humbled by the indicated support for the Bill coming both from the hon. Member for Diego Martin West and the Member for Port of Spain South, who have openly supported the measure, albeit on certain understandings that certain measures will be put in place prior to the implementation of this Bill when it becomes law.

While it is that I am tempted, hon. Leader of the Opposition, to respond to issues that you have raised as regards the access to our final Court of Appeal, now

is not the moment for that, and I do not propose to go there until such time as we are ready to go there—that is in this House.

With respect to the loss of confidence that you claim in this side of the House relative to the Anti-Gang Act, I want you to understand at all times that we as legislators passed the measure, jointly; we honestly felt that it was a good Bill because we worked very hard at producing that measure. But the implementation of the measure was a matter for law enforcement agencies and not the Executive arm of Government. It has nothing to do—we on this side as a Government had nothing to do with the picking up of young men on the street without evidence; that is a matter that you should direct at the police, not at our Government. [*Crosstalk*]

Mr. Speaker: Hon. Members, I would not like us to get into the crosstalk at this time. I think when Members of the Opposition were speaking I sought to ensure they had complete silence and the attention of the Government's side. Now that the hon. Minister is winding up, I would ask Members to extend the same courtesy to the hon. Minister, and then also Hansard gets some trouble to record. And I want to let you know, if you look at Channel 11 there is a lot of feedback when Members are speaking because of the acoustics in this Chamber. So I want Members to really allow the proceedings to proceed in silence. Could you continue, hon. Minister of Justice.

Hon. H. Volney: Thank you, Mr. Speaker. The assessment that we had, or the opinion, that we on this side as a Government have to take the blame for what happened is misplaced, and I say no more on that issue.

Mr. Speaker, in response to what Members on the other side have said, I want to assure them that we on this side always listen to what they say. We are parliamentarians, this is the House of Representatives, and while I may be new to it I have learned that it is important to appreciate that we are really one family inside this Chamber. The same way that we break bread in the tea room, as brothers and sisters of the Legislature, we, at the end of the day, want to know that we produce a proper legislative measure and we pass it as a Parliament.

So we are listening to what you have to say. You may not always, on that side, get into the legislative measure what you want because you have to appreciate—Members opposite must appreciate—that while it is that you may have your say, we on this side are responsible for what is taking place in the Government, in terms of governing, in terms of dealing with security issues. You had your turn and your turn has gone; you messed it up; it is now our time to deal with these

issues, and we listen to you and we expect that Members opposite will operate in the true Westminster fashion of being the loyal Opposition in the House of Representatives.

Now, to get to the concerns of my friends opposite—and I hear the echo again. Mr. Speaker, this measure is but one of many measures that this Government will be putting in place to deal decisively and decidedly with the criminal justice system. We start with the statutory framework to deal with the malaise of the criminal justice system. You know, as I stand here, like the hon. Member for St. Augustine, we are deep into how the system has operated. I remember quite clearly my days as a State Counsel I, in the Office of the Director of Public Prosecutions, most of my time was spent on the road travelling to out district Magistrates' Courts to go and do preliminary enquires wasting—Mr. Speaker, could we have a little order from the Members, please?

Mr. Speaker: Member for Point Fortin, could you allow the Member—Yes, I am recognizing you as one of the Members speaking across the floor. So I am saying, could you allow the Member to speak in silence. Continue, hon. Member.

Hon. H. Volney: Yes, Mr. Speaker. I speak from the experienced position as a young attorney in the Office of the DPP, travelling all over the countryside, wasting my time going to district courts, awaiting a long list to be adjourned, and then perhaps on a lucky day taking one witness and then returning to the Office of the DPP in order to get ready to leave to go home in the evening—a wasted day. That has continued over the years and you can ask any person who has worked in the Office of the DPP, how much of their time, their valuable time is wasted in having to deal with preliminary enquiries in this country.

Mr. Speaker, with this measure these attorneys, these officers, State Counsels, in the Office of the DPP and legal officers will be able to remain in the Office of the DPP and sit and use their cerebral in order to prepare for a civilized hearing before a master of the court. The documents would have been all before both sides and also before the master. The documents would be studied, much like at the end of a preliminary enquiry when all the depositions have been gathered and at the close of the prosecution's case in a preliminary enquiry, then submissions made, and the magistrate at this time, under the present system, would decide whether there is sufficient case, whether there is a *prima facie* case to send the matter to the High Court. Because a magistrate does not have the authority to deal with matters of credibility, but has to look at it and see whether if believed by a jury at its highest, whether there is a case upon which a jury, properly directed, can convict, then he has no choice but to send the matter to the High Court.

Mr. Speaker, if you look at the statistics, I would want to think that approximately 90 per cent of preliminary matters, matters going through the preliminary enquiry process, perhaps higher, go to the High Court; they go and they are tried in the High Court. Now, how this pans out for the man in the street whose son has been arrested and charged—sometimes wrongly, sometimes properly, depending on the evidence available—is that a family that hitherto had absolutely nothing to do with a court system and the courts is thrown into total trauma. Their child who is accustomed to being at home sleeping in the night is locked up in a prison cell; they will do every and anything to get money to help that child—that son. They go to some unscrupulous lawyer—and there are many coming from that profession. I can tell you that there are many. There are many goods ones but there are many unscrupulous ones.

7.00 p.m.

Mr. Speaker, the kinds of fees that are being charged for preliminary enquiries, knowing full well that at the end of it all there is likely to be a committal for trial, with that knowledge, the lawyers still ask the people for large sums of money, knowing full well that where the money should be directed is in the High Court, where the matter is going to be tried.

I am not here to bash the lawyers or the legal profession, but I am saying what I know happens. Families go out, they sell their motor cars, and they withdraw all the money they have in their accounts, because it is their child who has been locked up. They want to help their loved child, because this is when the mother fowl syndrome comes in, when the mothers and fathers want to help their child. Families put together and raise the money. They sell land, they sell whatever, they sell cows, and they sell everything in order to pay the lawyers' fees.

The lawyers would then go into the court and invariably reserve cross examination—invariably, they reserve cross-examination. They sit and allow the evidence to take its course, and at the end of it all, do you know what they say? “Your Worship, I reserve.” They make no submissions or if so, submissions that they know will not succeed. It is only in the odd case, where the evidence falls short of establishing the commission of the offence in terms of the elements of proof, that the magistrate is authorized to discharge the person.

So the young person who is charged, or whoever it is, the husband, the wife or whoever—and I am making a plug here for the poor person, because the rich man could handle it, he could sign a cheque; but the poor man cannot; and most people in the court system are poor people. What then happens? The magistrate commits

for trial and when the magistrate commits for trial, the lawyer says, “Okay, bye, bye.” He heads home with his pocket with gold in it. The family has spent everything, and the child now goes into the prison if they cannot raise bail for him. He goes in there and languishes if he or she does not get bail, until such time as the proceedings are then typed up, because they are taken in shorthand, in most cases. They are all typed up; they then go through a procedure where the clerk of the magistrate, who takes hand notes, reads it to whoever types it out to make sure that the two are the same. Those proceedings are then gathered, that takes months, and then they are sent to the office of the DPP.

Because the DPP’s officers are all over the countryside doing preliminary enquiries, they are unable and they do not have the time, as they should, to sit in their office, read the depositions, prepare what is called a summary of evidence and a draft indictment, which is then forwarded to their superiors up to the DPP. What then happens? If you go into the office of the DPP—and it was so then when I was there, and I have no doubt that it is still so today—in all the state counsels’ offices you would see piles of work to be done, that cannot be done, because the lawyers are all over the countryside, doing what I did 25/30 years ago.

But I have learned, and I am blessed to have been given the opportunity to stand here, by my hon. Prime Minister, to speak on this issue, because I know of it very well, perhaps as well as anyone else. As well perhaps even of the Prime Minister, who has practised extensively in the Magistrates’ Courts, Mr. Ramadhar, the hon. Member for St. Augustine, and perhaps very soon the hon. Member for Diego Martin North/East. [*Crosstalk*] [*Laughter*]

So you see, Mr. Speaker, it is a phenomenal waste of legal time to continue with this system as now obtains, for officers in the Office of the DPP. It is an expensive process for families of persons charged, because the story does not end there. When eventually the summary of evidence is prepared in the Office of the DPP—which has always been understaffed. The last time I heard there were 76 positions on the establishment and there was something like 48 persons, and that was a high watermark. All those vacancies exist in there, because it is extremely difficult to get lawyers in the criminal system. They all seem to go into the civil system.

So what happens? I have highlighted the number of years sometimes it takes for the DPP, through no fault of his own, but because of the system as now obtains, when eventually he signs an indictment it goes to the High Court and it then goes through what is called a cause list hearing.

The cause list hearing is like a case management hearing. I have been privileged to have been one of those judges who at the time of the hon. Mr. de la Bastide when he was Chief Justice introduced this system of cause list hearing. That is an area we have to develop further, and we are developing, because the Judiciary, the Ministry of Justice and the Ministry of the Attorney General are like first cousins. We recognize that they are another estate of the Constitution, but we work collaboratively so well. Everything that we do right now is through a process of partnering and collaboration, because criminal justice issues should not be political. These are issues that affect the bread and butter of all the people, and we in this House represent all the people of this country. There is no politics in criminal justice administration.

You see, Mr. Speaker, what then happens is when eventually the matter is set down for hearing, it has to be placed at the end of a long list of outstanding matters to be tried. Of recent vintage, we have the instance of a case that is 27 years old being tried. That is a shame on the system and we do not want that to continue happening in our country. That is not the kind of thing we want outside people to hear about. That is a matter of national disgrace, that something like that should happen, but it has happened. We do not want to go into the blame game, because there is a lot of blame to be passed.

In 1986 there was a different government. That Government had a 33/3 majority at one time. It could have passed any legislation it wanted; it did not bring this sort of measure, even though it had the majority to do it. Time and opportunity were lost. That opportunity has never returned until May 24, and it is obviously by divine design that opportunity has now come with this parliamentary measure of our Government to be bold and to do what needs to be done, because we do not know when we will get as a nation another opportunity to bring the measures that we need to bring now to this House and to pass into our laws.

When eventually the matter becomes ready for trial, having waded through the period of wait, we are into seven to 10 years. Mr. Speaker, given my own knowledge, given my discussions with the Judiciary, I can tell this House today that if all the courts of the land were to spend every single working day of the year doing just murder trials, those in the system awaiting trial would not be completed in the next 10 years, so bad is the system. That is why the hon. Prime Minister in her wisdom has created the Ministry of Justice to deal with that situation, so we could get out of that abyss, that hole that we have found ourselves in as a country. [*Desk thumping*]

So what do we do? We have a strategy. We have a plan, and I call it a confluence that is going to be taking place; the confluence between these measures kicking in and the physical infrastructure, the training of human resources, all within the next 36 months. The Ministry of Justice has been quiet, because we have been planning. We went into the Legislative Review Committee of the Cabinet, and what did we find? We found the Bill that Members opposite spoke about. That is a Bill that we looked at, and from the outset, when I read it once as a former judge, I knew it could not work. Hon. Ramadhar, the hon. Member for St. Augustine, who is also on that committee, knew that it could not work.

So rather than try to patch it, we literally dumped it. We then went to the computer, and started to go online. We then made strategic arrangements and alliances with the people in the Ministry of Justice in St. Lucia. We have been in communication. We have had missions to Jamaica and the Bahamas and we have been in communications with Ministries of Justice in the Commonwealth. We have gotten all the legislation. We looked and considered all that the Member for Diego Martin North/East has spoken of. We have looked at all that, and we have come up with what we consider to be the Trinidad and Tobago model, one to be emulated throughout the common law parts of the world, and especially in the Commonwealth. That is where we have come.

While we fix this early stage, yet to come would be the criminal procedure law, as it relates to trials on indictment by a judge and jury. That is coming next, together with the jury law. Which cases should have a jury trial, which cases should not, which cases should have a special jury; all those matters would take into account the dynamics of today's world, the threats of persons in society to jurors, to witnesses.

In this fiscal year, over \$25 million is being expended by the Ministry of Justice to keep witnesses alive under the Witness Protection Programme. In the last 18 months, do you know what has happened? We have tried one of 77 cases in which people and their families, witnesses and their families, have to be kept secured. So we do not even have the physical infrastructure to deal with that. Those are inherited problems, problems that were not dealt with over the last how many years. This measure is one that we are dealing with for the generations to come. Coupled with it would be the good news that we have judicial centres. Cabinet has approved the construction of judicial centres, comprising eight courts each—well, four in one case and in the case of three others, eight courts each; High Court and Magistrates' Court in a judicial centre.

The land has been identified. Contrary to what those on the other side have said, from wherever their source of information is. The land has been identified, and very shortly, while it is no grass has been cut, the money is there and has been identified for the soil testing to be done. The conceptual plans have been developed, approved by the Cabinet. A special projects unit of the Ministry of Justice is in place. As we speak, all those issues, prior to going into the open market, under the construct/finance/outfit method, all that preparation is taking place. We as the Ministry of Justice do not have to come here and say in Parliament what is going on and what is going on, but we are working.

7.15 p.m.

When we need the money, if we do, from this Parliament, this honourable House, we will come and the Members opposite will hear, but what they will do, what they will hear is that they will get an invitation for the turning of the sod early in the new year. Especially, I think as a birthday gift to the hon. Member for Port of Spain South, I give you notice that you will be invited to turn the sod, you will be invited to that function. It will come.

So, you see, Mr. Speaker, these things are happening, these measures are all taking place. The DNA Bill, yes, it came to the House; in the House, believe me, I got a baptism of fire from the Opposition, you know. But we have listened to what they have had to say, and we are listening, and at the end of the day we want to know that the Legislature will produce a proper DNA Bill to help with law enforcement and to bring in persons to justice swiftly and surely.

Those are matters, all part of the measures, that are coming to this House. An offender management policy is coming; parole is coming. We also have electronic monitoring coming to this House shortly. All these are progressive measures, 21st Century measures. We are bringing our criminal justice system well into the 21st Century, finally.

Now when it comes to the concerns of the hon. Member for Port of Spain South, this Bill has a clause that it will take effect by Proclamation. Like the Civil Procedure Rules you cannot just pass the rules and implement them without putting in place the measures, the human resource measures, all those sorts of things before you implement them. That took several years but in this criminal justice bill, what is proposed, Mr. Speaker, is that within the shortest possible time, as soon as is practicable, this measure will be proclaimed. We will put in place what needs to be put in place. First, for example the Attorney General will have to bring a measure to amend the Supreme Court of Judicature Act to allow

for the appointment of a number of masters. That is going to have to be done. As it stands there are a number of vacant posts of Judge of the Supreme Court. The problem is that it is very difficult to get suitable persons, and we may very well as a Legislature have to consider increasing the age of retirement for judges. That could very well happen sometime in the future because if we cannot find persons to bring in at the lower level as new judges, as we would like to, we may have to hold on to the judges that we have just a bit longer, as is the case in the Bahamas and, I think, in Barbados.

So, Mr. Speaker, all these matters have been considered. The rules that the learned Members for Diego Martin North/East and Port of Spain South, as well as the hon. Leader of Opposition that they speak of, let me point out, first of all, that the rules in St. Lucia as related to the criminal code, the rules are 30 pages long, not 600 pages. The criminal code is 600 pages which deals with the creation of all criminal offences, all types, from larceny of a motor car, all those sorts of things—it is the criminal code of 600 pages. And as we speak the Judiciary through its Rules Committee, headed by the Chief Justice with Court of Appeal Judge, Judge of the High Court as well as the Attorney General as the titular head of the Bar, and members of the Law Association, the Registrar of the Court and other persons, they sit. They have been working, I have been told, Mr. Speaker, on the criminal rules that will accompany this measure. That will come, but we must first pass this measure and at an appropriate time, when the Judiciary has become happy, the Judiciary and those persons involved in the criminal justice system have become happy with the rules, then I will bring the rules to Parliament, but not before.

So, while this measure can work without rules because it establishes a framework, I can assure Members opposite that nothing is going to be proclaimed before all the necessary measures required to make it succeed happens.

As we speak we know that the construction of judicial centres and courthouses will take 30 months. The Member for Diego Martin North/East has said two years—[*Interruption*—two to three years; you are fairly accurate, it shows that you are in the engineering business; you know where you properly belong. [*Crosstalk*]

Mr. Speaker, the Judiciary and the Executive have met on the prospect of outfitting any available building found appropriate to prepare for special-built facilities to have criminal trials continue on an expanded basis. So that as the construction kicks in and takes place, all these new matters coming into the

system will go to those facilities, those temporary facilities, pending final construction of the judicial centres in order, Mr. Speaker, that those matters that come into the system from henceforth remain fresh, remain new. And that is why I speak here of swift justice. You do the crime today and within a year you will surely do the time under this Government, and that is the goal and it is a goal that is achievable. This measure here is but one small step towards achieving that goal. So, the criminal procedure rules will come, they are before the rules committee.

Now the inadequate human resources given to the Judiciary, I think that the Members opposite have it a bit mixed up. The Members are probably lost in a warped zone in which the PNM is still in Government. This Government has been giving the Judiciary all the resources it has asked for. And apart from those resources the Ministry of Justice is going to be building courthouses which the Judiciary no longer would have a hand in. But we act on the design brief on a consultative basis with the Judiciary. As this Member told the Chief Justice, as Minister, “Chief Justice, it is your courthouses we are building. Just tell us what you want, we will build it for you. You are going to be operating it”. And it is in that same spirit that I was privy, I was particularly humbled to sit on a committee of judges, the Chief Justice and executive staff of the Judiciary, to work out this very measure before the House. That committee also has a subcommittee that is dealing with the implementation, how it is going to be implemented.

So, that is why the Ministry of Justice, the Ministry of the Attorney General, the Ministry of Planning, the Ministry of National Security—did I say the Attorney General, I do not want to leave the Ministry out?—the Ministry of the Attorney General. We are all partnering with the Judiciary to make this measure work, and also to assist the Judiciary in dealing with their complaints when it comes to human resource problems, as well as building, plant and machinery to make the system work.

That was not done before, that is what is happening today in this country, and let the national community hear of it from this House. Mr. Speaker, I have dealt with inadequate infrastructure.

Now, no safeguards against abuse, both the Leader of the Opposition and the Member for Port of Spain South raised that issue. In this Bill there is a provision for tape recordings, video recorded statements and audio recorded statements. You know, Mr. Speaker, that is preparing us to take us finally where we should be in the 21st Century.

I recall the Cabinet taking a decision some time ago, to even partner with the Judiciary in training of persons in Computer Aided Transcript recording, that system of real-time recording. This Government is working hand in hand with the Judiciary. We are working with the judiciary in order to fulfil the desire and aspirations of the nation of Trinidad and Tobago when it comes to an effective criminal justice system. So, Members opposite you need not fear the absence of these possible abuses.

Now, there are some other matters that my staff, whom I would like to thank very much for their hard work, some of whom are in courts, including the Chief Parliamentary Counsel of the Ministry of the Attorney General—in Parliament, I beg your pardon. I thank you, Prime Minister. So, this Bill I commend to this honourable House. I think that I have made more than—*[Interruption]*—more than a case for its adoption, and I will be truly heartened to have the vote of each Member on the opposite side so that you can be part of history tonight as supporting this measure.

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

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

7.30 p.m.

Mr. Chairman: Are you ready, Minister of Justice?

Mr. Volney: Yes, yes.

Mr. Chairman: All right. With your leave, Members of this honourable House, this Bill has four parts and I want to propose for your consideration and approval that we take these clauses in parts, so Part I is from clauses 1 to 10 and we go accordingly. Right?

Assent indicated.

Mr. Chairman: So, we can proceed, Sir.

Clauses 1 to 10.

Question proposed: That clauses 1 to 10 stand part of the Bill.

Mr. Imbert: Mr. Chairman, if I could just confirm with respect to clause 4(2), where it states: “Where proceedings were instituted prior to the coming in force of this Act the prosecutor or the accused may elect to have the case determine in accordance with this Act”. Does this mean that if there is a case in—

Mr. Chairman: Are you going to raise a point on that matter?

Mr. Imbert: Yes.

Mr. Chairman: Well, then we would have to—I will have to put the question again.

Mr. Imbert: Okay then.

Mr. Chairman: And please, if we agree on an approach, let us stick to it! If Members believe that they want to deal with it clause by clause, let us agree, but we cannot agree and then we stop midstream. So, we will have to go all over again, start from clause 1.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Mrs. Persad-Bissessar: Mr. Chairman, can we do clauses 2 and 3 together and then come to clause 4, instead of clause by clause?

Mr. Chairman: Yes, but I think the hon. Member—

Mr. Imbert: What I would do, Mr. Chairman, there are just about three clauses that I have issues with, so I can indicate what they are and then you could adopt your procedure, so I have no problem with clauses 1, 2 and 3, but I want some clarification on clause 4.

Mr. Chairman: Okay. So, can we take clauses 2 and 3?

Clauses 2 and 3 ordered to stand part of the Bill.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Mr. Imbert: The Minister just confirmed that the way this clause is worded it would mean that if the prosecutor elects but the accuse objects it will still go to trial. It will! So, it is not the agreement of both parties; either/or.

Mrs. Persad-Bissessar: Either.

Mr. Chairman: Okay.

Mr. Imbert: I just wanted to say that, and the next clause I have an issue with will be clause 13.

Mr. Chairman: Okay.

Question put and agreed to.

Clause 4 ordered to stand part of the Bill.

Clauses 5 to 12 ordered to stand part of the Bill.

Clause 13.

Question proposed: That clause 13 stand part of the Bill.

Mr. Imbert: Thank you, Mr. Chairman. Minister, I had raised the issue of the 48 hours, are you prepared to give a longer period, say, seven days?

Mr. Volney: Well, Member, you must appreciate that an alibi—the nature of an alibi is such that the closer to the time when the alibi is raised or arises would mean that the memory of the person is fresher, so that the earlier it is to the crime or the moment in question is the clearer it should be for the person required to give the alibi notice.

Mr. Imbert: I know, but I still find that 48 days—

Mr. Volney: Forty-eight hours.

Mr. Imbert: Forty-eight hours, sorry, is a little too short, because, previously you had 10 days after the end.

Mr. Volney: Yes, but that allowed for the fabrication of alibis.

Mr. Imbert: Yes, I know, this is 48 hours from the beginning, not from the end.

Mr. Volney: No, 48 hours at the initial hearing.

Mr. Imbert: Yes, initial hearing.

Mr. Volney: Yes, yes.

Mr. Imbert: So you think that is reasonable?

Mr. Volney: Yes, remember sometime the sooner it is given the better. Forty-eight hours is more than enough time to know where you had been.

Mr. Imbert: All right, I do not feel so but, perhaps you would reflect on this between here and the other place.

Mr. Volney: Yes, no problem.

Question put and agreed to.

Clause 13 ordered to stand part of the Bill.

Clauses 14 to 22 ordered to stand part of the Bill.

Clause 23.

Question proposed: That clause 23 stand part of the Bill.

Mr. Imbert: Could the Minister confirm that the way this clause is worded, this is more than just a bare case, this is raising the threshold slightly.

Mr. Volney: This is the law of Trinidad and Tobago as it now stands, if you see the case of *Sangit Chaitlal v The State (1985)*; decision of the Trinidad and Tobago Court of Appeal. It is also what the Judiciary asked for as the standard.

Mr. Imbert: I understand that, but we are making law now where there is no cross-examination, so are you satisfied with this standard?

Mr. Volney: Well, the judges are.

Mr. Imbert: All right. Okay, no problem.

Mr. Chairman: Can I put the question?

Question put and agreed to.

Clause 23 ordered to stand part of the Bill.

Clauses 24 to 33 ordered to stand part of the Bill.

Clause 34.

Question proposed: That clause 34 stand part of the Bill.

Mrs. Persad-Bissessar: Mr. Chairman, we propose an amendment to clause 34(2) as circulated:

Delete the word “seven” and substitute the word “ten”.

Mr. Chairman: Thank you. I think the hon. Member—

Mr. Imbert: Yes, what is the policy behind going from seven to ten? Because this is a situation where there is a delay and you are allowing the judicial officer to discharge the accused. In your original Bill it was seven years, after a delay of seven years, now ten. Why ten? Are you picking this from some Commonwealth standard? Why ten?

Mr. Volney: No, you see, it is a paradigm shift and what we would like to do is to start with ten, to be conservative with ten, and at the appropriate time we could always lessen it. That is how we look at it at this time.

Mrs. Persad-Bissessar: Are you proposing that we keep seven?

Mr. Imbert: Yes, I do not know why you want to amend it. Ten years is a long time between charge and trial, you know—somebody waiting for ten years.

Mrs. Persad-Bissessar: Should we keep it at the seven, are you prepared to vote for the Bill? Would you vote for it?

Mr. Imbert: Yes.

Mrs. Persad-Bissessar: For the entire Bill?

Mr. Imbert: You hear us say we opposing the Bill?

Mrs. Persad-Bissessar: No, I do not know, I am asking.

Mr. Imbert: Did you hear us say we are opposing the Bill?

Mrs. Persad-Bissessar: Well, we will keep it as seven. I withdraw the proposed amendment.

Mr. Imbert: Mr. Chairman, I crave you indulgence, we went a little too fast. I just have one clause that we skipped over, clause 31 and that is it. Could we go back to clause 31?

Mr. Chairman: Okay, before we go to clause 31, let me just put the question because I do not want to leave this thing hanging. Are you withdrawing?

Mr. Imbert: Yes, I think they said so. They are taking out the amendment.

Mrs. Persad-Bissessar: Mr. Chairman, I have been advised by the Minister of Legal Affairs who has quite some experience in the criminal courts, that we would prefer to keep it, to amend it to ten.

Mr. Chairman: All right, so could I put the question, hon. Members?

Question put and agreed to.

Clause 34, as amended, ordered to stand part of the Bill.

Mr. Chairman: I would like to propose that we go to clause 35 and then we come back to clause 31.

Clause 35 ordered to stand part of the Bill.

Clause 31, recommitted.

Question again proposed: That clause 31 stand part of the Bill.

Mr. Imbert: Thank you, Mr. Chairman. It is clause 31(2). Could the Minister explain the policy behind this draconian penalty—two hundred and fifty thousand dollars and imprisonment for five years for publishing particulars with respect to a hearing?

Mr. Volney: Well, it has been that that provision has been abused in the past, because you can pay a small fine and sell papers, but with this sort of penalty you are not likely to abuse the provision.

Hon. Member: Say it for the Mirror. [*Laughter*]

Dr. Rowley: Mr. Chairman, while I understand what the Minister has said, it brings us back to the question of proportionality. We believe that the Government is going too far in one direction with this. Yes, there needs to be a deterrent penalty, but to go to a quarter of a million dollars for publishing, we believe that once again the Minister is not accepting, surprisingly, the need for proportionality.

Mrs. Persad-Bissessar: May I ask, what is your proposal?

Dr. Rowley: I would think, what it is—it is miniscule now, it is definitely too small now because the currency has—but we would think that \$100,000 is more in line with proportionality.

Mrs. Persad-Bissessar: You would settle for \$150,000? [*Interruption*]

Dr. Rowley: One hundred and fifty thousand dollars and two years.

Mrs. Persad-Bissessar: Mr. Chairman, I beg to move that clause 31(2)—I believe it is—be amended to delete “two hundred and fifty thousand dollars” and to insert thereof “one hundred and fifty thousand dollars”; and further, to delete “five” and insert thereof “two”. [*Interruption*] [*Laughter*]

Mr. Chairman: Hon. Members, may I put the proposed amendment first and then put the question after? The proposed amendment is in clause 31(2), delete the words “two hundred and fifty thousand dollars” and replace them with the words “one hundred and fifty thousand dollars”, and delete in the last line the word “five” and replace it with the word “two”, so it would be two years instead of five years. Is that the agreement?

Question put and agreed to.

Clause 31, as amended, ordered to stand part of the Bill.

7.45 p.m.

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

Schedule 6.

Question proposed: That Schedule 6 stand part of the Bill.

Mrs. Persad-Bissessar: Mr. Chairman, I beg to move that item 8 be deleted and item 9 be renumbered as 8.

Question put and agreed to.

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

Schedules 5, 7 and 8 ordered to stand part of the Bill.

Preamble approved.

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

House resumed.

Bill reported, with amendment.

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

Mr. Speaker: Before we go to the vote, I would like to ask the Leader of the House to move a Procedural Motion. It is now close to 7.50 p.m. I would like you to do that at this moment.

PROCEDURAL MOTION

The Minister of Housing and the Environment (Hon. Dr. Roodlal Moonilal): Mr. Speaker, I beg to move, pursuant to Standing Order 10(11), that this House continue to sit until the completion of the Bill at hand, the Second Reading of the Bill under Private Members Business, the third item, Government Business, Motion No. 1 and both matters on the Motion for the Adjournment of the House.

Question put and agreed to.

ADMINISTRATION OF JUSTICE (INDICTABLE PROCEEDINGS) BILL, 2011

Mr. Speaker: The Bill requires a special majority and therefore a division is required.

The House voted:

Ayes 35

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Warner, Hon. J.
Mc Leod, Hon. E.
Sharma, Hon. C.
Alleyne-Toppin, Hon. V.
Gopeesingh, Hon. Dr. T.
Peters, Hon. W.
Rambachan, Hon. Dr. S.
Seepersad-Bachan, Hon. C.
Seemungal, J.
Volney, Hon. H.
Roberts, Hon. A.
Cadiz, Hon. S.
Baksh, Hon. N.
Griffith, Hon. Dr. R.
Ramadharsingh, Hon. Dr. G.
Ramadhar, Hon. P.
Khan, Hon. Dr. F.
De Coteau, Hon. C.
Indarsingh, Hon. R.
Douglas, Hon. Dr. L.
Roopnarine, Miss S.
Ramdial, Miss R.
Partap, Hon. C.
Khan, Miss N.
McDonald, Miss M.
Rowley, Dr. K.
Hypolite, N.

Imbert, C.

Jeffrey, F.

Browne, Dr. A.

Thomas, Miss J.

Hospedales, Ms. A.

Gopee-Scoon, Mrs. P.

Question agreed to.

Bill accordingly read the third time and passed.

WAY OF TRINIDAD AND TOBAGO (INC'N) BILL

Question put and agreed to, That a Bill for the incorporation of the Way of Trinidad and Tobago and matters incidental thereto, be now read a second time.

Bill accordingly read a second time.

Bill referred to a special select committee of the House appointed by the Speaker as follows: Mr. Jairam Seemungal, MP (Chairman); Mr. Rodger Samuel, MP, Member; Dr. Lincoln Douglas, MP, Member; Ms. Joanne Thomas, MP, Member; Miss Alicia Hospedales, MP, Member.

HOR STANDING ORDERS

(REFERRAL TO STANDING ORDERS COMMITTEE)

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):

Thank you very much, Mr. Speaker. I beg to move the following Motion standing in my name:

Whereas Article (8) of the Trinidad and Tobago (Constitution) Order in Council, 1961 provided that....“the Governor shall make and cause to be laid before the Senate and the House of Representatives, respectively, when they first meet such Standing Orders with respect to the matters mentioned in article 26 of the Constitution as appear to him expedient to enable the Senate and House of Representatives to commence the transaction of their business in an orderly manner, but any such Orders may be amended or revoked by the chamber to which they relate”;

And whereas the Standing Orders of the House of Representatives were made by the Governor in 1961 pursuant to the said Article and laid before the House of Representatives on December 29, 1961;

And whereas there has never been a comprehensive review of these Standing Orders since they were enacted:

Be it resolved that the Standing Orders of the House of Representatives be referred to the Standing Orders Committee for consideration and report within the current session.

Mr. Speaker, as we are aware, this is a matter that had been engaging the attention of the committee in the previous session, and a considerable amount of work was done. It is now our intention to revert to that committee and to continue the work to bring fruition to this objective of bringing our Standing Orders into the 21st Century, with relevant rules and regulations to guide the conduct and the deportment and, indeed, the content of our debates in the Parliament of Trinidad and Tobago to reflect the realities of a modern Parliament and the realities with which Members of Parliament are asked to operate.

Mr. Speaker, with those very few words, I beg to move.

Question proposed.

The Minister of Housing and the Environment (Dr. R. Moonilal): Mr. Speaker, in winding up the debate [*Laughter*] I want to thank Members on both sides of the House for graciousness on this matter and as I reflect now on these matters. I beg to move.

Question put and agreed to.

Resolved: that the Standing Orders of the House of Representatives be referred to the Standing Orders Committee for consideration and report within the current session.

BIRTHDAY GREETINGS

The Prime Minister (Hon. Kamla Persad-Bissessar): If I may crave your indulgence for a moment before we put the motion for the adjournment. Today is a very special historic day in the lives of many persons and so I take this opportunity to wish you a very happy birthday [*Miss. McDonald nods head*] and trust that the Member for Diego Martin North/East will release us from the torture of his two Motions to allow you to spend some time with your family. But it is also a historic occasion as well, Mr. Speaker, I understand it is also your birthday. [*Desk thumping*]

So from all of us in this House, we want to wish you a very happy birthday. I do understand it is your first birthday as a married man [*Laughter* and

desk thumping] a newly married man, and I am sure that your family eagerly awaits your arrival. So I trust Member for Diego Martin North/East, again, will be human, so he will give two birthday gifts. Mr. Speaker and hon. Member, happy birthday to both of you.

Thank you very much.

8:00 p.m.

ADJOURNMENT

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, I just saw the Member for Diego Martin North/East in an animated conversation with the Opposition Chief Whip and I am hoping some good news will be arrived at.

I beg to move that this House do now adjourn to Friday, November 25, 2011 at 1.30 p.m. On that day it is, indeed, Private Members' Day and I will ask the Opposition Chief Whip to indicate the matter for discussion on that day.

Miss Marlene McDonald (Port of Spain South): Mr. Speaker, I wish to give the Government notice that we will be debating Motion No. 1 on the Order Paper.

Mr. Speaker: Hon. Members, before putting the question on the Motion for the Adjournment, there are two matters in the name of the Member for Diego Martin North/East that qualify to be raised on the Motion for the Adjournment of the House. I now call on the hon. Member for Diego Martin North/East. You can proceed with your first Motion which deals with the failure to meet the legal and regulatory standards for tax transparency established by the global forum.

Tax Transparency Standards (Failure of Trinidad and Tobago to meet)

Mr. Colm Imbert (Diego Martin North/East): Thank you, Mr. Speaker, and may I wish you best birthday greetings. Of course, I would have to wish the Opposition Chief Whip happy birthday as well, first, before I offer you greetings. I hope you do not mind, Mr. Speaker. So happy birthday to the two of you.

This matter is as important a matter as that I had raised in the Parliament approximately one year ago. You may recall that I had raised the matter of Trinidad and Tobago's failure to meet certain deadlines with respect to the Financial Action Task Force, and at the time the Government, I would have to say, denied reality and said that we were not on any blacklist, and everything was fine. Then we saw a train of events leading to a very controversial appointment of a Director of the Financial Intelligence Unit, and other things have happened in a mad scramble for us to avoid being punished by the Financial Action Task Force.

The Motion before us today is similar. Some days ago, the President of France indicated that Trinidad and Tobago was now, in his opinion, a tax haven, and the President of France, Mr. Sarkozy, said that offending countries should be shunned by the international community because they declined to exchange all tax information automatically with other countries. The 11 countries currently marked for ostracism by the French President are: Antigua/Barbuda, Barbados, Botswana, Brunei, Panama, Seychelles, Trinidad and Tobago, Uruguay, Vanuatu, Switzerland and Lichtenstein. [*Interruption*] You know those tax havens better than me. I will go with your pronunciation. I have never been to Lichtenstein.

Uruguay was more sensitive. Its foreign Minister describes Sarkozy's comments as unacceptable, exaggerations and excesses and recalled the country's ambassador. They had said that Switzerland reacted by issuing a statement that Uruguay really got annoyed and recalled its ambassador to Paris.

What did Trinidad and Tobago do? The Minister of Finance—and I have an article in the *Guardian* published on November 14, which is not too long ago: “Dookeran hits out at French President: Tax haven comments premature, improper,” he said “...the people of Trinidad and Tobago should not be bothered by Sarkozy's comments.”

He went on to say:

“...T&T Cabinet ‘took a decision to become a member of’—the global forum—‘ (in the OECD) recently’—that means they did it—“and we are currently involved in that peer review process.”

He said:

“...that statement (by Sarkozy) was premature and perhaps improper.”

Full of sound and fury:

“We are dealing with the global forum...(the French President) is speaking from a platform of the G20,..”

And so on. This is the identical type of denial that took place one year ago when I raised the matter of Trinidad and Tobago being placed on a blacklist with the Financial Action Task Force. This kind of denial! In fact, it is naivety in the extreme: “The people of Trinidad and Tobago should not be bothered by Sarkozy's comments.”

Let me read into the record what has happened, because the Government will not admit it; the Minister will not admit it.

Trinidad and Tobago was subject to a review by the Global Forum on Transparency and Exchange of Information for Tax Purposes. It was published in January 2011 under this Government, and let me tell you what happened. Because Trinidad and Tobago had declared an intention to become an international financial centre, we came within the radar of the Global Forum on Transparency and Exchange of Information for Tax Purposes. And the Minister said, “Do not bother with them; that is something that is coming out of the G20; we are dealing with the OECD. For the information of hon. Members, the Global Forum on Transparency and Exchange of Information for Tax Purposes is a unit of the OECD. The very agency that has deemed Trinidad and Tobago, having failed to meet the regulatory requirements, is a unit of the OECD.

For some reason the Government opposite decided to join this global forum. We were not a member until recently, and let me tell you what the consequences are, now that they have joined. Trinidad and Tobago participated in a peer review and the assessment was based on publicly available laws, regulations and information in force or in effect as at August 2010. And hear what they have to say—and this report, as I said, is dated January 2011, which the Government has managed to keep a secret for the last 10 months. This is what they are telling us: Trinidad and Tobago does not have in place elements which are crucial in achieving an effective exchange of information and it therefore will not move to a Phase 2 review until it has acted on recommendations contained in this report.

What is the problem in Trinidad and Tobago? When the Global Forum which they invited to come and check us out—when the Global Forum came to Trinidad and Tobago, they found problems in terms of our companies law in particular. They have a difficulty with the fact that under our Companies Act external companies which are registered to do business in Trinidad and Tobago are not required to provide the identity of their owners.

This is in our law right now. If you have a company that is registered in a foreign jurisdiction, incorporated in another country and it comes and it registers in Trinidad and Tobago to do business as an external company, that company is not required to provide the identity of its owners, and the Global Forum has made it quite clear that until we correct that deficiency, Trinidad and Tobago will not be taken off the list of what the French President has called tax havens.

There are other issues in terms of treaties where we just do not come up to scratch. There are a number of areas where Trinidad and Tobago has not met the regulatory requirements of the Global Forum on Transparency and Exchange of

Information for Tax Purposes. This document, the *Tax Transparency 2011: Report on Progress*, has a table which gives you the areas of deficiency of this country, and let me just read out for you the problems with Trinidad and Tobago.

In terms of access to information; the power to access tax information—not in place; in terms of instruments and treaties with respect to sharing of tax information—not in place; in terms of a network of agreements; exchange of information—not in place.

And this document examines a number of countries. There are over 100 countries in the Global Forum and just 11 have been found to fail in terms of providing proper information on the identities of the owners of companies who are doing business in Trinidad and Tobago and the exchange of information with external countries who may require—they might be searching for an international criminal who has registered a company in Trinidad using the device of the external company; they may be searching for somebody who is running from North America, who is seeking to lodge his ill-gotten gains in Trinidad and Tobago and our laws do not allow the sharing of information. That is why we are now on that blacklist and that is why Sarkozy has said that we are going to be shunned.

It is easy for the Members opposite to say this is a joke, but let me tell you what is going to happen. I am reading from an article, September 12, 2011, GFS News: “Beware the global shift in tax policies.” And this is something I am asking the Government; keep their eyes on the ball because the same thing that happened with FATF is going to happen with their tax transparency matter.

“The US FATCA tax regime, due to apply from July 2013, is by far the most draconian of global schemes to tackle tax evasion.”

The US FATCA regime, which passed as part of the US HIRE Act, due to come into force in July 2013, requires all non-US financial institutions to sign an agreement with the Internal Revenue Service in the United States to provide the US tax collection agency with detailed information on their US clients. Institutions that do not sign this agreement will subject themselves to a 30 per cent withholding tax and other penalties.

What this means, any of our institutions in Trinidad and Tobago who may want to go global; any of our banks; any of our financial institutions, who may want to have accounts in the United States—and all of our banks have collaborations with American banks, every single one of our local banks is going to be subjected to a 30 per cent withholding tax and other penalties if they do not

comply with the US FATCA tax regime. And this comes into force in 2013. I thought I would mention it, because this Government has a habit, when they are told things, of not paying attention.

Dr. Rowley: They tend to ignore them.

Mr. C. Imbert: Yes, they tend to ignore them, and the next thing you know, you cannot do business in the United States; they cancel the accounts of citizens of Trinidad and Tobago, which is what happened with the FATF matter. That is what happened. You are laughing. There are people who had accounts in brokerage houses in the United States whose accounts were cancelled, because Trinidad and Tobago did not meet the FATF requirements.

I see the Minister of Trade and Industry laughing. When I brought up the FATF matter, he laughed. I am now bringing up the tax transparency matter, he “laugh”. The point of this article—and there is an article in Barbados written by Sir Ronald Sanders who is saying that Caricom countries should get together to fight against this new global regime for sharing of tax information. And the most important part of that article by Sir Ronald Sanders—listen to what he says. The article is: “Sarkozy got it wrong, but it is not enough to say so.” And the last line in the article; this is in the Barbados newspapers:

“If the countries accused of being ‘tax havens’—including Trinidad and Tobago—“now fail to act collectively, coherently and decisively, no statements that Sarkozy got it wrong will help them.”

And I will now ad lib, “premature, improper”. No statements from our Minister of Finance that Sarkozy “doh” know what he talking about, will help them. And he is quite right.

So I would like to hear from the acting Minister of Finance exactly what Trinidad and Tobago intends to do about this problem. [*Desk thumping*]

8.15 p.m.

The Minister of Food Production, Land and Marine Affairs, Acting Minister of Finance (Sen. The Hon. Vasant Bharath) Thank you, Mr. Speaker. I would like to place in context, what I would suggest to be an ill-informed Motion before us.

Mr. Imbert: Ill-informed Motion?

Sen. The Hon. V. Bharath: And listening to the honourable Member for Diego Martin North/East, I had forgotten, not having been here for a few months,

how misplaced many of his arguments were, when I sat in this House a year or so ago. By way of background and in response to the Motion, Trinidad and Tobago was actually invited in July of 2009 to participate in the Global Forum on Transparency and Exchange of Information for Tax Purposes, when in fact, Trinidad and Tobago was identified as a jurisdiction relevant to the work of the forum as a result of Trinidad and Tobago having stated its intentions to establish the Trinidad and Tobago International Financial Centre—July 2009.

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 90 jurisdictions, which participate in the work of the Global Forum on an equal footing. The Global Forum is charged with the responsibility of in-depth monitoring and peer review of the implementation of the standard of transparency and exchange of information for tax purposes. These standards are primarily reflected in The 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its Commentary. And in Article 26, of the OECD Model Tax Convention on Income and its commentary as updated in 2004, which of course has been incorporated in the UN Model Tax Convention.

The standards provide for international exchange on request of foreseeably relevant information for administration of the enforcement of domestic tax laws of a requesting party. During 2010, the Global Forum conducted its Phase 1, peer review of Trinidad and Tobago. July of 2010, the Global Forum conducted its Phase 1, I repeat, review of Trinidad and Tobago's legal and regulatory framework.

The review conducted by the Global Forum breaks down the standards of transparency and exchange of information into nine essential elements, and this is what is crucial, and 31 enumerated aspects under the broad categories of

- availability of information,
- access to information, and
- the exchange of information.

In respect of each essential element, a determination was made that either:

- the element is in place,
- the element is in place, but certain aspect of the legal implementation of the element need improvement; or
- the element is not in place.

These determinants were accompanied by recommendations for improvements where relevant. The report on Phase 1 of the peer Review of

Trinidad and Tobago's Legal and Regulatory Framework as at August 2010, which was formally adopted by the Global Forum on January 28, 2011, as you alluded to, has identified that of the nine elements assessed in the Phase 1 review, Trinidad and Tobago has four elements in place, two elements in place but in which certain aspects of the legal implementation of the element need improvement, and three elements have been determined as not being in place. The elements identified as not being in place relates to the access powers of competent authorities, which you have suggested, with a subject of a request under an exchange of information agreement; the effectiveness of the exchange of information agreements in facilitating information exchange, and the coverage of such agreements to cover all relevant partners.

Trinidad and Tobago is among a group of nine countries that will move to Phase 2, which has been scheduled to 2013, once it has submitted its report to be peer reviewed at the end of January 2012. So in other words, that date has not come around for Trinidad and Tobago to have submitted its report to be peer reviewed. This report is currently being prepared by the officials of the Ministry of Finance.

Mr. Imbert: A whole year?

Sen. The Hon. V. Bharath: As a tangible demonstration of its commitment to the implementation of international standards of transparency and exchange of information, Government took a decision that Trinidad and Tobago pursue membership on the Global Forum on Transparency and Exchange of Information for Tax Purposes. Indeed, by letter dated October 04, 2011, Trinidad and Tobago was admitted as the 102nd member jurisdiction of the Global Forum.

Mr. Speaker, it is clear therefore, that the question of failure to meet the legal and regulatory standards for tax transparency established by the Global Forum does not in fact arise.

Mr. Imbert: We have failed!

Sen. The Hon. V. Bharath: We are—no, we have until January 2012 to submit our recommendations. We are in fact, in the process of addressing the weakness identified by the Global Forum in order to meet the timeline for Phase 2 peer review in 2013, which will assess the progress made with respect to the implementation of the legal and regulatory framework.

The Fourth Meeting of the Global Forum on Transparency and Exchange of Information held in Paris on October 25 and 26: Trinidad and Tobago was among five jurisdictions that were formally welcomed as members of the Global Forum. The report of this meeting subtitled “Tax Transparency 2011: Report on Progress” found “a high level of co-operation by its members and unprecedented progress made towards improving transparency.”

Let me read for you what the official declaration of the G20 Cannes Summit actually stated. It said:

“In the tax area, the Global Forum now has 105 members. More than 700 information exchange agreements have been signed and a Global Forum is leading an extensive peer review process of the legal framework... We ask the Global Forum to complete the first round of phase 1 reviews and substantially advance the phase 2 reviews by the end of next year. We will review progress at our next Summit. Many of the 59 jurisdictions which have been reviewed by the Global Forum are fully or largely compliant or are making progress through the implementation of the...relevant recommendations.”

At a press conference subsequently held, the President of France, Nicolas Sarkozy, reportedly made remarks to the effect the Global Forum’s publication of 11 countries we regard as tax havens, amongst them Trinidad and Tobago, do not have legal frameworks adapted to the exchange of tax information. And those countries, which continue to be tax havens through opacity in banking, will be deemed pariahs in the international community.

In light of the Cannes Summit Final Declaration, which suggests nothing of the sort, the Government of Trinidad and Tobago considers his remarks made by President Sarkozy to the effect that the 11 countries identified by the Global Forum are regarded as tax havens, to of course be premature, irresponsible and at variance with the spirit conveyed in the official declaration. It also fails to recognize the heterogeneity of the group of companies in question and in so doing regrettably brings the good reputation of Trinidad and Tobago into question. We therefore, as a Government, wholly and categorically refute this statement attributed to President Sarkozy.

In fact, I have with me an email from the very same OECD that the Member spoke of from a lady called Caroline Malcolm dated Monday, November 14. After exchanging the usual pleasantries, it is addressed to Mr. Michael Mendez,

our Deputy Permanent Secretary in the Ministry of Finance, and cc'd to Allison Lewis our Permanent Secretary. It says:

The Global Forum has not in fact published a list of 11 tax havens at all. And it has certainly not identified Trinidad and Tobago or any jurisdiction for that matter as a tax haven.

The statement made at the G20, was a statement made by President Sarkozy and not the Global Forum. Further, the Global Forum's members have not indicated any intention to prepare such a list. What the Global Forum did present to the G20 and was approved by all members at the Paris meeting, and which I have discussed, was a report on progress. However, again the report does not refer to tax havens, instead, it presents a more complex picture of progress towards the international standard of tax transparency and information exchange.

Indeed, in respect of Trinidad and Tobago the report notes that after being identified as a jurisdiction of relevance, it has now committed itself to meeting the international standards and also having become a member of the Global Forum. Trinidad's progress is discussed and is commended.

Mr. Speaker: You have ten more seconds.

Sen. The Hon. V. Bharat: Thank you.

Dr. Rowley: Nine!

Sen. The Hon. V. Bharath: From the foregoing—

Dr. Rowley: Eight!

Sen. The Hon. V. Bharat:—and in conclusion, it is abundantly clear, that it is at least, at the very least, mischievous, to suggest in any way that Trinidad and Tobago has not fulfilled its obligation, and has in any way failed to meet the required regulations. Thank you. [*Desk thumping*]

Land Acquisition (Point Fortin Highway)

Mr. Colm Imbert (*Diego Martin North/East*): I am so sorry for them; they will get the full shaft next year. Now, Mr. Speaker, let me deal with the second Motion. The second Motion deals with the question of land acquisition for the Point Fortin Highway. And it is necessary to get some answers from the Government on this matter.

Prior to the entry of the current Government, the route for the extension of the Solomon Hochoy Highway to Point Fortin was established. In fact, in April of 2010, a Cabinet Note was prepared for the acquisition of land by the National Infrastructure Development Company, for the construction of the Solomon Hochoy extension to Point Fortin on behalf of the Ministry of Works and Transport. The Cabinet Note indicated that the Solomon Hochoy Highway extension to Point Fortin involves the construction of a four lane divided highway, to international freeway standards and comprises several segments of approximately 43 kilometres in length, including extension of the existing highway from Golconda to Debe, Penal, Siparia and Fyzabad to Dunlop Roundabout in Point Fortin. It includes the upgrade and widening of the South Trunk Road from Paria Suites to St. Mary's Junction via Mosquito Creek with a new highway to Delhi Road from St. Mary's Junction. There are also connector roads to the new highway, to Union Estate, Siparia and Penal, to provide connectivity to surrounding communities.

There are four segments or there were four segments: Golconda to Debe, Paria Suites to Mon Desir, Fyzabad to Dunlop interchange and Debe interchange to Fyzabad interchange: as I said a total of some 43 kilometres. And at that time, in April of 2010, the lands which the highway was to travel through were identified by way of a cadastral sheet, indicating the route alignment, and indicating the properties to be acquired.

At the time, there was an estimate of land acquisition in the vicinity of \$800 million. Subsequent to that, we heard that the cost of the highway itself had increased from some \$5.2 billion, which was the bid of the lowest tenderer, the Brazilian contractor, to some \$7.2 billion. And for the last year or so, members of the national community, Members of Parliament have been seeking to get an explanation from the Government: how did the cost of the extension of the Solomon Hochoy Highway move from \$5.2 billion to \$7.2 billion?

When one looks at the comments made by the Members of the Government, a very vague and unclear picture emerges. The current Minister of Works, had indicated in story in the *Trinidad Express* dated August 16, 2011, that he was not sure that the figure of \$2 billion for land acquisition was accurate, but then went on to proffer a possible explanation, by saying that when the Mamoral Dam was discussed four years ago the properties in that area of the dam were valued at \$49 million.

“As I speak today”—this is him speaking—“the very same properties are valued at over \$200 million. And if we wait longer I can assure you it would pass \$300 million.”

So the explanation given, a possible explanation for the escalation in land acquisition cost from \$800 million to say \$2 billion was that land prices are going up.

8.30 p.m.

The Member for Oropouche East was not to be left out. There was another story on August 17, 2011, where the same comments—this in the *Newsday*—from the hon. Minister of Works were reported, that land values are increasing, and he used the example of the Mamoral Dam. Then he said:

“...the lands that will be acquired... ‘whatever the market price is, we pay.’ He added that the payments to the affected landowners will be done fairly.

Speaking earlier with reporters at the Red House, Housing Minister Dr. Roodal Moonilal”—as I said, not to be left out—“agreed with Warner about the figures referred to by Rowley. Moonilal said, ‘That is not the cost of land acquisition. We don’t have a sense of the cost of land acquisition because no land has been acquired.’

Responding to Rowley’s statement about Government acquiring land which was not being used for the construction of the highway, Moonilal said, ‘You just don’t go and take the route of the highway alone.’ Moonilal said it made more sense to acquire the total parcel of land owned by such persons in order to ‘free the area for construction of the highway.’

Noting that his Oropouche East constituency is one of several constituencies which will be affected by the extension of the highway, Moonilal said this is why he was on the committee along with Prime Minister Kamla Persad-Bissessar, Local Government Minister Chandresh Sharma and Minister in the Works Ministry, Stacy Roopnarine whose respective constituencies of Siparia, Fyzabad and Oropouche West were also affected by the extension.

He explained that the reason why MPs whose constituencies are affected by the project are on the committee ‘is to ensure that communities are on board.’

‘This a new approach...’

So, Mr. Speaker we have a situation where the previous estimate for land acquisition was in the vicinity of \$800 million, prior to the advent of the new

Friday, November 18, 2011

Land Acquisition

[MR. IMBERT]

Government. We have a situation now, where the cost of the highway has gone from \$5 billion to \$7 billion, leading to speculation that the additional \$2 billion is for land acquisition.

I would like the Minister to clarify that here today: what is the basis of the increase in price of that highway from \$5.2 billion to a reported \$7.2 billion? Let us know today, what are the facts. What have you budgeted for land acquisition? What have you budgeted for legal fees?—which I would come to in a little while? What have you budgeted for surveys? What have you budgeted for consultancy fees in that additional \$2 billion? The Government is being very cavalier about this whole thing. They think it is humourous to increase the price of a project from \$5 billion to \$7 billion, without giving the national community a proper explanation.

In the *Trinidad Express* newspaper of November 09, 2011, there was an article headlined:

“Residents meet lawyers to settle claims”

This was just the other day, November 09.

“Residents who must move to make way for the highway between San Fernando and Point Fortin are to meet today with lawyers for the State which wants to acquire their land.

The meeting will be held at the Mon Desir Community Centre in South Oropouche.

Smart Communications Ltd is the consultant agency hired by the National Infrastructure Development Company Ltd (Nidco) to host these meetings.

It is estimated it will cost some \$2 billion to acquire the land along the 47 kilometre-long highway. The route will dislocate some 300 households and 70 squatters.

A spokesperson for the company”—Smart Communications—“said the process could take several months before the land can be acquired and persons paid.”

Then they go on to talk about the process. The purpose of the meeting is:

“...to introduce the people to the attorneys who will be doing the social survey aspect of acquisition. They are the ones who will ask how many people live in the homes, do the verification of ownership and determine who is...squattng.”

Et cetera, et cetera, et cetera!

“In August, Prime Minister...had approved an interministerial committee to ensure proper oversight and accountability of the \$7.2 billion Point Fortin highway...”

Again, the reference is \$7.2 billion; \$2 billion more than the construction cost.

When I saw the name Smart Communications, it peaked my interest. I have been advised that Smart Communications has been awarded a contract, and the Minister could clarify, confirm, agree, disagree or correct me if I am wrong. Smart Communications has been awarded a contract for the provision of land acquisition consultancy services in the amount of \$5,375,613. So, I have been provided with a company search on Smart Communications.

Smart Communications was incorporated in March 2005. There are two named directors of the company, and this is the up-to-date annual return of the company. The directors of the company, as of the date of the annual return, March 17, 2011, are the following persons: Sushma Sawh, of 41 Edward Street, Port of Spain, occupation, Marketing Manager and Om Lalla of—*[Interruption]*

Dr. Rowley: Who?

Mr. C. Imbert: I am just saying these are the records of the company—

Dr. Rowley: “That is Jack lawyer.”

Mr. C. Imbert: Sushma Sawh, 41 Edward Street and Om Lalla, 41 Edward Street, attorney-at-law. These are the persons who are associated with that company, Smart Communications, and these are the persons, I am advised, have been awarded this contract for \$5,375,613 for a one-year contract. The question I would like the Minister to answer—*[Interruption]*

Dr. Rowley: One year?

Mr. C. Imbert: That is what I am told. The Minister could correct me, agree, disagree or whatever. How much experience did Smart Communications have in land acquisition, prior to the advent of the new Government to power in May 2010? How many exercises of this complexity? You have land acquisition, estimates varying from \$800 million to \$2 billion; 43 kilometres; 300 properties, or some number like that. How much experience did Smart Communications have in the question of land acquisition for a highway of this complexity and magnitude? I would like the Minister to answer that question, because I am advised that they do not have much experience. That is what I am told. The Minister can—*[Interruption and crosstalk]*

Mr. Roberts: How many years' experience "yuh" have?"

Mr. C. Imbert: About 25. The Minister—[*Interruption*]

Mr. Speaker: Hon. Member for D'Abadie/O'Meara, please, please. You cannot be shouting across the floor and making these kinds of accusations.

Mr. Roberts: What?

Mr. Speaker: I am saying you cannot be shouting or interjecting a Member and then impugning the Member's character. I am asking you not to go that route and allow the Member to speak in silence. Continue, hon. Member.

Mr. C. Imbert: Mr. Speaker, the Minister is quite aware of the controversy surrounding the engagement of Smart Communications. It has been the subject of a newspaper article, which I will not read, I am sure he has read it. But the fact of the matter is, there are two issues here that, for transparency the—[*Interruption*]

Mr. Speaker: You have two minutes more.

Mr. C. Imbert: Sure. I am winding up. For transparency, I would like the Minister to assure this House that that \$2 billion estimate for land acquisition is a proper estimate and it is not some contrived number, where people are going to be paid prices for real estate that are way above the market rate. I want the Minister to assure us that there is a proper process, that you have more than one valuation, that the Commissioner of State Lands is involved as a safeguard for the State, so that you have at least two private valuers and you have the Government's valuator as well involved, because the normal thing is that you take an average of the three valuations when you are acquiring property. That is how I know it for the last 20 years in Trinidad and Tobago. I would like the Minister to assure us that you are handpicking a valuator who may give us values at inflated prices, and I would like the Minister to assure us that the company that has been given the job to do the land acquisition is competent, has the necessary track record, is staffed with qualified people and has the kind of experience record in land acquisition for complex public highway projects. [*Interruption*]

Dr. Rowley: And no conflict of interest.

Mr. C. Imbert: Somebody else would deal with that. I would like the Minister to just deal with two those issues. What is the mechanism for the acquisition? Why the inflation in cost and does this company have the necessary competence? Thank you, Mr. Speaker.

The Minister of Works and Infrastructure (Hon. Jack Warner): Mr. Speaker, this Motion is presumptuous. This Motion is mischievous. This Motion is baseless and it is premature. *[Interruption]*

Dr. Moonilal: And improper.

Hon. J. Warner: In fact, this Motion is—*[Crosstalk and interruption]*

Mr. Speaker: Hon. Member for Chaguanas West, please. I defended your right to speak in silence. Allow the hon. Minister to respond in silence.

Hon. J. Warner: Thank you, Mr. Speaker. In fact, this Motion, to me, is vexatious to the spirit and even to the body. But then, over the years, we on this side have come to expect nothing better from the mover of this Motion. This Motion is really a fishing expedition with no fish, with no hook and with no river. In fact, my view is that it is an abuse of the Standing Orders.

There is nothing that the Member seeks to find out by this Motion that he could not find by asking a simple question. All he had to do was to file the appropriate question. We on this side have answered over 100 questions and all he had to do was come here and ask four, five or six questions. We shall answer them. *[Interruption]*

Mr. Sharma: This gives them more TV time.

Hon. J. Warner: I am coming to that. What he does to get TV time, to “gallery” and so on, he comes here with Motions on the Adjournment that just do not make sense, but that, of course, is the nature of the Member for Diego Martin North/East.

Mr. Speaker, you would recall, Friday, July 08, the then Speaker of this House had to plead with the PNM to answer questions, but we here answer all questions. “So, if yuh want tuh know something” ask four, five or 10 questions if you want to, but “yuh come tonight”— *[Interruption]*

Miss Hospedales: He is asking.

Hon. J. Warner: “Ah Motion is not ah question. But yuh come here tonight to ask why so and so.” Put it as a question. I will answer you. But “yuh come to gallery in front de media tuh say yuh” working for Maraval and Diego Martin North/East.

You could have—Mr. Speaker, I know you had no notion of the baselessness of this Motion, because if you had, I am quite sure, you would have—anyhow I would not say that. You are one of the most senior members of this Legislature. You have a long illustrious career, and I would not try to tell you, Mr. Speaker,

about bringing Motions instead of asking questions. You know this better than us, so I would not tell you. I would tell you this: there are Members there, like the last speaker, who like to hear themselves talk and when they ask questions they do not get to talk, except when they ask supplementals. *[Interruption]* “Yuh hurry? Yuh want tuh talk fuh me?” When he comes here he talks.

When I said this was mischief, I want to begin by saying that this was not the first time the last speaker has misled this population. In fact, tonight, when I heard him say: “Not a blade of grass has been cut on the recreation ground in Maraval.” *[Interruption]*

Hon. Member: Maraval?

Hon. J. Warner: The Northern Recreation Ground; “Not a blade of grass has been cut in Bagatelle.” Monday, I saw work on the very same ground, but he comes here to “gallery”; not a blade of grass. *[Interruption]*

Mr. Imbert: In Maraval.

Mr. Roberts: In Bagatelle.

Hon. J. Warner: In Bagatelle. Mr. Speaker, I could tell you—*[Interruption]*

Mr. Speaker: Please, hon. Member for Fyzabad.

Hon. J. Warner:—they come here and pick up all “kinda ole talk” on the sidelines to try, of course, to embarrass people.

8.45 p.m.

Mr. Speaker, August 15—

Mr. Speaker: Member for Diego Martin North/East, please!

Hon. Member: Be quiet!

Mr. Speaker: Continue, hon. Member.

Hon. J. Warner: Thank you, Mr. Speaker. On August 15, 2011 in the *Daily Express*, the media quoted the Leader of the Opposition at a press conference the previous day as saying, and I quote. Listen to the Leader of the Opposition, fishing again:

“We are advised that...Government is buying the land from landowners once the road impacts on the land. So if you have five acres of land...whether it is bull grass, swamp, unproductive, whatever it is, if the road impacts your land, the Government buys your acreage at premium costs...”

How could somebody who is aspiring to be a prime minister talk that way, and then he made a mistake again. In fact, it went further, he said:

“...that he heard one landowner talking very pleasingly about a 75 acre parcel of land which is to be acquired for the road, he said if the entire 75 acre parcel is not being used for the road, such a landowner has much to gain because he finds a buyer for land which otherwise would not have found a market at this time.”

Nothing could be further from the truth, but that is the style of the Opposition, Mr. Speaker, [*Crosstalk*] and I am saying, misinformed, ill-advised. In fact, a leader who cannot even get his members to stop wearing their Balisier ties, is a leader? [*Desk thumping*] A leader who has no ties to his membership, that is a leader? And the aim is also to try to tarnish the NIDCO employees who have families, and who cannot help to defend themselves.

Mr. Speaker, further to that I would say this Government set up an inter-ministerial committee to oversee the project. This committee comprise Ministers, many of whose constituencies impact on the very project for a start, and that was done so as to again not only put checks and balances, but that was done so that the allegations that MPs are acting as real estate agents would be proven to be spurious based on that committee. This Government is one of transparency, is one of accountability and, therefore, I am saying that the Motion which came to us today is skewed, and I will tell you why it is skewed.

Mr. Speaker, on May 22, 2010, two days before the general election, the former Government, they reaffirmed the procedure for the project, a procedure which was in place since March 2006. The procedure which that Government reaffirmed two days before the election is compulsory acquisition of lands as required under the Land Acquisition Act of 1994; along with the option to use private treaty. That is the standard approach and we, therefore, have to deal with persons who own property and that is what we are doing. More importantly, at the same time, the lands also have to be available to the contactor by March 2012.

Mr. Speaker, claimants—and this again is from the Cabinet Note of the former Government:

Claimants may be entitled to disturbance payments which may include temporary rental of suitable alternative property for up to one year—they said so—professional fees and stamp duty, survey costs; valuation costs; moving costs; inflation adjustment; incentive and other miscellaneous costs.

That was their note. To come today to ask me what the cost is for and why and so on, for me, of course, is a rhetorical question; it is fully rhetorical, because the costs were put by them, not by us. [*Crosstalk*]

Mr. Imbert: Not true! Not true! [*Crosstalk*] [*Interruption*]

Dr. Rowley: From \$8 to \$1 billion?

Mr. Imbert: From \$8 to \$2 billion? “Doh try dat!”

Dr. Rowley: That is not true! [*Crosstalk*] [*Interruption*]

Hon. Member: Stop being silly!

Hon. Member: What is really going on?

Mr. Speaker: Please! Please! Please! Member for Diego Martin West and Member for Diego Martin North/East, please. Even if you are saying it is not true, take a note; but you cannot be responding to the Minister after you have spoken. Please, hon. Minister of Works and Infrastructure, please.

Hon. J. Warner: Mr. Speaker, how much time do I have again?

Mr. Speaker: You have until 8.55 p.m., Sir.

Hon. J. Warner: Thank you. Mr. Speaker, I am saying also that these items in costs were determined by them. More importantly also, the figure agreed to by the contactor, whom they recommended, is the same fee which we, of course, agreed to of \$5.2 billion, not one cent more or less than what they had agreed to. [*Desk thumping*] The project has a cost of \$7.5 million of which—[*Interruption*]

Hon. Member: Billion!

Hon. J. Warner:—land acquisition is also \$7.5 billion—[*Interruption*] Is that what I said? [*Interruption*] Okay, zillion.

Hon. Member: Trillion!

Hon. J. Warner:—of which ACOM has \$284 million in consultancy services, and the other fees we again said what they are. Mr. Speaker, if the speaker or anybody wants to enquire, I am saying to you, come here and ask us questions, I have no problem with that; but do not come here and try to “make attack” on NIDCO, the employees or this Government that, of course, is baseless! The attack is baseless!

Mr. Speaker, furthermore, he talked about Smart Communications. NIDCO procured the services of three land acquisition consultants to assist them with the compulsory land acquisition and private treaty arrangements; Rowe Services/ACQ

Associates, they are taking from the Godineau River to Mon Desir Road; Dipnarine Rampersad and Sons Limited, from Debe to Mon Desir interchange, and Smart Communications Limited from Mon Desir to Point Fortin.

Hon. Member: One out of three.

Hon. J. Warner: They took three of out of four persons who came forward, but he called Smart, so you get the impression that Smart alone has been selected. That is the nature of the man, Mr Speaker. [*Crosstalk*]

Hon. Member: Lie!

Hon. J. Warner: I say it again, Mr. Speaker. NIDCO procured the services of three land acquisition consultants to assist with the compulsory acquisition and private treaty arrangements as follows:

- Rowe Services/ACQ Associates from the Godineau River to Mon Desir, Fyzabad Exchange, Siparia Exchange and Connector Road;
- Dipnarine Rampersad and Sons Limited from Debe to Mon Desir Exchange; and
- Smart Communications Limited to Mon Desir.

If Smart Communications is one of the three, why did you not call the three? Why did you not call the three? And if, of course, Om Lalla is in Smart Communications, so what? So what? At the end of the day—that is what you said, at the end of the day that means he should not get a job here.

Dr. Moonilal: Yes, he should not get any work. He should not get any resource.

Hon. J. Warner: Mr. Speaker, let me tell you that is one of the lawyers who also helped us to work in Oropune. The Oropune—[*Interruption*]

Mr. Speaker: Please! Please! Member for Diego Martin North/East.

Hon. J. Warner: In Oropune for over 20 years that land thing has not been resolved, over 20 years, Mr. Speaker. When Transport was under the Ministry of Works and Transport and that was being determined, that legal firm helped with over 50 per cent of the land settlement. It was on that basis, therefore, that when they tendered, based on their experience, that the company used them. But you come here today in Parliament to try to cast aspersions on persons who cannot defend themselves—

Hon. Member: Sad! Sad! Sad!

Hon. J. Warner:—nothing about Dipnarine, nothing about Rowe and Associates but Smart.

Dr. Moonilal: Who is Rowe and Associates?

Hon. J. Warner: Mr. Speaker, I go further and let me also say that NIDCO and the Ministry have been able to acquire lands at Hermitage for over 300 households, families and 30 squatters. These are persons whose properties would be affected by the transfer. Some may opt to go Hermitage and some may opt to go other places. Whatever they do, we shall treat them fairly. We shall treat them fairly, Mr. Speaker. Mr. Speaker, we shall—

Mr. Speaker: One more minute, Minister.

Hon. J. Warner: Okay. Mr. Speaker, we shall compensate them for whatever losses they suffer. But, in fact, I wish to advise this House that in regard to Hermitage, those 300 households, no one has been relocated as yet, no one has been paid compensation as yet and no one has been given, nor will be given free land; and there is nothing irregular here.

Dr. Moonilal: Absolutely not!

Hon. J. Warner: This is a fishing expedition to try to get TV exposure and I believe, Mr. Speaker, he has done himself more injustice, more harm than good.

I thank you.

Dr. Moonilal: As if it were possible.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 8.55 p.m.