

Leave of Absence

Wednesday, April 25, 2012

HOUSE OF REPRESENTATIVES

Wednesday, April 25, 2012

The House met at 10.00 a.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication on behalf of Mr. Patrick Manning, Member of Parliament for San Fernando East, to be excused from sittings of the House for the period April 25 to July 24, 2012 due to continued illness. The leave the Member seeks is granted.

BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS BILL, 2011

Bill to give effect to the Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their destruction, brought from the Senate [*The Minister of Foreign Affairs and Communications*]; read the first time.

Motion made: That the next stage of the Bacteriological (Biological) and Toxin Weapons Bill be taken later in the proceedings. [*Hon. Dr. R. Moonilal*]

Question put and agreed to.

TRINIDAD AND TOBAGO POSTAL CORPORATION (AMDT.) BILL, 2012

Bill to amend the Trinidad and Tobago Postal Corporation (Amdt.) Act, 2012, brought from the Senate [*The Minister of Public Utilities*]; read the first time.

PAPERS LAID

1. Annual audited financial statements of National Schools Dietary Services Limited for the financial year ending September 30, 2005. [*The Minister of Finance (Hon. Winston Dookeran)*]
2. Annual audited financial statements of National Schools Dietary Services Limited for the financial year ending September 30, 2006. [*Hon. W. Dookeran*]
3. Annual audited financial statements of National Schools Dietary Services Limited for the financial year ending September 30, 2007. [*Hon. W. Dookeran*]

Papers Laid

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4. Annual audited financial statements of National Schools Dietary Services Limited for the financial year ending September 30, 2008. [*Hon. W. Dookeran*]

5. Annual audited financial statements of National Schools Dietary Services Limited for the financial year ending September 30, 2009. [*Hon. W. Dookeran*]

Papers 1 to 5 to be referred to the Public Accounts (Enterprises) Committee.

6. Report of the Auditor General of the Republic of Trinidad on the financial statements of the Tobago House of Assembly for the year ended September 30, 2004. [*Hon. W. Dookeran*]

7. Report of the Auditor General of the Republic of Trinidad on the financial statements of the Tobago House of Assembly for the year ended September 30, 2005. [*Hon. W. Dookeran*]

8. Annual report and annual audited statement of accounts of the Central Bank of Trinidad and Tobago for the year ended September 30, 2011. [*Hon. W. Dookeran*]

Papers 6 to 8 be referred to the Public Accounts Committee.

9. Ninety-fifth report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal)*]

10. Ninety-sixth report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*Hon. Dr. R. Moonilal*]

11. Petroleum (Amendment) Regulations, 2012. [*Hon. Dr. R. Moonilal*]

12. Petroleum (Compressed Natural Gas) (Amendment) Regulations, 2012. [*Hon. Dr. R. Moonilal*]

ORAL ANSWERS TO QUESTIONS

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, as we would recognize there are several questions and I just wanted for the record to state that the Government is in a position to answer the following questions: question No. 51, question No. 52, question No. 53, question No. 54, question No. 56, question No. 57, question No. 58, question No. 68, question No. 69, question No. 70, question No. 71—[*Interruption*—question

No. 73—I believe is also on the Table—question No. 76, question No. 77, question No. 79—[*Interruption*—question No. 80, question No. 82, question No. 84, question No. 85, question No. 86 and question No. 93.

Hon. Member: Question No. 87.

Hon. Dr. R. Moonilal: And question No. 87.

Miss Mc Donald: Mr. Speaker? Mr. Speaker? Mr. Speaker!

Mr. Speaker: Yes.

Miss Mc Donald: Mr. Speaker, I am seeking clarification from the Leader of Government Business—could you tell us, just to clarify, which are the questions that you would not be answering?

Hon. Dr. R. Moonilal: Sure. Mr. Speaker, I thought by elimination we would have arrived at that, [*Interruption*] but question No. 59, question No. 67, question No. 79, and I think, question No. 81—

[*Cellphone rings*]

Mr. Speaker: Could you shut off that phone! Please!

Hon. Dr. R. Moonilal:—question No. 83, and I think that is it.

Hon. Member: Question No. 87.

Hon. Dr. R. Moonilal: Question No. 87 is it? No, we are prepared for question No. 87.

Miss Mc Donald: What about question No. 85?

Hon. Dr. R. Moonilal: Question No. 85 I would check from my notes, because, Mr. Speaker, as we can see several of these questions are the same questions being posed to different Ministers, so we have—question No. 85, yes, we are prepared to answer. Those questions we would ask for the Opposition support to defer until the next occasion. We are trying to answer them as quickly as we can.

Dr. Rowley: Mr. Speaker, point of clarification; is the Member telling us that question No. 39 is also available, because question No. 39 has been due?

Hon. Dr. R. Moonilal: Mr. Speaker, question No. 39 is a question for written answer. Could I ask that the response for that be prepared for the next sitting of the House, because it is the Ministry—Mr. Speaker, this question has been sent to the Prime Minister, however it is a question within the ambit of the Ministry of

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Works and Infrastructure. [*Interruption*] I am instructed by the Minister of Works and Infrastructure that the answer would be prepared and circulated today. It is for written response, but for the record the reason that we had asked for this question to be deferred is that it was wrongly posed to the Prime Minister whereas, those matters are within the ambit of the Ministry of Works and Infrastructure—

Mr. Warner: That is correct.

Hon. Dr. R. Moonilal:—so they had to be moved from the Office of the Prime Minister to the Ministry of Works and Infrastructure. While the Prime Minister is the Chairman of Cabinet, these matters are really within the purview of a specific Ministry, so we have had this difficulty with the Opposition posing these omnibus type questions. [*Crosstalk*]

Mr. Speaker: Let us proceed. Please! Leader of the Opposition.

The following questions stood on the Order Paper:

**Construction of Community Centres
(Details of)**

- 67.** Could the hon. Minister of Community Development state:
- (a) When community centres will be constructed in the following communities:
 - i) Aripéro;
 - ii) Cochrane;
 - iii) Santa Flora;
 - iv) Rancho Quemado; and
 - v) Quarry Village?
 - (b) The name of the contractor who was awarded to construct any community centre in Aripéro, Cochrane, Santa Flora, Rancho Quemado and Quarry Villages? [*Mr. F. Jeffrey*]

**Prime Minister's visit to India
(Ministry of Foreign Affairs and Communications)**

- 81.** A. Could the hon. Minister of Foreign Affairs and Communications identify all the Agencies, Departments, Statutory Authorities or State Enterprises in the Ministry which participated directly or indirectly in the visit of the hon. Prime Minister to India?

- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012? [*Mr. C. Imbert*]

Prime Minister's Visit to India

- 83.** A. Could the hon. Minister of Local Government identify all the Agencies, Departments, Statutory Authorities or State Enterprises in the Ministry which participated directly or indirectly in the visit of the Honourable Prime Minister to India?
- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
 - C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
 - D. What are the outstanding bills which remain unpaid as of March 9, 2012? [*Dr. A. Browne*]

Questions, by leave, deferred.

Government Issued Credit Cards (Details of)

- 51. Dr. Keith Rowley** (*Diego Martin West*) asked the hon. Prime Minister:
- A. Could the Prime Minister state the balance on each of the Government issued credit cards that have been issued to officials of the Office of the Prime Minister, as at March 2, 2012?

- B. Is the Prime Minister willing to provide this House with copies of the monthly statement in each case that would have been provided to the Card Administrator, Office of the Prime Minister, for the months of June 2011 to February 2012?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Acting on behalf of the Prime Minister the response to (a) is as follows:

Currently there is only one Government issued credit card holder at the office of the Prime Minister. A perusal of the statements revealed that there were no transactions on the card on March 2, 2012 and as such no balances were recorded on that date. It should be noted however that the billing cycle of the officer's statement is March 16 and the balance on the card as at March 16, 2012 was \$2,307.40.

In response to (b): the Government issued credit card is not in the name of the hon. Prime Minister and as such the monthly statements are not sent to the hon. Prime Minister. In the circumstances the Prime Minister is unable to provide the monthly statements that have been provided to the card administrator.

**Travel Assistant to the Prime Minister
(Details of)**

52. Miss Donna Cox (*Laventille East/Morvant*) asked the hon. Prime Minister:

- A. Could the Prime Minister state the date of the Cabinet approval of the post of Travel Assistant to the Prime Minister?
- B. Has any person functioned in this position of Travel Assistant to the Prime Minister?
- C. Could the Prime Minister indicate the name of this Officer and state the terms and conditions of employment recommended by the Chief Personnel Officer including emoluments, allowances and perquisites?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Acting on behalf of the Prime Minister, the answer to part (a) is as follows: the post of travel assistant to the Prime Minister is not an established post created by Cabinet.

Part (b): as a result of the answer to part (a) part (b) is not applicable. Part (c): as a result to of the answer to parts (a) and (b), part (c) is not applicable.

Miss Cox: Mr. Speaker, I just want to get it clear that there is no travel assistant paid there.

Hon. Dr. R. Moonilal: Mr. Speaker, let me repeat, the post of travel assistant to the Prime Minister is not an established post created by the Cabinet, as a result of part (a), part (b) is not applicable and as a result of parts (a) and (b), part (c) is not applicable.

Dr. Rowley: In that context, Mr. Speaker, has any person been paid any public money under the title of travel assistant at the Office of the Prime Minister?

Hon. Dr. R. Moonilal: Mr. Speaker, we would be happy to respond to that properly if it is posed through the normal channels.

**Miss V. Newton
(Services of)**

- 53. Miss Donna Cox** (*Laventille East/Morvant*) asked the hon. Prime Minister:
- A. Could the Prime Minister state the total amount of public funds spent for the services of Miss V. Newton during the period June 01, 2010 to the present?
 - B. Could the Prime Minister list the duties performed by this person?
 - C. Could the Prime Minister identify each instance where public expenses were incurred for the service of the person, providing the total sum involved on each instance?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Acting on behalf of the Prime Minister the answer to question No. 53(a) is as follows:

The total amount of public funds spent in respect of Miss V. Newton during the period June 1, 2010 to March 31, 2012 is \$868,268.11. This amount represents airfare, hotel accommodation, meals and incidentals whilst on official overseas travel with the Prime Minister.

In response to part (b), Miss Newton is a qualified nurse by profession. She accompanies the hon. Prime Minister on certain official overseas travel and performs related duties as well as a scheduling coordinator to ensure the Prime Minister's presence and attendance at specific functions and activities.

In response to (c): the instances where public expenditures were incurred and the sums involved are as follows:

Official Visit

Countries	Dates	Amount spent
Miami and Jamaica	July 4—8, 2010	\$40,235.70

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New York	August 13—22, 2010	\$45,480.90
New York	September 20—28, 2010	\$47,203.70
Washington	November 8—10, 2010	\$21,783.49
London	March 12—21, 2011	\$60,440
Washington	April 4—9, 2011	\$32,022.75
Brazil	April 24—May 1, 2011	\$21,881.29
St. Kitts	July 1—3, 2011	\$11,464.32
New York	September 19—30, 2011	\$15,826.32
Australia	October 19—	

Miss Mc Donald: Frequent flyer.

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

Hon. Dr. R. Moonilal: Australia—October 19 to November 7, 2011—\$338,329.19.

Hon. Member: What! “Oooooooh!”

Hon. Dr. R. Moonilal: India — January 2—17, 2012 — \$233,600.45.

10.15 a.m.

Miss Cox: Supplemental, Mr. Speaker, posed to the Prime Minister. I heard that Miss Newton travels also to assist with coordinating events and so on, and I am aware that Miss Lisa Ghany-Weekes travels in that capacity. What is the difference in what—decides, what is the difference?

Hon. Dr. R. Moonilal: Mr. Speaker, we would be happy to answer in the supplemental question that is properly worded and properly posed.

Dr. Rowley: The public was told that Miss Newton travelled as travel assistant. Does she travel as travel assistant or as a nurse?

Hon. Dr. R. Moonilal: Mr. Speaker, Miss Newton as I indicated, is a professionally trained nurse and would perform related duties as well as scheduling assistance to the Prime Minister, several duties that may or may not include her professional duties.

**Total Expenses at Hyatt Regency
(Details of)**

54. Miss Donna Cox (*Laventille East/Morvant*) asked the hon. Minister of Tobago Development:

A. Could the Minister state the total amount expended by the Ministry of Tobago Development for expenses of the Minister incurred at the Hyatt Regency, Trinidad from June 2010 to the present?

B. Could the Minister provide a breakdown of this sum indicating the total spent on:

Accommodation;

Telephone;

Meals; and

Entertainment?

The Minister of Tobago Development (Hon. Vernella Alleyne-Toppin):
Mr. Speaker, following my appointment as Minister of Tobago Development in June 2010, I have been required to spend an average of four nights a week in Trinidad, in respect of my attendance at Cabinet, Parliament, interministerial committees, joint select committee meetings, finance and general purposes committee meetings and other meetings. This has been in addition to my responsibility as Minister for the general direction and control of the Ministry of Tobago Development with offices both in Tobago and Trinidad. Notwithstanding the necessity for me to operate from both Tobago and Trinidad no accommodation was at first provided for me in Trinidad in the immediate wake of my ministerial appointment, even while I maintained a residence in Tobago, as I still do.

The Ministry of Tobago Development therefore covered expenses for my accommodation and meals during the month of July 2010 only; the latter, since cooking facilities were unavailable elsewhere. The Ministry also covered expenses for telephone and Internet as well as ground transportation; the latter, since no official vehicle was available to me in Trinidad at that time. I was accommodated at the Hyatt Regency, Trinidad. The total cost expended by the Ministry of Tobago Development at the Hyatt Regency, Trinidad, from June 2010 to present, is \$41,177.84. The breakdown: in accommodation, \$20,734.12; meals

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expenses, \$15,828.42; telephone expenses, \$359.42. Other expenses including Internet and transportation, \$4,255.88. [*Crosstalk*] “I don’t drink coffee”. The total is \$41,177.84 from June 2010 to present.

Hon. Member: Well, done! [*Desk thumping*]

Mr. Speaker: Please, could we have peace.

Miss Cox: Supplemental: Has any further accommodation been provided to you at present besides staying at the Hyatt?

Hon. V. Alleyne-Toppin: Mr. Speaker, that is a new question and I think that should be filed.

Miss Cox: Mr. Speaker, I “doh” understand how the hon. Minister— [*Interruption*]

Hon. Member: “Yuh doh understand?” [*Crosstalk*]

Mr. Speaker: Members, let us have some courtesy please. The Member is on her legs asking questions, let us show respect. Continue hon. Member for Laventille East/Morvant.

Miss Cox: Mr. Speaker, through you, I would like to know if any accommodation has been provided in Trinidad for the hon. Minister of Tobago Development. That is not a new question?

Hon. V. Alleyne-Toppin: Mr. Speaker, I think that is a new question and that question should be filed. [*Crosstalk*]

Prime Minister’s Visit to India
(Ministry of the People and Social Development)

57. Miss Alicia Hospedales (Arouca/Maloney) asked the hon. Minister of the People and Social Development:

- A. Could the Minister identify all the Agencies, Departments, Statutory Authorities or State Enterprises in the Ministry which participated directly or indirectly in the visit of the Honourable Prime Minister to India?
- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?

- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): On behalf of the hon. Minister of the People and Social Development, in answer to question No. 5, Mr. Speaker, this honourable House is informed that the Ministry of the People and Social Development did not participate directly or indirectly in the visit of the hon. Prime Minister to India.

Accordingly, parts B, C and D of the question do not arise.

**Prime Minister's Visit to India
(Ministry of Arts and Multiculturalism)**

58. Miss Alicia Hospedales (Arouca/Maloney) asked the hon. Minister of Arts and Multiculturalism:

- A. Could the Minister identify all the Agencies, Departments, Statutory Authorities or State Enterprises in the Ministry which participated directly or indirectly in the visit of the Honourable Prime Minister to India?
- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, on behalf of the hon. Minister of Arts and Multiculturalism the House is informed that the Ministry of Arts and Multiculturalism and its agencies did not participate directly or indirectly in the visit of the hon. Prime Minister to India.

Prime Ministers Visit to India
(Ministry of Housing and the Environment)

- 59. Miss Alicia Hospedales (Arouca/Maloney)** asked the hon. Minister of Housing and the Environment:
- A. Could the Minister identify all the Agencies, Departments, Statutory Authorities or State Enterprise in the Ministry which participated directly or indirectly in the visit of the Honourable Prime Minister to India?
 - B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
 - C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
 - D. What are the outstanding bills which remain unpaid as of March 9, 2012?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, may I indicate like the other questions the Ministry of Housing and the Environment did not participate in the overseas trip directly or indirectly to India.

Construction of Manufacturing Industry
(Details of)

- 68. Mr. Fitzgerald Jeffrey (La Brea)** asked the hon. Minister of Energy and Energy Affairs:
- Could the Minister state:
- (a) the names of the manufacturing industries that will be investing in the Union Industrial Estate during 2012;
 - (b) the date on which the project agreement was signed;
 - (c) whether an Environmental Impact Assessment was done for the said manufacturing industry for the Union Industrial Estate;
 - (d) whether a Certificate of Environmental Clearance was obtained for the said industry;
 - (e) the date on which construction of the manufacturing industry shall commence at the Union Industrial estate; and
 - (f) the number of construction and permanent jobs that will become available at the manufacturing plant?

The Minister of Energy and Energy Affairs (Sen. The Hon. Kevin Ramnarine): Thank you very much, Mr. Speaker. Part (a): in 2012, Mr. Speaker, Bredero Shaw Middle East Ltd.; the largest division of ShawCor Ltd., a global services company specializing in products and services for the pipeline and pipe industry would be investing in Union Industrial Estate, Union Village, La Brea, where it would be located at site A.

Part (b): the project contract award between Bredero Shaw Middle East Ltd. And its client was signed on January 4, 2012; the lease between the National Energy Corporation of Trinidad and Tobago limited was formally signed a week later on January 10, 2012.

Part (c): the company—and this is Bredero Shaw—previously conducted an environmental impact assessment at the site for a similar project and, therefore, another EIA was not required.

The answer to part (d): pursuant to the Environmental Management Act, and the Certificate of Environmental Clearance Rules, approval was granted to Bredero Shaw Middle East Ltd. on January 11, 2012 for a certificate of environmental clearance.

The answer to part (e): the initial site works commenced on January 16, 2012 and are nearing completion. Initial production works are scheduled to commence in May 2012 with the full production scheduled for the third quarter of 2012.

The answer to part (f): the company will employ between 200—260 persons full time over the life of the project. [*Desk thumping*] The life of the project is estimated for one year. [*Crosstalk*] Thank you very much, Mr. Speaker.

Mr. Jeffrey: Supplemental: are we saying that Bredero Shaw Company is the only manufacturing industry that would be coming into the Union Estate in 2012?

Sen. The Hon. K. Ramnarine: Thank you very much, Member. Through you, Mr. Speaker, thus far 2012, of course we are only four months into the year and we anticipate that given the pickup in the upstream exploration and production activity this year, that there would be more business coming into the Union Industrial Estate, but speaking from the perspective of the Ministry of Energy and Energy Affairs we are very heartened by this project coming to La Brea. It shows the strength of Trinidad and Tobago in providing these types of services to the international energy sector.

Thank you very much, Mr. Speaker.

**Location of the New La Brea Police Station
(Details of)**

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

Could the Minister state:

- (a) whether the location of the site for the new La Brea Police Station is still at the Corner of Brighton and La Brea Village Roads; the commencement date for the of the new La Brea Police Station; and
- (b) the name of the contractor who was awarded the contract and the cost of the construction of the La Brea Police Station?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, on behalf of the hon. Minister of National Security, in response to part (a), hon. Members are advised that the location of the site for the new La Brea Police Station is no longer at the corner of Brighton and La Brea Village Roads. The new location for the La Brea Police Station is the corner of Brighton Road and Silver Street, La Brea, adjacent to the existing site.

Part (b): the projected date for the commencement of the new La Brea police station—Member for La Brea—is mid-May 2012.

Part (c): the name of the contractor who was awarded the contract is Bouygues Trinidad and Tobago, and the projected cost of the construction of the La Brea Police Station is \$44,847,682.74.

**Project for Water Taxi Service
(Details of)**

71. Miss Marlene Mc Donald (*Port of Spain South*) on behalf of Mrs. Paula Gopee-Scoon (*Point Fortin*) asked the hon. Minister of Transport:

- A. What is the projected start-up date for the Water Taxi service to Point Fortin?
- B. If no date has been identified, can the Minister state if the project is still to be implemented?
- C. Has the project been shelved?
- D. If so, what is the reason for the non-consideration of the Point Fortin route?
- E. Apart from Clifton Hill, was another site identified for consideration?

The Minister of Works and Transport (Sen. The Hon. Devant Maharaj): Thank you very much, Mr. Speaker. In response to question 71 (a), currently there is no start-up date for the Water Taxi Service to Point Fortin.

Part (b): implementation of the project will be done based on the completion of a feasibility study. As exists there has been no feasibility study today. Preliminary estimates have however shown that the capital expenditure for the introduction of this service is in the vicinity of TT \$53.34 million. The marginal expenditure in recurrent expenditure is approximately TT \$8.34 million, while the potential annual revenue is estimated at TT \$3 million. Other factors though will have to be taken into consideration such as the technical, environmental, social and economic feasibility in order to make it an informed decision.

Part (c): temporarily.

Part (d): the project has been shelved pending the commissioning and completion of the feasibility study.

Part (e): no determination of any other site would be done based on the findings of the feasibility first. Thank you.

10.30 a.m.

**Water Taxi Service
(Removal of Subsidy)**

73. Miss Marlene Mc Donald (*Port of Spain South*) on behalf of Mrs. Paula Gopee-Scoon (*Point Fortin*) asked the hon. Minister of Transport:

Is the Government considering the removal of the subsidy from the current water taxi service from Port of Spain to San Fernando?

The Minister of Transport (Sen. The Hon. Devant Maharaj): Mr. Speaker, the Government is not considering the removal of the subsidy from the current water taxi service. The subsidy is one way from Port of Spain to San Fernando and is currently \$90. If the Government were to remove it, it would cost each passenger \$210 on a return trip from San Fernando to Port of Spain. The Government is, however, exploring alternative methods of revenue generation to close the gap between the operation expenditure and the revenues generated.

**Water Taxi Service
(Projected Expenditures)**

72. Miss Marlene Mc Donald (*Port of Spain South*) on behalf of Mrs. Paula Gopee-Scoon (*Point Fortin*) asked the hon. Minister of Transport:

A. How much of the current fiscal budget had been projected for expenditure on the Water Taxi service to Point Fortin?

- B. Are there any economies of scale to be benefited by extending this service to Point Fortin?

The Minister of Transport (Sen. The Hon. Devant Maharaj): Mr. Speaker, the answer to part A is as follows: \$7.42 million was projected for the fiscal expenditure on the water taxi service to Point Fortin for fiscal 2011—2012. However, due to the project not being in a state of readiness because of the non-feasibility studies being done, the funds are being transferred to the establishment of a driver's licensing authority which is in a state of readiness and ongoing.

The answer to part B is as follows: this will be determined upon the completion of the feasibility study and given the past experience of incurring expenditure of over \$50 million for the purchase of one vessel, the MV *Su*.

**Prime Minister's Visit to India
(Ministry of Energy and Energy Affairs)**

- 79. Mr. Colm Imbert** (*Diego Martin North/East*) asked the hon. Minister of Energy and Energy Affairs:
- A. Could the Minister identify all the agencies, departments, statutory authorities or state enterprises in the Ministry which participated directly or indirectly in the visit of the hon. Prime Minister to India?
 - B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
 - C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
 - D. What are the outstanding bills which remain unpaid as of March 9, 2012?

The Minister of Energy and Energy Affairs (Sen. The Hon. Kevin Ramnarine): Thank you very much, Mr. Speaker. The answer to part A is as follows: the energy delegation to India over the period January 02—15, 2012, was led by the Minister of Energy and Energy Affairs and included senior Ministry

officials and chairmen and senior executives from the State energy sector. Specifically, those state enterprises included:

- (1) The National Gas Company of Trinidad and Tobago
- (2) The National Energy Corporation of Trinidad and Tobago
- (3) Petrotrin
- (4) National Petroleum
- (5) Lake Asphalt

The answer to Part B is as follows: the cost incurred by these agencies amounted to \$2,927,792.33 and a breakdown of the cost is as follows:

Agency	Travel Cost and Hotel Accommodation \$
Ministry of Energy and Energy Affairs	340,882.60
Lake Asphalt (1978) of Trinidad and Tobago Limited	340,732.00
Petrotrin Company of Trinidad and Tobago	822,981.59
National Petroleum Marketing Company Limited	331,810.61
The National Energy Corporation of Trinidad and Tobago Limited	430,857.86
The National Gas Company of Trinidad and Tobago Limited	660,527.67
Total	2,927,792.33

Part C of the question asks for the breakdown per individual. Mr. Speaker, I am wondering if I could ask the Member for Diego Martin North/East whether we could circulate this in written format.

Mr. Speaker: If you will be extremely long and have a limited amount of time, yes, you can do that.

Hon. Member: Read it out.

Sen. The Hon. K. Ramnarine: Part C of the question in terms of the individuals who went on that trip to India are as follows:

Name of Person	Designation	Ministry/Agency	Travel Cost and Hotel Accommodation \$
Sen. Kevin Ramnarine	Minister	Energy and Energy Affairs	193,486.20
Richard Oliver	Deputy Permanent Secretary	Energy and Energy Affairs	73,698.20
Richard Jeremie	Senior Energy Analyst	Energy and Energy Affairs	73,698.20
Kuarlal Rampersad	Chairman	Lake Asphalt	170,366.00
Hugh Leong Poi	Deputy Chairman	Lake Asphalt	170,366.00
Lindsay Gillette	Chairman	Petrotrin	176,002.88
Arnold Ram	Director	Petrotrin	179,410.10
Kenneth Allum	President	Petrotrin	233,986.86
Imtiaz Ali	Corporate Manager – Strategy and Business Development	Petrotrin	233,581.75
Neil Gosine	Chairman	National Petroleum	173,152.46
Ranjit Ramnarine	Director	National Petroleum	158,658.15
Clyde Ramkhalawan	Director	National Energy Corporation	199,498.21
Andrew Jupiter	President	NEC	231,359.65

Larry Howai	Chairman	NGC	237,587.15
Roop Chan Chadeesingh	Director	NGC	211,491.44
Sydney Andrew Mc Intosh	President	NGC	211,449.08
Total = 16 persons			2,927,792.33

With regard to Part D of the question, I am informed that there are no outstanding bills which remain unpaid as of March 09, 2012.

Thank you very much, Mr. Speaker.

**Prime Minister's Visit to India
(Ministry of Science, Technology and Tertiary Education)**

80. Mr. Colm Imbert (*Diego Martin North/East*) asked the hon. Minister of Science, Technology and Tertiary Education:

- A. Could the Minister identify all the agencies, departments, statutory authorities or state enterprises in the Ministry which participated directly or indirectly in the visit of the hon. Prime Minister to India?
- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012?

The Minister of Science, Technology and Tertiary Education (Sen. The Hon. Fazal Karim): Thank you very much, Mr. Speaker. The following are the agencies that were represented:

- University of the West Indies, St. Augustine
- University of Trinidad and Tobago

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- National Institute of Higher Education (Research, Science and Technology (NIHERST)
- Youth Training and Employment Partnership Programme Limited (YTEPP)
- National Information Communication Technology Company Limited (iGovTT)

With respect to part B, the following are the expenses:

University of the West Indies	\$115,930.28
University of Trinidad and Tobago	\$561,256.95
National Institute of Higher Education, Research Science and Technology	\$166,999.57
Youth Training and Employment Partnership Programme Limited (YTEPP)	\$77,563.15
National ICT Company Limited (iGovTT)	\$311,453.91
Grand Total	\$1,233,203.86

The answer to part C is as follows:

Name of Person	Designation	Ministry/Agency
Prof. Clement Sankat	Pro Vice Chancellor/Principal	University of the West Indies, St. Augustine
Mr. Sharan Chandradath Singh	Director, International Office	University of the West Indies, St. Augustine
Mr. Curtis Manchoon	Chairman	University of Trinidad and Tobago (UTT)
Mr. Zameer Mohammed	Asst. Vice President	University of Trinidad and Tobago (UTT)

Dr. Abhijit Bhattacharya	Consultant	University of Trinidad and Tobago (UTT)
Mr. Jwala Rambarran	Chairman	NIHERST
Mr. Chandar Gupta Supersad	Chairman	YTEPP Limited
Mr. Atiba Phillips	Chairman	National ICT (iGovTT)
Mr. Rabindra Jaggernauth	Chief Executive Officer	National ICT (iGovTT)

Mr. Speaker, no bills remain unpaid as of March 09, 2012. [*Desk thumping*]

**Prime Minister's Visit to India
(Ministry of Tourism)**

82. Dr. Amery Browne (*Diego Martin Central*) asked the hon. Minister of Tourism:

- A. Could the Minister identify all the agencies, departments, statutory authorities or state enterprises in the Ministry which participated directly or indirectly in the visit of the hon. Prime Minister to India?
- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012?

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, the Minister of Tourism is on a flight back to Trinidad and Tobago as we speak. He has asked me to respond on his behalf.

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The Ministry of Tourism is responsible for tourism policy development, facilitating growth of the tourism sector, encouraging investment in the sector, building stakeholder responsibility and for monitoring and evaluating trends in the industry.

The Ministry has responsibility for the Tourism Development Company Limited which is the—[*Interruption*] Mr. Speaker, I am being disturbed opposite.

Mr. Speaker: Please, please.

Hon. Dr. R. Moonilal: Let me repeat that. The Ministry has responsibility for the Tourism Development Company Limited which is the implementation arm of the Ministry of Tourism, and the Zoological Society of Trinidad and Tobago, (ZSTT). The Ministry and its agencies did not participate directly or indirectly in the visit of the hon. Prime Minister to India.

Prime Minister's Visit to India
(Ministry of Public Utilities)

84. Dr. Amery Browne (*Diego Martin Central*) asked the hon. Minister of Public Utilities:

- A. Could the Minister identify all the agencies, departments, statutory authorities or state enterprises in the Ministry which participated directly or indirectly in the visit of the hon. Prime Minister to India?
- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012?

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Thank you very much, Mr. Speaker. The answer to part A is that the head office, Ministry of Public Utilities and the Telecommunication Services of Trinidad and Tobago participated in the visit of the hon. Prime Minister to India.

The answer to part B is as follows: The total cost of expenses incurred by the Ministry of Public Utilities head office in respect of the travel to India by Sen.

The Hon. Emmanuel George, Minister of Public Utilities, is \$200,860 as explained below:

Airfare	\$159,000
Per Diem	\$39,390
Warm Clothing Allowance	\$1,950
Flat Allowance	\$520

The total cost of expenses incurred by TSTT in respect of its participation in the visit of the hon. Prime Minister to India is \$304,961.16.

The answer to part C is as follows:

<u>Delegates</u>	<u>Expenditure</u>
Emmanuel George	\$200,860.00
Mr. Brian Lara, bMobile Ambassador	\$82,120.30
Daren Ganga, bMobile Ambassador	\$75,401.85
Everald Snaggs, Chairman of TSTT	\$73,820.04
Rakesh Goswami, Chief Financial Officer, TSTT	\$73,618.97

10.45 a.m.

Sen. The Hon. E. George: The answer to part D—*[Interruption]*

Mr. Speaker: Hon. Members, it is now 10.45 a.m. I will allow you to finish your answer; you have one more part, then I will put the question to the House for either deferral or written responses. Continue.

Sen. The Hon. E. George: Thank you very much, Mr. Speaker, the answer to part D is that there are no outstanding unpaid bills as of March 09, 2012.

Mr. Speaker: Hon. Members, as you know it is 10.45 a.m. There is a question No. 93 and the Minister of Transport is here and willing to answer that question. I would like to get the indulgence of the House as to whether the House would concur with the Minister of Transport answering this question at this time. He has asked if he can do it.

Dr. Moonilal: He is here and ready.

Dr. Rowley: Mr. Speaker, while we would like to cooperate with that—*[Interruption]*

Mr. Speaker: Please, please, please. Continue hon. Member.

Dr. Rowley:—the process seems to be slightly irregular, because we stopped taking questions at a particular time and therefore no supplementals could have been put. Now we have agreed to that and done that, we are now being asked to take another question. That seems to me—

Mr. Speaker: You wanted a supplemental—

Dr. Rowley: I wanted then but we stopped then because the time had expired. So I do not know how we could do that and now take a question after that. We are then disadvantaged, Mr. Speaker.

Dr. Moonilal: Mr. Speaker, the hon. Minister of Transport is here as a visitor and is kind enough to have all his answers prepared and waiting. Sometimes Members opposite argue that the Government will not answer. Today—
[*Interruption*]

Dr. Rowley: We do not want a speech.

Dr. Moonilal:—we are asking for you to help us. Let us answer, let us answer, let us answer. We have the answers. Let us answer.

Mr. Speaker: All right, may I seek your indulgence again. I think the hon. Leader of the Opposition requested that he would like to ask some supplementals.

Dr. Rowley: I made no request, Mr. Speaker.

Dr. Moonilal: You made no request. So what are you doing?

Mr. Roberts: Anand listening, you know. [*Laughter*]

Mr. Speaker: Please, please, please.

Dr. Rowley: I made no request. I simply made an observation on a procedural irregularity which puts the Opposition at a disadvantage.

Mr. Speaker: What I am asking hon. Leader of the Opposition, would you at this time want to revisit the question of supplementals as it relates to the last speaker because the Minister of Transport is here? I am seeking the House's indulgence as to whether they would accommodate that particular—because he is prepared to answer.

Hon. Members: No!

Mr. Speaker: No, you are not. Hon. Leader of Government Business—

Dr. Moonilal: So the Opposition is not accommodating the Minister of Transport to answer his question for which he is prepared and he is here. Is that the issue?

Dr. Rowley: Question time is up.

Dr. Moonilal: So you do not want any more answers. All right, Mr. Speaker, [*Desk thumping*] if that is the wish of our friends opposite that notwithstanding the time and the Government being prepared to answer all our questions that they wish to stick to the rule, that there is a particular time, we would have to come on the next occasion with the answers. But we were just asking for the indulgence to answer.

Mr. Speaker: Hon. Leader of Government Business. Cool, all right, listen, I am going to close this issue now. All questions that have not been answered will be answered on the next occasion. Okay.

Dr. Rowley: Mr. Speaker, I crave your indulgence. Mr. Speaker, for the parliamentary record I crave your indulgence. It is quite wrong for the Member for Oropouche East to get up here and say that the Opposition does not want an answer to these questions. [*Desk thumping*] What I asked for— [*Interruption*]

Mr. Speaker: “Tie it up fast nah because I would not be able to move on.”

Dr. Rowley: What has transpired is that when it was the Opposition’s turn to put supplemental questions, the House’s ruling was that question time had expired and we had no opportunity to put supplementals. Now that we are saying that we accept that question time has expired, the Government has put a question to us and since we do not accept the procedural irregularity, he is accusing us of not wanting answers to our questions.

Dr. Moonilal: But this is not the first time.

Mr. Speaker: Yes, all right, cool. Let us cool it. Let us proceed. The matter is that time has expired. All questions in accordance with Standing Order 19(7) are deferred until the next sitting—all questions. So we now proceed.

EXPIRATION OF QUESTION TIME

The following questions stood on the Order Paper:

Prime Minister’s visit to India (Details of)

- 85.** A. Could the hon. Minister of Planning and the Economy identify all the Agencies, Departments, Statutory Authorities or State Enterprises in the

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Ministry which participated directly or indirectly in the visit of the Honourable Prime Minister to India?

- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012? [*Mr. N. Hypolite*]

**Prime Minister's visit to India
(Details of)**

- 86. A. Could the hon. Minister of National Security identify all the Agencies, Departments, Statutory Authorities or State Enterprises in the Ministry which participated directly or indirectly in the visit of the Honourable Prime Minister to India?
- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?
- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012? [*Mr. N. Hypolite*]

**Prime Minister's visit to India
(Details of)**

- 87. A. Could the hon. Minister of Sport identify all the Agencies, Departments, Statutory Authorities or State Enterprises in the Ministry which participated directly or indirectly in the visit of the Honourable Prime Minister to India?
- B. Could the Minister state the total cost of the expenses incurred in each case and give details of the total sum involved and the specific purpose

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for which the expenditure was incurred in each case and give details of the total sum involved and the specific purpose for which the expenditure was incurred?

- C. Could the Minister also list all the individuals and their designations and the expenses associated with each individual?
- D. What are the outstanding bills which remain unpaid as of March 9, 2012? [*Mr. N. Hypolite*]

**Bus Transportation (Cascade Bus Service)
(Details of)**

- 93.** Could the hon. Minister of Transport indicate:
- a) When would the bus service to Cascade and St. Ann's be returned to normalcy?
 - b) When would a school bus service be provided for Bishops' Anstey Junior School, St. Ann's to ease the traffic congestion at peak hours?
[*Mrs. P. Mc Intosh*]

Questions time having expired, questions 85, 86 and 93 were not dealt with.

ARRANGEMENT OF BUSINESS

Mr. Speaker: Hon. Members, I have been advised that two statements are to be made during the course of the Sitting of this honourable House today, one by the hon. Prime Minister and one by the Minister of Health. Those statements are not yet ready and I seek the indulgence of the House to revert to this item later on in the proceedings. Do I have the support of the House?

Hon. Members: Assent indicated.

Mr. Speaker: Okay, let us proceed.

CHILDREN BILL, 2012

[Second Day]

Order read for resuming adjourned debate on question [March 09, 2012]:

That the Bill be now read a second time.

Question again proposed.

Mr. Speaker: Hon. Members, the debate on the following Bill which was in progress when the House adjourned on Friday, March 09, 2012, will be resumed:

Children Bill, 2012
[MR. SPEAKER]

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a Bill entitled an Act relating to the protection of children and for matters related thereto. A number of speakers have already delivered their contributions. I understand that the hon. Member for La Brea had 23 minutes remaining. I want to know if you would like to continue or we shall proceed to the Government Bench now.

Mr. Jeffrey: Mr. Speaker, I had ended my contribution on the last occasion.
[*Desk thumping*]

The Minister of the People and Social Development (Hon. Dr. Glenn Ramadharsingh): Thank you very much, Mr. Speaker, and thank you Member for La Brea for being so generous.

Mr. Sharma: Generous! He has nothing to say.

Hon. Dr. G. Ramadharsingh: I am very grateful today to be able and ready to contribute to a Bill that is of immense significance to the most vulnerable and those who need our protection the most. I want to begin by congratulation the sterling contribution of the Minister of Children, Youth, and Gender Affairs, [*sic*] a true champion for the rights of children in Trinidad and Tobago. And, it could quite rightly be put, if not her, who best would have been the individual to bring this piece of legislation to the parliamentary agenda here today?

It is also very important that the Children Bill has come back to the Parliament at an opportune time, a time when we are looking at the increasing importance of women, “Connecting Girls, Inspiring Futures”; when we are seeing the emergence of regional leaders who are women, our own Prime Minister, the hon. Kamla Persad-Bissessar, who is a global leader advocating for increased participation of women; in Jamaica, our colleague, Prime Minister Portia Simpson-Miller who has come back into Government there; women who stand as the bedrock for the protection of our children.

And, I will briefly touch on some of the contributions that have been made before. I must say that holistically at the end of the day there is support on the other side for the progression of this piece of legislation.

I want to begin by agreeing with some of the comments of the MP for Diego Martin Central when he said that:

“Without an empowered and committed family structure—and sometimes even...the existence of an empowered”—community—“too many of our children have been suffering acts of neglect, violence, cruelty, injury, exploitation...”

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It is against this agreement on this particular issue that my own contribution is based, and that is, while the legislation is important and while it is necessary—in fact, it is obligatory that we pass legislation that brings us in line with the modern world, the world of technology, the world of information—it is equally instructive that we have the right community, the nurturing community, the caring community, the family—the family that is close-knit, that looks out for one another and more importantly looks out for its neighbour. The Minister of the People and Social Development begins any discussion with looking at family, community and then needy. Because, if you fix the needy without fixing the family there is no cushion, there is no root on which that issue can be resolved. There is no growth and there is no opportunity for transformation if there is not a strong bedrock in the family and the community.

I also look back at his comments where he indicated, the MP for Diego Martin Central, that it was back in 1991 that the country ratified the United Nations Convention on the Rights of the Child. And I quote him:

“Since then we have had at that time the NAR, then UNC, PNM, UNC, PNM, UNC administrations—I got the count little wrong.”

He mentioned this and it is instructive that we are here today, just before two years, having had to rework this legislation, consult the stakeholders and put a series of measures in place—and, it really does not reflect well that before the People’s Partnership Government came into office, for eight years this piece of legislation was not able to come to the Parliament and be resolved. [*Crosstalk*]

However, I will not want to stay there because we want to believe in progress. We want to move on and we want to continue the good work that was started by the Ministry of the People and Social Development and continued now with the Ministry of children. And I want to pay homage to the administrators, the permanent secretaries who are there, the administrators who worked tireless days and nights to ensure that these meetings were secured with stakeholders, that the Children’s Authority was guided.

Every Monday morning we would have meetings with Justice Annestine Sealy, Mrs. Stephanie Daly and all the members of the Children’s Authority, regular meetings to ensure that we got the work done. Because, it would make no sense that we pass the legislation, the Children Bill, we bring in the legislative framework for the Children’s Authority and you do not have the mechanisms, you do not have the machinery to implement what is in the legislation. And, so the work had to be done on two folds. It had to be done in working the legislation, but

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putting the necessary resources and infrastructure in place so that the law would become relevant when proclaimed. Therefore, I pay no end of tribute to those who worked tirelessly on this project.

I would also like to quote another comment made by the MP for Diego Martin Central before I continue. And he says:

“...in my opinion, in many regards, is identical to the Bill that that committee was reviewing”—to the desk thumping of the other side—“...we took months of hard work, collaborating on and reviewing and agreeing on changes,—“and, it is—“back here in their original form.”

Well, certainly, it is here after much debate at the Legislative Review Committee and within the policy division of the Ministry.

11.00 a.m.

Therefore, whatever form it is in, this is the reason for the debate here today. But after saying that, the Member goes on, and coming to the end of his contribution he says:

“Overall, I support the passage of this Bill, but as I supported and even assisted with amending the Children’s Life Fund”—he says—“95 per cent of the Children’s Bill...before us today was drafted under”—previous—“administrations and is good law. The remaining 5 per cent, most of it, is not bad law...”—after complaining—[*Interruption*]

Dr. Browne: You cannot read or what.

Hon. Dr. G. Ramadharsingh:—about the legislative procedures and provisions in the Bill. So I really did not understand. So, we are indeed happy that you are happy with the Bill, and have indicated that 95 per cent of it is good law and the 5 per cent is not bad law. We appreciate those comments. We also appreciate the fact that you have congratulated the Minister on the work that she has done and also congratulated her on the appointment of the new Chairman of the Children’s Authority.

As you know, Mr. Speaker, in 2010 the Children’s Authority Board was neither defunct nor had it lapsed. The members pulled together to form part of a task force because in the absence of the Children’s Authority in which would be resident all the skills and the expertise that you need to do proper work in investigating allegations of child abuse, where you would have the consultants who would be able to elicit information from children, evidence that would be

properly admissible in the courts, where you would have proper investigations, psychological investigations that are professional and indeed in tandem with First World countries. In the absence of that we did not say, “Well, we will not investigate matters because we do not have a Children’s Authority and we will wait two years and then we will begin to look into that issue. As we did with other matters, we dealt with it head-on and we formed a children’s task force, pulling together the Children’s Authority, the community police, lawyers, doctors, volunteers who would sit together and begin to investigate allegations that arose, and the practices that took place at some of the children’s homes that were under our preview.

At that time the board, Mr. Speaker, consisted of Justice Annestine Sealey; Mr. Terrence Juwaran; Mrs. Jacinta Bailey-Sobers; and I really want to applaud the work of Mrs. Margaret Sampson-Browne, Senior Superintendent of Police, who has a passion for this area and indeed is the recipient of a national award; Mrs. Clair Blandin; Mrs. Sita Beharry; Mr. Dennis Williams; Dr. Samuel Shafe; Mr. Leslie Donawa; and Seereeram Durga.

A month later, in October 2010, we appointed a task force to address the safety of children. The terms of reference was to review the existing systems for child protection with an aim to making recommendations for strengthening and developing an action plan. To design—this is important because sensitization of communities is very important in saving the lives of children, not hiding issues and putting them on the back burner and pretending that they do not exist, but going out into the communities. Therefore, we organized a series of forums in north, south, central, east Trinidad and in Tobago on domestic violence and child abuse, to solicit feedback from the public on how these issues would be adequately addressed. That thinking of the policy team was so instructive—because when we went to Toco we would have had Michael Als and others who were involved in the work there tell us about the unique community arrangements there and how the sensitization in that area could take a different format from that in south Trinidad. They told us what is the culture of a particular community. How do we get the message across? Through the religious leaders, like Sister Paul in south; through the social activists in the west, like Hazel Browne; and that kind of information in directly interfacing with the community was information that was so valuable to bring back to the Ministry to redirect the policy decisions that we had to take.

They also had to review the action plan developed by the committee and consider as the Minister did in her presentation, the recommendations of the

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Justice Barnes' report and to facilitate implementation of priority recommendations. Within a matter of days, that task force that comprised the Children's Authority and all the other players was able to flesh out a new mandate. On November 20, on World Day for the Prevention of Child Abuse, which coincided with Universal Children's Day, we were able to launch public forums, the first of which took place in Chaguanas.

At those forums, we had a panel consisting of Government and non-governmental agencies, the National Family Services Division, the Gender Affairs Division which is now in a new Ministry, the police service through the Ministry of National Security and, very importantly, the Institute for Gender Development at the University of the West Indies, which has also done a tremendous amount of work and has recognized the importance for sensitization of the public on this issue. Following the panel presentations, the Ministry would huddle together to brainstorm some of the recommendations that had been made and given to the table.

At those forums we included Families in Action, the Rape Crisis Society, Lifeline and Childline because we believe that Government cannot do it alone. Government can be the facilitator, it can be the centre point, it can be the place where we begin the discussions on policy issues, but we need the NGOs, the private sector and the citizenry of Trinidad and Tobago to come together to help us to tackle this very serious challenge.

If I were to look, Mr. Speaker, at some of the implications of this Bill for our society, it would be to say that it is really a sign and a symbol of our development, today when we can bring a Bill that has been outdated—in fact, we bring a Bill to replace one that has certainly been outdated. In fact, the laws relating to the protection of our children lacked structure and cohesion. There remained a mix of old and new law, largely ineffective in establishing adequate child protection. For example, the Children Act, 46.01, which is the primary piece of legislation and which this Bill before us is intended to repeal is basically a reflection of the United Kingdom Children Act of 1908. That is 100 years ago. That is before the introduction of the computer, the Internet technology, so these laws need to come in to modern times. We need to have laws that are more relevant to the type of society that we live in. So this attempt to modernize and consolidate the criminal law on child abuse is certainly a day that this country wanted to see.

Whilst the laws have changed to reflect the modern times, the principles inherited from the legislation it followed, remain embedded and this is also very, very important.

11.10 a.m.

It is instructive to note also that the Children Act has been amended 19 times since 1925. It is a very significant point, Mr. Speaker, and I have heard it from the contributions of the Members who spoke here, that enough politics has been played with the issue. It is time to get down to business and implementing the policy decisions that we all agree on for the protection of children in this country that we all love.

Therefore, Mr. Speaker, I also wish to point out the work of the National Parenting and Family Workshop that we held in January 2011. This further helped us to bring information to the table as to how to strengthen the social support systems. Then, again, on April 12, 2011, we held a parenting workshop in what is considered one of the at-risk and vulnerable communities, St. Barb's. That led us to have a conversation with the mothers and then with the fathers as to what are some of the challenges that they face and it would be instructive to note the problems that they had with legal aid, with educational opportunities, training opportunities and even getting the basic resources to send their children to school. That conversation would have helped us because crimes, as we know, Mr. Speaker, take place in communities that are challenged.

Just recently, I visited the constituency of Couva South and on the train line, Mr. Speaker, it is sometimes very, very troubling to see mothers with six and seven children who cannot leave their house. They cannot leave the home because there are six and seven children to attend to and that mother continues to exist in a cycle of poverty. Therefore, I am now working with the policy people in the Ministry of the People and Social Development. Just as we did for the mothers of cerebral palsy children where you meet a mother who is tending her child—a child who has cerebral palsy needs 24/7 care, seven days a week; some of them need to be fed intra-abdominally; some of them need to be fed through the nasogastric tubes, and some cannot move. Therefore, what we did with the URP Social programme is that we said wherever you find a mother who has to attend to a child 24/7, you make them an instant caregiver under the URP Social. [*Desk thumping*] So that mother is hired immediately because she is doing a duty to take care of someone and therefore, that mother receives a salary from the Unemployment—because she is unemployed—Relief—she is getting relief—Programme of the Ministry. We do everything in our power to sensitize the people of this country as to that facility.

But, we want to go further than that. If a mother cannot leave a home because she has six and seven children to tend to, then, we are looking to design a

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programme to uplift the mothers who cannot leave that home and give them a stipend so that they could buy milk, flour, rice, salt and sugar for their children. [Desk thumping] We will monitor the progress of this mother given the small subsistence, so that she can certainly consider giving a neighbour “a lil’ change” to look after the children so that she could go and pursue a course in baking, in floral decoration, a “lil” cooking course and any kind of life skill that will give her some relief, not only from the physical and financial pressures and tending to the children, but also a release from the psychology stress that has been imposed on her because of the cyclical nature of the poverty that she experiences.

So, the Ministry will look to see—because it is really in these at-risk and vulnerable communities that you would find instances where the mother becomes frustrated, or the father becomes frustrated, because the mother had to tend to all these duties and there is some incident that occurs that usually results in our children being abused. Therefore, those protective measures are critical to fighting—because, in many instances, you do not have these problems in the middle class and upper class, you have a lot of problems—I am not saying it does not; of course, it occurs—but you really can prevent many of the abuses that take place at the lower income level and in those communities that have those types of challenges.

Permit me, Mr. Speaker, to shift focus a bit and indicate that in 1991, Trinidad and Tobago accepted and ratified, without qualification, the UN Convention on the Rights of The Child. The premier international treaty delineating the universal rights of children and binding our nations to ensure that these rights are afforded to children within their borders. The convention stipulates that in all actions regarding children, the best interest of the children is of primary consideration.

Mr. Speaker, there can be no doubt that this Children Bill has the best interest of the child and is the dominant thread running through its provision is in the best interest of the child. The very fact that this Bill is being laid today ensuring that the internationally recognized rights of the children are respected and afforded in our nation, speaks to the Government’s commitment to its international obligations, and more importantly, our commitment in doing what is in the best interest of our children.

I have had the opportunity, Mr. Speaker, to read, quite recently, a book that is published by the United Nations entitled *No Small Matter*. That book says that the future of the world and the world economy that is challenged because of crises in

energy, in food and the increase in population and climate change, there is a tremendous opportunity at the age when the child is between two and three, that when we make interventions—that is even before they attend the pre-school—it makes a tremendous difference in the life of the child, in terms of health and in terms of ability to do well in school. *[Interruption]* During the age two to three; that is a recent study and the name of that book—it will do you very well to glimpse a copy of it—*No Small Matter*. The future of our world is dependent on the future of our children.

Mr. Sharma: Does it have pictures in it?

Hon. Dr. G. Ramadharsingh: Yes, there are a few pictures. It is also the concept—there is another book that is future impact. If we want to have an impact on the future, we might not be there but we can do it through the work with our children who are in challenged circumstances. So that is something that we certainly continue to do at the Ministry of the People and Social Development.

I want to come to something that is very important and that is where our children spend most of their time. As I said before, the legislation itself is very important and has some very significant changes that will redound to the benefit of the nation. But, we have to remember that our children are in communities and in those communities, they attend schools. In February, 2011, the Ministry got together with the Ministry of Education under the watch of hon. Dr. Tim Gopeesingh who has a passion and who sat on the—*[Interruption]*

Mr. Sharma: He has delivered about a hundred thousand children.

Hon. Dr. G. Ramadharsingh:—Joint Select Committee and made numerous contributions as to how to best protect our children. *[Desk thumping and crosstalk]* In fact, I understand that his contribution startled the lawyers who were present in that Joint Select Committee. He has also contributed immensely to my edification on this matter, and I want to pay special commendation to him for that.

Dr. Browne: It is not a joint committee.

Mr. Sharma: “Keep quiet nah; yuh go learn something.” *[Crosstalk]*

Hon. Dr. G. Ramadharsingh: That is semantics. We are not about semantics here today; we are about substance, not form.

Therefore, I want to indicate that in February 2011, we launched a new phase of the service to the nation’s children, what is now called “The National Students Hotline”—*[Interruption]*

Dr. Gopeesingh: Give them the number.

Hon. Dr. G. Ramadharsingh: The number is 800-4321 and [*Desk thumping*] all the children in the schools know it. How we did this? We did not reinvent the wheel. There is an organization called Childline which already had a line. I want to indicate to people who feel that this country does not have a problem, that I have been reliably told that that hotline, before we made it a 24-hour call, received, on some occasions, 10,000 calls per year. When we made it a 24-hour call, Mr. Speaker, I am now being told that we had up to 35,000 calls generated last year to that number. So that almost three times the number of cases of suspicious behaviour, suspicious circumstances and observances, would have been reported. Therefore, we may not be able to calculate today how many children's lives were saved, but certainly, if we have tripled the number of concerns that are expressed on the hotline, certainly a great deal of work has been done to protect our children.

Therefore, what we are doing—I see the Minister of Child, Gender and Youth [*sic*] is on the frontline of this—is inspiring the social workers. While we conduct the public service transformation through the Ministry of Public Administration, we have to inspire the few, the brave and the faithful. We know that we have to increase the number of social workers out there; we are aware of that. In fact, the hon. Minister, in her contribution, indicated, in no uncertain terms, she went to pains to describe the very sad and tragic case of Emily Annamunthodo. She indicated in her contribution, and I agree with her, that social workers in the public service are overworked. There is a lot of work to do and they are scarce and it is very difficult to recruit people because of the small salaries that are being paid.

So, inevitably, you recruit people who really have a heart for this thing and in many cases, they go above and beyond the call of duty. As a People's Partnership Government, we pay sterling contribution to the social workers of this country who go out there to do good for our children, our women, our youth, and all those who are challenged. The Minister indicated that this perceived diminishing of self, caused by burnout or by a lack of appreciation or both, must be restored. [*Crosstalk*]

I want to indicate to the hon. Minister that in the Ministry of the People—

Mr. Speaker: Member for Couva South and the Member for Diego Martin Central, you are disturbing the proceedings and the Hansard note-takers are being challenged because of your continuous interruptions especially whilst the hon.

Member is on his legs. So, I would ask Members to allow the Member for Caroni Central, the Minister, to speak in silence. Continue, hon. Minister.

Hon. Dr. G. Ramadharsingh: Thank you very much, Mr. Speaker, and thank you very much for the intervention. I was really getting a little distracted by some of the nuances that were taking place.

11.25 a.m.

In any case, Mr. Speaker, I want to thank the Minister of Education—I come back to the Minister of Education who had the foresight, because when we talk about children’s protection and we pass the laws, we pass the Children Bill, we bring in the Children’s Authority; when we kiss our children goodbye, they go to school, and they spend a lot of their developmental time at school, and in many instances we have picked up through the hotline that there are cases of child bullying in schools, and therefore, a child may have a problem at home but he or she will talk to the teacher about it.

What will the teacher do? The teacher will try to call someone, but now we have opened the airways, now there is opportunity for all who are challenged, who are suffocating and who are experiencing difficulty. I want to make the point that in many instances I have been told when it is the child who calls the hotline—and this is very important—the child is in a confused state and does not even understand what is happening to him or her; they really call out of confusion, of sadness, depression, recognizing that this is a number that they can call.

So having that information being distributed, we have had joint press conferences and the Minister has been advocating for every single principal to communicate the number through flyers and posters on the walls of schools, 800-4321, so that our children who are suffocating can now have a voice. And how we did that? We took Childline, an NGO that already existed, we did not recreate the wheel, and we said look: “You do an important service,” and because of the Prime Minister’s insistence on creating innovative mechanisms within the short space of time, because of some of the tragic deaths which we saw, they were very emotive, we responded and it was, in fact, after one of those very tragic situations that the Minister and myself got together.

We had done quite a lot of work already at the Ministry of the People and Social Development, all we did was quadrupled the contributions made to Childline, and made that hotline a 24-hour hotline and there are at least two persons listening on a shift basis for anyone who would call that number. I want to make that point, because laws alone will not do it, we need to have a holistic

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view of how we tackle these issues. We also speedily sought to appoint the board—imagine there were two board vacancies that existed and we moved speedily to find the relevant people to do that.

In July 2011, Mr. Speaker, we had the privilege of passing the baton to the Ministry of Child, Youth and Gender Affairs [*sic*] but it was not the type of baton passing that you would expect was done with any form of elimination for the responsibility of children. We worked as brothers and sisters in a fight for child protection without borders, and that includes accepting the support of Members on the other side and appreciating their support on this very important issue.

As I indicated before in the contribution of the Member for Arouca/Maloney, who asked what we were doing about poverty; I intend to spend just a few moments informing her for the record, about the tremendous amount of work that is being done. This People's Partnership Government promised in its manifesto—the manifesto that is now the blueprint for development, the flagship for human development and speaks to the mantra of Prosperity for All—promised that we would reduce poverty by 2 per cent per annum. The technical people in my Ministry have told me because of the measures we have undertaken, the Direct Impact Programme which only last week we went to Chaguanas East and we saw 400 persons—[*Interruption*]

Mr. Cadiz: Four hundred and fifty five.

Hon. Dr. G. Ramadharsingh:—four hundred and fifty five, I stand corrected. And then we went to Couva South and we would have seen just about 400 persons there as well. We went to Barrackpore last week as well, and we would have seen in excess of 300 persons. We went to Tobago and saw 200 persons and we talked with them. Those who were entitled to grants, who needed ambulatory support, they were given that. I want to thank my colleagues—and I know that the Members on the other side would like to thank them too; I know that—the Cabinet of the Republic of Trinidad and Tobago for producing the most innovative social product in the fight for food security for the family. It is called a social innovation in the Western hemisphere, and that is the introduction of the temporary food card which is available for all members of Parliament to access. [*Interruption*]

Miss Cox: I did not get any yet.

Hon. Dr. G. Ramadharsingh: You need to follow the rules. Many of your colleagues are getting; talk to the Member for La Brea. There was a training programme where we did not invite UNC MPs, we did not invite PNM MPs, we did

not invite MSJ, we did not only invite them, we invited all the MPs. You were elected to serve, and we have given you—and the Member for Laventille East/Morvant, you made a statement that not one of your constituents got a food card; I forgive you, because that is certainly not true, I have the records here. [*Lifts up a file*]

Hon. Member: Provide them! Provide them!

Hon. Dr. G. Ramadharsingh: But you know what I will not do? I cannot call the names of your constituents, but I could ask you to be kind enough not to repeat such inaccurate information in the future, lest I have to call the number of persons who received food cards in your constituency, which I will also not do, but certainly you were very determined to make that point, and I forgive you.

I also forgive my friend, the Member for Laventille West, for some of the inaccurate statements that he has made, which he has subsequently sorted out, that we are working to repair the home of that 103-year old lady. [*Desk thumping*] The work is in place, but it was not in time for the debate which was taking place in the Parliament of the Republic of Trinidad and Tobago.

And, therefore, Mr. Speaker, I just described to you the work of Direct Impact—in one week we have screened 1,200 persons. Do you know when we went into office, from January to June, before we got into the office, the entire Ministry saw 3,011 persons in the 14 social welfare offices in Trinidad and Tobago? And in one week, the People's Partnership Government, Dr. Lincoln Douglas and I were able to see 1,200 persons. [*Desk thumping*]

In that grouping there are single mothers who bring out their children. There is intervention from the Ministry of Education, guidance officers, we also have the Family Planning Association with us, we have the Self Help, T&TEC and WASA for those who do not know they can get a subsidy to help pay their bill—the senior citizens—[*Desk thumping*] The Prime Minister has now increased that subsidy to our senior citizens and we are working—Minister Fuad Khan, the Minister of Health and myself—to find the formula of how to take medication from the CDAP Programme and other medications to the sick, the weak and the elderly, to their homes so that they do not have to suffer, and that was an edict from the Prime Minister, the hon. Kamla Persad-Bissessar, to carry medications to those pensioners, the sick and the elderly, straight to their homes.

I will not go into the other programmes, but certainly we know about the walkabouts in the at-risk communities, called Direct Effect. The interventions to help repair homes which are leaking, where the indigent, those who do not have

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food, do not have a shelter over their homes, the Poverty Reduction Programme, these are all measures we have undertaken to help reduce poverty. And if we are honest with ourselves, the international economic climate is not a very friendly one for many countries, and in many parts of the world including Europe, and the Minister of Foreign Affairs and Communications who spends tireless hours in conferences all over the world will tell you that economies all over the world are experiencing difficulty. In Trinidad and Tobago the poor has not gotten poorer, because of the interventions that we have made in the sphere of social development. We are not seeing increases in levels of poverty that we would have expected had we not taken the initiatives which we have undertaken. And, therefore, those of you who visit other nations can compare; the programmes are beginning to work and they will work better with the support of more NGOs, Opposition in Parliament—[*Interruption*]

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

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Hon. C. Sharma*]

Question put and agreed to.

Hon. Dr. G. Ramadharsingh: Thank you very much, Mr. Speaker, and colleagues for this extension. Most of what I have said is built upon the premise that laws alone will not do it, but it is also recognizing the significance of this piece of legislation coming to this Parliament to be dealt with at this time. Therefore, I want to indicate that the focus of the Ministry of the People and Social Development now is to build the Rise-Up element of our programme. We know and appreciate when we give someone a grant or a facility, food support or a temporary food card, we know this is just for a while, we know that, but there are many persons who need this intervention and support and we cannot deny there is, in fact, suffering out there. We see this as a ticket when we give a card or a grant, we see that as a ticket to where you now have to begin to prepare for stabilizing your family's economic circumstances and yourself and as soon as that is realized we want to take you on a programme of Rise-Up, which is the rights of the individual to social and economic security, universal protection for all. [*Desk thumping*]

What we do is implement the conditionality of the people's card or the food card, and that is you get a conditional cash transfer which means that you do not just get a food card for two years to go and buy food for yourself and your family.

We know that while we give out more cards, we are also eliminating persons through the systematic audit process, and we do this by persons calling in and reporting persons who are swiping food cards while they have their SUV pumping heavy music outside.

Hon. Member: What!

Hon. Dr. G. Ramadharsingh: Big rims, fancy rims, mag wheels, tinted glass, music “ponging”, jumps out of the SUV and swiping food card. We want to eliminate these persons more and more every day. We have already taken out 4,000 persons who did not belong to the programme—[*Desk thumping*] and that allows us to give 4,000 more cards to persons who really need them.

We have also graduated 507 persons from the food card programme by asking the very supermarkets of which they are clients: “Listen, these persons have food cards, can you not hire a few of them as employees so that they would not need this facility, so you could contribute to national development in Trinidad and Tobago, and not only continue to make money, and engage in materialism, but also contribute to the soul of the nation by assisting in this regard?” Many have responded. In fact, I will not call the name, but a major supermarket has now given a commitment to handle a percentage of the differently-abled community in the supermarkets [*Desk thumping*] in jobs such as packing groceries and doing work at the back of many of the supermarkets.

Therefore, there is tremendous buy-in to the Rise-Up Programme, and we will continue to build an entire department of the Rise-Up Programme. In fact, we are now looking at the possibility of having job coaches, Mr. Speaker, that is to say, when one of our Rise-Up clients gets a job, we are going to put an employee of the Ministry there with that person as a coach to hold his or her hand, to give him or her that support. [*Interruption*]

Miss Mc Donald: Mr. Speaker, I rise on Standing Order 36(1), relevance. Please, tie it back to the Bill.

Mr. Speaker: Hon. Member, if you can at least guide the House as you speak to the relevant clauses of the Bill in your contribution, I think it would be important. So connect and tie up and let us go forward.

11.40 p.m.

Hon. Dr. G. Ramadharsingh: Mr. Speaker, Part II of the Bill addresses the prevention of cruelty to children. This cruelty arises in cases where they are left alone—they are not tended to. That is in some of the communities where you

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have a tremendous percentage of the population unemployed; the mother has to leave the children on their own at home, and the eldest child has to take care of three or four children. In these instances, where they do not have the maturity of the mother and father, you can have abuses taking place. By getting these persons employed, we are attempting to reduce instances of abuse in these homes by other persons assigned to take care of the children. The legislation also speaks to that.

This is a fight on all grounds. I was the Minister responsible for children when a two-year-old child was slammed to death by a parent and I know the pain when you look at a newspaper and you see these horrific acts being committed. The whole conscience of the nation is stirred and we say: “Let’s do something about it right away.”

The Opposition has the opportunity, with the Government, to show to the country that the policymakers are about creating good policies for the people of Trinidad and Tobago—for the weakest and most vulnerable and for those who are challenged and who need protection urgently and critically. A child does not have the opportunity to have the experience of elders. They are at a growing stage. They need the nurturing. They need the care of the adults in the society. They need the protection. While we may have good people in our communities; while we may have good social workers, we need to protect in legislation.

When I visited the Volunteers of America, in Alabama and I saw how they took care of the differently-abled—they had caretakers around the clock; they had wheelchairs, buses to take them out; they have a whole programme of caring—I said: “How do you fund this operation? This is a multimillion dollar operation. In Trinidad and Tobago, we are challenged for resources. We would try to treat, but we do not have resources.”

The President of Volunteers of America South East told me: “It is not about whether we can afford it. This is protected in legislation; to take care of the differently-abled. It is a crime that you can be prosecuted in law if you do not take care of persons who are differently-abled.”

Admittedly, in our country, many families today still hide the differently-abled or keep them in a room. In another country those can be, in fact, offences. What we are doing here today is not only protecting the children who exist under our care, but the children of the future, even those yet unborn, who will not be mutilated, who will not be beaten and killed by the brutality of persons who are so horrific in nature, so gruesome and who we should not have as part of the normal society, but in a place where they can be tended to—in the prisons of Trinidad and Tobago.

It is, therefore, a historic period for the Parliament when we finally pass this Bill and create these offences that are 100 years in coming. The laws that we have are almost similar to the laws that England had 100 years ago, in 1908. We are, therefore, very proud to be the Government to bring this legislation to the Parliament. We admit that the laws alone will not do it, but we have the resolve, the tenacity and the good faith that once we continue doing the good work we are doing, we will reach the place where we will protect the children of Trinidad and Tobago in a way that is consistent with the First World countries and maybe even better.

Trinidad and Tobago is a leader. Our Government is a strong Government. Our partnership is a strong partnership. Our Prime Minister is a global leader and all the Ministers of this Government are, today, committing to be part of the process of strengthening the initiative of protecting our children.

We take great pleasure in bringing this legislation to the Parliament. We look forward to your support and I thank you very much for the opportunity. [*Desk thumping*]

Mrs. Patricia Mc Intosh (*Port of Spain North/St. Ann's West*): Mr. Speaker, I am thankful for the opportunity to make a contribution to the debate on this very important Bill, the Children Bill, 2012, which seeks to repeal and place the Children Act, Chap. 46:01.

This Bill concerns the protection of the nation's children. It addresses their safety, security, mental and physical welfare and their general well-being. This Bill, in my estimation, is not about political one-upmanship. It is not about which party did the most to promote the advancement of children. As I listened to the Minister of the People and Social Development, I got the distinct impression that he was about making political mileage. As a matter of fact, he never mentioned the Bill itself until the last two to three minutes of his contribution.

He stated a lot of inaccuracies; many falsehoods and I will try to clarify them as I proceed. Before I get into my own contribution, I have to correct the idea that the Childline hotline was an initiative of the present Government. This was an initiative under the People's National Movement and if the present Government expanded the scope of these operations, I applaud them for it. This is what they need to do to meet the challenges of the changing times when crime against and abuse of children are so prevalent and are growing. This was an imitative of the People's National Movement. [*Desk thumping*]

He spoke about the Rise-up Programme. This was initially the Step-up Programme and I think there are many officers in his Ministry who would be very

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upset because they took ownership of this programme. This was their baby; this was a child of many of these officers in his Ministry and they named the programme the Rise-up Programme. This programme was designed for people to graduate—people were dependent on the food cards—into financial independence. What they are doing here is just following the programme. This Government is just emulating all the policies and programmes left by the People's National Movement, in every which way. [*Desk thumping*]

He spoke about the Children's Authority Act and said that it was never passed. That was the greatest inaccuracy he said today. That is sacrilegious. That Act was passed in this House in 2008, and while it was partially proclaimed—it was the hon. Prime Minister herself, then the Member for Siparia, who made a big hullabaloo about it being partially proclaimed—two years have gone in this present Government and not one section of that Act has been proclaimed.

So, Mr. Speaker, I have to set the record correct. As a matter of fact, the Children's Authority Act, 2012; the board lapsed. There was a period when there was no board to conduct the affairs of the Children's Authority Act. What are we debating here? Are we seeking the interest and the protection of our children or are we seeking political mileage? As I go along, I shall have to correct many an inaccuracy.

As I said, this Bill is about the children and their protection. We want to see them grow into strong citizens who can make a meaningful contribution to our society. That is what we are here for and that Bill is very important because the children are the future of our nation. As a woman, a mother, an educator, and certainly as a parliamentarian, I have a vested interest in this Bill that is currently under review in this House today.

Who would not be interested in this Bill? As I said, this is about our nation's children. This is our future. We are all interested and the court of public opinion is very vocal on this matter. Only last weekend, we had a very successful rally on the Akiel Chambers Justice for Children march at King George V Park in Port of Spain.

I should like to continue by referring to Part IX of the Bill. It is almost midway in the Bill and I am going midway and advancing forward. I would like to look at clause 48(14)(a) to (g), which identify offences that are harmful to children. This clause speaks to the provisions for the safety of children and identifies those offences that are harmful. I would like to quote from this subclause.

“For the purposes of this section, ‘harm’ includes:

- (i) neglect or abandonment;
- (ii) assault;
- (iii) ill-treatment, physical or otherwise;
- (iv) physical, sexual or mental abuse;
- (v) domestic violence;
- (vi) a situation where any child is being used as a courier, seller of a dangerous drug or other substance having an effect similar to that of a dangerous drug by those having responsibility for him or by any other person;
- (vii) psychological suffering from seeing or hearing the ill-treatment of another;”

Mr. Speaker, as I read these and I looked at (f), I could not help but remember children in school whose parents were involved in the drug trade. I know how those children suffered, because they became part and parcel of that illicit activity. I know how ostracized they felt and I know they felt that exclusion and alienation from the rest of the school population; a feeling that did not allow them to participate fully and take advantage of the educational opportunities that were presented to them. So I am very happy for all of these issues that will be addressed in this Bill.

11.55 a.m.

Mr. Speaker, we speak of the physical harm, but physical harm notwithstanding, if victims survive at all the psychological damage inflicted upon them is almost irreparable.

Anyone reading clause 48 must recall the unacceptable number of heinous crimes committed against children in this country over the past 12 years. My colleague, the Member for Diego Martin Central, in his contribution, preferred not to deal with these atrocities or detail them, but I feel that we have to confront these atrocities, given the level of child abuse that persists to date in this country, and we have to be fully aware of why we are here today, and why we are debating this Bill.

Mr. Speaker, in May 1998 we had little Akiel Chambers, around whose memory the march was organized last weekend. He drowned in a pool after being sexually assaulted.

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In 2006 we had Emily Annamunthodo who was raped, buggered and tortured to death.

Dr. Moonilal: Who was in power?

Mrs. P. Mc Intosh: Again in 2006—I am coming, Sir, I am coming, I am drawing my line—there was the Luke Lum Fai tragedy where this little boy as brutally and sexually assaulted by two minors.

In 2007, a Parliament joint select committee report confirmed child prostitution in Tobago. In 2008, Hope Arismandez was raped, buggered and stabbed to death at the hand of a caregiver. Again, in 2008, we had Roshni Ramdial and Rakeem Clarke who were tragically beaten to death. In 2009, we had the Daniel Guerra case. He mysteriously died in a river. Also in 2009 we had 10-year-old Tecia Henry who was found dead in Laventille.

In 2010, we had Ethan George Smith, a two-year-old boy who was beaten to death while his mother was in hospital. In 2011, we had a differently-abled girl who was beaten and raped. In 2012, we had little Josiah Governor who was beaten to death at the hand of a 27-year-old male relative and, the most recent in 2012, again, little Aaliyah Johnson who succumbed to physical abuse.

Mr. Speaker, this is not about politics and political parties and under whose administration what happened. It started quite a while ago and continues to date unabated. As I say, again, Mr. Speaker, this is not a question of politics, it is a question of protecting and saving our children from violence and abuse, the future of our nation, as a former Minister of Education called them, “the flowers of our nation”. But all we are here today doing is saying which party was responsible and which party was not responsible and which Government did this and which Government did that.

It is work in progress. It is work in progress that must evolve, and the legislation must evolve to protect the children. I do not like the slant that the Members on the other side have taken in this debate. It is a political slant, and it is not one that seeks the interest of the children. [*Desk thumping*]

Mr. Speaker, I just identified 12 cases of children who succumbed to this violence; 12 cases too many. Since 2010 to present, we have had four of those 12 cases. Let us not get into under whose administration what happened. Let us not go there. While we know of those who succumbed, who died and who passed this life, what about those who survived those tragic atrocities and who are languishing in mental anguish? What about those poor souls? We have to think about them.

In the best interest of the children of our nation, I am happy to support this Children Bill. I am happy to lend my support to it, but we must get our priorities right, and we must get the angles that we are taking correct. It is about the children, not about politics.

Mr. Speaker, no one, no one Government likes or is happy to see acts of violence and abuse visited upon our nation's children. Successive Governments have all displayed abhorrence of such criminal deeds and have demonstrated a vesting interest in securing for our nation's children the right to a good and decent life and protection from evil and harm.

Indeed, Trinidad and Tobago is a party to the Convention on the Rights of the Child which was entered into force under an NAR administration on September 02, 1990 and ratified under a PNM administration on December 05, 1991. All of the Governments have done their part and will continue to do their part. All three political parties so far, during their respective terms in office, have contributed to the evolution of this Bill, so that this current Government could present it today in its present form in this honourable House.

This Bill before us has been nothing but work in process, and having said that, I should like to recognize the invaluable contribution of the past administrations by proffering a brief chronology, in respect of various pieces of legislation, enacted under respective administrations to safeguard the rights of the children of our nation.

Mr. Speaker, the Children Act was first enacted in 1925 as Act No. 4 and was first amended by the PNM in 1962 as Act No. 16. The Adoption of Children Act, No. 31 of 1946 was also first amended by the PNM as Act No. 28 of 1973. In addition, the Status of Children Act, No. 17 of 1991 and the International Child Abduction Act of 2008, coming out of the Hague Convention in 2003 on the Civil Aspects of International Child Abduction, were both enacted under a PNM administration.

The Sexual Offences Act was enacted as Act No. 27 of 1986 under an NAR Government, and the Domestic Violence Act, No. 27 of 1999, the Children's Authority Act, No. 64 of 2000, the Children's Community Residences, Foster Homes and Nurseries Act, No. 65 of 2000 and the Equal Opportunity Act, No. 69 of 2000 were all enacted under a UNC administration. [*Desk thumping and crosstalk*]

Yes, Madam Prime Minister, I am giving, as I usually do, Jack his jacket and Jim his boots, and I have just gone through the chronology where I have paid tribute to the various administrations and what they have done in terms of

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legislation. While you commend yourselves, it is a pity that you did not pound your desk for the previous administration, but let us do it for us; let us do it for us, for all that the PNM has done. [*Desk thumping*]

Mr. Speaker, through you, I speak to the citizens.

Hon. Member: Of course!

Mrs. P. Mc Intosh: It would appear that the PNM has done nothing in this country, and I wonder if that were a truism, how come we have reached to this stage of development. [*Crosstalk*] Not in the last two years; a country cannot in two years. [*Crosstalk*] Yes, I will always give Jack his jacket and he deserves his jacket.

Again, giving Jack his jacket, I must make mention of the outstanding contribution by the former Attorney General, Ramesh Lawrence Maharaj, under whose stewardship these latter Bills, I spoke of, like the Children's Community Residences, Foster Homes and Nurseries Bill, et cetera, were drafted and enacted. He did a lot in terms of piloting these Bill on behalf of children.

Mr. Speaker, again, I must emphasize the enactment of these pieces of children's legislation demonstrate a concerted effort and a combined effort on the part of all these successive Governments to enact legislation to advance and protect the rights of children.

I should now like to beg the indulgence of this honourable House's attention to a comprehensive historical overview of events leading up to the presentation of this Children Bill, 2012 in this Parliament today, in an effort to put the genesis and the development of this particular Bill into its proper perspective or context.

Mr. Speaker, in 2002 a Family Court Committee comprising NGOs and stakeholders from the Judiciary began to focus on children's legislation, and the Family Court Bill was passed in Parliament together with the Mediation Bill in 2004. The Family Court was also opened in 2004 providing judicial and social services to those in need. A system was developed whereby magistrates could refer cases to a social services department which offers a combination of judicial and social services such as mediation services and counselling.

The establishment of the Family Court in 2004 is one of the hallmarks of PNM's legacy in safeguarding the rights of individuals, particularly children. [*Desk thumping*] Speaking at the opening of the court term at the Hall of Justice in September 2011, the Chief Justice of Trinidad and Tobago, Justice Ivor Archie, claimed the Family Court is still one of the prized possessions of the Judiciary.

Mr. Speaker, in addition to the Family Court, a Family Court Committee or task force comprising NGOs and stakeholders in the Judiciary was established in the Office of the Attorney General. Legal luminaries like Glenda Morean, Nafeesa Mohammed and Stephanie Daly began to focus on children's legislation, and in 2005 this committee submitted a report to Cabinet, contending that the package of children's legislation was unworkable—it was unwieldy—and that the Children Act of 1925, which was amended in 2000, was an archaic and voluminous piece of legislation in our statute books and needed further amendments.

Mr. Speaker, the Family Court Committee identified the following areas for reform: the Children's Authority Act; the Children's Community Residences, Foster Homes and Nurseries Act, the Adoption of Children Act, the Children Miscellaneous Act and the Children Bill. In 2006, a Cabinet note was submitted advising the amendment of this package of children's legislation and the creation of a new piece of legislation.

Mr. Speaker, section 5(a) of the Children's Authority Act, 2000 sought to give effect to the 1980 Hague Convention on Child Abduction, by providing for the establishment of legislation dealing with child abduction within the Children Act, but the Family Court Committee submitted a recommendation to Cabinet that such legislation be removed from the Children's Authority Act, 2000, and Cabinet agreed to this recommendation and, therefore, a separate stand-alone piece of legislation was developed and established in the Office of the Attorney General to treat with international child abduction matters.

In 2007, the Family Court Committee tried to modernize the entire package that constituted the Children Act. In September 2007, a draft Children Bill comprising six Bills was laid in Parliament: the Children's Authority (Amdt.) Bill, the Children Community Residences, Foster Homes and Nurseries Bill, the International Child Abduction Bill, Adoption of Children (Amdt.) Bill, the Family Court Bill and amendment to the Children Bill, but the Parliament dissolved in 2007 whereupon these Bills lapsed.

12.10 p.m.

However, when the PNM returned to power in November 2007, these Bills were again laid in Parliament and passed. The International Child Abduction Act was passed in both Houses in June 2008, proclaimed in October 2008 and published in the official *Gazette*. The Children's Community Residences, Foster Homes and Nurseries Act was also passed, and the new Children Act of 2008,

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from which this 2012 Bill emanates, piloted by the then Minister of Social Development and current MP for Diego Martin Central, was laid in the Lower House on December 12, 2008. The Minister of the People and Social Development said that Bill was never laid in this House, and he was very wrong. That Bill was laid in this House in 2008, along with the Children's Authority Act, which was passed in 2008. We have to get the facts right.

Mr. Speaker, I have to pause here to state that in 2009, to operationalize the Children's Authority Act, Cabinet appointed a Children's Authority Board, which was allowed to lapse under this current Government. A building was secured and customized, and an advertisement for staff was published; that was in 2009. By the time things got going, Parliament was dissolved and the election was called. But that was a lot of work done under the PNM in terms of the Children Bill and the Children's Authority Act.

Let me get back to the new Children Bill of 2008, which was piloted by the Member for Diego Martin Central and laid in the House in 2008. Because of disagreement on some of the clauses by several Members of the then Opposition, many of whom are now in Government, the Bill was referred in January 2009—or should I say deferred—to a Special Select Committee, and not a joint select committee, as the Minister of the People said, comprising six Members of the House of Representatives with a remit to discuss the general merits of the Bill along with its details. Some of the sitting Members of this honourable House were part of that committee. The Member for Diego Martin North/East was the Chairman, and we had the Member for Diego Martin Central, the Member for Port of Spain South and the Member for Caroni East. They were among the members on that committee.

Mr. Speaker, I would like to refer to the First Report of that committee. The committee set out all the clauses. I have them all here; I went through all of them. [*Mrs. Mc Intosh displays document*] They are well marked. The committee went through all the clauses one by one, analyzing them carefully and extensively deliberating upon them. Many of those identified in columns were the ones to which the committee agreed and those that were deferred for consideration by parliamentary counsel or for advice from experts, for example medical practitioners or psychologists. I will return to this, but all those clauses are here. This is the work of that committee.

I would like to refer to the report of the committee. The committee met on five occasions between March to December 2009 and produced five interim reports. I have all five here. I will not go through all five, but I would like to go through the

Fifth Report. I would like to quote from the Fifth Report, which is of grave importance. It summarizes and encapsulates the details of all the work completed by the committee.

Let me start from the top:

“2. Your Committee comprises:

Mr. Colm Imbert (Chairman)

Dr. Amery Browne

Mr. Peter Taylor

Miss Marlene Mc Donald

Dr. Tim Gopeesingh

Miss Mickela Panday...

MEETINGS

4. To date, your committee has held five (5) meetings as follows:

- Friday March 13, 2009;
- Friday May 29, 2009;
- Friday July 03, 2009;
- Friday December 04, 2009; and
- Friday December 11, 2009

EXPERT ASSISTANCE

5. Your Committee was assisted in its deliberations by experts from the Ministry of Social Development, Chief Parliamentary Counsel's Department, Office of the Director of Public Prosecutions and private experts in the field of Child Psychiatry and Social and Industrial Psychology.

REPORT

6. Your Committee first undertook a comprehensive review of the Bill, highlighting areas of contention. Your Committee sought expert advice on these matters and from the discussions held, compiled a list of their recommendations. Your Committee has considered these recommendations and assisted by the legislative drafters from both the

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Ministry of Social Development and Chief Parliamentary Counsel's Office, is in the process of producing a revised consolidated Bill.

7. Your committee wishes to report however, that having regard to the imminent prorogation of the current session of Parliament, that it is working ardently to ensure the completion of its mandate by the end of this current extension of time which expires on January 7, 2009."

It is very important to note No. 8:

"8. Your Committee respectfully requests, that should your Committee be unable to present a final report before Parliament prorogues and should a similar Bill be introduced and referred to a Select Committee in the next session, that this new Committee be authorized to adopt the work thus far completed by your Committee as part of its records."

Mr. Speaker, it is all here; all the work that was done, and all the reports and all the advice they got. They received them from the various experts and from parliamentary counsel. All of that work was accomplished here.

As I said, a lot of work was accomplished in respect of this Children Bill, and there was general consensus among members of the committee, this Special Select Committee in respect of the redrafting of certain clauses. The hon. Member for Caroni East was there. He said that he made a very significant contribution, and all the other Members, and I am sure the other Members on this side, would have made just as valuable contributions. All these were taken into consideration. Was all that time wasted? Was all that advice and all those findings wasted? Therein lies the groundwork, the foundation for this Bill, 2012.

Clearly, the hon. Minister and her committee—I am not doubting the work they would have done. I heard the Member for Oropouche West and then the Minister of the People commend the committee for its work. I am not doubting. I am not here for the scoring of points. I am not doubting that they did their work. They pounded the desks, but what about the work that was done? The Member for Caroni East was also involved. Where was the commendation for all that work that we have here documented in the reports that I just read? Did that work go for naught? I am sure it did not go for naught.

But we have a habit here that we cannot give Jack his jacket, that is why they find it so unusual. *[Laughter]* They cannot give Jack his jacket, that is why they find it so unusual that I should say this. It is a very unusual concept and sentiment to those opposite. *[Interruption]* I love to give Jack his jacket. *[Laughter]*

We have come to this juncture today, and we have before us a Bill that seeks to repeal the Children Act, Chap. 46:01 of 2007 and replace it with this new Children Bill, 2012, which was presented by the Minister for Gender, Youth and Child Development. I would like the Minister for the People and Social Development to get his colleague's designation right. It is not the Minister of Child, Youth and Gender Affairs. It is the Minister of Gender, Youth and Child Development. If we do not know our colleague's designation well then we are in trouble.

In respect of the clauses that were under review by the committee, I should like to make certain observations. I take back up all the clauses under review. I have no doubt that there were some changes, and I see that there were indeed some increases in fines and the period of incarceration. I agree with that; I am happy for that. But as the Member for Diego Martin Central said, they were so very much the same. I would like to look at clauses 13, 14 and 15 of the 2008 Children Bill, which was referred to parliamentary counsel for further clarification. This was because the Members found them contentious, due to territorial and jurisdictional questions raised by the Members of the committee.

The phrase that was offending was "any part of the world". In the new Bill 2012, that was changed to "Trinidad and Tobago or elsewhere". I feel in my humble estimation that this is a question of semantics and it is a moot point. It could be debated; it is a moot point—"any part of the world" and "Trinidad and Tobago or elsewhere". They are the same thing to me. These are the clauses that deal with causing or inciting child prostitution, controlling a child prostitute or arranging or facilitating child prostitution.

We have similar clauses that were referred for parliamentary counsel, as they were deemed contentious due to territorial and jurisdictional questions again. You have clauses 58, 59 and 60, and they were all encapsulated in one clause, section 8, clause 42, under causing, inciting, controlling or facilitating child pornography. Again, it is a question of "any part of the world", or the change was "Trinidad and Tobago or elsewhere". We could argue about those things. They are moot points, points to be debated, but they are very, very similar in their intent.

Mr. Speaker, I should like now to turn my attention to an analysis of certain clauses of Parts IV, V, VI and VIII of this Children Bill, 2012, since they are of particular interest to me.

Part IV, clauses 9 and 10, deals with the issue of female genital mutilation, which was definitely not addressed, either in the parent Act or the Children Bill,

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2008. One could only assume that this topic was omitted from these previous pieces of legislation due to, one, the taboo associated with the issue and, two, the very low incidence, almost non-existence of such acts in Trinidad and Tobago. The nearest we ever came to that, if I could remember as a child in the 1960s, was the Mano Benjamin case with the two sisters, Dulsie and Lucy. As a matter of fact, I do not know of any other case of genital mutilation in Trinidad and Tobago.

What I can say is that those cases are found really in sub-Saharan Africa and in the Middle East. Probably the drafters or those who worked on this legislation—because I cannot say “the drafters”, this Bill was drafted long before—foresaw some potential for such offences in the future and wished to be proactive. I would just say that. Probably they wanted to be proactive, but we have never had incidence of that in Trinidad and Tobago.

I should like to look at Part VI which addresses sexual offences, and in particular clauses 18 to 34. These clauses speak to rape, incest and buggery and they recommend the penalty of life imprisonment. I am happy for this increased penalty for sexual offences against children. I cannot forget, during my tenure in education I often encountered children who were deprived of taking advantage of the educational opportunities presented to them, because of grave physical and psychological damage inflicted upon them as a result of sexual abuse. These children displayed very negative and disruptive behaviour in school and could not apply themselves to tasks set by the teacher. When we see a lot of violence and bullying in schools, sometimes we have to get at the bottom of it and see whether they come from families peddling drugs or they are victims of abuse.

12.25 p.m.

Mr. Speaker, I remember a case where the teachers could not understand why this young lady was so aggressive and when we got down to it, this child moved from foster home to foster home to foster home, and in each of the foster homes—and we counted at least four foster homes—she was raped and sodomized, the last one was by a pastor. So we have these cases that we have to look at.

Hon. Member: By a pastor?

Mrs. P. Mc Intosh: Yes, by a pastor. I see that the Minister—well, I will talk about his strategies to stop bullying in school as we go on a little more.

Mr. Speaker, I would like to look at clauses 29 to 34, they speak of an abuse of positions of trust, and where in respect of familial relationships, or those

entrusted with the care of children, for example, in foster homes, and again, I refer to the case that I just mentioned, and all these poor children have suffered severe psychological effects of sexual and physical abuse, and were unable, despite counselling, to advance in life, most of them. Such is the tremendous psychological damage, the mental anguish, that is inflicted upon them that remains almost forever, to death.

So, we do need this Bill, and we have been working through the years for this Bill, and this Bill is a work in progress. I am certain, as time goes on, whichever Government comes into power—and I am sure that the PNM will return to power very shortly—[*Desk thumping*] will have to amend and upgrade such legislation. That is the work of Governments. That is the remit of Governments. I am indeed happy that the perpetrators of such heinous acts against children will be brought to justice and will be penalized adequately.

Part VIII of the Bill, clauses 40 to 42, address the issue of child pornography with was omitted the parent Act. This part speaks to the transmission of sexual material via post, courier, electronic mail or facsimile. My colleague, the Member for Arouca/Maloney, made this point last time and I need to reinforce it, there was no mention of the modern-day communication or transmission of sexual material through “sexting”, and this is very real, we have had incidents of that in Trinidad and Tobago. Recently we had one in a college, I will not call the name of the college, and also we had one that assumed international proportions, but there is no mention of that, and this is the way that all this material is being transmitted now, through iPhones, smartphones, androids, Blackberrys, Ipads, all forms of tablets which are the modern-day technological phenomena that are being used by everyone to communicate.

Mr. Speaker, this is an omission and I wish that this should be included by way of an amendment, “sexting”. We have had two recent incidents, and I said one of international proportion.

I should like to make reference to clauses 26 and 28 that exempt persons indulging in sexual activities with children under the age of 18, and indeed the children themselves from being guilty of committing an offence, if the parties concerned are considered legally married. These clauses pertain to certain cultural practices that have been legitimized by the Islamic faith—the Islamic Marriage and Divorce Act, the Hindu Marriage Act and the Orisha Marriage Act.

The hon. Minister of Gender, Youth and Child Development must feel a sense of unease and apprehension arising from the fact that since last year she has been

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spearheading talks on the standardization of the legal age of marriage in Trinidad and Tobago. And I have a newspaper article here with a picture of the Minister, and it says:

“The Minister Gender, Youth and Child Development, Minister Verna St. Rose Greaves, left, and retired Assistant Police Commissioner Margaret Sampson-Browne, right, at the Ministry’s national consultation on the standardization of the legal age of marriage in Trinidad and Tobago at Crowne Plaza Hotel, in Port-of-Spain.

The Minister of Gender, Youth and Child Development, Verna St. Rose Greaves who said legislation treating with the issue of child protection would go to Parliament very soon, admitted that T&T lags behind in the standardization of an age for marriage.”

And I agree with her, but I do not know how she will justify or rationalize her position then with what is contained in this Bill now, I would like to see how she accomplishes that.

Mr. Speaker, I have very little to finish, I do not know if I would be allowed, I know that we stop at 12.30 p.m.

Mr. Speaker: No, you continue.

Mrs. P. Mc Intosh: All right, thank you. I would like to address the bullying at schools, and I see that the hon. Minister of Education said he would introduce a character development programme, and I support him 100 per cent. If we go back to *Hansard* we will see that I have, in my contributions, in almost all, recommended that to the Minister; and it is working; it has worked at St. Francois, and that is why I recommended it. I was privy to it working, but you know, he does not give Jack his jacket [*Laughter*] and he does not give credit. He said that it worked in America. [*Interruption*] No, I am not giving way. He said in the newspapers it worked in America, he had to go to America; it worked here, up the hill at St. Francois Valley Road. It worked beautifully.

Dr. Gopeesingh: I took your advice.

Mrs. P. Mc Intosh: Thank you, Sir, because I have called for it several times, I was very happy.

Mr. Speaker, as I speak about children, I have to ask the hon. Minister, and Minister I know that you are working, I am following your progress in the Ministry, and I see that the correcting of scripts of SEA, we are talking about

children here, Sir, and this will take place at a much later time in the holidays and the results will be released in the holidays, and I know that TTUTA is concerned about teachers who have already bought their tickets to leave the country, because they were not informed before—for the holidays. They have come to me; some of them say, “What am I do to do, I have plans, and who is going to correct all of this?” Also parents, up to this morning, I had some calls from parents who said, “But we like to be there when our child”—[*Interruption*]

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

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

Question put and agreed to.

STATEMENT BY MINISTER

Mr. Speaker: Before you continue, hon. Member, I did in fact, earlier in the proceedings alert the House to two statements that are to be made, one by the Prime Minister, and the other one by the hon. Minister of Health. With your indulgence I would like to revert to that item at this time, and I shall now call on the hon. Minister of Health.

National Oncology Centre (Establishment of)

The Minister of Health (Hon. Dr. Fuad Khan): Thank you, Mr. Speaker. First, let me start by thanking this honourable House for allowing me to articulate this statement at this stage.

The Government of the Republic of Trinidad and Tobago through the Ministry of Health continues to improve the delivery of health care services in this country. Chronic, non-communicable diseases and cancer are a growing epidemic here in Trinidad and Tobago, with cancer being the second leading cause of death, among others. The Ministry of Health places considerable emphasis on and will continue to invest significantly in cancer services and cancer control in Trinidad and Tobago.

The Ministry offers free to all citizens the full management of cancer treatment, utilizing both primary and secondary health care, from diagnosis to advance management and palliative care at all Regional Health Authorities. The future national cancer strategy will utilize a hub of specialist cancer treatment

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centres, the main centre will be the National Oncology Centre, (NOC), located in the Eric Williams Medical Sciences Complex. The existing National Radiotherapy Centre at the St. James Medical Complex, and a new National Centre for Non-Communicable Diseases in Penal will be satellite centres.

The NRC in St. James is currently the flagship referral centre of oncology care in the public sector. However, the recommencement of work of the NOC, and the construction of the new Penal NCNCD, will provide a multidisciplinary team approach to cancer treatment nationwide. This process of a central hub with satellite centres will decrease the waiting time for treatment and the introduction of specialist services throughout our country. We hope to assist Tobago in the development of another oncology centre to service the people of Tobago, and this will alleviate the problems of unnecessary transport to treatment centres in Trinidad and Tobago. This may be done under a public/private partnership.

Mr. Speaker, for the removal of any doubt or the clarification of any mischief, the Government is committed to the construction of the National Oncology Centre at Mount Hope. [*Desk thumping*] Cabinet approval was received for the recommencement of work on the National Oncology Centre at the Eric Williams Medical Sciences Complex, and the Urban Development Corporation of Trinidad and Tobago, (UDeCott), has been appointed as the project developers for the construction of the NOC. Approval was recently obtained for the purchase of the licence for the architectural drawings, negotiations have been under way during the recent past. Tenders for the construction of the NOC, the National Oncology Centre, are expected to be issued in June 2012, with a proposed project handover and commissioning by 2014 or 2015.

The National Oncology Centre, when established, would become a one-stop shop for cancer care, using a multidisciplinary team from diagnosis, to treatment, to cure, under the central control of a specialist care team of oncologists, specialist physicians, specialist surgeons, interventional radiologists, histopathologists, hematologists, palliative care and pain management specialists, oncology pharmacists, oncology nurses, medical physicists, radiation therapists, dosimetrists, counsellors and social workers.

The National Oncology Centre at its core is premised on the successful implementation of a sustainable, equitable, comprehensive state-of-the-art system of cancer control, with a priority placed on radiation oncology, a new focus on the prevention and screening to reduce cancer incidence, quality assurance and a patient-centred system of treatment and palliation that will be integrated into the Eric Williams Medical Sciences Complex, bringing the long-awaited hope and promise to the population both afflicted and affected.

Specifically, Mr. Speaker, the National Oncology Centre will provide radiation therapy services using a linear accelerator technology, chemotherapy, CT simulation, treatment planning, high-dose radiation, and brachytherapy. The proposed centre will be equipped with a Superficial Radiation Treatment Centre and a Shielded Operating Centre for minor procedures including biopsies, which will double as the HDR Suite.

Mr. Speaker, at the Ministry of Health we will, in addition to the foregoing, introduce at the National Oncology Centre, world-class, modern cancer treatment and diagnostic technology such as, the CyberKnife and the positive ignition tomography CT scanner and nuclear imaging to aid in the diagnosis and treatment of cancers in Trinidad and Tobago, attract and build a first class cancer centre that will be a model for health tourism in the Caribbean.

This world-class technology will be supported by ancillary services such as a full pharmacy service including chemo-drug mixing and general drug dispensing; a stat lab has been included to facilitate the processing of blood samples for the determination of patient treatment on an as need basis consistent with a point of care testing.

In the area of non-direct oncology, this treatment includes supportive care, teaching and research; provision has been made for patient counsel areas, volunteers support space, library services for information dissemination, telemedicine conferencing technology and teaching spaces as well as quiet areas and healing spaces for the ill.

The National Radiology Centre located in the St. James Medical Complex is the current flagship, and the referral centre for oncology care in the public sector at this time. It provides a comprehensive range of cancer care services from a highly qualified group of specialists. These oncology professionals include radiation therapy, CT based treatment planning, iodine brachytherapy, in-patient and out-patient chemotherapy, palliative radiotherapy, palliative diagnostic radiography, comprehensive pharmacy services as well as counselling and support services, and we are in the process of upgrading the technology and services at this facility with the introduction of a linear accelerator with IMRT technology, HDR Brachytherapy which will bring this facility into 21st Century of cancer care. Negotiation for the linac is ongoing as we speak.

12.40 p.m.

The National Centre for Non-communicable Diseases:

Mr. Speaker, while the National Oncology Centre and the National Radiotherapy Centre are cancer treatment centres, there are no specialist facilities

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designed to treat the other CNCDS and related illnesses. In recognition of the increase in the prevalence and incidence of the CNCDS such as diabetes, hypertension, cerebrovascular diseases in Trinidad and Tobago, a National Centre for Non-communicable Diseases called the NCNCD would be constructed. This NCNCD—the national centre—would provide specialist treatment for communicable diseases, chronic non-communicable diseases including cancer. Cabinet approval was received on March 22, 2012 for the construction of the NCD in Penal.

The Urban Development Corporation of Trinidad and Tobago, UDeCott, has been appointed as the project developer for the construction of this new facility, which, when completed would contain state-of-the-art specialist treatment facilities. This specialist centre in Penal would be the flagship of oncology in the southern part of our island. It would be combining multidisciplinary cancer services together with CNCDS services, and multidisciplinary services would occur in conjunction with other oncology centres. Cancer management is multidisciplinary.

Mr. Speaker, other cancer services and plans: specialist cancer care is also available at satellite cancer-service units at the Sangre Grande Hospital, the San Fernando General Hospital and the Scarborough Regional Hospital. There is also a specialist lung cancer service at the Eric Williams Medical Sciences Complex and a breast assessment centre at the NRC in St. James. Here, tumour removal and breast reconstruction occur at the very same operation. We have decentralized the delivery of chemotherapy services to the Regional Health Authorities, expansion of cancer drug formulary and awarded national scholarships and bursaries to nationals pursuing specialist training in oncology and the establishment of BSc degree programmes in Oncology Nursing, Radiation Therapy and training at the School of Advanced Nursing Education, UWI and COSTAATT has been done.

Mr. Speaker, the Ministry will continue to lead on health initiatives, to emphasize the importance of a healthy lifestyle for the prevention of CNCDS, chronic non-communicable diseases, such as our fight-the-fat campaign, our health fairs, educational lectures and our annual Caribbean Wellness Day.

Mr. Speaker, thank you.

Mr. Speaker: Hon. Members, at this time we will take our lunch and we shall resume our sitting at 1.45 p.m.

12.43 p.m.: *Sitting suspended.*

1.45 p.m.: *Sitting resumed.*

CHILDREN BILL, 2012

Mrs. P. Mc Intosh: Thank you, Mr. Speaker, actually before we broke for lunch I was just about to wind up, which I would do now, and I would like to—I was speaking about the SEA examinations and the late release of the results, the late marking and as a consequence the late release of the results, and I would just ask the Minister of Education to be mindful of the grave inconvenience this is causing to parents, to teachers and students as well. The same students that we are here to protect and to represent, and to ensure that they have a better life.

It is the August vacation, Mr. Speaker, the parents look forward to this time, the students look forward to this time; the delay in delivering the results would just make their lives more difficult, and certainly, more difficult for the teachers who have to be marking these exams during the time that they should be relaxing and attending to their own personal business.

I would reiterate that this Bill concerns the protection of the children of our nation, the flowers of our nation as a former Minister of Education, Clive Pantin aptly described them. Flowers that would one day bloom into future parents, leaders, professionals, artisans, tradesmen, entrepreneurs, parliamentarians, civil servants, social workers, prime ministers, presidents and, it is incumbent on us adults and indeed, parliamentarians, to protect them by enacting appropriate legislation to safeguard their future and allow them to blossom into mature, holistically, well-developed and strong citizens capable of making a meaningful contribution to the future of our nation.

If we safeguard our children's life then we would be safeguarding and indeed, we would be investing in the future of our nation.

Mr. Speaker, I thank you.

The Minister of State in the Ministry of Education (Hon. Clifton De Coteau): Thank you, Mr. Speaker. I would really like to compliment the Member for Port of Spain North/St. Ann's West, my colleague in education. As I always say, when I served as the school's supervisor for Port of Spain and environs she was my most supportive principal and I could have relied on her. [*Desk thumping*]

I would like to begin from where she ended; I would not say—I would not use the same words, but how often do we say that our children are our most prized possessions, the future belongs to them, they have to—but one thing, if the future belongs to them, we have to ensure that they are there to enjoy that future.

Mr. Sharma: Well said. Well said.

Hon. C. De Coteau: This is the purpose of the Bill here today. We have to be there to ensure that future of them. So often we have said too that our children are the bedrock of the nation [*Interruption*] and we are to ensure that they are really the bedrock of the nation and not fragmented in anyway. They must not appear to be stratified. So, that is why we are here today.

Nelson Mandela once said: “There can be no keener revelation of a society’s soul than the way in which it treats its children.” Today I give support to my colleague who has piloted this Bill, the Children Bill, 2012. What this really demonstrates is a Government’s willingness to heal—in fact, our collective willingness in this Parliament, in this Chamber, to heal, to cleanse and rejuvenate our beloved nation, especially in this 50th year of our anniversary celebration. [*Interruption*] What we are doing here is giving a gift to the nation, collectively. We have to understand that the protection we offer our children today is really different from the past. Let me say as a former educator as the former speaker— [*Interruption*]

Mr. Indarsingh: Tell them how many years?

Hon. C. De Coteau: Forty-six years.

Mr. Sharma: Forty-six years? You started at 10?

Hon. C. De Coteau: You could never stop being an educator—and more so, my present position as Minister in the Ministry of Education and through my line Minister, the Chairman of the Task Force Committee against School Violence and Indiscipline—the legislative agenda that we are on today must be seen as something really proactive, you know, it is not reactive. There is a symptom in our society that we tend to be reactive.

Hon. Member: The PNM. The PNM.

Hon. C. De Coteau: I would not call names but, generally, all of us, we tend to be reactive; something happens and we go buzzing around, everybody doing something and then when that heat dissipates we forget it. It is like long ago, young men in the country area going to “ketch” birds with a gummy substance we called “laglee”. But how do they go to “ketch” the birds? They walk along La Brea and they look at where the birds defecate and then they set the “laglee”. But more proactive person would know and use their experience to go and catch those birds.

What we are doing today is proposing preventative legislation. Preventative legislation which clearly states the harsher penalties, definitions undertake the

recent wave of child pornography and including the previously irrelevant issue of genital mutilation. We are a society, if you do not have harsh penalties—in other words, as one philosopher said, “discipline of natural consequences.” They have to feel so that they would understand, and that is why I support the measures that we have here today.

Recently the country was shocked with the heinous death of a two-year-old girl, Aliyah Johnson of Siparia. I refer to page 7 of the *Express*, if it is permitted, today’s *Express*, Wednesday, April 25, 2012: “No bailor yet for Aliyah’s mom.”

“Johnson, who was granted bail for the unlawful killing of her two-year-old daughter Aliyah, remains at Women’s Prison”—and it goes on.

What are we looking at, Mr. Speaker? This Children Bill, 2012 defines children—and it includes wilfully assaulting, ill-treatment, neglect and abandonment, and states the penalty is a fine of \$50,000 and 10 years imprisonment. Mr. Speaker, you have your child in the care of someone whom they trust, but instead of taking care of the child they abuse the child. Again, I refer to page 19 of the said *Express*, and what does it say? There is a headline here, “2 teens raped by friends”. By friends! So instead of your friends protecting you, they abuse you. It is the same friends whom you go to a party with, who should protect you, but what do they do? They put Roypnol into your glass so that some friend could abuse you.

They put “joy-juice” or what we call “dhatu” in a glass so that your friends could abuse you. But you trust them. You as a parent go out there—[*Interruption*]

1.55 p.m.

Dr. Browne: [*Inaudible*]

Hon. C. De Coteau: Yes, you do not know about “dhatu”? It is a plant that you find by most Hindu homes for religious purposes.

Dr. Gopeesingh: Like toothbrush long ago.

Hon. C. De Coteau: No, it never used as a “datwan”. The Minister does not know about “datwan”. Say “datwan” Minister. So they use these things—but again you trust people. You go to those little child care centres and you read the nonsense that is going on.

Step-parents coming into the home and they look at the little one and they say, “You know, you remind me so much of your mommy when she was smaller,” and they take advantage of that situation. We need to really have stiffer laws for those

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persons. When you go out there in the society and you hear the recommendations that people make, what we are recommending here is joke to what they say. They have harsher penalties for them, especially the ladies, what they say, “Bring them”. You know there was one calypso that said, “Put them in the square and let everybody be there.”

Dr. Browne: Thank you for giving way—riveting stuff. I would just want to say that one of the main arguments of the UNC in the last term was that a Bill under the same title, the penalties were too harsh. So I hear you and we are moved by the contribution, but I just want you to be aware of what your colleagues—many of whom are still with us—were saying on these same measures. Thank you.

Hon. C. De Coteau: Thank you, Member for Diego Martin Central, I hear you. But you would realize that then, it is not like now. Then, then, the bandits would have put on bandana, but now they are coming full glare, full glare.

Dr. Browne: Three years ago.

Hon. C. De Coteau: Things have changed and you would accept that, Sir. So we have to have these—[*Interruption*]

Dr. Browne: I would not interrupt you.

Hon. C. De Coteau: [*Laughter*] We have to have these measures implemented. What I like is the collective responsibility and the collective consciousness that there is a need to implement these measures.

Mr. Speaker, as the person in—[*Interruption*]

Mr. Indarsingh: Allow him to flow and be at—[*Inaudible*]

Hon. C. De Coteau: It really would not stop me, in anyway. As the Chairman of the National Task Force and School Indiscipline, I just want to assure the national community that we have mandated our student support services of the Ministry, to improve early detection and warning for those signs of at-risk children. We are trying to use some new technology so that principals would be able to monitor their schools and the security system would be able to monitor the schools—not only during, but after school.

There is the need, Mr. Speaker, and all of us here can bear testimony, that all those areas where students assemble, the need for greater vigilance. It is amazing to see what goes on at those places, those maxi stands and those other areas. It seems as though we have to have persons on buses to monitor the behaviour of students as well.

Dr. Gopeesingh: [*Inaudible*]

Hon. C. De Coteau: Yes, I used to do that to ensure that they were in school. Mr. Speaker, you know when walking in the Princes Town area at 2.30 a.m. Friday morning, a Saturday morning, a Sunday morning, I am amazed and I wonder how some of the parents could allow their children—little, little “tiny mites” to come out, to go to party, and not only that, when you look at what they are wearing, it means that the parents should be disciplined. And there must be legislation to hold parents responsible. [*Desk thumping*]

We are talking about the owners of those dogs and whatnot, to be responsible, but parents must be held responsible. They must be held responsible to ensure that the children go to school. Do you know parents are sitting and watching the porn with their children. Parents are using vituperations of obscenities, expletives, industrial expletives in front of their children and then when the child goes to the school and ventilates the same thing—they call it industrial language. [*Laughter*]

Hon. Member: Construction language.

Hon. C. De Coteau: Every day you learn something new—construction language, serious matter. Mr. Speaker, those parents need to be disciplined. Sometimes when I look at it—and every MP here could bear testimony, they come to the office and they tell you, I am a single parent, three young ones and you have to provide something for them to help them. We have to have some type of—the PTAs have to work a little harder.

Mr. Speaker, what have we done? As a Ministry, we have these after study centres, from 20 we have increased it to 30 centres and that is still not enough. What do these centres do? They effectively provide a safe facility in which students can study. Mr. Speaker, are we still operating where long ago parents used to say, “I feeding you, and if you go out there and let anybody beat you, when you come home you are going to get licks too,” I am wondering. When we see the kind of bullying as the former speaker spoke about, we are indeed worried. Long ago, boys would assemble and even girls and you would hear, “heave, heave, heave” and they would show their wrestling skills or even their boxing skills, but now, what have they done? They have retreated to bottle and weapons of all descriptions. Whom did they learn that from? Us, the seniors. Us, and this is why we say we have to be a little more concerned.

Mr. Speaker, we have the National Student Hotline and the evidence would suggest that about 2 per cent of our student population have made use of this hotline. As part of the task force, the Childline strives to offer crisis intervention, information and referrals to social services and support resources. What we have

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recognized and realized as well, is that the student hotline must be promoted and encouraged. We need our children to speak out. I know that the Minister who has piloted this Bill will tell you that when you have these sessions children do speak out and they tell you what is happening in the home.

Under the area of prevention, we have recorded that 30 per cent of the secondary schools and 10 per cent primary schools have implemented clearly defined programmes within their school's development plans. So we are encouraging principals, guidance officers, to indulge in some more peer mediation, conflict resolution, and parent education. We ourselves need that, because sometimes the children practise the behaviour that we have demonstrated. They practise it. So you ask and my line Minister would always tell you, the Member of Caroni East would always tell you, I always ask—alternative dispute resolution, conflict management. We need those skills. We need those skills.

From the early childhood care teachers, even among the aged people, even among the church, even among us, we need those skills. Because so many conflicts we can really resolve, mitigate if we had those basic skills. But what do we do? We exacerbate the situation by the way we behave. So that we are there to save those young ones, we are there to protect them. We have to know too that Trinidad and Tobago as a signatory to the United Nations Convention on the Rights of the Child, the Ministry of Education is mandated to uphold and enforce Article 19 1. of the said conventions which states:

“Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

Mr. Speaker, at the Ministry, we are ensuring that these measures are there for our children's protection. We are ensuring that these measures are put in place. And as the Member for Tabaquite whispered to my colleague, the Member for Caroni East, “Boy you should really talk on this Bill, because I know you would have ventilated in full flight the measures that we are going to put in place”. Not that I am embarrassed, mind you. But the point is we as a Ministry to protect—as the Member for Port of Spain North/St Ann's West—the flowers of the nation so that they could really bloom, we are implementing these measures. And I really wholeheartedly support my colleagues in this Chamber for giving support so far to this Bill. It is long overdue.

Mr. Speaker, with the Children Bill, 2012 we are going to be protecting every single child of this nation. What we are doing in debating this Bill, is showing those vulnerable and at-risk children. We are bringing it to the public's attention. Not that they do not know, they are aware; and what we are doing as well, is ventilating the sentiments expressed by some of those people out there of what we should do to protect the flowers of the nation, our nation's children; our parents; our PTAs; our community leaders, our churches.

In the tea room today, the Member for Tunapuna said; in discussing with the church leader he said the incentives out there are too great that magnetize our children into some degree of delinquency that we face a tremendous challenge. We are aware of it. That is why you find that we are trying to increase and develop recreational facilities and that is why I commend the Minister of Sport and the Amateur Boxing Board of Trinidad and Tobago for their effort in the after-school programme in creating opportunities so that these children would be able to supplement their energies. That is why we as leaders in the community must continue to support any measure that would help to curb this kind of violence that seems to be pervading our society.

Dr. Browne: Boxing is violent.

Hon. C. De Coteau: Boxing is an art. Football is not violence, it is an art. But you do have people who go to the extreme.

2.10 p.m.

Mr. Speaker, again, I would want to lend support to this Bill. I think it speaks for itself what we intend to do to protect our children to ensure that they can bloom; to ensure that what we are labouring for them that they would be able to inherit it; to ensure that they grow up with the kind of respect and dignity that we would like them to.

Mr. Speaker, protecting our children is more than this Bill. It is about a nation taking responsibility. It is that growing love; that intrinsic love that we extrinsically demonstrate.

Hon. Member: Wow! You wax warm. [*Laughter*]

Hon. C. De Coteau: I am using your will—sounding like you.

It is our growing love in our national psyche; it is our practising love towards our children; it is what we have, as parliamentarians in this august Chamber; it is our DNA. It is life.

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

Miss Donna Cox (*Laventille East/Morvant*): Thank you very much, Mr. Speaker. I rise to speak on this important Bill relating to the protection of children and for matters related thereto, also known as the Children Bill, 2012. I am indeed happy that this Bill has finally reached this House and I must first congratulate the Member of Parliament for Diego Martin Central and the committee which comprised, I understand, Members of both sides of the House. They worked very hard on this Bill.

My understanding is that this Bill was debated in this House in 2008 and then sent to a special select committee of the Lower House which comprised Members on both sides, and I am aware that the committee also utilized the services of several experts in this area.

I must secondly congratulate the Minister for bringing this Bill to the House today, which is long overdue. [*Desk thumping*] In our society today children are affected by fatherlessness, cruelty, neglect, sexual and carnal abuse, child labour and crime and violence in our communities. This Bill must seek to gain a new commitment from all of us to build on improving the lives of the children of Trinidad and Tobago. This Bill is extremely important. Do you know why? Because it emphasizes and it deals with children.

I move to the Bill. Clause 4(3) of the Bill states, and I quote.

“...a parent or other person who is legally liable to maintain a child, shall be deemed to have neglected him in a manner to cause injury to his health.”

Any person who does this is liable on summary conviction to a fine of \$50,000 and to imprisonment of 10 years. The reality is that many children in our society today are being neglected by their parents and guardians, and it is, indeed, up to the State to deal with delinquent parents.

At clause 4(6) it states, and I quote:

“Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a child to administer reasonable punishment to a child.

(7) Reasonable punishment referred to in subsection (6) in relation to any person other than a parent or guardian, shall not include corporal punishment.”

I would have liked to see “reasonable punishment” defined, because when we talk about reasonable behaviour, what might be viewed as reasonable to one may not be reasonable to another.

Clauses 30, 31 and 32 deal with persons in positions of trust and familial relationships who commit an offence against a child by abusing that position of trust. I would believe that in a situation like that when we are dealing with penalties, that they should receive the stiffest penalty, because a child looks up to these persons. They are the people whom a child puts his or her trust in: a guardian; a parent or somebody who is in charge of a home that is supposed to be looking after children. I feel that the stiffest penalty should be for these persons. We live in a society today where many people are committing heinous acts and, of course, I agree that they must feel the full brunt of the law.

This brings me to speak about the role of parents and guardians in our society today, because many parents have failed their children. Parents are supposed to have the main responsibility for care and protection of their children and that is not happening in many sectors of our society.

What are the duties of every adult under this Bill? Because dealing with parents and guardians and so on, I would think that the main duty should be to make a report if they know or suspect that a child is being abused or is in need of care and protection. This duty should apply whether you are certain or whether you are suspicious; whether the abuse has happened or is likely to happen.

In the Jamaican Child Care and Protection Act of 2004, failing to report if you know or suspect a child is abused or is in need of care and protection, can result in a sentence of six months in prison or a fine of \$500,000. So I would have liked to have seen where, what is happening in the society where people are looking the other way that somehow adults in our society must also be held responsible when you sit and allow a child to be abused and do not report it. I would like to see that in this Bill. Because I know everyone has fresh in our minds Aliyah Johnson. No child should have suffered in that way because, clearly, there would have been persons around who would have seen the abuse and should have reported it.

Clause 38(1)(a), (b) and (c) states that, and I quote:

“Where a constable reasonably believes that a child or person whom he reasonably believes to be a child is—

- (a) in possession of tobacco products or alcohol;
- (b) smoking tobacco products; or
- (c) drinking alcohol,

the constable shall—

- (i) issue a warning to the child or person;

- (ii) obtain the name of and address of the child or person; and
- (iii) immediately notify the Authority, who shall contact the parents of the child forthwith on receiving the information.”

Clause 38(1) speaks about notifying the authority immediately. When we talk about “immediately”, will the Children’s Authority be open 24 hours every day? I would have liked to have seen a timeline, whether within a day; within 24 hours; within two days or so. I think we need to bind persons to this. I do not like the word “immediately”.

History will show that the timeline for reporting matters with relation to children has been poor and unacceptable in Trinidad and Tobago. For example, reports indicated that Amy Emily Annamunthodo was treated at a public health facility on several occasions for questionable injuries. An effective system must be put in place to facilitate immediate reporting of incidents, and proper procedures with regard to reporting to the relevant authorities must be followed.

We must not, and cannot, fail our children because we are the ones they look to for safety. There is no argument that a constable can conduct the necessary procedures in relation to offences relating to dangerous drugs, tobacco, alcohol, where children are concerned, but it should be noted that in some jurisdictions only police officers of the rank of sergeant and above are allowed to have the power of arrest in cases regarding children, and this can be found in the Australian Children Act.

I need to enquire at this time whether police officers have the necessary training, or will they receive the necessary training to handle delicate matters relating to children? I ask that question, too, because this is fairly new, and as I was preparing for this Bill I remember looking at the television and seeing what had happened at the Savannah where crowd control was concerned, where I saw policemen with batons going after persons in a crowd at Panorama. I thought about that while I was preparing, and wondering what special training will be put in place for police officers to handle situations involving children, because it is a delicate matter.

I would also like to know if there would be some training in relation to the Children’s Authority Bill and the Children Bill, where the police officers are concerned. Clearly, they need to understand this legislation, because the police have a very important role to play where this Bill is concerned, and I refer again to the anti-gang legislation where it was stated clearly even by the police

commissioner that they were learning while they were operating under the state of emergency. We would not like the same thing to happen where children are concerned.

Clause 43(1) speaks about notifying the authority immediately with regard to taking a child to a place of safety. I would like to know, where are our places of safety for children? Again, we see “immediately”—the same thing: “notify the Authority immediately”; the same word, “immediately”. I would like to see information, such as the child should be placed in a home within 24 hours or so, instead of the word, “immediately”.

I am informed that prior to the last election, the Children’s Authority Board was appointed; headquarters were procured and it was supposed to be the north assessment area. Since then, I would like to know how many assessment centres were opened. I would like to know how many places of safety have been identified. I would like to know exactly what has the Children’s Authority done for the last two years. This is something that I would like the hon. Minister to answer.

Clause 48 refers to an experienced social worker. Who is an experienced social worker? Should it be someone trained in social work, approved by a university with a BSc or its equivalent? I am aware that there is a Trinidad and Tobago Association of Social Workers, which is the governing body responsible for all social work guidelines, transitions and interventions, and it is important to have trained social workers approved by this body, because the safety of the children, or course, is extremely important. So I would like to know what role the association would be playing in having a trained social worker, besides saying, “an experienced social worker”, because professionals are needed in order for this Bill to be effective. You must be extremely professional. Confidentiality is also important. It must be the watchword, actually, of all persons involved in the care and protection of children.

Clause 48(8) states that the court can issue an interim care order for a child and clauses 50 and 52 speak of remand or committal to custody of a child in a community residence. Are there community residences available to child offenders? I know there is YTC for young lads and the St. Jude’s Home for Girls, which is overcrowded. It has been brought to my attention that many young girls are being remanded and sent to the women’s prison because of the lack of proper facilities for young female offenders.

I must repeat, there are many young girls now in the women’s prison. They are sent to the women’s prison. This has been an issue for some time. I know

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when we were in Opposition this practice had started and the Government is very emotional; there is a lot of talk about it, that young girls are being sent to prison and so on. I would like to know from the Minister—it is two years now you all have been in office—what has been done about that? [*Desk thumping and interruption*] Very well, Sir, because some centres must be built. The Member for Caroni East is responding, but I would like to think that it is time for the young juveniles to be moved from the women's prison which was built for adults.

2.25 p.m.

Mr. Speaker, an appropriate facility with properly trained staff should be put in place for those girls, the majority of whom mainly go to court for uncontrollable behaviour: running away, fighting, obscene language and petty theft. I am talking about girls under the age of 18.

I also would like to bring to the attention of the Minister that there should also be a transitional centre for them after they are released, because, when they are sent back home, some of them go back to the same home environment that caused them to be the way they are in the first place. So, it is important that there be some kind of transitional centre so that they would be able to finish school, even learn a skill. But, there must be some transition from being in, whether it be a juvenile centre or back home, because many times when they send them back home, I understand they either run away again or they get pregnant, and so on.

A women's prison is definitely not an environment for juveniles and many of the female prison officers are not trained to handle female juveniles. Some are trained, but I understand some of them who are trained are not placed in that area at this time; they have been assigned to other departments and they are much needed to deal with the juveniles. But a lot of them are in other departments for whatever reason; maybe staff shortages and so on. So, Mr. Speaker, I think that this is something that the hon. Minister needs to look at. And it is a serious case here.

Permit me to speak briefly about the role of the police as it relates to the care and protection of children. I would like to go back to the police, because the police ought to receive complaints, investigate allegations of abuse against children, make arrests if necessary, make referrals to support services, ensure that the child is brought to court. And there should be a specific timeline in the legislation with regard to how soon a child should be brought to court. My suggestion would be that within two days a child should be to court as stipulated in the Jamaica Child Care and Protection Act of 2004.

I wish to reiterate that the police have a key role to play for this Bill to be effective and the appropriate measure such as training and the necessary resources must be given to them so that they can function properly. I know that sometimes the police would make comments that they do not have vehicles and so on. So, I mean, I would like to urge this Government—some of you have two and three vehicles, including the summit vehicles—if you could donate one to the police so that they would now concentrate on children in particular stations. [*Desk thumping*] So when they are called out, there is a vehicle to deal with children and to move forward. Member for Chaguanas West, I see you agree with me.

Mrs. Mc Intosh: He has five.

Miss D. Cox: Mr. Speaker, I note that only at the occurrence of mistreatment of crisis proportion that a determination of the suitability of the parents or caregivers is scrutinized or questioned. Our approach to the care and protection of children must be proactive and not reactive.

I would just like to know; I would like some information on the Children's Authority and what is happening. Why has there not been any campaign to inform the public of its role and function? There are many references to the Children's Authority in this legislation and the people of Trinidad and Tobago need to know that they can lodge their complaints there. They would like to know where it is located, what are the telephone numbers and whom they can write to. So somehow I believe that a public information campaign should also be launched to inform the public of the role and function of the Children's Authority.

So, Mr. Speaker, I must make an appeal to the people of Trinidad and Tobago to pay closer attention to children. It is sad to hear parents and teachers not recognizing vital signs of bullying taking place under their noses. I mean, some children have been bullied for a year, for years, and somehow it is passing strange that a teacher or even a parent cannot recognize those vital signs of bullying and that is important.

It is also sad that many neighbours, family members and friends look the other way instead of reporting cases of child abuse. Because, as far as they are concerned, "Well it is not my child, is their children", or people just do not care as much as they used to anymore. And we need to get back to that.

Mr. Speaker, we need to get back to our old tradition of the community and extended family playing an integral role in child rearing. [*Desk thumping*] We must embrace the concept of it takes a village to raise a child. It is imperative that every member of society actively seek to protect our children.

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In conclusion, I would like to give a biblical concept of children. In the Gospel according to Luke, Chapter 18:15—17, it is recorded that some parents or guardians brought their little children to Jesus for him to lay his hands on them and bless them. But it is recorded that the disciples of Jesus rebuked the parents for their action because they dismissed their request as vain and frivolous, and reproved the parents as being impertinent and troublesome because they thought it was either below the Master to take notice of the little children or they thought he was too tired to attend to the young ones. But then, Mr. Speaker, we see the high regard that God has for children because Jesus rebuked them and said:

“Suffer the little children to come unto me and forbid them not for such is the Kingdom of God.”

Children are very precious to God and so they ought to be precious to us as adults in Trinidad and Tobago. [*Desk thumping*] Mr. Speaker, in Psalm 127:3:

“Lo children are a heritage of the Lord and the fruit of the womb is his reward.”

Mr. Speaker, since they are a heritage of the Lord, we adults have the responsibility to train up our children so that they would not be led astray by their peers and unscrupulous adults.

Mr. Speaker, I quote again, I am not preaching. Proverbs 22:6 says:

“Train up a child in the way he should go and when he is old he will not depart from it.”

As good and laudable as this Children Bill is, pieces of legislation alone can never be the be-all and end-all of the solution to the many challenges and downright dangers that our children are exposed to, such as pornography, prostitution, physical and emotional abuse, children trafficking, et cetera. Certain core values and moral suasions must be inculcated in these young ones.

The implementation of this Children Bill must be applied with Godly wisdom. We need the right kind of social workers, police officers, correctional officers, and all the key stakeholders for the right implementation of this Children Bill. In essence, we also need to look to God for help, because we live in a world where crime against children is rampant and has been on the increase. It is said that the success of any society depends on how well we take care of our vulnerable, who are our children, and the onus is on all of us to be responsible adults as we look out for the children in our society.

As responsible individuals we must look out for the children in our society. And as a responsible Opposition we applaud the efforts of this Bill and we support. I thank you.

Mrs. Joanne Thomas (*St. Ann's East*): Thank you, Mr. Speaker. Mr. Speaker, I thank you for the opportunity to contribute to this very important piece of legislation. After the death of Aliyah the national public has become outraged and is clamouring for the implementation of this particular Bill.

Mr. Speaker, I want to urge Members of this House, when we reach the committee stage that we all go through this Bill in detail with a fine tooth comb to ensure that the perpetrators and the offenders to these little children—that no loophole is sought, so that they can get away from these crimes.

I want to join the hon. Member for Moruga/Tableland and I join him with the parents. Parents have to take responsibility as well. He gave an example of our teen children. When you look at some of our teenage girls, they are going to these parties, the way they are dressed; firstly, the parents are allowing them to leave home like that, and then we all know there are some men out there like real vultures and they go after these little girls. So as the legislation speaks about parents exposing their teenage girl children to this kind of environment, they need to take full responsibility and blame as well.

What bothers me too are some parents who put their young children to care for the younger brothers and sisters. They go out and they leave little children 9- and 10-year-olds to care for their younger brothers and sisters. Mr. Speaker, one day driving up Abercromby Street, I saw this little 5-year-old and with him was his 3-year-old brother and they were waiting for transportation. How can we put the responsibility of caring for a toddler in the hands of a 5-year-old who himself needs care and attention? And these parents are either at their jobs or whether. And, it is like normal for them to take care of their little brother or their little sister. This is not right and parents and adults in this country they have to take responsibility as well. When this Bill is implemented we need to also put stringent measures in place to deal with this kind of irresponsibility.

I refer to Part II clause 4.(1) of the Bill where it speaks about:

“Where a person who is sixteen years of age and over has responsibility for a child and the person wilfully assaults, ill-treats, neglects, abandons or exposes the child”—and I stress the words exposes the child—“or causes or procures the child to be assaulted ill-treated, neglected, abandoned or exposed, in a manner likely to cause the child suffering or injury to his physical, mental or emotional health, that person commits the offence of cruelty to a child.”

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Mr. Speaker, in this example which I have given about the 5-year-old child caring for his 3-year-old brother, that is a perfect example of that.

I just want to go to the same clause but focus on (3)(b) and take a little different twist to what (3)(b) says:

“if having been unable otherwise to provide adequate food, clothing, medical aid or lodging for the child, he failed to take reasonable steps to procure what is provided under any written law applicable to his circumstances.”

And, in this context, I refer to parents, especially single mothers, who these days as the old saying goes, “Catching their aunt, nennan and uncle to take care of their households just for them to eat.

2.40 p.m.

I would like a little explanation on exactly what is referred to as reasonable steps to provide for this child because for somebody working for a fairly good salary their reasonableness is different to somebody who just cannot get to meet even the daily meal. So, I would need a little explanation or a little clarification on that, or when we reach the committee stage we can focus on these little things.

When I look at Part VI, clause 19, I have some real concerns—that is me personally—about the fine of \$50,000. I do not find this adequate for the kind of crime that these people commit against these children. I find it really insufficient because any person committing a crime, especially a sexual crime against a child, \$50,000 is like nothing. People need to know that we in this Parliament, when we pass legislation, we are serious and we are taking steps to deal with that. [*Desk thumping*] When you look especially at the sexual crimes, think of a little boy, for example. I cannot go into it because we have a case before the court right now—the little boy that was bugged. Think of what this incident is doing to this little boy for the rest of his life. Just think of it! Can he live a normal life? No, he cannot! You see cases where children like these grow up and they go into a state of depression, they commit suicide. Imagine somebody commits a crime against a little boy and all he gets is a fine of \$50,000 and, of course, if he gets a good lawyer he gets away and then this child’s life is spoiled. Is that fair? No, Mr. Speaker, I do not think so.

Mr. Speaker, we look at young girls who go through this as well. I want to refer to a *Newsday* article of April 14, 2012, just last week, and the article says:

“An estimated 2,500 out of 17,000 live births annually are to girls under the age of 18 years.”

The article highlighted how the hon. Minister, the Member for Caroni East, was very concerned and he spoke about children having children. What concerns me, again, is what happened to reports of these 2,500 girls. What happened to these men who have committed this crime? Nobody is saying anything. At home, some mothers know that their husbands have committed these crimes. Nothing is said. Right now there is an incident in a school where a little girl is going to school pregnant, the teachers are allowing her to come to school, she is pregnant for her father, the teacher is not saying anything, no report was made, the social worker has not made any report and, of course, with the mother, she probably cannot say anything or else they probably would not be able to eat because you hear stories of that.

So we have to make sure—[*Interruption*]

Hon. St. Rose Greaves: But all of us have a duty to report.

Mrs. J. Thomas: And that is why we have to make sure that there are mechanisms in place where these reports can be made. As my colleague said just now, people talk and say it is not affecting me or some people too are afraid to come and report because, of course, they do not want their name in anything because they will have to give—so we have to put legislation in place. We have to fix it so that people can feel free to come and report these kinds of incidents. We have to do it. [*Interruption*]

Mr. Speaker, even in the United States we all remember when that teacher went with the little boy who was 15 years and afterwards you got word from the story that there was some sort of consent from both parties, but still the child was 15 years. She faced major criticism and was sent to jail. So we have to follow suit and we have to make people pay because it is children.

I also refer to Part VI, clauses 30 to 34, and this defines the different kind of caregivers for children. I think my colleague mentioned it too, where you have schools, you have the caregivers, all of these persons who are aware—and they have first-hand information—and they are the ones that the children trust. We have to, again, I stress, make sure that when this is implemented, that it is fully enforced and everyone knows there is no getting away when coming to children.

I want to refer to a story of—let me just go to a part of the Bill, which is Part IX, clause 45(2). It talks about:

“Where a person—

- (a) knowingly assists or induces, directly or indirectly, a child to escape from the person to whose care he or she is committed; or

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- (b) knowingly harbours, conceals or prevents a child who has so escaped from returning to such person, or knowingly assists in so doing,”

Mr. Speaker, we see this happening, especially with young school girls, where these men lure them to leave their parents’ home. In some cases, we see where it is for a case of ransom. So they use the little girl; probably full their poor little heads because as a teenager just by someone showing a little care to you, all of a sudden you feel, “Oh lord, I am in love. I am in seventh heaven.” They take that and then, of course, some of these girls commit the act of saying, “Okay, they are kidnapped.” Do you know what is amazing? You see a lot of girls missing for so many days and when they are found and they go back home, you do not hear anything about where they were, who had them, because the little girl is not talking and, of course, the person who encouraged this, they get away scot-free.

Mr. Speaker, in going through this Bill, I said, we do not even have to go and do any scan on what other countries do because we have so many examples here in this country of all different kinds. All we have to do is look at what we see happening and just put the necessary legislation in place. We do not have to go and surf “nothing”; just put it in place because we have it here. Let us just deal with these people.

I want to thank the hon. Minister for bringing forward this Bill, and our colleagues on this side, I join with them and we fully, fully support this Bill. I am going to be like a little watchdog to make sure we really—we as Members of Parliament, we have to have little watchdogs in our areas as well. So give people the freedom to come to us, let us know, let us then be the one to take it. If people are afraid, let us just play that role whether you consider it like a mother/father role in our constituencies, but let people feel that freedom to come to us and let us know of stories like that so we can take them to the right authorities.

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

2.50 p.m.

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, I know that we have come here with a heavy schedule today, and this very important and long delayed matter has been before the country for quite some time, and I think all the speakers who spoke expressed satisfaction that finally it is here for our attention. It was my expectation that we would have concluded this matter. I have only just a few minutes ago received a warm copy of 20 pages of amendments—

Miss Mc Donald: Twenty-three.

Dr. K. Rowley:—23 pages of amendments. While I was aware, and I guess we all were aware, that there were some amendments in the offing, firstly, we were not aware that the amendments were as voluminous as these and that they would come as late as they are coming now.

I would like to think, Mr. Speaker, that in the spirit of the debate and the content of the debate, that we are trying to pass good law to ensure that our children receive the protection which is anticipated for so long, the delay being such a feature in the debate, that we would not be required to treat with 23 pages of amendments which I received—2.25, it is now 2.51—less than 20 minutes ago. This is not how we should conclude this.

So, I would simply like to ask the Government to cooperate with us as we cooperate with you on this particular matter, and approach the ending of this debate by allowing the debate itself to conclude today, give us a few days to look at these amendments, and at the next sitting, we conclude the committee stage and the support that is to come to pass this thing. I do not know that I can sit here in a few minutes having just received 23 pages and required to cross-reference them with the parent Act to say that the amendment is okay especially, insofar as we had made some far-reaching recommendations. I see, from first glance, that some of them appear to have been taken on board here and we would like to be satisfied that what we have recommended is what is here, and if it is not here, that we are able to identify and discern what is here.

So, I am requesting of the Government that we conclude the debate in that fashion; not by asking us to conclude with 23 pages of amendments in the next few minutes, having not properly seen them, or properly digested them, and properly cross-referenced them with the parent Act. So, I put that to the Government, and I give the Government the assurance that this is not an obstacle, we just want to ensure that we pass good law. [*Desk thumping*]

Mr. Speaker: Is there any other Member of the Opposition? Well, I will call on the hon. Minister to speak at this time.

The Minister of Gender, Youth and Child Development (Sen. The Hon. Verna St. Rose Greaves): Thank you, Mr. Speaker. I know that Members of this honourable House will move forward with this Bill in the spirit of collaboration with which we began on the last occasion. I am truly grateful for that.

Very early, let me apologize for the late circulation of the amendments. It was because we have been trying to bring them up to speed to what we have been discussing with several people including the Opposition and the Director of

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Public Prosecutions. I do not think that we should be put off by the number of pages because several of those pages comprise of only two aspects of the amendments that are to be made. The others are very small amendments and things that we have spoken about with Members of the Opposition. So perhaps, as we move forward, we will get closer to see whether we can continue and I would really appreciate if we could move this forward.

Mr. Speaker, I wish to thank Members on both sides of the House for their contributions in this debate on the Children Bill, 2012. Their input served to underscore the critical need for the passage of this Bill. I would also like to thank Members on the opposite side for their support of the Bill in principle. At the end of the day, we are all here to do what is best for the children of this nation and we are prepared to take into account, the views that have been expressed. The debate has been a wide-ranging one. It has brought home, most forcefully, the need for a multifaceted and multipronged approach to dealing with the protection of our children.

As I stated before, the legislation is important but it is just one of the many tools that we must use to protect our children. Those who are being harmed by persons closest to them, or who are in danger of being mistreated and abused by people they trust, or in whose care they have been entrusted. Some children may find themselves at the mercy of strangers. We need to minimize risk as much as is humanly possible, and where maltreatment and abuse occur, we need to be the voices for those children who are defenceless and voiceless. The recent tragedy of two-year-old Aliyah Johnson has again painfully brought home to us that the protection of our children is an urgent matter that concerns individuals, communities, civil societies and institutions alike.

Research conducted a few years ago by the Institute of Gender and Development Studies at the University of the West Indies, St. Augustine, revealed that abusers and victims were widely known to members of their communities—and so many of the Members here present spoke to that. The Bill will only work for these children when we, in their respective communities, as said by the Member for St. Ann's East, become their voices and become their guardians. We need to find ways to transform the pain and outrage evident on the airways and social network when a child's life has been cut short by persons closest to them. We need to transform that outrage into action. Too many of us have dropped our hands. Too many of us have given up. We appropriate blame too easily rather than take responsibility and demand accountability. Our action should manifest in

our vigilance in organizing ourselves, our families and our communities to provide care. That must be evident in our willingness to report and in our willingness to respond when people make those reports.

Mr. Speaker, the overarching message coming from many in the national community and from Members in this honourable House, is that while legislation alone will not eradicate child abuse or ensure child protection, this Bill is critically needed to increase the protection afforded to victims and punish abusers. While many of our children are cherished and loved and will become better citizens and nurturers themselves, some children are not so fortunate. Instead of the promised security of family life, these children's lives are filled with fear of the adults around them. These children must be adequately protected in the law and that is what this Bill is trying to do.

Mr. Speaker, I would like to take this opportunity to address some of the issues raised by Members of the opposite side. We have acknowledged that this Bill has had a long history and that Members on both sides, as well as many others have contributed to the development. The Bill has been subject to previous debate in this honourable House and was then referred to a Special Select Committee which was chaired by the hon. Member for Diego Martin North/East. This has been alluded to by the Member himself and by the Member for Diego Martin Central. I acknowledge the detailed and comprehensive work of that committee which included Members on both sides. As the Member for Diego Martin Central pointed out, there was fairly ready agreement on easy and straightforward clauses, and there was identification and review of clauses that were considered more controversial in nature.

Mr. Speaker, the Bill deals with very complex policy issues such as the age of sexual consent, how to treat with genuinely mutually agreed sexual conduct between adolescents close in age; the difficulties of a Romeo clause and ensuring that the juvenile penal policy of the Bill is in sync with the overall juvenile penal policy of the criminal justice system and so on. Mr. Speaker, these beg of no easy answers and it is clear that the committee spent a long time trying to get these issues right.

Mr. Speaker, the issue of genuinely mutually agreed sexual activity between adolescents who are close in age, a matter brought up several times by the Member for Diego Martin North/East, is a critically important issue and one which has exercised the minds of all who have been engaged in the development of the Children Bill over the years. The opinion of the experts is that such conduct should not be criminalized and this Government fully supports that position.

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Under the existing Sexual Offences Act, such conduct is criminalized except in two instances. In those two instances, the accused and the complainant must be close in age and the court must be of the opinion that the accused was wholly or chiefly to blame.

We have had discussions with the Member for Diego Martin North/East on this issue. We have consulted with the Office of the Director of Public Prosecutions. We have looked at other jurisdictions here in the Caribbean and elsewhere in an effort to find a solution to this problem. We note that the 2008 Bill attempted to solve this problem by using the close-in-age defence or the Romeo clause for 16-year-olds and 17-year-olds only while being silent on those below these ages. *[Interruption]*

Mr. Imbert: I thank the hon. Minister for giving way. I understand, in my absence, that the Leader of the Opposition made a certain request; I would just like to augment that. I have looked at the list of amendments—23 pages of them—they are quite comprehensive. I think it would be impossible for the Opposition to digest all these in half an hour.

I know that you are planning to take it after the tea but I was wondering, hon. Minister, since there are—I would think about 50 amendments here—if you could defer it to later in the proceedings. Not just at 5.00 p.m. but take it down to 6.00 p.m. or 7.00 p.m. or some time like that so that we can go through these things. Otherwise, we might be unable to give some meaningful input on these very complex amendments.

Sen. The Hon. V. St. Rose Greaves: I do appreciate that and yes, I would be willing to push it back because I think we need to do what we need to do.

The subsequent consolidated version to which the Member for Diego Martin North/East referred also adopted this position as does the current Bill. Mr. Speaker, while the single Romeo clause solves part of the problem, it does not deal with two 15-year-olds or two 14-year-olds or any permutations of these ages as the Member for Diego Martin North/East highlighted. It emphasizes the fact that this issue has also been a difficult one for the past administration as it has been for ours and we do acknowledge this.

Mr. Speaker, many jurisdictions have sought to deal with this problem by similarly adopting a Romeo clause or Romeo clauses. The United Kingdom, on the other hand, has dealt with it by abolishing the Romeo clause altogether. On the face of the UK Sexual Offences Act of 2003, all sexual activity between children, whether forced or genuinely mutually agreed, consist of criminal

conduct. What they have done, however, is to issue administrative guidelines from the Crown Prosecution Service in order to filter out cases of genuine mutually agreed conduct or experimentation between curious children so that such cases would not be prosecuted.

Some of these factors include the age and understanding of the offender. The relevant ages of the parties which should be the same or there should be no significant disparity in age whether the complainant entered into sexual activity willingly, that is did he/she understand the nature of his/her actions and was able to communicate his/her willingness freely, and so on.

3.05 p.m.

Where an accused, for example, is exploitative or coercive or is much older than the victim, the balance may be in favour of prosecution, whereas if the sexual activity is truly of the victim's own free will, it may not be in the public's interest to prosecute. Crown Prosecutors in the UK must follow these guidelines before prosecuting children. The difference here in Trinidad and Tobago is that the office of the Director of Public Prosecutions is an independent entity established under the Constitution, and his discretion cannot be fettered by guidelines incorporated in the legislation, nor can the Government or any other entity issue guidelines for the DPP. The DPP may formulate his own guidelines; however, this cannot be done in a vacuum, as he has to look to the law in order to do so. Mr. Speaker, this is how it currently works. Based on all the consultations we have held on this issue, we have now included Romeo clauses to cover different age categories. The DPP will act as the filter where the conduct is one that does not involve exploitation, coercion, threat, deception, et cetera.

Further, clause 82 also expressly states that proceedings for an offence under Parts V, VII or VIII, with respect to which the alleged perpetrator is a child, shall not be instituted except by or with the consent of the Director of Public Prosecutions. We are of the firm view that children ought not to engage in sexual activity, but we cannot ignore that it can and that it does happen, as the experts have advised, as the research has shown and as we know. In such cases, protection will normally be best achieved by providing education and counselling for these children and support for those responsible for their care. We are committed to providing this support for such children and mechanisms will be put in place to ensure that children who engage in underage sex come to the attention of the appropriate social services. Just perhaps, the time has come for us to start a conversation on sex education to be delivered in age appropriate ways. [*Desk thumping*]

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Mr. Speaker, the issues raised by the Member for Diego Martin North/East and the advice of the experts to which the Member referred, have given us cause to perhaps consider again the question of the age of consent for sexual activity. At present, under the Sexual Offences Act, that age is set at 16; under the Bill we have a dual age of consent, 18 for conduct that involves sexual penetration and 16 for less grievous conduct under the offence of sexual touching. Most Caribbean countries have 16 as the age of sexual consent and globally 16 is also the average age. While we all want what is best for the protection of our children, we do not want to unduly criminalize sexual activity engaged in by 16- and 17-year-olds, where such activity falls just outside of the relevant Romeo clause.

Mr. Speaker, another issue raised by the Member for Diego Martin North/East refers to the need for different penalties to be reflected for different categories of offenders according to the age set out in the 2008 Bill. We have now included clause 42(a) which provides for penalties for child offenders over 16 and under 16 years. This applies to Parts V, VI and VIII and, therefore, does not have to be repeated for each offence.

We need to ensure that the juvenile penal policy reflected in this Bill is in sync with the overall juvenile policy. Thus, for example, the present system does not cater for detention for life as reflected in the Bill. The Youth Training Centre, the St. Jude's Home for Girls and the St. Michael's School for Boys, cater for child offenders to be detained up to a certain age; it is the same for children's homes. In this regard, discretion of the court ought not to be fettered by including a penalty that cannot be given effect.

Throughout our criminal law, penalties of imprisonment are prescribed for children; this does not mean that they are imprisoned. The Children Act and the Young Offenders Detention Act, among others, come into play and young offenders are appropriately placed by the court. The Bill also provides that children shall not be imprisoned. In an appropriate case where the crime has been particularly heinous, the court ought to have the discretion to determine whether imprisonment may be appropriate subsequent to placement in one of the existing detention centres.

We agree that child offenders must be treated differently and we have taken the opportunity to mandate a police officer to notify the parent or guardian and the Children's Authority, where the officer reasonably believes that a sexual offence has been committed by a child. The police officer must also notify his superior officer in writing within 72 hours of taking such action.

Members on the opposite side raised the fact that the offence of cruelty applies only to offenders over age 16. While we have now amended this to make all persons liable, we note that under the previous Bill, the offence also applied only to a person over the age of 16. The equivalent section of the UK Children and Young Persons Act also retains this age distinction up to the present time.

Mr. Speaker, we have inserted new sections, 58A to 58N; these deal with the mode of placement of children who are before the court. We have also inserted clauses dealing with the employment of young persons.

I would like to continue with a few words on the various ages of marriage and the conflict this poses in relation to this Bill, as raised by the hon. Member for Diego Martin Central, and today raised by the Member for Laventille East/Morvant and the Member for Port Spain North/St. St. Ann's West. This Bill cannot unilaterally change the respective minimum ages of marriage without the necessary and proper consultations with all of those involved. These consultations are underway and we have made a great deal of progress, while we change laws, we cannot undermine the Constitution and those laws will have to be changed under the Marriage Act and so on.

The general opinion coming from the interest groups—and we have made much progress—is that the ages are too low in some instances. We have had favourable responses from sections we thought we were going to get much fight, and I think that augurs well for the society. We hope that we will soon be in a position to address this in the law and the marriage exceptions in the Bill will no longer be required.

During the time the Bill was introduced, and the six weeks it took to bring it back to this House, several dire situations involving children have been in the public domain. Another child has been killed; others harmed; acts of serious indecency and buggery against several others; child victims identified as perpetrators; rapes committed on children by children, by relatives and friends; a student brutally beaten by his schoolmates. Public outrage has been palpable as happens every time a child is killed. No one will argue about the urgency with which we must move forward not only with the law, but with the establishment, development and strengthening of the structures and systems which will give teeth and life to this legislation.

Mr. Speaker, through you, I wish to assure the national community that this Government is seeking expeditiously to do what is required of us for our children. The Ministry of Gender, Youth and Child Development in its 10th month of

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existence, has a Cabinet-approved strategic plan for child development, 2012—2016, and we have brought on board a child development unit, with child development specialists to guide us on the way forward and they are ensuring that our agencies for children are strengthened in order to respond timely and adequately to the needs of our children.

A National Council for Child Development and an interministerial committee has been approved and soon to be appointed, the Children's Authority Act, No. 64 of 2000, amended in 2003 and 2008, which has been partially proclaimed and for which a board was appointed in 2009, and a new board has been appointed this year. For many years this Children's Authority Board while appointed has not been able to function fully, however, we have now increased staffing and the authority is moving towards full operation. A high level ministerial team was appointed by Cabinet to advance the operations of the Children's Authority and that has seen the hiring of 14 high-level staff members who are now involved in further recruitment and in setting of standards, registration of homes and other related duties.

At the Ministry of Gender, Youth and Child Development we are working with several other Ministries to execute our national strategic plan for child development: the Ministry of Education; the Ministry of the People, and Social Development; the Ministry of Community Development; the Ministry of Sport; the Ministry of Labour Small and Micro Enterprise Development; the Ministry of Planning and the Economy; the Ministry of Justice; the Ministry of Science, Technology and Tertiary Education; the Ministry of Health; the Ministry of Housing and the Environment and the others. Unfortunately, to date we have not been able to journey to Tobago to meet with the Tobago House of Assembly, but we are seeking to remedy that within the next two weeks.

We continue to establish a database and referral system for clients which will help us to provide a more connected approach to our responses and follow-up. We are in the preliminary stages of setting up a Children's Registry, which will greatly assist the tracking and follow-up of children from birth to 18 years old. It is going to be a massive undertaking, because every child born in this country must go into that database and must have a unique identifier. So when a child does not turn up at a clinic at two or three months we can immediately plug in and have someone find that child to make sure that the child is immunized, that he or she is thriving as he or she is supposed to, that all is well. We are truly hoping that we could get this up and running at the earliest possible opportunity.

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We are seeking to set up intervention centres and related childcare facilities closer to homes which will assist families in accessing the necessary care and support they may require. And I heard the cries of Members when they were talking about mothers who have to leave children on their own and five-year-olds who are looking after toddlers, the bottom line is that we do not have places where persons can leave their children at low cost or no cost when they go out to work. So we are working to make sure that happens.

We are working with civil society organizations in terms of our delivery to roll our parenting support programmes, community guardians, and parenting support agents are being trained through a gatekeepers programme in collaboration with the Toco Foundation. In a few days we will launch a Youth Volunteer Programme which will bring greater awareness of social issues to our young people and allow them to become part of the solutions to many of the problems they and our nation face.

An annual subvention has been provided to support the work of the New Life Ministries to work with drug-dependent women many of whom are mothers, so that they can be better prepared and rehabilitated to fit into their role as parents and to make the contributions so many of them want to make.

A social care response team is being established, we just have a few members so far to facilitate a greater presence of social workers and support staff in our communities for prevention. If we are in the communities we would know what is going on, we will have a sense, can have a feel, we will have our pulse on the community, so that we know where a child is under pressure, we know where parents are crying out and we do not wait for the crisis to happen, we can step in before it does.

The hotline continues to provide an important service but the protocols for follow-up—we want to strength those. As somebody expressed, the time frame, what happens when someone calls after that? What do we do? How do we respond and in what time frame? The youth camps and children's homes are to be upgraded with a facility for girls being given high priority.

3.20 p.m.

On the question of concern for girls being detained at the adult women's prison, this is unacceptable and we are working to correct that. [*Interruption*] We are setting up a detention centre.

Miss Hospedales: Where?

Sen. The Hon. V. St. Rose Greaves: We have not identified, but we have had approval.

Mr. Speaker, we are working on a human rights based programme treating with respect for ourselves and each other as a tool to combat bullying in our society. I want us to remember that bullying is not limited to children and young people. Very often, when we are talking about bullying, we do not look to ourselves to understand that bullying takes place at all levels in all places in this society and it is something that we have to pay attention to.

We continue to work with our international partners who continue to be forthcoming in their support. Through the Ministry of Justice, the Family Court is to be removed from a pilot project, which it has been for a long time, to be established in San Fernando. That is wonderful because people will no longer have to travel all the way to Port of Spain to have their matters heard.

Vacation camps and after-school centres are to be increased and improved to reduce the risk to children left up to their own devices. A youth health policy has been developed and sent to the Ministry of Health for consideration. We are cognizant that people who care for children need special attention with respect to training, their suitability for the task, as well as for their emotional well-being. We are committed to doing that. We are recruiting specialists in several fields: psychologists, child specialists and other legal professionals and so on to treat with the many needs of our clientele.

As it relates to our physical plant, Cabinet has approved the construction of several facilities. The National Insurance Property Development Company has sent out a request for proposals to construct for us an institute of healing, three interdisciplinary child development centres, a model children's home, three safe houses and two respite centres where persons who experience difficulty in coping can seek care for their children while appropriate interventions are made. We are also working on developing four assessment centres and two transition homes for children who previously resided in children's institutions.

The National Family Services has been recently moved from the Ministry of the People and Social Development to the Ministry of Gender, Youth and Child Development in an effort to further streamline our services. This will facilitate the urgent upgrade of the foster care department, which, in the short term, will facilitate the temporary care of children while we work on the longer term projects.

Public education and awareness is high on our agenda and we are heightening our media campaign to raise consciousness on a number of topics related to child development, child protection, parenting for peace as well as other initiatives. Our community conversations with parents and others are ongoing and will be strengthened as we go forward.

Mr. Speaker, permit me again to refer to the report of Justice Monica Barnes on the killing of Amy Emily Annamunthodo, in which she spoke to the situation of social workers in Trinidad and Tobago being overworked, underpaid, their work unrecognized, yet they are expected to bring hope and healing and a desire to overcome to people.

Justice Barnes quoted from a paper written in 2006 by Medical Social Worker, Tara Rahamut. I quote:

“The Medical Social Work Department has long been abandoned by the Ministry of Health. The department has been left to struggle with the increasing demand for services without support from any level and it expects very little support in the future. The main tool that any social worker uses is SELF and when this is diminished due to neglect, there is very little left with which to work.”

Justice Barnes considers whether this perceived diminution of SELF is caused by burnout or a lack of appreciation, or both. She concludes that:

“In any event this SELF must be restored.”

It is all well and good for us to stand and say how many social workers we need; how many care professionals we need yet, at the same time, so many of them do not have job security; so many of them are on month-to-month contracts; so many of them cannot function because they do not know what tomorrow brings. I think it is important for us to understand that we must treat with the professionals who are doing the work for our children.

Mr. Speaker, the passing of this legislation affords, not just social workers, but all of us, an opportunity to restore self at the personal, professional, political, community and State levels. Every time a child is killed, it diminishes our sense of self as a nation. Trauma in this society is real. The confidence of our children is shaken. It is their fear that it is manifesting in unfortunate ways. Knowing, understanding and healing self are critical to our survival.

I have no doubt that, in their hearts and minds, past and present Members of this honourable House wanted to do right by our children. This has been clearly

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demonstrated in the several attempts to outdo each other in framing and reframing this legislation. Unfortunately, sometimes in seeking to strengthen some aspects, others have been eroded. We do not want to alienate parents from their children or create a generation of frightened, hyper-vigilant children; children afraid to love, to care, to trust; children afraid to be touched. We do not want our young people listed on a register of sex offenders or imprisoned for life. We want legislation that will work in the best interest of our nation.

We are all aware that legislation alone will not protect our children. There are changes which need to be made in the way we do business, our politics, and changes in our behaviour. There must be cultural shifts—shifts in how we relate to each other and to our children; how we see them as property; how we sexualize them; how we discipline them; how they are factored in relationship games; how we demean them with our words.

Despite our public expressions of how much we care about children as a nation, we are yet to develop a genuine culture of care, a kind of caring that goes beyond lip service; beyond our own children, but for all the nation's children. This legislation will need support through infrastructure, proper organization, management systems, policies and protocols and, more importantly, community buy-in and support. More than anything, it requires, if not demands, political will, not just from politicians, but political will from our people.

In the best interest of our children and our young people, we must move away from a culture of blame and quarrel that takes us away from what is truly important, right and just. We must move from what feeds our egos and personal idiosyncrasies while our children continue to fall prey to our neglect. Changes must be made at every level, in every sphere of our operations; in our decision-making processes, our work ethic, our hours of work. Problems do not happen 8.00 to 4.00. They happen all the time. They happen on weekends; they happen on public holidays.

As I end, I remind us that, in spite of all the negatives, good things are happening; things that will afford many of us yet another opportunity to do better; to do what is right. Children are being born every day; precious gifts to our society. I myself, a few days ago, welcomed my new granddaughter into this world. [*Desk thumping*] I did that with all the joy and hope for her, but with some concern, ever conscious of our realities.

We, the people of Trinidad and Tobago, are good people and we must remember that. Let us use our strengths to mitigate the challenges which we face.

There are parents trying to do their best every day and this Government is committed to supporting them.

I thank all those who contributed to this legislation over the many years; those who have contributed to the debate. I thank the staff of the Ministry for their hard work under extremely trying circumstances; the staff of the Parliament, the CPC and various government departments.

I, here, want especially to thank the Prime Minister for affording me the opportunity to have another route, another opportunity by which to treat with my concern for the well-being of children, which I have expressed over the many years in so many ways. I know her heart. I am aware of her concerns. I understand the nature of the sacred trust that she has been given and I am committed to helping her in that. I know first-hand how difficult it is at times to get done things which one wants to get done and done quickly. I know, too, that if we do what is right for our children, all other things will flow easier and good things will come to us.

Sister Ella Andall has blessed this nation with her voice, with gifts of poetry and song. She has asked the Supreme Mother, the Goddess of the Water, the protector of all children, to help us, to open the way, to cool our path. “Yemanger, Yemoyer, Da Se Su”, she sings. She has pleaded with us on behalf of the missing generation. “Who cares?”, she asks. “Who cares?”

Well I know that we care. She asks us to stand in the road as warriors. We must stand. We must be warriors to protect our children. We must stand and be counted.

Mr. Speaker: Hon. Senator, before you move, I would like to state that to avoid any untidiness in our proceedings, that you do not move the Bill at this time. There is an agreement that we take the committee stage at some later time in the proceedings and, at that time, you will rise and move the Bill.

With the agreement of the House, we will move on to Bill number two and later in the proceedings we will come back to committee stage and the moving of the Bill.

MISCELLANEOUS PROVISIONS (MATERNITY PROTECTION AND THE MASTERS AND SERVANTS ORDINANCE) BILL, 2012

[Second Day]

Order read for resuming adjourned debate on question [March 16, 2012]:

That the Bill be now read a second time.

Question again proposed.

Mr. Speaker: Hon. Members, those who have spoken thus far are the hon. Minister of Labour and Small and Micro Enterprise Development, the Member for Port of Spain North/St. Ann's West, the Minister of State in the Ministry of Works and Infrastructure, the Member for Laventille East/Morvant, the Member for St. Ann's East, the Member for La Brea, the Minister of State in the Ministry of the People and Social Development and the hon. Member for Diego Martin North/East. I now recognize the Member for Port of Spain South. [*Desk thumping*]

3.35 p.m.

Miss Marlene Mc Donald (*Port of Spain South*): Thank you, Mr. Speaker, for this opportunity to join in this debate. The last occasion we dealt with this Bill was on March 16, 2012, when the hon. Minister of Labour and Small and Micro Enterprise Development and Member for Pointe-a-Pierre piloted this Bill. A lot at that time was spent on the Bill, so, for me, I felt, I needed to highlight two particular points that I felt we did not deal with adequately on the last occasion.

Mr. Speaker, my understanding is that the Government is seeking to do two things: one is to make an amendment to the Maternity Protection Act, Chap. 45:57, and the objective of that amendment is to increase the maternity leave from 13 weeks to 14 weeks. The second objective of this Bill is to repeal the Masters and Servants Ordinance, Chap. 22, No. 5. Permit me to deal with each one separately. So we are looking at the amendment to the Maternity Protection Act.

Maternity leave is an employee's benefit that provides some sort of payment, and in some cases, unpaid leave to care for a child and during this period, in Trinidad and Tobago, the mother is paid by two sources, if that person is employed, through the employer and also through the NIB.

In accordance with the law as laid down in section 9(1) of the Maternity Protection Act, which I call the parent Act—I am establishing the law which lays down that it is 13 weeks currently that will obtain for someone who is pregnant. This is the maternity leave benefit. Section 9(1) says:

“An employee is entitled to thirteen weeks maternity leave and may proceed on such leave six weeks prior...”

My understanding of this 13 weeks is that you proceed six weeks before the delivery date. So, there is six weeks in front, one week of birth and six weeks after, and when you add it up—six and six plus one—that would be your 13 weeks entitlement.

Additionally, during the maternity leave, section 9(2) would kick in, because it stipulates how the employee should be paid. So section 9(1) of the parent Act tells us how much time is available, and section 9(2) tells us the quantum of money to be paid to that employee. It says:

“During the period of maternity leave, an employee is entitled to receive pay from her employer to an amount equivalent to one month’s leave with full pay and two months’ leave with half pay.”

So the 13 weeks will be over a period of three months, and on the first month you get your full pay, and on months two and three, the employer is obligated legally under section 9(2) of this Act to pay half pay to the employee.

We look at the other source which is supposed to pay also, not only the employer, but the National Insurance Board, and we get that law in section 27A of the National Insurance Act in the regulations accompanying the Act, and it says maternity benefits shall be—

“(a) Payable for a period starting not earlier than six weeks before the expected date of delivery and continuing until the expiration of thirteen weeks”—provided that—“the total”—benefit—“period shall not exceed the twelfth week...”

So, Mr. Speaker, what we are saying here is that you have two pieces of legislation once you are employed—of course, when I say employer, I should put in a proviso for one year and over—that this law, section 9(2) would kick in.

The purpose of the maternity leave, I see it as twofold. This is where the maternity leave is to afford a new mother the opportunity to care for her child and to bond with her child, while also taking into consideration after the birth and the six weeks before the birth of that child.

The second reason for maternity leave is really steeped in law; it is very legal, in that the maternity leave protects the mother from being dismissed from her job after giving birth to that child, and giving her the right to resume her job on the same terms and conditions as she had enjoyed before proceeding on the maternity leave.

So, Mr. Speaker, as a consequence, the key feature of the Government’s proposal is to increase the mandatory maternity leave entitlement from 13 weeks to 14 weeks, and this is done in the amendment at clause 3 in the amended Bill where it says:

“in section 9(1), by deleting the word ‘thirteen’ wherever it occurs and substituting the word ‘fourteen’.”

Maternity Protection Bill, 2012
[MISS MCDONALD]

Wednesday, April 25, 2012

I am the first to agree with this amendment in keeping, as the Minister quite rightly said, with the ILO Conference, No. 183 on the Maternity Protection Convention of 2000, Article 4 of Convention No. 183 which states:

“On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.”

So, this amendment, coming out from the ILO, which was not implemented before—we commend the Minister for bringing it here—this amendment to section 9(1) of the parent Act will now put into effect this ILO’s agreement, and it will now put Trinidad and Tobago in line with international labour standards. That is what this amendment is doing.

Let me take this one step further. I am going to read from the Minister’s speech on Friday March 16, 2012. I am reading from *Hansard* where he said:

“Government’s policy framework for sustainable development identifies certain key pieces of labour legislation to be reviewed, amended and also to be repealed. These include the amendment of the Maternity Protection Act to provide for 14 weeks paid maternity leave, as opposed to 13 weeks, which currently obtains, in keeping with international labour standards. The international labour standard is at 14 weeks.”

What I am concerned about is what the Minister said, and I want to repeat that sentence. “These include the amendment of the Maternity Protection Act to provide for 14 weeks paid...”—The operative words here are—“paid maternity leave”.

If we look at this amendment logically, I am asking the Minister, because I think he is a reasonable person, to follow my argument here this afternoon. [*Crosstalk*] No, he listens. Certainly, not the Member for St. Joseph, he does not listen. If we look at this amendment logically, the Minister is amending the number of weeks in section 9(1) from 13 to 14. This Bench has absolutely no problem in giving pregnant mothers an extra week, and also in keeping with the international labour standards.

However, the Minister has not proposed the necessary change or amendment in section 9(2) of the Act to deal with the employer having to pay the employee an additional week’s salary. So if you are going to change 9(1) and increase the period from 13 weeks to 14 weeks, I would have expected that in section 9(2),

which immediately follows section 9(1) to have seen some sort of amendment coming through there, because section 9(2) speaks to 13 weeks and we need to put this at 14 weeks.

Additionally, I would have expected to see in the National Insurance Act, Chap. 32:01, in the accompanying regulations, section 27A, another amendment coming there, because you have to empower these bodies—the employer and the National Insurance Board—to pay the necessary extra week. What is going to happen is that the pregnant woman, after she carries that child and she makes that child and so on, you would find that she is being paid for 13 weeks and no pay for the 14th week, but I think that might have been an oversight.

Section 27A says that maternity benefit shall be:

“payable for a period starting not earlier than six weeks before the expected date of delivery and continuing until the expiration of thirteen weeks...”

We must bring all in sync with each other. We must bring section 9(1) and section 9(2) of the parent Act, which is the Maternity Protection Act, and we must bring section 27A under the National Insurance Act in sync.

You see, when Ministers come here, and not only this Minister, I have noted this type of shoddy crafting in many of the Bills that come here to us. *[Interruption]* St. Joseph, you will have your turn.

Mr. Speaker, I think that when Ministers come here and present a Bill, they must present their best efforts. It is reflective of the Government’s best efforts, but when you come here and you have to be taking back Bills—you have to go back with the Legal Aid and Advice (Amdt.) Bill; go back with the Electronic Monitoring Bill and go back with the Capital Offences Bill, it says a lot. *[Desk thumping]* It says that someone is not doing their homework. *[Desk thumping]* It says that we are not double-checking what we are doing because here you are—and this is a classic example.

You are giving pregnant women an increase to 14 weeks, and I agree with the Minister, bring it in line with international labour standards, but at the same time, you have to give the necessary teeth to what you are doing. This is your objective. How are you going to implement your objective if you do not do the required amendments? The required amendments, may I state, they come in section 9(2) of the parent Act, which is the Maternity Protection Act, and section 27A of the National Insurance Act under the regulations. We need to deal with that.

Mr. Speaker, I also want to state—and it is serious, because the 14th week is going to take that maternity leave into the fourth month, and there is nothing in place right now to pay that pregnant person for that extra week. There is nothing in place there. [*Desk thumping*] As it is now, as my leader just said to me, if you look to implement this, it is “unpaid” leave right now. I do not think that is what we want to do. I think it is an oversight and I know that the Minister is a very reasonable person.

3.50 p.m.

Mr. Speaker, whilst I am on this because I find that—though I commend the Minister for bringing this piece of legislation, this amendment, I also want to say that this is being done on a piecemeal basis, and because of that—and I am talking now to the constituents of Port of Spain South, there is something called a special maternity grant at the NIB, and this is cause for concern.

My understanding is, this grant is paid under two circumstances, one, where the woman is unemployed, and two, where the woman is employed for less than four months. The proviso is that the woman’s husband, in order to get the grant, must be gainfully employed. Now, you must wonder why I am saying this. I want to focus on the woman who is unemployed, and I want to focus on the class of women who are now existing in common-law relations, and I will tell you the problem they are having there.

Mr. Speaker, in order for a woman, who is in a common-law relation, to access this special maternity grant of \$2,500, that woman must show that she has been living with the man for no less than three years. So, from three years and up she has to prove that she is living under the same roof with this man.

Mr. Speaker, you want me to tell you what that means in law? I could be living with a man, under the same roof, and I have two households existing, and indeed many marriages in this country, they are under the same roof, and there are two households existing. I find this very foolhardy, very foolhardy, and based on that, if the woman cannot prove that she is living under the roof with this man, or she does not sign or he does not sign an affidavit stating, you know, what is going to happen? She is disbarred from that special maternity grant.

I am saying that probably we could look at this, Mr. Minister. We could look that this and say listen, this woman would be able to access the grant once she brings a birth certificate, bearing the child’s father’s name. When a man himself appears—you would know that Pointe-a-Pierre, no, St. Augustine. When a man himself appears at the Registry of Births, and puts his name down that I am the

father, what could wash away that? What if he went there and he put his name, and if that woman could present the birth certificate, stating that this man, Mr. A, is my child's father and she provides this, she should not be disbarred.

I think that the criteria to access this \$2,500 special maternity grant, in a common-law union, where the woman has to show that she has to live with a man for three years and more, this is not 21st Century thinking. This is not 2012 thinking, this is suppressive, and I will tell you what, the common-law unions in this country are very prevalent; we may frown on them, but they are very, very prevalent. And this is very discriminatory, and it is only when I was doing the research that I found this out, so I am happy that I was given an opportunity to speak on this Bill today. It is extremely discriminatory. I hope the Minister takes it on board.

As I said, I would be brief. I turn my attention to the masters and servants Bill, and I read here, but I will get to that, the Minister proposes to repeal the Masters and Servants Ordinance. The Minister said that the Ordinance—I know it is from 1938—is about 74 years old, and the objective was really to outline what is a contract, and the conditions of a contract; it is very old. Even the wording, and I agree with him, is very disrespectful in this 21 Century that we are living in. It came at a time when we were under colonial rule, so therefore, you will understand it was geared towards the employer, if you want to say that. But, I want to say that despite all of these shortcomings that the Minister had pointed out, this piece of legislation is the only legislation that deals specifically with the issue of a contract, and the conditions of a contract in writing. We have researched, and I will tell you something, it deals specifically with the domestic workers, not even casual workers, because when I went to the IRA, I noticed that the casual workers, they were subsumed under the definition of worker there, but not the domestic worker.

I want to read something here. This is an address by the hon. Errol McLeod, Minister of Labour, and Small and Micro Enterprises, at the Tripartite and Stakeholders Consultation on the Maternity Protection Act, and this was held at the Hyatt Regency Hotel on November 30, 2010. This is what he said in part of his speech:

“On this note, permit me to highlight the special case of domestic workers in Trinidad and Tobago who tend to be predominantly women. The Government recognizes that while domestic workers do not fall within the definition of ‘worker’ in accordance with the Industrial Relations Act, Chapter 88:01, they are considered as employers under the Maternity Protection Act...”

But that is not the point. He said:

“I am indeed proud to announce that this Government is currently working on the development of appropriate policies, which will inform legislation, to govern this unique class of workers in Trinidad and Tobago.”

Mr. Speaker, I feel for this class of workers “eh”, they are the lowest in terms of income, and when this is removed, though we may say it is not being utilized, this piece of legislation, it is old, it is antiquated, it is no longer in existence, the point is, it is on your books. It is the only one; it is on your books. Now, when this is moved away you are opening a whole situation where there could be a lot of injustice, there could be mayhem, there could be confusion because then an employer can do virtually what he wants.

I am appealing to the Minister today that this legislation spells out—I know that I do not like for myself, I feel very hurt and disrespected when I read some of the language, nomenclatures, in that Act, this Ordinance. But I am sure, Mr. Minister, there is nothing else that deals with this special class of people, our domestic workers. I was heartened when I read this sentence here which you delivered at the Hyatt, with the tripartite group, but the point about it is once this is repealed, they are left open, they are exposed.

Mr. Speaker, I want to say that perhaps what the Minister could do as a way of recommendation, he could look at increasing the penalties, and perhaps that is one of the reasons why people never really bothered with this piece of legislation because the penalties were so miniscule in nature, and perhaps whilst the Government is working on the appropriate policies, which will inform the legislation, which you will bring here to deal with domestic workers, we could probably look at increasing some penalties.

So, I have been brief, I have been to the point, and I hope the Minister takes on board what I have just said. I thank you.

Miss Alicia Hospedales (*Arouca/Maloney*): Thank you, Mr. Speaker. I am thankful for the opportunity to contribute to this Bill, an Act to amend the Maternity Protection Act, Chap. 45:57, and to repeal the Masters and Servants Ordinance, Chap. 22:05.

Through this amendment what the Government is really seeking to do is to bring legislation in alignment with the ILO’s recommendation, or regulation, specifically at Article 4 which states:

“On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of

childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.”

Previously under the legislation it was 13 weeks as indicated by many of the speakers and it has now been increased to 14 weeks. What I would like to ask the Minister of Labour and Small and Micro Enterprise Development to tell, is whether he believes 14 weeks is really adequate maternity leave, and why he chose to box himself in by the ILO’s recommendation of 14 weeks? I believe the Minister acknowledged in his presentation, that 14 weeks is inadequate, when he told us—and let me just see if I can locate it. In his presentation he said:

“The Bill presented before this honourable House today...addresses one aspect of maternity protection.”

And he said:

“...I wish to add that the new maternity leave stipulation in the Bill of 14 weeks still represents a minimum flaw. I, therefore, urge workers and employers and their organizations to consider ways of exceeding this limit through the collective bargaining process. It will call for decent, respectable and respected relationships between employers and workers’ organizations to ...proceed.”

What I would like to ask the Minister is why is he allowing pregnant women to have to bargain with their employers to get additional maternity leave beyond the 14 weeks? What I thought the Minister would have done is taken the time to conduct proper research, engage the respective parties in proper consultation and then, based on the findings or based on the discussions that were held through consultation, he would have brought legislation with appropriate recommendation for the increase in terms of maternity leave suggested by the parties they would have consulted with.

I would like to ask, can a one week increase really make a difference? The 14 weeks of maternity leave cannot be compared to maternity leave that is given in other jurisdictions. In Ireland, the women are given 26 weeks; Russia, 20 weeks, and in Russia they also give a flexible increase with respect to persons who have multiple births. So they would give 28 weeks with multiple births. In the UK, the women get 52 weeks, and in Denmark, 52 weeks, and if you would look at other jurisdictions you would realize that the number of weeks vary from place to place but it is not limited to 14 weeks as recommended by the International—[*Interruption*]

Dr. Gopeesingh: Fifty-two weeks with pay in Britain?

Miss A. Hospedales: Mr. Speaker, the Minister boasted that we are the only English-speaking country in the Caribbean that has 14 weeks of maternity leave,

and he celebrated this as a major achievement. I would think that if the Minister were to really demonstrate the critical thinking that he said they were applying—to the end of his presentation he said:

“...Mr. Deputy Speaker”—the Bill—“represents a way of thinking which is progressive, and which is developmental.”

So, the critical thinking that he is talking about at the end of his presentation, I do not think there was much thinking that went into the amendment in this Bill. I do not think that it is progressive and developmental in nature.

The Minister of Labour and Small and Micro Enterprise Development also said—he hastened to report, and this is what he said:

“...that in modern Trinidad and Tobago there are still workers who are subjected to less than”—13 weeks which were previously allowed and he said: “...workers ...are subjected to less than this...”

So some workers would be subjected to less than the now 14 weeks,

“...and in some cases, no maternity leave at all by employers who are still in the 18th Century and we have to work on that...”

That is what he said.

4.05 p.m.

Mr. Speaker, it is a reality that some women are not given maternity leave, but what I wanted to find out from the Minister is, what recommendations or what do you all intend to do about it? You said that you are looking at that, but I thought that in bringing this piece of legislation to the House, the amendments, that you would be making recommendations or even stating that as a part of the Bill you would be including particular penalties for employers who would not be giving the pregnant women 14 weeks of maternity leave.

There is a researcher by the name of Sharon Learner who conducted a study on maternity leave and she said that when mothers return to work in a short period of time after giving birth it can be tiring, unpleasant, bad for both the mother and the infant and can lead to developmental delays, sickness and even death of the newborn. I would also say that if diagnostic tests were to be done on a number of preschoolers as well as children in the primary schools, it would be realized that some of them would have developmental delays.

Another area I want to highlight is the fact that many women, because of fear of losing their jobs, they are often forced to return to work before the expiration of

the 14 weeks and as a result of that they give up their rights to their entire duration of maternity leave. Some of them are single parents, some of them may be living in poverty and as a result have no other means of income, and if they do not return to work they end up losing their jobs. And as a result of that fear of losing their jobs, they return to work.

The International Labour Organization stated that pregnant women and new mothers should be protected from losing their jobs as a result of being pregnant or because they just had a child. Women need to be assured and I thought that the Minister of Labour and Small and Micro Enterprise Development would have come here today to reassure a number of those women—*[Interruption]*—no, he opened and I thought that he would have been telling us what are some of the things that they are doing to reassure women, particularly, those who are threatened or forced to return to work before the expiration of the 14-week maternity leave or 13 weeks previously.

Additionally, the Minister needs to tell us what they intend to do with respect to non-compliant employers who insist on forcing women back out to work immediately after they give birth. In modern day Trinidad, according to the Minister of Labour and Small and Micro Enterprise Development, women lose their jobs when they get pregnant or because they just had a child. I have heard of stories where women, upon getting pregnant, they were told that they had to leave the job because they are pregnant, and in some instances after they gave birth to the child they were told that they had to leave the job because of having a child.

This is a reality that a lot of women in Trinidad and Tobago are faced with and I really hope that the Minister would give serious consideration to these areas and tell us exactly what are some of the things you all intend to do to ensure that this practice does not occur over and over again.

What happens when a women loses her job if she is pregnant? Most times it causes her to be disempowered as well as having to depend on others, and it causes her to experience extreme hardship and probably even live in poverty, because of the fact that she does not have the financial means to support herself through the pregnancy. This often places her in compromising positions, and during such a vulnerable time women run the risk of experiencing illnesses as well as miscarrying. Many women who are at risk of being deprived of their right to maternity leave, some of them include domestic workers—I heard the Member for Port of Spain South talking about domestic workers—casual or temporary

workers, workers who work in small enterprises, agricultural workers, members of the employer's family or women working in family undertakings. These are some of the women who are at risk of experiencing poverty, disempowerment, the risk of not being allowed the full 14 weeks of their maternity leave as well.

Mr. Speaker, what is evident is that some women benefit from the 14 weeks of maternity leave, some women are able to benefit for part of the 14 weeks and some women have no leave whatsoever, and this is something that needs to be looked at.

It should also be noted that if this Bill is truly a representation of a way of critical thinking which is developmental as stated by the Minister of Labour and Small and Micro Enterprise Development, it should have included fathers who are widowed and adoptive parents. According to the Maternity Protection Recommendation No. 191 as stated by the International Labour Organization (ILO), they said that the Maternity Protection Recommendation provides guidance in cases of adoption or maternal death, under related types of leave, paragraph 10 states:

“In the case of the death of a mother before the expiry of postnatal leave, the employed father of the child should be entitled to take leave of a duration equal to the unexpired portion of the postnatal maternity leave.”

Mr. Speaker, the reality is that if a woman dies in childbirth, the father of the child normally does not get time off from work, he would have to leave the infant in the care of relatives, and what they are saying is that the father of the child whose mother died should be allowed the full duration of the leave that is under the maternity leave. [*Desk thumping*]

“In the case of sickness or hospitalization of the mother after childbirth and before the expiry of postnatal leave, and where the mother cannot look after the child, the employed father of the child should be entitled to leave of a duration equal to the unexpired portion of the postnatal maternity leave, in accordance with national law and practice, to look after the child.”

So, again if the mother is ill and the mother is hospitalized for some reason or the other, the father should be allowed some leave in order to look after the infant.

“Where national law and practice provide for adoption, adoptive parents should have access to the system of protection offered by the Convention, especially regarding leave, benefits and employment protection.”

There are a number of persons who adopt infants, and what we are saying is they too should have entitlement with respect to leave.

Also, what needed to be included is paternity leave as indicated by the Member for Port of Spain North/St. Ann's West, and also there should be some additional leave for multiple births. As I indicated before, Russia gives an extra eight days; they have 20 days for persons who have normal births and 28 days for persons who have multiple births, and I think this really should be a consideration. Consideration should also be given for—*[Interruption]*

Mr. Speaker: Hon. Member, for Arouca/Maloney, I did indicate earlier that the hon. Prime Minister will be making a statement, so I would give you about five minutes and the Prime Minister would speak at 4.20 p.m. You can continue.

Miss A. Hospedales: Mr. Speaker, with respect to arrangements for breast feeding, there should be some time off—for instance, Convention No. 183 states that a woman should be entitled to one or more daily breaks or a reduction of hours of work for breast feeding. We know that in our environment there are no nurseries in places of employment, but what we are saying is that facilities should be made available to ensure that the woman is able to pump the milk from her breast and store the milk until the milk is able to be taken to the infant. So, we are saying that breaks should be given so that the woman can have that kind of luxury, I would say, to ensure that she is able to extract the milk and store it properly to take it home to the infant.

I would also like to say that once these categories are included we can then say the Bill is progressive, not just the ones that I highlighted, but the ones that would have been highlighted by my colleagues who would have debated previously on this Bill. Maternity protection is important for the following areas: it is fundamental to human rights, it is an essential component of gender equality, it helps improve mother and child health, it plays an important role in economic growth and poverty reduction, and is part and parcel of the decent work agenda.

Mr. Speaker, Members on this side—I would say my colleagues and myself—hope that the Minister of Labour and Small and Micro Enterprise Development, would give consideration to the areas that we highlighted that needed to be included in the Bill.

In ending, I agree that the Minister's decision to repeal the Masters and Servants Ordinance, Chap. 22, No. 5 is necessary, because this particular Ordinance is outdated and does not relate to modern-day society as indicated by a number of Members who would have contributed before. Employee is referred to

as a servant, masters as the employers, and we have long gone past “massa” day, so I would want to agree with the Minister in terms of repealing this particular Bill.

Mr. Speaker, I thank you.

STATEMENT BY MINISTER

Mr. Speaker: Hon. Members, I did indicate earlier on in the proceedings that the hon. Prime Minister has a statement to make. This is the appropriate time. I now invite the hon. Prime Minister to do so.

Trinidad And Tobago—50th Anniversary of Independence

The Prime Minister (Hon. Kamla Persad-Bissessar SC): Thank you very much, Mr. Speaker. As we all know, on August 31, 1962 our country threw off the shackles of colonialism and took its rightful place among the community of independent nations of the world. Our then leaders who ushered us into independent status, in their wisdom, recognized that a number of institutions which formed part of our national endeavour ought not to be erased with a stroke of a pen, but instead, be preserved even if transitionally. One such institution preserved was the Judicial Committee of the Privy Council as our final Court of Appeal in both civil and criminal matters. It was no doubt then thought, that given our common law heritage, the Judicial Committee of the Privy Council had the expertise and objectivity to continue to adjudicate on matters from this jurisdiction and this was regarded as being very valuable for our fledgling independent democracy.

4.20 p.m.

Moreover, the same would also serve during our early independent years to nourish and fortify our democracy. Trinidad and Tobago has functioned within the framework of a unitary state regulated by a parliamentary democracy, modelled on that of the UK from which country we gained independence in 1962.

This year, Trinidad and Tobago celebrates our 50th anniversary as an independent state within the Commonwealth of Nations, maintaining the Judicial Committee of the Privy Council as our highest Court of Appeal for both civil and criminal jurisdictions.

Our country’s highest court within our own borders in the Court of Appeal. Our Chief Justice for that court is appointed by the President after consultation with the Prime Minister and the Leader of the Opposition. But indeed final appeal is decided upon by the Judicial Committee of the Privy Council in London.

Over the years, there has been national and regional dialogue about our retention of the Judicial Committee of the Privy Council as our final Appeal Court. There have been calls for our country to break with the JCPC as other countries with more substantive legal jurisprudence have done. These include: India, Australia, Canada, Malaysia, Pakistan and New Zealand, to name just a few of them. The JCPC remains the final appellate court for about 31 jurisdictions including 13 independent nations.

Apart from Trinidad and Tobago, countries such as Jamaica, the Bahamas, Dominica and Mauritius still maintain the Judicial Committee of the Privy Council as our final Court of Appeal. Time and again, we have heard comments to the effect that the Judicial Committee of the Privy Council is out of sync with the times and our independence and should be replaced with a regional court of last resort.

In considering Trinidad and Tobago's decision to maintain appeals to the Privy Council it is necessary for us to look briefly at the events leading up to the establishment of the Caribbean Court of Justice in 2005.

At the 6th Meeting of the Heads of Government Conference of Commonwealth Caribbean Countries in April 1970 in Kingston, Jamaica, a general view, which was by no means unanimous, was expressed of the desirability that the Commonwealth Caribbean countries should move toward terminating appeals to the Privy Council.

Subsequently, a meeting of the committee of the various Attorneys General met in August 1970 and in March 1971 and issued a draft report on the establishment of a regional court of appeal for consideration by the Organization of Commonwealth Caribbean Bar Associations.

Thereafter, in July 1989, and at the 10th Meeting of the Heads of Government at the Caribbean Community in Grand Anse, Grenada, an agreement was reached for the establishment of a Judicial Service Commission responsible for the appointment of judges. This then led to the West Indian Commission making recommendations during 1992 for the establishment of a Caribbean Supreme Court.

The UNC-led Government under Prime Minister Basdeo Panday announced in 1999 that the Government of Trinidad and Tobago would provide a site to house the court and the Heads of Government approved the establishment of the Caribbean Court of Justice commonly called the CCJ. On April 14 2001, the agreement establishing the CCJ was signed by Antigua and Barbuda, Barbados,

T&T—50th Anniversary of Independence
[HON. K. PERSAD-BISSESSAR SC]

Wednesday, April 25, 2012

Belize, Grenada, Guyana, Jamaica, St Kitts and Nevis, St Lucia, Suriname and Trinidad and Tobago, to be followed in 2003 by Dominica and St Vincent and the Grenadines; altogether, 12 signatory countries.

On April 16 2005, the CCJ was inaugurated at a ceremony in Port of Spain, Trinidad and Tobago. The CCJ has two jurisdictions: an original and an appellate jurisdiction. In its original jurisdiction, it interprets and applies the Revised Treaty of Chaguaramas which established the Caribbean Community and is an international court with compulsory and exclusive jurisdiction in interpreting the Treaty of Chaguaramas.

If I may pause, Mr. Speaker, to remind members of the House, some of us who would have been there, the court in its original jurisdiction, the domestic legislation to place that court in its original jurisdiction was passed by this Parliament in the last two sessions.

The appellate jurisdiction of the CCJ: in that jurisdiction it hears appeals in both civil and criminal matters from those member states which have ceased to allow appeals to the JCPC. At present, these countries are: Barbados, Belize and Guyana, all of whom have replaced the JCPC's appellate jurisdiction with that of the CCJ.

It might be useful to remind ourselves that the CCJ was established at the time when the Caribbean Community sought to forge its own body of jurisprudence and to reinforce its right to determine its affairs. The situation has been complicated by the issue of the death penalty on which the Privy Council, reflecting contemporary English and European Union mores and jurisprudence has been most rigorous in upholding Caribbean appeals in death sentence cases.

It may have always been, Mr. Speaker, in the contemplation of the founding fathers, that as our democracy grew from strength to strength and our Judiciary developed its own confidence and expertise that the time would come when we would have to take responsibility for ourselves for the final adjudication of our disputes consonant with the pristine principles of justice and fair play and that we would say goodbye to the Judicial Committee of the Privy Council as our final Court of Appeal. There were those in the embryonic stages of our independence who canvassed the view that true independence and sovereignty dictated an abolition of appeals to the Privy Council even, if we may say so, on midnight on August 31, 1962.

However, our experience over the years has repaid our caution and gradualism in treating with this question. A quiet debate on this issue has continued over the

years and it is with the recognition that the Gordian knot to the Privy Council had to be cut at some stage that this country joined with our neighbours in conceptualizing and seeking to implement the Caribbean Court of Justice as our final Court of Appeal.

As we celebrate our 50th anniversary of independence the time has surely come for us to review our relationship with the Privy Council. Such review takes into account the critical observations of the community of informed commentators, jurists and institutions, and I have always said that we would listen and then we would lead. The prevailing and sustained analysis has suggested that the jurisdiction of the Privy Council in relation to criminal appeals is a matter of grave concern as it affects the dispensation of criminal justice and especially so at a time of high crime in our own country.

The Caribbean Court of Justice remains committed in pursuing its enlightened role in Caribbean legal reform in the important area of criminal law. It is almost axiomatic that the Caribbean Community should have its own final Court of Appeal in all matters; that the West Indies at the highest level of jurisprudence should be West Indian. A century-old tradition of erudition and excellence in the legal profession of the region leaves no room for hesitancy in our region. As is well known, Trinidad and Tobago has maintained for the time being its policy of the Privy Council being our final appellate court, as it saw no good or plausible reason in 2005 to replace the Privy Council with the CCJ until that court had established over time, the body and quality of its jurisprudence.

The international and global nature of complex and varied legal cases before the Privy Council can only aid and assist the development of jurisprudence in the Caribbean which in my view is to be welcomed and we should be slow to cut off all ties with that august body.

The Privy Council has an international reputation as being one of the finest commercial and civil law courts in the world. It inspires confidence in the foreign investors and its retention in this regard is conducive to an investor-friendly climate at a time when the international economic order is changing and Trinidad and Tobago is attempting to woo foreign investment from the BRICS countries: Brazil, Russia, India, China and South Africa.

Consistent with our approach of caution and gradualism, this country has not rushed to surrender the jurisdiction of the Judicial Committee of the Privy Council but has rather kept the issue under constant review.

So, it is perhaps fitting this year, as we gear ourselves to celebrate what is essentially our golden anniversary of independence, that we take another step in

the furtherance of our national sovereignty now giving the Caribbean Court of Justice jurisdiction as our final Court of Appeal.

At the recently concluded CARICOM Heads of Government Conference in Suriname, this matter was raised in discussion with several CARICOM Heads of Government. On that occasion, I gave a commitment to our CARICOM partners that my Government will review our approach to this matter on my return to Trinidad and Tobago, to Port of Spain. Having undertaken such a review, and again consistent with our approach of caution and gradualism, I am very pleased to announce that the Government will be bringing legislation to this honourable House to secure the abolition of appeals to the Privy Council in all criminal matters so that this jurisdiction would then be ceded to the Caribbean Court of Justice. [*Desk thumping*]

As a measure of our growing confidence in the Caribbean Court of Justice, and as a mature and leading world democracy, in this year of our 50th independence anniversary, we will table legislation acceding to the criminal appellate jurisdiction of the Caribbean Court of Justice, in very much the same way as some other countries have done; as Hong Kong did prior to the transfer of sovereignty to the People's Republic of China in 1979 and as with Singapore in 1989. There is ample precedent for such a phased withdrawal from the jurisdiction of the Privy Council.

Mr. Speaker, I wish to advise that earlier today I had the honour to speak with and inform the substantive Chief Justice, the hon. Justice Ivor Archie, the Acting Chief Justice, the hon. Justice Wendell Kangaloo; and the President of the Law Association; as well as the President of the Criminal Bar Association, the former President of the Law Association, Ms. Dana Seetahal; the latter, President of the Criminal Bar Association, Ms. Pamela Elder to advise and inform them of this new direction my Government is embarking upon.

Indeed, such a measure will of course require a special majority and we look forward to bipartisan support for this historic withdrawal from the Criminal Jurisdiction of the Privy Council. We will continue to monitor the developments taking place in both the Privy Council and Caribbean Court of Justice including the quality of their decisions in deciding the future course of our judicial system.

In so doing, my Government affirms its commitment to deepening of the regional integration process and the development of a Caribbean jurisprudence and, views this step as a manifestation of that commitment.

Mr. Speaker, by our commitment today, the Government of the People's Partnership signals a most historic development in the administration of justice in

independent Trinidad and Tobago. [*Desk thumping*] These pledges to strengthen our democracy form the core value in the manifesto of the People's Partnership.

Today we deliver yet again on a promise to generations to come. Mr. Speaker, on a personal note, if you would permit me, as a graduate of both the renowned Faculty of Law of the University of the West Indies and the very prestigious Hugh Wooding Law School, it gives me immeasurable pride as head of Government to usher in this new dawn in the legal history of our great nation, Trinidad and Tobago. I thank you, Mr. Speaker.

Mr. Speaker: Hon. Members, I think it is a good time for us to have our tea. This sitting is suspended until 5.05 p.m.

4.33 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

MISCELLANEOUS PROVISIONS (MATERNITY PROTECTION AND THE MASTERS AND SERVANTS ORDINANCE) BILL, 2012

Mr. Speaker: Anyone else from the Opposition to speak? Hon. Member?

Miss Mc Donald: No, Sir.

The Minister of Labour and Small and Micro Enterprise Development (Hon. Errol Mc Leod): Thank you very much, Mr. Speaker. [*Interruption*] Hon. Members, I am inclined to go along with the advice, but there are some important issues, I think, that require a response, and I am particularly careful to respond to issues raised by the hon. Member for Port of Spain South. But I want to start at the top and I will be brief.

I think that most contributors in the debate sought to have a measure here that will cover everything. I mean, the last contributor was suggesting to us, for instance, that pregnant women in the United Kingdom are entitled to 52 weeks of leave, and that might be so. There are some other countries, particularly the Scandinavian countries, where the leave is quite extensive, but we need to appreciate the difference between maternity leave and maternity leave with pay.

Mr. Warner: Good point! Good point!

Hon. E. Mc Leod: What we are talking about here is paid leave. But even so, Trinidad and Tobago could not necessarily afford everything that every other country does, particularly every other developed country. We are a brand new democracy that is still at an infancy stage when you come to be dealing with issues of an international nature. I am sure that the International Labour

Organization, in determining the measures that they would lay down as standards, would have taken into consideration what everybody else has, particularly everybody else who is a member of the ILO, and you do a measurement that will represent the extent to which emerging states like ours can go, and there are many that are worse than we are. Some Members failed to consider the fullness of the statements that I had made when I presented the particular measure before the House today, and I talked about leave and the aggregate amount for which payment was due. The Member for Port of Spain North/St. Ann's West—or do I await her return?

Mr. Warner: No, no.

Hon. E. Mc Leod:—raised some important issues.

Mr. Sharma: Serious?

Hon. E. Mc Leod: Yes, she did raise some important issues. Of course, I mean, a good 75 per cent of the time that she spent addressing us, she dealt in serious irrelevancies.

Hon. Member: She is improving.

Mr. Warner: Seventy-five per cent is not bad for her.

Hon. E. Mc Leod: You see, Mr. Speaker, we must consider where we have come from, and let me hasten to mention that the hon. Member for Diego Martin North/East—and I have him recorded, very properly recorded—said that—where is it? I do not want to take too much of your time, Sir. The Member for Diego Martin North/East said that the Maternity Protection Ordinance is a measure—ah, I found it. The Member for Diego Martin North/East stated that the rights and the privileges now existing in the Maternity Protection Act were bestowed by the PNM. He said that, and I was surprised and very, very, very, very distinctly disappointed that the leader, or Chief Whip of the Opposition, did not seek to correct the hon. Member for Diego Martin North/East.

The Maternity Protection Act was enacted in 1998. They were not in office at the time. Mr. Speaker, 1998, you must be familiar with that time. The speaker, I think, was the Minister of Public Administration, and the Maternity Protection Act, although we had certain provisions in collective agreements that dealt with maternity protection, those provisions came about as a result of the struggles by unions and workers. The first time I came upon any provision for maternity was when I read a collective agreement that came about as a result of the work of the

Oilfields Workers Trade Union and the employers, the OEAT. They do not know about the OEAT: Organization of Employers in Trinidad and Tobago—oil employers.

I am telling the House, hon. Member, that it was not the PNM that brought about the rights and privileges now existing in the Maternity Protection Act. It was enacted in 1998. Where were you?

Mr. Imbert: What was before?

Hon. E. Mc Leod: What was before? You were there before. You do not know what you all did before? I am making up stories? Mischief!

Mr. Imbert: You are mischief.

Hon. E. Mc Leod: Endless mischief.

Mr. Imbert: You are trying to say they had no maternity leave before 1998?

Hon. E. Mc Leod: I did not say that. There was maternity leave, but you did not bring it into being.

Mr. Imbert: Who brought it into being?

Hon. E. Mc Leod: You did not bring it into being.

Mr. Imbert: The colonial government?

Hon. E. Mc Leod: It was the workers and their organization. [*Crosstalk*] Thank you very much, hon. Member.

Mr. Imbert: Making up stories! Making up stories!

Hon. E. Mc Leod: Making up stories?

Mr. Imbert: So they had no law before that?

Hon. E. Mc Leod: Mr. Speaker, it is a framework that we are putting in place, and we must understand that what we are doing, really, is providing a basis upon which parties to these measures—employers and workers' organizations—will understand that it is within this framework that the Parliament has set that will allow the collective bargaining process to thrive and blossom, as we would have done on so many other occasions. We cannot come to this House and legislate for everything. No, we cannot do that, and the ILO determined that this is the floor for this particular benefit. That is the basis on which civilized society should develop.

Now, there is certainly a requirement for the establishment of such facilities as employers' and workers' organizations too, in relation with their employers, will set up fitness programmes. So almost every workplace now is ascribing to have a gym. We might well want, in the relationship between workers and their employers, to have such nurseries, depending on the size of the establishment. You have nurseries existing. [*Crosstalk*] No, he is thinking about your going to the nursery to be cared for. [*Laughter*] "Ah-yah-yie!"

Hon. Member: Gym for one and nursery for the other.

Hon. E. McLeod: Mr. Speaker, we could well move in the direction of providing such facilities that would allow pregnant women, even as they return to work, to be able to spend some time "seeing" after their children, because you have these nurseries and so on, and the mothers go and they pump their milk and feed their babies. But a whole lot of this must depend on relationships, and that is why we spend so much time talking about the social dialogue and having things done on the basis of tripartism: the Government; the employers and the workers' organizations, identifying what is the best interest for Trinidad and Tobago and what role do I play in advancing that interest. It is essentially that, that we had set out to deal with.

5.20 p.m.

And so I found the contribution from the Member for Laventille East/Morvant quite worthwhile. I thought I might also indicate deep appreciation for indications that the Opposition Bench is supportive of the measure before the House. [*Interruption*]

Mr. Speaker, I am trying to identify issues that I should respond to; of course, I am going to come to the one raised by the Member for Port of Spain South in a little while.

Paternity protection or paternity leave as was identified by some Members of the Opposition: paternity leave is a matter that is being looked at; it is being considered. And paternity leave did not necessarily have to come at the same time that we sought to establish the floor insofar as maternity protection is concerned.

There are a number of measures that we will come back to this House with, and there are some issues that relate to other divisions of Government services and provisions for the well-being of our people. Earlier we were dealing—and we are still to conclude on that—with the Children Bill. We had the Prime Minister's statement a while ago, suggesting that Trinidad and Tobago is going to move in a

particular direction to strengthen the independence and the meaning of it in Trinidad and Tobago, and certainly in the rest of the Caribbean, considering the important leadership role that Trinidad and Tobago is expected to continue to play in Caribbean and West Indian development.

Let us deal for a moment with the issue of pay. In considering the amendment to the Maternity Protection Act, the Ministry of Labour and Small and Micro Enterprise Development, consistent with its commitment to the social dialogue and tripartite processes, engaged the social partners in some consultative sessions. We went to them and we spoke extensively. We met them separately and then we had a joint session, so as to bring people together and let them share their views one with the other. There was an almost popular call for us to move from 13 weeks paid maternity leave to 18 weeks paid maternity leave. And there were some who were suggesting that we might do an incremental move towards 18, and that at this time we should be moving to 15. But, that is leave that has to be paid for.

The workers organizations were the ones who were quite vociferously acclaiming 18 weeks as the number that we should go to. The employers, however, were asking who is going to pay for that. The employer clearly has an interest. I would have considered the times when as the leader of the workers organization, the trade union, I would have been concerned only with the demand for the benefit. But, as Minister of Labour and Small and Micro Enterprise Development, I now have to measure between allowing workers reasonable demands and helping to determine what is reasonable for the employer to pay.

We found ourselves during those consultations in very difficult economic circumstances. The world had already gone into the pains of the economic fallout, so to speak, in 2008, and, the employers were refusing to pay any money for anything. As a matter of fact, they were considering to cut back. But maternity leave is a benefit that is also covered by the national insurance scheme. We consulted with the board and management of the NIB and we resolved that with the proper study—actuarial and other studies of a financial nature—that the 14th week would be paid for by the NIB.

Mr. Imbert: When? When?

Hon. E. Mc Leod: You do not pay it before people go on maternity leave.

Mr. Imbert: It is not law now.

Hon. E. Mc Leod: Well, if you would not be so, “angasherous” and wait, listen and learn. [*Laughter*][*Crosstalk*]

Hon. Member: Word boy! Bring out the Thesaurus! [*Crosstalk*]

Hon. Member: “Shot boy! Yuh like Chris Gayle!”

Hon. E. Mc Leod: Mr. Speaker, the recommendations of the LRC which the Cabinet considered and accepted dealt with a number of issues pertaining to this matter before the House. And, it determined that the regulations insofar as the national insurance benefit is concerned will be amended.

Hon. Member: Ahhh!

Mr. Imbert: When?

Hon. E. Mc Leod: Well, wait “nah”. [*Crosstalk*]

Hon. Member: “Yuh have a toothache or what?” [*Crosstalk*]

Mr. Speaker: Hon. Member, Hon. Minister, I have given a certain kind of flexibility and elasticity but, I think it is being stretched too far. So, I would appeal to the Member for Diego Martin North/East, in particular, to allow the Minister to speak in silence. You have spoken. You can take notes and maybe at committee stage you can again raise points but do not interrupt. That stream of interjections is causing some problems on this side. So I would like you to give the hon. Minister your undivided attention. Hon. Minister, you may continue.

Hon. Member: Waxing poetic!

Miss Mc Donald: Minister, could I ask you a question please? [*Crosstalk*]

Hon. E. Mc Leod: Do you not want to wait until I complete the point? I might well answer it.

Miss Mc Donald: All right, okay, continue.

Hon. Member: I think you are being, “angasherous.”

Hon. E. Mc Leod: Thank you very much, Mr. Speaker, because indeed the Member for Diego Martin North/East was taking me beyond the elastic limit of my patience. [*Crosstalk*]

The regulations will be made and published and laid in Parliament as soon as possible after the enactment of this Bill.

Mr. Imbert: “Yuh shudda do it before.”

Hon. E. Mc Leod: How do you do it before? You have to change the law before you do that.

Hon. Member: You see why we need a nursery.

Hon. E. Mc Leod: Mr. Speaker, I thought he had done some law. As you are aware this would be—how you say it—the subject of a negative legislation. You still want to ask the question?

Miss Mc Donald: Thank you, Member for Pointe-a-Pierre for giving way. Mr. Speaker, I am very heartened with that because, you know, I really thought that the 14th week would not have been paid for. Now, I understand it is going to be paid for by NIB. Well, I just want to clarify something in my mind, Mr. Minister. So, we are saying now for that 14th week, the NIB will pay and we will amend section 27A of the regulations of the Act. But, in terms of section 9(2) that remains the same. So, the employer will pay for the 13 weeks and the NIB will pay the 14th week. So they will pay for that extra one week, am I clear?

Hon. E. Mc Leod: I think, you are clear, notwithstanding your own complexion.

Hon. Member: How he literary so this evening!

Hon. E. Mc Leod: Other than the NIB paying the 14th week nothing else changes.

Miss Mc Donald: It was not there, so I am happy to see that being incorporated because—

Hon. E. Mc Leod: “I eh just make up nuttin” [*Laughter*]

Miss Mc Donald: “Me eh say dat, no I did not say that.” Mr. Speaker, I never said that.

Hon. E. Mc Leod: No, no, not you. I am going through you to him.

Mr. Speaker, may we go to the masters and servants, but before doing that, an hon.Member asked me—Member for Port of Spain North/St. Ann’s West, do I articulate what you—

Mrs. Mc Intosh: Yes, certainly.

Hon. E. Mc Leod: You asked me what is likely to be the position of a misguided pregnant woman who is unable to identify the father of her child. Is a benefit going to be made to such a person? Now, I do not know that this measure will take care of such a responsibility.

5.35 p.m.

It is a social problem and I suspect that we have many instances of that problem existing. But this is a matter of insurance, and already we provide for a

maternity benefit, a maternity grant, which the beneficiary pays or the husband, common law or otherwise, pays. So, if some woman becomes pregnant but she is not identified with somebody who is paying the NIS, I do not know that a benefit is going to be issued to any such person. The Member for Port of Spain North/St. Ann's West did raise an important issue that is affecting the fabric of the society, but there has to be some other means by which we deal with that, and I could not, at this point, proffer—but it is a serious situation.

The Masters and Servants: Mr. Speaker, it is the trade unions, it is the labour movement, for as long as I have known it—and I did not come here yesterday—that have been calling for the repeal of this most offensive piece of legislation.

Dr. Gopeesingh: The name alone is offensive.

Hon. E. McLeod: Mr. Speaker, I do not know that the questions raised about that and what we should have as a fear of repudiating it and repealing it; I do not know that I have concerned myself with industrial relations jurisprudence any more than the Members on the opposite side might have engaged themselves. There has not been, for about 30 years of my involvement in this business, any claim that any worker, or his representative, had made under the Masters and Servants Ordinance. We have got the Industrial Court—well-established, highly knowledgeable, very properly organized—although sometimes we “steups” at what appears to be a marking time sometimes, but there has been great improvement.

In our research in the Ministry of Labour, and Small and Micro Enterprise Development, we did not come across any instance of any workers' claim finding protection under the Masters and Servants Ordinance—a protection which the workers claimed that they could not find in any other law provision. Indeed, there was a bit of research done by—I do not seem to be able to put my hands on it—in which the Masters and Servants Ordinance is critiqued in a very serious way. I think the Member for Diego Martin North/East was quite helpful when he identified the origin, I think, of the Masters and Servants Ordinance but that is as far as his help went. That is as far as his help went and I wonder whether, for some historical reason, one would have sought to keep that Masters and Servants Ordinance alive. I cannot find it; I do not know what I did with it.

I think the point has been made, Mr. Speaker, that that Ordinance favoured the master and very, very seriously discriminated against the servant. We could not think that in 2012, as we mark the 50th anniversary of our hoisting the red, white and black on August 31, 1962—[*Crosstalk*] “Ah lord!” *Agent provocateur*; that is

what you are. “Master and Servant in England and the Empire: A Comparative Study by Douglas Hay and Paul Craven.” The Master and Servant Act was initially created to the advantage of the master. The servant would be subject to penal sanctions such as imprisonment—and you want us to keep this? There were many repeals and extensions of the law in the 19th and 20th Centuries, however, the repeals were based on the same kinds of legal principles as the previous legislation. It goes on to talk about the West Indies using an apprenticeship model when they moved from slavery to free labour which summed up the English law, but also had some distinct features of its own, in particular, to deal with the type of labour that they had.

The Masters and Servants Act is not simply about breach of contract. It is filled with assumption of superordination and subordination, again, emphasizing the master dominant aspect. Serious! What we have still bears, Mr. Speaker, the colonial period from which we have not yet completely come. Some say it is a work in progress; others would like to leave us there. But, on May 24, 2010, the people decided that we would make another step forward and that is why we are here. [*Desk thumping*] I do not expect what I have said to be favoured too much by any—I better not say that—but on that side.

Mr. Speaker, I thought that I might just go back a little bit to the NIS and to indicate that this does not come without appreciable cost. Somebody had asked this question, it is difficult to measure it very accurately—the expenditure for maternity benefit during the NIB financial years 2005—2011. In 2005, the benefit expenditure was \$36.4 million—[*Interruption*]

Miss Mc Donald: That is maternity?

Hon. E. Mc Leod:—in 2006, \$42 million; 2007, \$46.6 million; 2008, 6,373 recipients of this benefit saw NIB/TT expending \$53.1 million; 2009, 7,392 persons, \$75.9 million; 2010, 7,536 persons, \$77.4 million; and 2011, 6,883, \$76.1 million. [*Crosstalk*] Well, you see and this is—how do you call it? What is the word? A serious conundrum.

Miss Mc Donald: Yes. [*Laughter*]

Hon. E. Mc Leod: You would have legislated that the employer must contribute so much to match the employees’ NIS contribution. Right. Do you come by a legal measure tomorrow and say to the employer that the employee must have another week, and you, the employer, must pay for it? My difficulty is having to take off my trade union cap and superintend over a situation like that. I think you get the point that I am trying to make. All right.

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[HON. E. MCLEOD]

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We would like very much to see the employer so organizing his business that another two, three or five persons can come in there and have jobs, and they now will cause the employer to contribute some more money to the NIB to match the contributions that these five new ones—we would be dealing with the problem of providing employment, keeping the unemployment number down and so on, and contributing to economic activity and so on.

5.50 p.m.

So there are some choices one has to make and we thought the NIB could do this and the NIB very dutifully did the studies necessary and came back to us—it was not an instruction—[*Interruption*—indeed, some persons by way of the maternity grant get more money than they would have worked for depending on the class in which they find themselves. [*Interruption*] Well, yes. Okay. And you know quite often—[*Interruption*—so the increase of one week in the maximum maternity benefit, the period from 13 to 14 weeks will result in an estimated 6 to 7 per cent increase in maternity benefits paid by the National Insurance System. It has been reasonably well thought out—I will not say, I will leave it for you to say that it has been absolutely well thought out. [*Desk thumping*] Between the financial years 2012—2015, we estimate that this increased cost will range between \$5 million and \$8 million in respect—[*Interruption*]

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

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Hon. C. Sharma*]

Question put and agreed to.

Hon. E. McLeod: Thank you very much, Mr. Speaker.

Mr. Sharma: “Yuh have ah nursery question?” [*Laughter*]

Mr. Imbert: Mr. Speaker, I thank the Minister for demonstrating the seriousness of this matter.

Hon. E. McLeod: Magnanimity!

Mr. Imbert: Whatever you want to—and “non-angasherous” nature. [*Laughter*] I was doing some back of the envelop calculations as well, and came up with figures similar to what you came up with in terms of the cost averaging out at about \$7million a year. It works out at \$1,000—[*Interruption*]

Mr. Sharma: What is your question? You do not have to make a statement.

Mr. Speaker: Please! Please! Allow the Member to speak.

Mr. Imbert: “Hush nah,” what is wrong with you? It works out at approximately \$1,000 per person, and if the existing formula in the Maternity Protection Act were continued, employers would be required to bear an average of \$500 additional maternity pay per pregnant woman. Do you think an additional \$500—that is a total, that is not per month, that is a total of \$500 additional maternity pay—is too much for employers to bear?

Hon. E. Mc Leod: Mr. Speaker, I did not seek to identify how much, if any, the employer should be expected to pay. The employer’s position was that they were already paying too much and you would recall there was a recent increase in the NIS contributions that the employers themselves—now I am not extending sympathy to the employers in this regard, but I thought you were representing them. You should have come to the consultations. [*Crosstalk*]

Mr. Speaker: Member for Diego Martin North/East—

Mr. Imbert: Sorry.

Hon. E. Mc Leod: We thought that the least Trinidad and Tobago could do, especially as it now leads the Caribbean at the level of the International Labour Organization, I might have reported to this House that last June at the 100th International Labour Conference, Trinidad and Tobago was very popularly elected to the governing body of the ILO—[*Desk thumping*]*—*representing, I think it is 12 or 13 other Caribbean States. This new floor was established I think in 2000, some years back, and as we seek to become more ILO Convention compliant, for want of a better way of putting it, Mr. Speaker, we thought we should come with this measure especially since it had been called for by the workers’ organizations themselves, and we are now examining the list of conventions that Trinidad and Tobago has already—what is the word?—adopted, acceded to, ratified, thank you very much—we are examining the others.

Last June we participated very prominently in bringing into being convention—I am trying to remember the number—it identifies with standards and so on for the domestic worker. As we are all aware, the domestic worker in Trinidad and Tobago has access to the minimum wage legislation, and will benefit from this measure we are talking about, yet the domestic worker is not considered a worker within the meaning of the Industrial Relations Act, and we are working on that.

Our position on that is reinforced by our supporting very, very prominently the new ILO Convention, you know, and we have had to battle against some

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developed countries in that regard. But we combined with so many other emerging states and decided that the domestic worker is as important a worker and more than that, is a human being and should be accorded all of the human rights that other people are accorded. And we will be moving very swiftly, Mr. Speaker, to give recognition of that fact in our laws that affect workers in this country.

Having established those principles, Mr. Speaker, and having extended appreciation for the support we should have from the Opposition Benches, I now beg to move. Thank you very much.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Mr. Imbert: Mr. Chairman, could I raise a question here? In section 9(2) of the parent Act, the employer is only required to pay maternity up to the end of the third month, which would be more or less at the end of the 13th week. Now, you said you are going to deal with this anomaly by making amendments to the National Insurance Act, but how does that create a legal entitlement for the person to be paid in the 14th week? Because as we now have it, the person is legally entitled to be paid in the first, second and third months by virtue of the Maternity Protection Act, but when you amend the National Insurance Act, how are you creating this legal entitlement for the person? In other words, where are you giving the person the right to enforce that entitlement? In what legislation?

Mr. McLeod: What does it say? In the meanwhile, Mr. Chairman, I do not see a difficulty coming out of this at all. The people who administer these issues at the NIB are well experienced and I do not see any difficulty coming about, and I do not know that we need to legislate to avoid any difficulty in that regard.

Mr. Imbert: Mr. Chairman, I am not opposing the Minister at this time even though he might think so. If I could just read what section 9(2) of the Maternity Protection Act says:

“During the period of maternity leave, an employee is entitled to receive pay from her employer to an amount equivalent to one month’s leave with full pay and two months’ leave with half pay.”

And section 9(3) says:

“Where the sum of the amount paid to the employee under subclause (2) and the maternity benefits payable to her under the National Insurance Act is less than her full pay during the period, the employer shall pay the difference to the employee.”

My difficulty with all of this is that you are going into a situation where it is going to fall outside of section 9(2) of the Maternity Protection Act, so where in law is the person going to acquire the right to be paid for that 14th week? That is my question.

6.05 p.m.

Mr. McLeod: Do you have something there that helps, before I respond?

Miss Mc Donald: I am looking at the National Insurance Benefit Regulations, and I am looking at 27A, the amount of maternity allowance payable. It says:

“With effect from 7th January, 2008, maternity allowance shall be—

- (a) payable for a period starting not earlier than six weeks before the expected date of delivery and continuing until the expiration of thirteen weeks...”

I get the impression that the maternity protection, 9(2), governs the employer and 27A governs the NIB. This is the impression I am getting. Perhaps 27A speaks to dealing with the NIB payment and 9(1) and (2) would be the employer’s part of it. There are two sources of payment on maternity; one is by the employer and one is by the NIS. Section 9(1) and (2) would deal with the employer.

Mr. McLeod: Very well.

Dr. Moonilal: NIS will deal with the extra.

Mr. Imbert: I understand all of that. [*Crosstalk*] Mr. Chairman, all jokes aside, if we look at section 9(3)—what I am trying to do is to plug any loophole where the person may not be given the pay for the 14th week.

Section 9(3) says:

“Where the sum of the amount paid to the employee under subclause (2) and the maternity benefits payable to her under the National Insurance Act is less than her full pay during the period, the employer shall pay the difference...”

Now, the reason for that is that there is currently a cap on the benefits that can be paid under the National Insurance Act. It is not a matter of simply allowing the NIB to pay for the 14th week. You have to look at the fact that there is a limit on the benefits payable under the NIS legislation.

Mr. McLeod: I think that the Member may have listened a little too much to all those who have been talking about caps in recent times. I get the point, but there are mechanisms that I know will be examined and retooled to take care of any eventuality.

Question put and agreed to.

Clauses 3 and 4 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, without amendment.

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

The House voted: Ayes 37

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar SC, Hon. K.

Warner, Hon. J.

Dookeran, Hon. W.

McLeod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.
Seepersad-Bachan, Hon. C.
Seemungal, J.
Volney, Hon. H.
Roberts, Hon. A.
Cadiz, Hon. S.
Baksh, Hon. N.
Ramadharsingh, Hon. Dr. G.
Ramadhar, Hon. P.
Khan, Hon. Dr. F.
De Coteau, Hon. C.
Indarsingh, Hon. R.
Baker, Hon. Dr. D.
Samuel, Hon. R.
Douglas, Hon. Dr. L.
Roopnarine, Hon. S.
Ramdial, Hon. R.
Partap, Hon. C.
Khan, Mrs. N.
Mc Donald, Miss M.
Cox, Miss D.
Hypolite, N.
Mc Intosh, Mrs. P.
Imbert, C.
Jeffrey, F.
Browne, Dr. A.
Thomas, Mrs. J.
Hospedales, Miss A.

Question agreed to.

Bill accordingly read the third time and passed.

LEGAL AID AND ADVICE (AMDT.) BILL

[Second Day]

Order for resuming adjourned debate on question [March 28, 2012]:

That the Bill be now read a second time.

Question again proposed.

Mr. Speaker: Hon. Members, the debate on the following Bill, which was in progress when the House adjourned on Friday, March 28, 2012, will be resumed. The Minister of Justice was winding up on the last occasion and has 31 minutes of original speaking time. [*Desk thumping*]

Hon. H. Volney: Do I have a lot of time, Mr. Speaker, to wind up? [*Crosstalk and laughter*]

Mr. Speaker: You have 31 minutes.

Hon. H. Volney: Mr. Speaker, today is a very special day for all of us and I want to share the moment, myself being a locally assembled attorney from the “Wood Inn” of Trinidad and Tobago. I do not come from “Gray’s Inn” but from “Wood Inn”.

If I recall, I may have been in the third year and, in learning our jurisprudence, we all looked forward to this day when finally “Massa Day done” because today we celebrate that we have gotten rid of this talk of “master and servant” in this 50th year of our independence, in this jubilee year.

I commend and congratulate our hon. Prime Minister [*Desk thumping*] for having the courage, the strength and the fortitude to take such a momentous decision on behalf of our Government. It is also her birthday year, her 60th birthday, that we celebrated over the weekend.

Today, I also congratulate the acting Attorney General from “Wood Inn” also and Sen. The Hon. Anand Ramlogan SC, who is somewhere in the world working hard for Trinidad and Tobago.

Today, I am here to wind up on this Bill, the Legal Aid and Advice (Amdt.) Bill and there are four issues that I want to touch on in winding up. They are to address issues raised by those on the other side in this august Chamber.

Mr. Speaker, the hon. Member for Diego Martin North/East has had some difficulty with section 25(1)(e) of the Legal Aid Act. He said: “Why was not this section of the Act amended if the intention is to increase the availability of legal

aid to persons?" By changing the disposable capital from the existing figure and increasing it to \$20,000, as the Ministry of Justice has asked that it be so enacted in this honourable House, the Minister has completely ignored the fact that this \$150 annual value was put into this law sometime when they had the great flood.

Section 9 of the Lands and Building Taxes Act, Chap. 76:04, provides for the District Revenue Officer to consider what amount of annual rent a tenant may reasonably be expected to pay having regard to the purpose for which such a building is actually used. The District Revenue Officer is permitted under this Act to calculate the annual taxable value by taking 6 per cent of the present capital value of a building as the annual taxable value.

This piece of legislation is currently under review and while we are not averse to amending the annual value referred to in the current Act, it would be prudent to do so only after the other legislation, the land and building legislation, has been reviewed. That, Mr. Speaker, is the reason why, at this time, we do not want to tinker with the legislation. *[Interruption]* My voice is going. I need to complete, so I am sorry I cannot give way at this time; please.

6.20 p.m.

Of course, there is another reason, given the amount of litigation passing around in the country today, especially when it comes to slander and defamation, the higher people will now qualify for legal aid, and that is one of the reasons we do not want to interfere with it at this time.

The next issue raised is that it is proposed that section 37(1) of the Legal Aid and Advice Act be amended to delete the words "for a period of at least six months", that is to allow for persons who are not ordinarily resident in Trinidad and Tobago to be able to access legal advice.

The amended section will read as follows:

"Subject to this part, legal advice shall be available to persons resident in Trinidad and Tobago."

The intent behind this change is to allow foreign nationals to be able to access legal advice, as opposed to legal aid, in accordance with the fee scale prescribed in the legislation, as long as they are present in Trinidad and Tobago and require legal advice without being hindered by the requirement of a period of residency.

Mr. Speaker, again, the hon. Member for Diego Martin North/East asked: why should they, foreign nationals, benefit from the provision for legal aid which is intended for poor people in Trinidad and Tobago who live here and who find themselves in difficulty? No one could argue with a special window for persons,

the hon. Members said, who have been trafficked; persons who have been detained by immigration and so on, being given special consideration in terms of their residency, and then the hon. Member goes on and I quote:

“...but I do not think that the clause should be so loose that it is now open season that anybody, no matter what country they come from, whether they land in Trinidad and Tobago for three minutes...”—would be able to access legal aid.

Mr. Speaker, in support of that question that was raised, the hon. Member for Port of Spain South said, and I quote her:

“The Representation of the People Act gave a criterion for residency. You have to be here for at least two years before you can vote. Go to the Ministry of the People and Social Development, what happens there?”—The hon. Member asked—“Could somebody just come from the United States and get your grant? No, they cannot get that \$3,000. There must be criteria for residency before they can access that \$3,000 grant from the Ministry of the People and Social Development. This is the taxpayers’ money paying for this. So I want to see it crafted in there. I want to be able to see it and to read it.”—if I quote correctly from *Hansard*.

The clause at issue, Mr. Speaker, addresses the provision of legal advice and not legal aid.

In observance of the tenets of international law, an individual who enters a jurisdiction will be subject to the laws of that jurisdiction. Not only is the individual bound by the laws of that jurisdiction, however, such an individual must also enjoy, in principle, the protection of the law of that jurisdiction. This amendment gives effect to this legal principle.

According to a report entitled “Legal aid for 800 million Europeans: the Council of Europe efforts” written by Gianluca Esposito and dated April 10, 2001, I quote:

“In some countries, all foreign nationals are entitled to legal aid on the same basis as nationals of those countries, without regard to their nationality or residence.”

That is to legal aid. It is with these jurisprudential principles in mind that the six-month residency requirement for legal advice in Trinidad and Tobago is being removed. This is being done to ensure that there is equal access to justice for all.

The Opposition often urges our Government to take example from more advanced legislation provisions in more developed countries, and this is one such instance where this Government demonstrates its willingness to do so.

The third issue raised by our friends, on the other side, relates to disposable income. The amendment Bill provides for an increase in the disposable income possessed by an applicant for legal aid from an amount that does not exceed \$3,500 a year to an amount that does not exceed \$36,000 per year. Our friends on the Opposition Bench took issue with the deduction of Old Age Pension and the National Insurance Board Pensions from the calculation of disposable income.

My response to this is that providing for the deduction of Old Age Pensions and the National Insurance Board Pensions from the calculation of disposable income, our Government is demonstrating its support for pensioners whose life savings would invariably be much less valuable today due to inflation than at the time when they were earned through hard work.

Our Government also acknowledges that as age increases, medical care cost also increases. So this provision is just another means by which our old people are assisted at a time when they may be faced with unavoidable expenses incurred as “we get down in age”. I did not say “they”, I say, “we get down in age.” Additionally, the income and earning capacity of older persons decreases substantially on the basis of diminishing physical ability.

Therefore, whilst it is acknowledged that these may not be the experiences of each and every pensioner, this legislation is protecting the interest of pensioners as a group, those who would have helped to make society what it is today; those who formerly made up the workforce that has put in place all of the social benefits that we, the youth of today, enjoy. Well I cannot say “we, the youth”, because I do not think that I am still a youth.

Mr. Roberts: “You are looking young, man.”

Hon. H. Volney: I am looking young?

Mr. Roberts: “Yeah!”

Hon. H. Volney: Okay. Well, the benefits that the young people—the hon. Member for Diego Martin Central included—enjoy today.

Issue No. 4 is the duty counsel scheme. The amendment Bill provides for the establishment of a duty counsel scheme that would see to the provision of legal representation for minors and persons accused of having committed a capital

offence or certain indictable offences. Duty counsel will be available to the suspect until such time as he is charged with an offence and, where applicable, legal aid is granted to him under the Act.

The scope of legal aid services offered in England, Wales and Canada has for close to three decades been far more expansive than the scope of services offered by our own Legal Aid Authority in Trinidad and Tobago. The legal aid programme in our country operated initially as a pilot programme with limited scope, including the provision of a legal aid attorney for the purpose of representation in a criminal trial.

The provision of duty counsel in the manner proposed, not only brings our legislation in line with international obligations, which necessitate the provision of mandatory free legal assistance for minors and persons arrested and accused of having committed an indictable offence, will also go a long way toward bridging the gap in representation to minors and other categories of persons who require legal representation at the time of detention.

So, Mr. Speaker, what we have here is a Bill that has come through the other place. It is an amended Bill, amended in the other place, and it is one that is a good document; it is a good working Bill; it is one that the staff of the Ministry of Justice has worked on with the help of the legal and administrative staff of the Legal Aid and Advisory Authority; and it is one that has been put together by the hard-working people at the Office of Chief Parliamentary Counsel, all of whom have worked very hard at bringing this measure to this House.

It is a matter that I must recognize, as I have done before, that we have really taken the baton from the work that had been done before, and we have carried the baton forward. I take no boast out of it, other than to say that it is our joint effort between the last Government and us in bringing this measure before this House today. I anticipate and I pray that we have the support of those opposite, because it is a Bill that will help the poor, those persons who are challenged in life, and it is a Bill that will assist in bringing us in line with international obligations; it is a Bill that will strengthen our criminal justice system and, accordingly, it is a Bill that I commend to this honourable House. I pray the support of my friends opposite, and before I move the Bill, Mr. Speaker, I will give way to my honourable friend, the Member for Diego Martin North/East, who sought, moments ago, to get the eye of the House.

6.35 p.m.

Mr. Imbert: Mr. Speaker, I thank the Minister for giving way. I note his reasoning with respect to not wishing to amend the section that deals with disposable capital, but I do not know how to say this without giving the impression that I am being disagreeable, but I do not agree. You see, the section that you quoted dealt with the formula for calculating the annual value as percentage of the capital value. In other words, the annual value which is the annual rent would be 6 per cent of the capital value. As it now stands, with an annual value of \$150 it means the capital value of the dwelling house is \$2,500, that is what you are looking at.

Now, you do not need to wait for that Act to be adjusted or amended to change that formula in order to see that there is literally no house in Trinidad and Tobago that would have a capital value of \$2,500—Trinidad dollars—or less. I cannot think of a single dwelling house in Trinidad and Tobago that would have a capital value of \$2,500 or less. Therefore, I hear what you are saying, but I urge you, Minister, to amend that section. You have amended the other section that deals with increasing the total amount of disposal capital that someone may have before they are disqualified for legal aid, but by leaving in this provision, the value of any homeowner—I dare say 99.9 per cent of homeowners in Trinidad and Tobago, would have a house worth more \$2,500, and that value would now be added onto the disposable capital, and will easily exceed \$20,000, thereby disqualifying a whole range of people.

In fact, if this Act is properly applied, 99 per cent of homeowners would not qualify for legal aid. I am urging you to adjust the figure for the annual value because I cannot think of a single house in Trinidad and Tobago that has that has a value of \$2,500.

Hon. H. Volney: The logic and the reasoning of hon. Member are noted. If I may be candid, as I try to be, it is a matter that we are addressing as part of the whole package of amendments to the existing laws including the Lands and Buildings Taxes Act, but given that we are coming to the end of session, and we have a heavy legislative agenda, we do not want to lose the opportunity for the Bill not to proceed at this time, and I can give the undertaking that very early into the next session, that we will return to deal with that particular concern of yours, hon. Member. Having said that, Mr. Speaker, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1 to 12 ordered to stand part of the Bill.

Clause 13.

Mr. Imbert: Mr. Speaker.

Mr. Chairman: Which one?

Mr. Imbert: That same one.

Mr. Chairman: You want us to go back now?

Mr. Imbert: No, on 12.

Mr. Chairman: No, we passed 12 already.

Mr. Imbert: Twelve?

Mr. Chairman: Yes.

Mr. Imbert: What are you on?

Mr. Chairman: We are going to clause 13 now.

Mr. Imbert: But I had my hand up, Mr. Chairman.

Mr. Chairman: Oh, you are on clause 13?

Mr. Imbert: Twelve, before you—*[Interruption]*

Mr. Chairman: All right, let us reopen clause 12. Continue, hon. Member.

Mr. Imbert: You are going too fast. The hon. Minister—*[Interruption]*

Mr. Chairman: Before you go on, I have to put the question because we have passed it. I have to put it to the House that clause 12 be revisited.

Question put and agreed to.

Clause 12 recommitted.

Question again proposed: That clause 12 stand part of the Bill.

Mr. Imbert: Thank you, Mr. Chairman. The hon. Minister, through you, Mr. Chairman, did not address our concerns with respect to the ambiguous nature of the term “extenuating circumstances” in his winding up. Could the Minister explain why you have not amended the definition of “extenuating circumstances” or expanded it, or enlarged or clarified it, as the case may be.

Mr. Volney: Well, “extenuating circumstances” would have the meaning that is normally associated with it as in its legal definition of sense, extenuating.

Mr. Imbert: So you do not see any need to clarify the meaning of that phrase, “extenuating circumstances”?

Mr. Volney: No, it is a legal interpretation. It is sufficiently broad to allow—
[*Interruption*]

Mr. Imbert: Right. You do not see any need to put any limits whatsoever on the interpretation of “extenuating circumstances”?

Mr. Volney: No. We want to leave it in its broad meaning.

Mr. Imbert: I think that you are making a mistake, but okay.

Mr. Chairman: Can we proceed?

Question put and agreed to.

Clause 12 again ordered to stand part of the Bill.

Clauses 13 to 17 ordered to stand part of the Bill.

Question put on clause 18.

Mr. Chairman: I am not hearing. Please, you can defeat your clause by not shouting or indicating.

Clauses 18 to 26 ordered to stand part of the Bill.

Mr. Imbert: Mr. Chairman, I am glad that I caught you before you—
[*Interruption*]

Mr. Chairman: Sorry, Sir.

Mr. Imbert: Since this Bill requires a three-fifths majority, I just want to get it crystal clear on the record that the Minister has given an undertaking to return early in next session to make appropriate amendments, if deemed appropriate, to sections 23, 24 and 25 as they relate to disposable capital, in particular, the annual value of a dwelling house. Yes? Okay.

Mr. Volney: Yes, pellucidly clear.

Mr. Chairman: Can I proceed, Sir?

Hon. Member: Yes.

Preamble approved.

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

House resumed.

Bill reported, without amendment.

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

The House voted: Ayes 37

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar SC, Hon. K.

Warner, Hon. J.

Dookeran, Hon. W.

Mc Leod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.

Seepersad-Bachan, Hon. C.

Seemungal, J.

Volney, Hon. H.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Ramadharsingh, Hon. Dr. G.

Ramadhar, Hon. P.

Khan, Hon. Dr. F.

De Coteau, Hon. C.

Indarsingh, Hon. R.

Baker, Hon. Dr. D.

Samuel, Hon. R.

Douglas, Hon. Dr. L.

Roopnarine, Hon. S.

Ramdial, Hon. R.

Partap, Hon. C.

Khan, Mrs. N.

Mc Donald, Miss M.

Cox, Miss D.

Hypolite, N.

Mc Intosh, Mrs. P.

Imbert, C.

Jeffrey, F.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Question agreed to.

Bill accordingly read the third time and passed.

6.50 p.m.

BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS BILL, 2011

The Minister of Foreign Affairs and Communications (Hon. Dr. Surujrattan Rambachan): Mr. Speaker, I beg to move:

That a Bill to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction be now read a second time.

Mr. Speaker, during her first address at the United Nations General Assembly in 2010, the hon. Prime Minister recognized that no nation would be safe, nor would democracy prevail without mutual cooperation towards global stability.

I make reference to this because this is a fundamental truth in respect to the global fight against terrorism. If you are to put things into perspective, locally, we can all recall the state of panic and fear into which the nation was thrown in 2005 after the dustbin bombing incident which took place in downtown Port of Spain. The scale of pandemonium that was experienced as a consequence of that incident would be considered marginal, in comparison to what we would experience should a biological attack happen in Trinidad and Tobago.

I say this, as one only has to examine the experiences of other countries that have dealt with recent outbreaks of highly communicable and deadly diseases such as the Avian and Swine flus. The ease with which certain viruses and bacteria can multiply and indiscriminately spread throughout the human population, as well as amongst the plant and animal species; and the ease with which these can be manipulated for non-peaceful purposes, make them a highly viable resource for any individual or group seeking to wreak havoc on any society.

The 2001 anthrax scare in the United States evinces this. Exposure to anthrax spores can result in severe and deadly respiratory complications; lesions on the skin and the intestines. In addition to these physical manifestations, this disease can go on to affect the quality of life of persons who even survive exposure.

A report in the *Journal of the American Medical Association* in 2004 revealed that, in addition to suffering from significant health problems, the survivors of the 2001 incident also suffered from psychological distress and had trouble readjusting to life at least a year after the terrorist attacks.

Mr. Speaker, it is for this reason that the Government has introduced the Bill that is before us today, that is, the Bacteriological (Biological) and Toxin Weapons Bill; a Bill that seeks to give domestic legal effect to international obligations undertaken by Trinidad and Tobago when it acceded on July 19, 2007 to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction; or what is the short title of the Bill, Biological and Toxin Weapons, a Convention.

Mr. Speaker, the convention prohibits the proliferation of weapons of mass destruction and is geared towards preventing the development, production, acquisition, transfer, retention, stockpiling and use of biological and toxin weapons for hostile purposes. In accordance with the provisions of the

convention, state parties are mandated to destroy or divert to peaceful purposes any biological agents or toxins which are in their possession or under their jurisdiction or control.

It should be noted, however, that it is the purpose behind the use of the biological agents or toxins which is prohibited, and not the agents or toxins themselves, since the convention permits their use for prophylactic, protective and other peaceful purposes. May I repeat? It should be noted that it is the purpose behind the use of the biological agents or toxins which is prohibited, and not the agents or toxins themselves.

Mr. Speaker, this convention entered into force 37 years ago, on March 26, 1975, to be exact. It is the first multilateral disarmament treaty banning the production of an entire category of weapons; the very first multilateral disarmament treaty that banned the production of an entire category of weapons. It came into effect—or being, as we say—as a result of prolonged efforts by the international community to establish a new instrument to supplement the 1925 Geneva Protocol, that is, the protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases and of bacteriological methods of warfare to which Trinidad and Tobago is a party by virtue of its succession from Great Britain.

Mr. Speaker, while the 1925 Geneva Protocol prohibited the use of chemical and biological weapons, it did not prohibit their production, their storage or their transfer. The convention was, therefore, developed to supplement the 1925 Geneva Protocol by addressing these omissions; that is, production, storage, transfer and stockpiling. The convention is one of three international instruments adopted by the international community to prevent the proliferation of weapons of mass destruction. Trinidad and Tobago is also party to two other instruments, namely, the Chemical Weapons Convention and the Nuclear Non-proliferation Treaty which, respectively, prohibit the use and manufacture of chemical and nuclear weapons.

Mr. Speaker, you will agree with me that history is replete with examples of where countries have used chemical weapons and have hurt and harmed thousands and thousands, if not, millions of people. I am sure colleagues who would present today might even go into the history of some of these experiences in order to point out the importance of this Bill, and of what we are engaged in here today.

So, that having acceded to this convention, it is now imperative that Trinidad and Tobago comply with the obligations set out in the convention, particularly,

Bacteriological and Toxin Weapons Bill
[HON. DR. S. RAMBACHAN]

Wednesday, April 25, 2012

those set out in Article IV of the Convention. To do this, legislative action is required to prohibit and prevent the development, production, stockpiling, acquisition or retention of biological agents, toxins, weapons, equipment or means of their delivery for purposes contrary to that permitted under the convention.

Mr. Speaker, the enactment of this piece of legislation, also, is an important step towards compliance with the binding obligations contained in the United Nations Security Council Resolution 1540, which was unanimously adopted on April 28, 2004, under Chapter VII of the United Nations Charter for the preservation and promotion of international peace and security. This Resolution mandates that all states of the United Nations are to establish domestic control to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery, including establishing appropriate control over related materials.

As the Minister vested with the responsibility for treaty-related matters in the Cabinet, I am piloting this Bill, but the task of implementation would fall upon the Minister with responsibility for national security, having regard to the potential dangers associated with public exposure to these substances.

Mr. Speaker, I therefore go to the Bill itself. Clause 1 of the Bill provides that the short title shall be Bacteriological (Biological) and Toxin Weapons Act, 2011.

Clause 2 provides that the Act will come into operation on a date to be fixed by the President, by proclamation.

Mr. Speaker, a proclamation clause is necessary to allow for the appropriate administrative arrangements to be put in place by the Ministry of National Security before the commencement of the Act.

7.05 p.m.

Some of these arrangements include:

1. the selection of a person or persons to form a committee in accordance with clause 6;
2. the development of regulations; and
3. the training of necessary personnel, especially for the purposes of conducting inspections.

Clause 3 recites the requisite language for legislation, which infringes upon the fundamental rights and freedoms set out in sections 4 and 5 of the Constitution.

The terms of this Bill which are inconsistent with these provisions will be addressed subsequently, more particularly when we discuss the power of the Minister to order the immediate seizure and disposal of biological agents or toxins in clause 9.

Clause 4 of the Bill defines certain terms contained in the Bill, namely, biological agent, convention, imprisonment for life, means of delivery, Minister, toxin and vector.

The terms “biological agent” and “toxin” were not defined in the convention. However, due to the technicality of these terms it was thought prudent for definitions to be contained in the legislation in order to afford guidance for the purposes of implementation as well as guidance to the public at large. The definition of “biological agent” as reflected in the Bill was imported subsequent to reviewing legislation from other jurisdictions such as the United Kingdom, St. Kitts and Nevis, Mauritius, Australia and the USA, which gives the convention domestic legal effect. This Bill as you are probably aware was also considered in the other place where the definition of “biological agent” was amended to broaden the scope of the substances covered in the definition. Due to the infinite list of substances which fall into these categories as well as the very dynamic nature of biotechnology, the definitions adopted are to be considered as comprehensive. For example, bacteria such as *Bacillus anthracis* is bacterium, which is the agent of anthrax, and viruses such as smallpox, Ebola and influenza are just a few of the examples of the substances which can be used to make biological weapons.

Clause 5 makes the Act binding on the State.

Clause 6 gives the Minister of National Security the power to appoint a committee to be known as the Bacteriological and Toxin Weapons Committee. This committee is to consist of at least seven, but not more than 11 members and shall include a medical doctor, a toxicologist, an attorney-at-law, a microbiologist, two representatives from the Ministry of Health and such other persons with the requisite skill or experience who can meaningfully contribute to the committee’s work.

Now, Mr. Speaker, in the other place the nature of this committee was in fact discussed at length and this is how this mixed membership has come about. This approach is being used or pursued so as to effectively utilize existing administrative and enforcement resources, thereby avoiding the creation of new administrative structures which may not be required. Some of these resources may include the utilization of suitably qualified personnel from within the Ministry of

National Security and within the Ministry of Food Production, Land and Marine Affairs, to help in administering this legislation.

Clause 7 sets out the functions of the committee:

1. To advise the Minister on matters related to the creation of regulations under the Act and their subsequent implementation—note that the functions of the committee are highly advisory. In other words, the Minister acts on the advice of the committee.
2. To advise the Minister on how the administration and operation of the Act can be improved.
3. Coordinate the activities of all agencies involved in the implementation and enforcement of this piece of legislation.
4. Perform any other functions which are conferred on it—that is the committee—by the Minister.

Clause 8 of the Bill provides that a magistrate may issue a warrant to a police officer to inter alia, search and seize items in any building, place, vessel, carriage, motor vehicle, aircraft or any other conveyance where there is reasonable ground for believing that they are being stored or utilized for purposes that are in contravention of this Bill. A warrant issued in accordance with the provisions in this clause may also authorize a named suitably qualified person to accompany the police officer to assist him in performing his duties under this Bill.

The term “suitably qualified person” is again used to allow for the use of existing resources, that is, trained personnel from various Ministries or agencies to assist in the performance of these responsibilities.

What is important to note, Mr. Speaker, is there is a penalty provision in clause 8(4), which makes it an indictable offence to fail to give persons authorized by the search warrant all reasonable assistance required in executing the warrant.

It also makes it an indictable offence to obstruct those authorized persons in carrying out their duties; it also makes it an indictable offence if one knowingly makes any false or misleading statement; or removes, alters or interferes with any seized biological agent or toxin.

Persons found guilty of committing any of these offences shall be liable to a monetary fine of \$100,000 or to an imprisonment sentence of 10 years or to both. Knowing the deadly nature of these biological agents and toxins, it is important that the penalties that are included in this Act are penalties that will serve as a deterrent, and that will motivate and inspire cooperation with the authorities.

Mr. Speaker, having regard to the potentially catastrophic nature of the threat posed by the misuse of these substances, an effort has been made to have the penalties provided for in the Bill thus reflect the seriousness of the offences. It is very important that we in this society really begin to think about the offences, the penalties for certain offences in this country, because sometimes the penalties seem not to act as a deterrent to deviant behavior, and we really need to re-examine this, because there are many areas of our society where there is great indiscipline and there is great disrespect for the law, but more than that, great disrespect for the lives and safety of other people.

In saying that, Mr. Speaker, sometimes, I am sure like you, I am appalled at the way dangerous substances are secured in places that sell these substances. I am appalled at times at the way dangerous substances are kept in homes. We have had numerous incidents in this country where children have drunk or used in one way or the other to their detriment some of these substances, and we have to call for a higher level of responsibility when it comes to the protection and safety of human beings and especially the vulnerable amongst whom I would place children in particular, and even animals which are pets in our homes.

Clause 9 of the Bill empowers the Minister:

1. With the power to seize and dispose of biological agents or toxins.
2. To direct the owner or occupier of any building, place or aircraft to dispose immediately of biological agents or toxins, and to make these orders, the power to seize and dispose, or to direct the owner or occupier of a building, place or aircraft, to dispose immediately of biological agents or toxins, where that Minister has reasonable grounds to believe that adequate measures are not in place to ensure the safety and security of persons and the environment, or that they are being kept for purposes which are in contravention of the Bill.

Mr. Speaker, this power, though, of the Minister of National Security to seize and dispose of agents or toxins would be executed upon the recommendation of the committee. The committee has to recommend to the Minister of National Security and then this power can be exercised in two circumstances and only in two circumstances:

1. Where there is an immediate danger posed to the health, safety and security of persons or the environment;
2. Where the agent or toxin is unclaimed or no longer required for prosecution of an offence.

Since it is acknowledged that this clause is inconsistent with certain fundamental rights contained in sections 4 and 5 of the Constitution, the preamble to this Bill states that this legislation would require a three-fifths majority vote in both the Upper and Lower Houses to ensure its passage.

Mr. Speaker, due to the nature of the substances with which this Bill is concerned, situations may arise which would require immediate action. For example, investigations could lead to the discovery that someone has been cultivating a highly contagious and deadly bacteriological agent or toxin either with or without malice aforethought. In such a situation there is a possibility that the containment of this highly contagious and potent substance is not secured and that its release is imminent. You would agree that a delay in such circumstances would lead to potentially devastating consequences, and bearing this in mind, it is therefore prudent to have a provision such as this in the legislation.

Mr. Speaker, to allay the fears that may arise about the possibility of the abuse of power, it has to be remembered that the Minister would only be exercising it upon the recommendation of the committee which would possess the requisite skill and knowledge in assessing and treating with these substances. In addition, the Minister can only exercise the power in the two aforementioned circumstances. I just wish to say that in the other place it was recommended and approved in order to further safeguard the rights of individuals.

Should any person be of the opinion, that he has been wrongfully deprived of his property, that perhaps in the exercise of his responsibility the Minister may have failed to act reasonably, and instead acted capriciously, whimsically or arbitrarily, that person who feels wronged would have the ability to approach the courts for necessary redress. But given the serious and widespread harm that these substances can cause, it is the view of the Government, that it is incumbent upon the Executive, while recognizing that its actions are reviewable by the courts, to invest a decision-maker with the power to act in the public or national interest if the circumstances so require.

In addition to seizure and disposal, the Minister can also give directions to persons to take the necessary measures to ensure the safe storage of biological agents or toxins, and persons who fail to comply with these directions or any other directions given by the Minister under this section will commit an indictable offence and will be liable to a fine of \$100,000 or imprisonment of 10 years or both.

Mr. Speaker, clauses 10, 11 and 12 of the Bill list the offences.

7.20 p.m.

Clause 10(a) to (c) make it an indictable offence to use agents or toxins for non-prophylactic or non-peaceful purposes. Mr. Speaker, considering the great harm that can be inflicted upon the public through activities that infringe upon the object and purpose of the convention, the greatest harm being the delivery of a devastating lethal attack against a population centre, the penalties proposed are related to those imposed in this jurisdiction for the commission of particular terrorist acts as provided for under section 3(1) of the Anti-Terrorism Act, No. 26 of 2005.

So, for example, the penalty prescribed for an individual committing this offence is life imprisonment in order that it harmonizes with section 22 of the Anti-Terrorism Act.

Mr. Speaker, a body corporate committing this offence would be liable to a fine of not less than \$5 million. I spoke earlier, Mr. Speaker, about the need to really, really suppress and ensure that people do not get into these kinds of activities and hence, you would find that there are some strong penalties in this Act.

So a body corporate, for example, committing this offence would be liable to a fine of not less than \$5 million, with its assets liable to forfeiture according to the proceeds of the crime act or any other law. Mr. Speaker, may I just say that it was upon the recommendations of Members of the other place that this penalty was increased from the initial \$1 million fine to the current fine and forfeiture formulation to reflect the graveness of the offence.

Mr. Speaker, we have to be a serious society. We have an obligation as parliamentarians; we have an obligation as lawmakers; we have an obligation as to those who protect society or at least help to protect our citizens, to do what we consider to be necessary even though it might mean making very tough decisions, hard decisions and you may describe this as an edge decision and when edge decisions have to be taken, they must reflect the responsibility of us as parliamentarians.

Clause 10(d): failure to take adequate measures for safety and security or biological agents or toxins. Mr. Speaker, clause 10(d) of the Bill makes it an indictable offence for failing to take adequate measures to ensure the safety and security of biological agents or toxins which are being stored or kept.

Individuals found guilty of committing this offence will have to pay a fine of \$100,000 or serve an imprisonment sentence of 20 years or both. That is for an individual. But if it is a body corporate and the offence is committed by a body

corporate, then they shall have to pay a monetary fine of not less \$500,000. The prison sentence in the case of an individual and the monetary penalty for the body corporate were doubled after discussions and recommendations in the other place.

Prima facie: Mr. Speaker, this provision may seem to be too harsh, however, one has to examine the mischief which the provision seeks to discourage. This provision is intended to prevent the deliberate failure on the part of an individual or body corporate to ensure that proper safety and security measures are in place. It is intended to prevent agents or toxins from falling into the possession of persons who intend to use them for purposes which are in contravention to this Bill as well as the convention. This clause therefore seeks to provide a credible and harsh deterrent to the occurrence from such an incident.

Mr. Speaker, just to give you an example of how lackadaisical we are, and how disrespectful we are of laws in this country, we have safety laws in this country—OSHA. Mr. Speaker, you can still pass around today and see people working from scaffolding that is poorly constructed. We know what happened outside one of these buildings a couple years ago. You can pass and see people working from very high levels and they do not even have a hard hat. You can see people welding in this country and they do not have goggles, or other protective gear on their hands.

Every day we have trade unions complaining about the safety provisions, in particular, workplaces. So we have a situation in this country, where people in general, seem to be disrespectful of the existing laws and it goes for both the individual worker as well as corporate entities and employers and therefore, when you deal with biological agents and toxins which can harm the total population you have to be even more stringent—I do not want to use the word draconian—but you have to really set out penalties that send a clear message to people that they must be respectful of the law.

Mr. Speaker, it would be a tragedy of great proportions if something were to happen in this society involving biological and toxin weapons. We must be a Parliament that we would always have to say that we did our best rather than to say that we did not do enough, or that we should have done more.

Therefore, this provision in clause 10(d) is intended to prevent deliberate failure on the part of an individual or body corporate to ensure that proper safety and security measures are in place. It is intended to prevent agents or toxins from falling into the possession of persons who intend to use them for purposes which

are in contravention to this Bill as well as to the convention. This clause, therefore, seeks to provide a credible and harsh deterrent to the occurrence from such an incident.

Clause 11, Mr. Speaker, speaks about liability of persons in positions of authority. Where a director, a manager, a corporate secretary or other similar officer causes an offence to be committed under the Act with their consent, with their connivance or negligence, the Bill provides that that person would be liable upon conviction to either a monetary fine of not less than \$5 million or to imprisonment for 20 years or both.

Mr. Speaker, clause 12, talks about extraterritorial application. Clause 12 is an important clause because it gives the Act extraterritorial application. The need for extraterritorial application arises from the obligation on states parties to take the necessary action under Article IV of the Convention, to prevent the development, production, stockpiling, acquisition or retention of agents, toxins or weapons for hostile purposes “under its control anywhere”. And the operative words are under its control anywhere. For example, a citizen of Trinidad and Tobago who commits an offence while outside the jurisdiction of Trinidad and Tobago, that is, in the territory of another State, shall be subject to the prescribed punishment under the legislation.

Clause 13 gives the Minister the power to make regulations. This power to make regulations would be essential to, inter alia:

1. identify with some specificity, the microbial or other biological agents or toxins that have to be prescribed;
2. distinguish between types and quantities of agents or toxins that may be justified for prophylactic, protective or other peaceful purposes, and those which are not;
3. have prescribed safety, security and storage guidelines on proper storage practices for agents and toxins; and
4. prescribe any other measures or guidelines which are necessary for the purposes of the Bill.

The regulations have to be very strict and they will deal with all of these areas that I have outlined. The regulations are to be subject to the negative resolution of Parliament.

Clause 14 provides that where any amendment of the Convention, including any protocol thereto, is accepted by Trinidad and Tobago, the Minister with the

responsibility for foreign affairs may, by Order, amend the Schedule for the purpose of including therein such amendment. Notably, this Order has not been made subject to any resolution of Parliament and there is a reason, because it would seek merely to update the text of the Convention, should we amend it in the future. That is all it does.

Pursuant to its power under section 75 of the Constitution, the Cabinet is given the authority to conclude and ratify treaties, including any subsequent amendments in respect of the said treaties, and consequently, any amendment to the Convention which is accepted by Trinidad and Tobago should be reflected in the text of the Convention attached to the legislation. This can be achieved by the Order which will not make new law, but will simply facilitate the administrative function of updating the Convention text.

Furthermore, since the Order is subsidiary legislation, it therefore cannot amend the primary legislation, namely the Act, unless the legislation so provides. That course, I must say, is not contemplated in the Bill.

This Bill before us is very relevant to what is happening on the world stage—to the threats of wars; to the perception of countries; developing weapons of mass destruction, developing biological agents for warfare. Mr. Speaker, it is all over the news media, it is all over the discussions.

In November 2010, bombs were discovered in air cargo originating in Yemen and bound for the United States of America—as early as November 2010. For us in the Ministry of Foreign Affairs and Communications this single terrorist attempt to engender fear and to destroy life and property has important lessons: firstly, it emphasizes how physically interconnected the world has become through travel, trade and telecommunications; secondly, it underscores, therefore, that in today's world, small size in itself can confer no immunity on a country or its people and; thirdly, it reinforces the need for all like-minded States to cooperate in enhancing internal and external security for the benefit of all law-abiding countries and peoples.

Mr. Speaker, it is therefore in recognition of this need for like-minded States to cooperate in the field of security that we are now seeking to give legal effect to relevant provisions of the Bacteriological and Toxin Weapons Convention. There can be nothing partisan about a measure such as this one, which is intended to enhance the internal and external security of our State and other like-minded States, and their peoples.

An inescapable result of the interconnectedness and interdependence which is the prominent feature of modern international life, is the need for States to fashion

cooperative arrangements among themselves by treaties, if need be, which take account of the inability or insufficiency of natural resources to combat problems which are international in scope. That is why we have treaties. That is why we have cooperation and agreements, like-minded States do that and assist each other.

7.35 p.m.

It was in furtherance of the recognition of this need for cooperative action to confront common global problems that the hon. Prime Minister, in her address to the United Nations General Assembly on September 27, 2010, called for the conclusion of a legally binding agreement to regulate the trade in conventional weapons, including small arms and light weapons, as one important measure to deal with the illegal proliferation of small arms and light weapons, and their ammunition which is associated with an increase in gang-related violence, homicides, the illegal narcotics trade and organized crime. This is why when we hold bilateral meetings with countries we discuss with them an agenda of cooperation in order to deal with narco-trafficking, with trading in small arms and ammunition, as we have been doing during the Summit of the Americas which was recently concluded in Colombia.

The hon. Prime Minister pointed out that the origin of the illicit trade in these weapons is beyond our national borders and it is international in dimension. When something becomes international in dimension it goes beyond requiring a national response; it requires a global response.

The aim of international agreements of this nature, of course, is therefore to protect the quality of life of individuals in society, and so by enacting legislation to give effect to its obligations under the Biological and Toxin Weapons Convention, Trinidad and Tobago joins other like-minded states in ensuring that there is an effective deterrent to those amongst us who would use weapons of this kind to commit the worst atrocities imaginable.

We, as parliamentarians, are taking that first step. We are standing courageously in this Parliament to pass legislation, to enact legislation to deal with those who would dare to think, even, that they are going to use weapons of these types to commit the worst atrocities imaginable. That is our responsibility, and we should not fear that responsibility. That is a national duty that has been given to us, an obligation, a challenge to us to go into the Parliament and to work to create the legislation that will protect the lives of our citizens in this country, and to make Trinidad and Tobago a safe and secure place for our citizens.

Solidarity and cooperation between countries in the promotion and defence of internal and external security is indispensable in ensuring that the global society where we live is free from the scourge of terrorist threats and actions and their unwelcome aftermath. The multilateral cooperation envisaged in international legal instruments, such as the Convention that we are speaking about, is reflective of our collective responsibility and concrete interest in ensuring that the socio-economic development, political stability and internal and external security of states, and the physical and mental security of individuals, are not threatened by terrorist actions which can do so much to reduce the quality of life of any group of persons in the international community.

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

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

Question put and agreed to.

Hon. Dr. S. Rambachan: Thank you, Mr. Speaker; thank you, colleagues.

Mr. Speaker, as I was saying, when you examine the history of the use of biological agents and toxins as weapons for the purposes of annihilating the purported enemy, one is able to put into perspective the importance of this instrument. I am sure someone will speak about the history of the use of these toxins and biological agents, because if you look at the Internet you will see many examples in the past. But prior to the entry into force of the Convention, states actively explored and experimented with the use of biological agents and toxins as weapons to cripple their adversaries.

This was a centuries-old practice which, over time, saw the unwholesome progression from the unsophisticated use of bloated, diseased bodies to poison water supplies or spread diseases by catapulting them over the walls of fortified cities under siege, to the conduct of sophisticated experiments and studies to cultivate and harvest substances found to be the most effective and expedient in crippling the enemy. It sounds disgusting, but on the one hand you talk about love in the world, on the other hand there is, equally, hate in the world. It is all about power.

In fact, there was active exploration of the use of such methods of attack by many states and the actual use by some during World Wars I and II. During World War I, Germany actively explored the use of biological substances that could be used to infect livestock with diseases which would assist in crippling the

opposition. And according to the *Herald* newspaper of Glasgow, Britain produced an estimated five million anthrax cakes during World War II, with the intention of air dropping them on Germany in 1944. Operation Vegetation was designed to decimate the German beef and dairy herds and to have the bacterium spread to the human population without antibiotics. It was speculated that thousands of German men and women, including children, would have suffered awful deaths. Man's humanity to man or man's inhumanity to man.

The anthrax cakes were in fact tested on an island, which was only cleared of contamination in 1990. And, although these cakes were never used, other forms of biological warfare have been applied. It has been reported that German and Japanese prisoners were used to test microbial weapons involving the use of hepatitis A, bacillus anthracis and neisseria meningitidis.

The active exploration and experimentation in this area is not limited to Germany and the United Kingdom. Up until 1969 the United States of America also had an active programme exploring the use of biological weapons. However, engaging in this type of warfare proved indiscriminate, as the effects in some instances spread to both the civilian population and to the forces of the infecting state causing untold suffering. With the entry into force of this Convention, however, these states and other states which are party to the convention—in fact, there are 163 to date—can no longer pursue this indiscriminate means of warfare. In fact, one may say could no longer, but at least, you know, one hopes the Convention is respected and they do not. But, you know, it is all up to the human mind.

Although therefore biological warfare has been considerably reduced by this Convention, a new threat has arisen from the potential use of these substances in terrorist attacks. The latter threat was realized with the anthrax scare in the United States after 9/11. Despite the many beneficial advances that have been made in biotechnology today, one also has to remember the dualistic nature of such advances, since there is the burden that this technology could be used to facilitate adverse and undesirable consequences for international peace and security.

Just four years ago, the latter part of 2008, concerns were, in fact, raised by the US Government that such an attack could occur in the US before the year 2013. If such an attack were to occur, it could have crippling consequences, not just in the USA, but throughout the world, as a disease outbreak in one territory poses a threat to all neighbouring countries, and we have seen this, with recent epidemics caused by the spread of the H1N1 virus, and prior to that the spread of SARS. So

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we have seen that. Therefore, it reinforces the need for us to give domestic legal effect to the Convention and work with like-minded states in order to eradicate the scourge of these threats.

Dr. Gopeesingh: Scourge to humanity.

Hon. Dr. S. Rambachan: Scourge to humanity, very correct. Taking all of these factors into consideration, the universal application of the Convention is, therefore, crucial to prevent or considerably reduce the occurrence of such incidents. We in Trinidad and Tobago, we in this Parliament, must do our part to help prevent such a disaster from occurring by giving domestic legal effect to the Biological and Toxin Weapons Convention. Doing so would not only reflect this country's condemnation of the hostile uses of biological agents and toxins, but will also reflect our commitment to international humanitarian law, norms and international peace and security.

Mr. Speaker, I urge my colleagues on the opposite side to support this Bill because its intent is, indeed, very noble. Thank you, Mr. Speaker. [*Desk thumping*]

Mr. Speaker: Hon. Member, I think you have to move.

Hon. Dr. S. Rambachan: I beg to move, Mr. Speaker.

Question proposed.

PROCEDURAL MOTION

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, pursuant to Standing Order 10(11) I beg to move that this House continue its sitting until the completion of the debate on the matter at hand, the Bacteriological (Biological) Toxin Weapons Bill; until the completion of all stages of the Children Bill and the DNA (Administration of Justice) Bill, and I believe there are two matters on the adjournment which we will deal with this evening, until the completion of those matters.

Question put and agreed to.

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Mrs. Paula Gopee-Scoon (Point Fortin): [*Desk thumping*] Thank you, Mr. Speaker. Mr. Speaker, this is, indeed, the age of globalization of crime and terrorism of all forms and, therefore, we do welcome this piece of legislation. We do, in fact, recognize the seriousness of it. We had, in fact, prepared policy on this

in the last administration; I was the then Minister of Foreign Affairs. The Bill, however, had lapsed and I think that is a position which we had wanted, because in spite of the fact that we had drafted the policy, in the exercise of the functions of the LRC, the Legislative Review Committee, when the drafters had brought the legislation before it, we were very uncomfortable with particular parts of it and, therefore, we were toing and froing between the drafters of the legislation, the Legislative Review Committee and also the Ministry of Foreign Affairs, trying to get it right so that this Bill will, in fact, be effective. So that I do have some concerns.

7.50 p.m.

So, I say we welcome it. In essence, the intention is good, but at the same time we have concerns which I will be happy if the Minister or any other Members when they are responding could in fact address.

The Bill before us as the Minister has said is: “An Act to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.” The short title of the Bill is cited as: “The Bacteriological (Biological) and Toxin Weapons Bill, 2011”, which is what I would refer to when I have to speak to this further in my contribution.

The Bill, however, requires—and I want to state up front, three-fifths of the Members of the House, because it is inconsistent with the Constitution, I am not sure if the Minister had mentioned that. It is inconsistent with the Constitution, sections 4 and 5, and therefore, this is the reason why I think they would need our support. I am not sure what the numbers on that side are like today.

But, in effect, the Bill which is brought before us is to give domestic legal effect to our international obligations when we acceded to the Convention on July 16, 2007. The reason that Convention is here, it is the International Convention—the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological and Toxin Weapons and on their Destruction. It was opened for signature in 1972 and we acceded to it in 2007.

The general intent of the Convention is towards—this is the international convention—is towards achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction.

This, Mr. Speaker, follows from the previous international piece of legislation; it follows from the Protocol for the Prohibition of the use in War of

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Asphyxiating Poisonous or other Gases and of Bacteriological Methods of Warfare signed at Geneva on June 17, 1925. So that you can see that these efforts go back a long while now; since 1925, the world has been trying to deal with incidents of warfare and disarmament and weapons of mass destruction and so on, from as far back as 1925.

So, the fight and plight are however, far from over. And indeed, despite the Convention which was open for signature in 1972, there have been several amendments to the Convention since then. I am not too sure that the Minister really addressed any of those amendments to the Convention or that would have taken place between 1972 and now.

So it is an ongoing fight I want to say. Minister, I thought I would have heard something from you on that. Nonetheless, I would say all of us in this House are responsible. Trinidad and Tobago is a responsible member of the international community, and therefore, I would say that this is important to us.

The Bill as the Minister may have said, I am not too sure, is one in a compendium of three instruments adopted by the international community. It is the Convention against the Proliferation of Nuclear Weapons, the Chemical Weapons Convention, and of course, the last mentioned, the Biological and Toxin Weapons Convention. All of these three pieces are international legislation which have been supported by successive PNM administrations.

But, with regard to the latter—I am not sure if the Minister did it again because I was not in the House. I want to make it very clear, because I am sure that there are members of the public who are listening and they are concerned about the ramifications of this piece of legislation. It is a fact and I want to make it clear there are biological agents and chemicals and toxins that are in fact permissible. And that is so under the law. But what is prohibited is those that are not for peaceful purposes, not for prophylactic purposes—and I mean by that medicinal purposes—and not for protective uses. So as I said it is allowable—the use of these chemicals—but the concern is when it is not for prophylactic, not for peaceful, not for protective intent and so on.

So that I think when this legislation comes before us, through you, Mr. Speaker, I would expect that the Government would undertake to do some—and the Minister should have alluded to that in his presentation, that the Government would take some kind of responsibility towards educating the public to bring clarity to something like this because, in fact, people keep these chemicals. They are kept in your homes; they are kept in the labs at schools; they pertain to our

many distributors of chemicals and chemical-related goods; they pertain to many manufacturing concerns as well, because they use a lot of chemicals within their manufacturing process. [*Interruption*] Of course—he is saying even fertilizers. As a matter of fact, all aerosol cans would fall under this. So it is a wide spectrum of things.

So, in bringing legislation like this I think you have to take the responsibility to educate the public so that they will know what is allowed, what substances are allowed, in what quantities and in what places; that kind of thing. Because there are very serious connected offences to this Bill and also very severe penalties and this is why the education to the public is necessary. Even the police need to be educated in this case because in this Bill, you are seemingly giving them very, very, wide powers, and they would need to be familiar about these substances.

In fact, I myself, am a little bit naïve, because from the time I hear of these chemicals and so on, I only think of customs; customs allowing the entry of these chemicals. But, I do not know; I cannot think of any other regulatory agencies that are in fact responsible for monitoring and controlling the use and the storage of these substances. So, Minister these are the kinds of all-embracing matters that I think you have to take responsibility for in the Bill.

There are some clauses, as I said before, with which I have some serious concern. I know that concern was expressed in the Lower House as well— [*Interruption*—in the Upper House, sorry—in the other place—I am corrected. I would just want to bring these to the fore, and I go to clause 6(1) of the Bill, which says,

“The Minister shall, for the purposes of this Act, establish a Committee to be known as the Bacteriological and Toxin Weapons Committee...”

And the Minister is allowed in this instance to appoint 11 members to this committee.

Now, I have a concern with these persons, who are these persons to be— because they are given themselves wide powers under the piece of legislation. So when one looks at clause 6(2), we are guided about the maximum 11 persons that the committee shall comprise: a medical doctor; a toxicologist; an attorney-at-law; a microbiologist and then it goes on to talk about two representatives from the Minister of Health. But I am not sure who these persons are, whether or not they are advisors to the Minister. And, therefore, there might be persons who are more politically inclined. The words are not specific. Therefore, there can be any and everybody who is working in the Ministry of Health, including the Minister’s political advisors, and so on.

So, that is the two I have a concern with. And there are the other persons who fall under (2)(f). It says:

“such other persons who by virtue of their skill or experience can contribute meaningfully to the work of the Committee.”

The problem I have with this is that this is way too wide. We have seen what has happened before with the appointment of persons who are not really skilled and qualified. I am afraid that this can happen in this case. We have seen what has happened. So, it may very well be that they may turn around and appoint Resmi and anybody else in the UNC. Largely, it is open season. [*Interruption*]

Dr. Moonilal: Sashi.

Mrs. P. Gopee-Scoon: So, I have a concern that this could be anybody—Sashi, sorry. I am corrected by the Leader of Government Business. [*Interruption*][*Crosstalk*] Would you like to speak? So, I am concerned about these persons. The first four are in order but the next seven I have a concern with because tremendous powers are given to these people within here.

Not only that, if you go on to clause 6(4):

“A simple majority of the members of the Committee shall constitute a quorum.”

There you have it again. A quorum then will be made up of 11 persons—it is just six persons and those six persons could be the same very six people, anybody by virtue of their skill or experience can contribute meaningfully. So that the quorum will not necessarily be a quorum of persons who are well connected and who are really relevant and who are skilled, truly skilled and qualified to be a member of this committee. So, I have a concern about that. Because, if you go further down in clause 7, the functions of the committee, you would see that the function of the committee is:

“7(1)(a) to advise the Minister on matters relevant to the making of regulations under the Act;”

So they have very far-reaching powers to make regulations as well. I am saying that these wide powers must not be given to any and every person, and if you would want to cure this Minister, through the Speaker, you would want to be more specific about some of the persons who would be on that committee to avoid any of the situations that came before this country, when we had all sorts of persons filling all sorts of positions and then having to correct it after. I am saying I am not pleased with the composition of the committee at all.

If you move on to clause 9 of the Bill, again:

“The Minister may, upon the recommendation of the Committee...”

So you would see the extent of the concerns—the very committee recommends to the Minister as well further powers for the disposal of biological agents and toxins. I would like to read 9(1)(a). It says:

“The Minister may, upon the recommendation of the Committee, give directions in writing—

(a) for the immediate seizure and disposal of any biological agent or toxin that is being kept in any building, place, vessel, aircraft, carriage, box, motor vehicle or any other conveyance...”

So, you are talking here about disposal of property and conveyance. I am saying that this very committee is the one who would be making recommendations to the Minister concerning disposal of properties and affairs of properties and I have a serious concern about that. I have said before, when you were speaking about these chemicals that are allowed for various purposes, you are speaking to a lot of chemical distributors, people in business large and small. You are speaking to manufacturers; you are speaking to anybody who uses any of these chemicals in the production of cosmetics or drugs and so on.

I am talking of Miss Cheryl Bowles, the lady who does all the wonderful world-class cosmetics made out of herbs and so on, Cher-Meré. She would be using some of these chemicals. I am talking about a very good standard of product here.

I have a concern about the persons who can advise, who can make recommendations, and the fact that all these persons now are at risk in terms of their equipment and their property and so on.

8.05 p.m.

Because, again, under clause 8(g)(i), a police officer—and I will come to that, but the point is that equipment can be seized and retained at any time. So, I have a concern—business stops; people go home, unemployment goes up, so you have to think a little further of the consequences.

All it comes down to is specifying the right people to be on those committees, and of course, looking at the entire body of persons who would have powers under this piece of legislation because the committee is not the only body that I will have concerns about as well, I also have some others. I will be speaking to

that later on. As I said again, the whole question is one of suitability of persons, not so much the what, not so much what are the powers, but suitability—the who, the capacity; are they able to fulfil what they are to fulfil?

Another area of concern as well is the powers of the police and I was just speaking to that when I was referencing clause 8. Under clause 8, a police officer can in fact obtain a warrant from a magistrate to carry out all sorts of activities, and if you look at the clause: to take samples, to open and examine packages, to examine any books, documents and electronic devices; to use or cause to be used any computer or data-processing system; to seize and retain equipment. I spoke about my concern for seizing and retaining the equipment of business persons and so on.

More than that, what I am concerned about is the abuse of power by the police, abuse of these very wide powers that are very easily given to them under a warrant by the magistrate. Now, we know that in the police service, most persons are quite responsible and they do a tremendous job in many cases, but we have also seen instances of abuse of powers. We saw that during the state of emergency, for sure, where persons were carted off into the trays of vehicles, and then, after a few days of incarceration, no charges were laid against them; so that in itself was an abuse of power. Then, of course, we know in the case of a very popular media person where his home was searched as well.

So, generally, I think that these powers which the police have as well are very far-reaching, and, again, it is so easy to get literally from a magistrate. I am concerned about that and I am going to speak to that question as to whether or not a magistrate should be the one issuing the warrant. So, generally, there are concerns.

As to the magistrate, there is a view, and we spoke to it in the other place, that there is no involvement of the Director of Public Prosecutions here at all. That is a concern to us. As a matter of fact, precisely, it is perhaps the major concern which we had under the last administration when we were bringing this legislation forward, whether or not the DPP should have been involved, so we were actually contemplating that. We find that before a charge is laid that the DPP must be involved, and that he should, in fact, give consent.

I want to draw reference to the Anti-Terrorism Act of 2005 where there is some similarity in what both Bill and Act deal with. If you look—and as I speak to similarity—at section 22(1) of the Anti-Terrorism Act, it says that:

“A person who, unlawfully and intentionally uses, threatens or attempts or conspires to use chemical, biological or nuclear weapons”—would be committing an offence.

So, in fact, this piece of legislation is also dealing with biological weapons but there are some fundamental differences with the two pieces of legislation as to the seriousness of it and how it is dealt with.

As I said, biological weapons are dealt with under section 22(1), and therefore, further on in this legislation, they would have addressed the question of powers and seizures as well in the Anti-Terrorism Act. In fact, if you look at section 23, Investigation of Offences, you would see in the Anti-Terrorism Act that:

“(1) a police officer may, for the purpose of preventing the commission of an offence...apply...to a judge in chambers...”

In this case, he has to apply to a judge. If you read further in section 23(2), he may only do so after consent from the Director of Public Prosecutions. So, in fact, the Director of Public Prosecutions is involved before the police can take any action at all; any action of investigation, he has to have the prior consent of the DPP and must apply to—

So, in comparing the two pieces of legislation, I am really concerned about the authority of the police to carry out its investigations. If you look at the biological weapons Bill, you would realize that the police are able to go to the magistrate whereas, in the case of the Anti-Terrorism Act for similar offences before any investigation is done, the DPP must in fact give any consent. So that avoids giving any extensive teeth to the police in doing their work. Naturally, that must be of concern.

If you look to section 34 as well, which speaks to the seizure and forfeiture of terrorist property, it says:

“(1) Any customs officer, immigration officer or police officer who has reasonable grounds to believe that property in the possession of any person is—

- (a) intended to be used for...a terrorist act; or
- (b) terrorist property,

may apply to a judge in Chambers for a restraint order in respect to that property.”

Here you are dealing with the property of persons, but, before there could be any seizure or so, an application must be made by the DPP and it says so in section 36(1), that an application must be made by the DPP to a judge in chambers.

So, I am concerned about how it is treated in the Anti-Terrorism Act where it seems that there is more protection for citizens of this country and the offences are similar, but there is more protection for the citizens under the Anti-Terrorism Act, whereas the arrangement under the Act now proposed by you seem a little bit loose and gives to the police too much powers and gives to the Minister and the committee, too much powers as well.

Again, when I looked at section 24 of the Anti-Terrorism Act, in the instance where a warrant it is given for a period of 60 days, whereas in the Bill, a warrant is in fact given by the magistrate for a period of—in fact for no period; it is limitless.

Mr. Sharma: What is your recommendation?

Mrs. P. Gopee-Scoon: But you should be able to discern very quickly, Member for Fyzabad, what is required.

Mr. Speaker: Member for Point Fortin, address the Chair, please.

Mrs. P. Gopee-Scoon: The concern here is this limitless warrant which is given in the Bill before us as against the limited warrant which is given in the Anti-Terrorism Act. Again, exercising control on those who are involved in executing the law in these two—Bill and Act.

We feel and my view is, that the High Court should have some kind of scrutiny. The DPP should be involved in the legislation which is before us having regard to the similarities involving seizures of properties and so on under the Anti-Terrorism Act. My view is that you must address this before we can even consider giving you our support. We must look at the involvement of the court before we can allow any interference with the property of the people of Trinidad and Tobago. It is a real concern.

We feel, therefore, that there should be some higher bar in the legislation which is before us—the Bacteriological (Biological) and Toxin Weapons Bill—that the law that you have proposed, in its current form, is not quite acceptable, and that there is some vagueness, and again, too much ministerial involvement. You are talking about the involvement of a political appointee, so I am concerned about that.

We know that the people of this country as well are concerned about the policing in this country and what is going on. You saw for yourself the reaction of persons when Mr. Ian Alleyne was held.

Dr. Rambachan: For breaking the law.

Mrs. P. Gopee-Scoon: He was held, but I am saying, it is not my personal view, but it is the view of the persons out there. They are concerned about the level of policing.

Dr. Rambachan: “Go and educate dem!”

Mrs. P. Gopee-Scoon: It is not my role to educate them. When we get back in power, we will be doing that [*Desk thumping*] and that will not be too long.

As I said, Mr. Speaker, I know what he is going to say; I know what he is going to try to justify it is, “Look, we took this from the UK legislation and it speaks directly to the international convention.” I want to remind you that the UK legislation, from which you borrowed heavily in preparing this Bill, is supported by very, very, serious legislation—other forms of legislation like the P-A-C-E—I think it is called the P-A-C-E Act or something like that—but there is the supporting legislation as well.

You spoke about the penalties being excessive and I have no problem with that. It is my view that you need excessive penalties, but, at the same time—again, the intent is good, the intent is one which we support and we cannot afford to be hypocritical about. It is something that we have worked on and we have passed policy on previously, however, the law that is proposed is not justified in its current form. I think it is very, very, badly drafted law [*Desk thumping*] and it is another piece of shoddy legislation which has come before us.

I still cannot understand, after two years, how you operate with your legislative agenda. I know for us, we took it very seriously that in our planning stages, at the beginning of the year, we would all put forward our legislation. The Ministry of Foreign Affairs, at any given time, would have seven, eight, nine, ten pieces of legislation. This was one of them, the bacteriological and non-toxin weapons Bill.

8.20 p.m.

All of these would form part of our individual legislative agenda and then it would go before—there would be a bulk legislative agenda coming from all of us, and these were the things that kept you very busy, late into the night when we were passing good law and good pieces of legislation when we were in Government. [*Desk thumping*] You were here late into the night—many of you would not remember, because you have just come, this is a convenient experience for you, but certainly the Member for Fyzabad and the Member for Siparia would have been part of this—[*Crosstalk*]

Dr. Rambachan: What are you doing on that side?

Mrs. P. Gopee-Scoon: We will soon be back on the other side. [*Laughter*]—you were part of this. We kept you up in the night, because all of our Bills were, in fact, good law; we presented good law to the population. [*Desk thumping*] I mean when one looks at the continual Bills that are withdrawn and amended, I was not here, but I understand the Children Bill had all of 23 pages of amendments, right. It is not good enough. [*Crosstalk*]

And then what is even worse is the DNA Bill, because that has another host of amendments as well. And as matter of fact I will say to you that it is my view that the Member for St. Joseph is the most guilty one when it comes to poor legislation. [*Desk thumping*] In fact, it is horrific and I will tell you why [*Crosstalk*] I want to comment on this, it is because I contributed on the last occasion in the House, I think it was on the RHA (Amdt.) Bill, 2011 and the Minister—he is always the one, I mean any time anybody has a concern with how anybody contributes on that side, he seems to be the one who wants to take up the defence and wants to always give qualitative assessments of persons, very judgmental, and I want to say it is very poor legislation that comes from him— [*Desk thumping*]—very dreadful and lamentable legislation. But Minister, the one before us is not all that bad, but at the same time as I said, we agree with the intent, but it is unacceptable the kinds of powers that are being given to arbitrary persons under the disguise of a committee, the kind of powers that are being given to the Minister who is a political appointee; he may be here today and not there tomorrow. So I am saying this legislation involves the confiscation of equipment and property of persons, schools, businesses large and small, and where it involves those kinds of circumstances, wherever there are chemicals and so on, we have to be concerned and offer some sort of alternative when it comes to protecting the property of persons.

[MR. DEPUTY SPEAKER *in the Chair*]

This is why we are saying go back, go back and look at it again and come back to us with further recommendations. As I said in principle, certainly, we signed on to the international convention, so we must agree to it, but again we are always advancing the interest of the people of Trinidad and Tobago, and it is on this score that I am asking you to have a look again, take this back and so on.

Mr. Deputy Speaker, I want to thank you for allowing me to make this contribution. [*Desk thumping*]

Dr. Keith Rowley (*Diego Martin West*): Thank you very much, Mr. Deputy Speaker. I just would like to make a few observations on this Bill: “An Act to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.”

Mr. Deputy Speaker, I think all of us are familiar with the environment in which we live in today’s world. There was a time when this might not have been even contemplated for legislation, but today, given what has happened with the rise in terrorism and the ease with which populations can be terrorized by substances, we have to pay attention to our exposure and be part of the international community which seeks to treat with this matter. Because it is now an accepted maxim that if we are to respond appropriately to the threats from terrorists of all varieties and from all locations, we have to operate as part of the international community, because these are what you may call borderless crimes. We have seen instances where biological agents had been mailed to parliamentarians in the United States.

Carrying out a terrorist act could simply involve mailing a letter with some of these items in it and a very harmless looking envelope can carry serious consequences to persons exposed to it, and not just the person, but the environment in which the envelope is opened suddenly becomes a very dangerous place. So I think we are all aware that biological agents can be of great danger to human populations, and there are people around who may substitute these biological products for gunpowder and other kinds of explosives which were commonly used before.

Having said that, Mr. Deputy Speaker, I have a fair amount of discomfort with the cohesive nature of this Bill, and there is a certain amount of looseness about it which causes me to think that it might not have been drafted by persons who would have given it the seriousness that it might deserve; it is a feeling I am having when I pick out a few things.

In a Bill like this which has some serious consequences, and one can see those consequences very early in the interpretation section, where it says:

“‘imprisonment for life’ in relation to an offender means for the remainder of the natural life of the offender;”

So one of the consequences of violating this law is to end up in jail for the rest of your natural life, therefore, these are serious matters and the penalties are extremely serious. But then the description of toxin means:

“(a) any poisonous substance...”

And I do not see, Mr. Deputy Speaker, any list of such substances; “any” here means the widest possible range of biological components. I do not know if you have any idea of how wide that could be. As a matter of fact, without identifying the range of these toxins or these microbes, even by way of category to put your finger on what is involved, it is virtually anything, and I am wondering if this is how other countries have drafted their legislation.

I would have thought one should have been able to codify in some way based on the existing scientific information of what we know that can cause the kinds of effects, which we are trying to deter here, that we would have had some idea to put in the legislation, the group if not the name of every item. But to just say that it is “anything” means that persons could innocently handle or be preparing biological products which turn out to be dangerous and then they run afoul of this law, with these very serious consequences; that might not be what the Bill is trying to get at. We are trying to get at the persons who deliberately set out to use these things to damage people, but because it is so broad, in fact, this is an infinite Bill with no initial guidance as to what your infraction might be, it means that basically anything could happen in the end.

It also talks about infectious microbial substance or virus. Okay. That would cover things like spores which would cover things like anthrax; microbial would cover things like *bacteria* or viruses, so you have an idea as to what it is, but could that matter have been tighter? I do not know, but I do not have the confidence that it has been examined to exhaustion.

Then, Mr. Deputy Speaker, if you are targeting people who set out with malice to use these biological agents to do harm, one of the things they more than likely have to do, is to transport them, because invariably the place where they are prepared—and we must take note that the Bill seeks to prohibit the development—now that development is likely to take place in a laboratory or some similar kind of environment. It wants to prohibit the production; it means that if you develop it, and you intend to use it, you will produce it in certain quantities. It wants to prevent the stockpiling of it, having produced it, you will store it in a location and then it says their destruction, so it can be destroyed.

But somewhere in there, one of the things that is likely to happen is that it has to be moved from one place to another and, therefore, it seems to me that one of the things which should be prohibited in this Act is the transport of such an item. If you catch someone with it and the person did not produce it; the person did not develop it; the person did not stockpile it; what could you charge them for? But they have it in their possession, and they are taking it from point A to point B to

commit an offence. But when they meet you and go to court with a smart lawyer who can demonstrate that you did not produce it; you did not develop it; you did not stockpile it; but you were transporting it; you were the getaway man; you were the driver, because in your vehicle it was being taken from point to point.

So it seems to me, Mr. Deputy Speaker, that transporting these items for nefarious purposes should be an offence—observation—especially, Mr. Deputy Speaker, in carrying out police work it is very likely that one is equally able to apprehend persons doing this or the substance being intercepted while it is in transport. And, therefore, we cannot ignore the aspect of the transport if we are, in fact, to bring some kind of closing of the circle around these items that may harm persons.

So we see in clause 8(g), the power to seize and retain equipment used or is intended to be used for any purpose that would contravene the requirement of the Act. Now, equipment being used in contravention of the Act, if you make transporting it an offence, it then follows that what you are using for any purpose to contravene can now be seized, but if you do not make transport of the item an offence, then the car or the boat or the truck or the lorry that is transporting it cannot be seized, because the item is not there for the purpose, but if it was being used for the transport, then it is easier to seize it without a defensive response from those who will fight against it.

Mr. Deputy Speaker, I also see in clause 8(3) language which causes me a little concern. Let me just read it for you so that you could understand where my concern originates. Clause 8(3) says:

“The owner or person in charge of any building, place, vessel, aircraft, carriage, box, motor vehicle, or any other conveyance entered by a police officer pursuant to subsection (1) and every person found therein shall give the police officer and any other suitably qualified person named in the warrant all reasonable assistance that may be required to access any information reasonably required.”

8.35 p.m.

Mr. Deputy Speaker, I have not read all the laws of Trinidad and Tobago, but I must say, from memory, I cannot recall language like this in another piece of legislation, which puts such an onus on a person who may simply be willing to stand and watch the police do their work.

This clause says that if you are in this conveyance; let us say it is a boat or a car—let us say a maxi-taxi—even as a passenger, and a police officer enters it, it triggers this clause. “A conveyance entered by a police officer”. The police officer

and every other person found therein is now compelled by this clause—it says, “shall give the police officer and any other suitably qualified person”. So it is the police officer and whoever else he brings with him. You are required to give them a very subjective response, “reasonable assistance”.

Mr. Deputy Speaker, what exactly is “reasonable assistance”? “Reasonable” is a variable. What you may accept as reasonable, I may accept as oppressive. For example, when the police officer enters, turning your back, sitting and folding your arm and watching them do their work, is that a reasonable response? It is quite reasonable as compared to someone who is saying, “Get off the boat!” or “Get out the car!” or someone who gets up and says, “Let me help you do so and so.” Another person may say, “I am just going to watch this.”

The police officer is the one who will decide that “I have not been ‘reasonably assisted’ because you are required to assist me”. Does that mean lifting up the boxes on the boat and opening the covers and so on? Is that what that means? The judgment now falls to be made by the police officer. Of what rank? Constable?

You ever heard of the famous pig foot? You ever heard of the automatic obscene language and resisting arrest charge? Now you are telling me that that officer will determine that I have not given him “reasonable assistance” and that “reasonable assistance” is required in the context of any information “reasonably required”. What is that? Does that not make you feel uncomfortable, Mr. Deputy Speaker?

It would have been okay if that carried with it a possible six months in jail.

Mr. Roberts: It makes me feel reasonably—

Dr. K. Rowley: Look you are sitting in a nice soft chair, right? In an air-conditioned room, and you are reasonably uncomfortable. You see how variable it is? If the penalty were three months in jail or six months in jail; but listen to what the penalty for that is.

In such an ill-defined arrangement of subjectivity, listen to what the penalty is. Bearing in mind that the constable who has entered the vehicle is required to determine if he has been properly assisted or whether you have not reasonably assisted him, listen to the penalty. I am reading subclause (4)(b) here, the continuation of the clause I just read, with all this subjectivity. A person who fails to comply with that subjectivity, if your attitude or behaviour or action or lack thereof is deemed not be of reasonable assistance to the police as determined by

him or her, of the lowest rank possible, that failure to comply results in your committing an offence and you shall, on conviction on indictment, be liable to a fine of \$100,000 and imprisonment for 10 years.

So this officer assumes that he has not been reasonably assisted. I do not agree that that is so because I may just have not cooperated by staying out of his carryings-on in this conveyance and I am now—and all persons in the environment of that conveyance—if it is a maxi-taxi, it is every passenger on board; if it is a sailing yacht, it is everybody on board—exposed to a penalty of \$100,000 and 10 years in jail. Something has to be wrong with that.

There is no way, as a parliamentarian, I am going to vote for a law where the offence is of such great subjectivity and the penalty so severe. On that basis alone, I will not vote for this Bill. Even if what the Bill seeks to address is a very serious matter and there is a requirement to have laws in this country to treat with the dangers posed by terrorism, as perpetrated by the use of microbes, we have to pass good law. We cannot pass this. It makes me wonder what was the mindset that caused this to be drafted in this way.

There must be some template against which we operate and we have to assume that civil liberties have to be preserved even as we are fighting criminality. You cannot just go to the extreme and say “any microbe”, “any kind of biological matter” without giving me any idea.

Living organisms fall into categories; they fall into what you call families, genus, varieties. You make no attempt to give me any kind of restriction on it. In other words, you do not know what the things can be or if you know, why are you not telling me? You give me the whole plant and animal world and say if any poisonous part of that appears in my possession, I am exposed to this Bill, and then you tell me that I “shall” provide assistance to an officer once he enters the vehicle and that assistance must be to his or her liking; and if he or she chooses not to be satisfied with my response, I am now committing an offence, which can put me in jail for 10 years. This has to be madness!

I move on. I do not want to say much about how police officers behave. We have many examples of how police officers can behave. Good officers behave very well; rogue officers behave in a certain way; uninformed officers behave in a certain way; untrained officers behave in a certain way and there is outright malice. Sometimes you look on and people do not like you looking on and they ask you: “What are you looking at?” Right then and there, you begin to commit the offence. So by the time you are asked: “What yuh looking at,” you are now on

your way to 10 years in jail because you have failed to assist the officer who might be aggravated in some way or the other. I do not want to go down that road too much. We all know the environment in which we live.

There is one other matter I want to raise, Mr. Deputy Speaker. It is this one, section 12, and I am delighted to see this clause because I want to hear the explanation from the Government on this one because this is a matter which has exercised us for a while.

Clause 12 says that clauses 10 and 11—and these are clauses where penalties—clause 11 talks about a penalty of \$5 million and 20 years in prison and clause 10 talks about not less than \$500,000 for a corporate offence and so on—penalties.

Clause 12, in relating to clauses 10 and 11, says: “apply to a citizen of Trinidad and Tobago who commits an offence under this Act while outside Trinidad and Tobago.”

When I saw this, I reflected on a lot of argument that took place in this country recently with respect to an extradition matter, where it has been argued in court—and the matter is now settled and much of the strength of the argument in that matter of extradition, where two citizens fought extradition from Trinidad and Tobago to the United States on the basis that they ought not to be sent to another jurisdiction to be tried, even though, in that case, the charges were laid in another jurisdiction and a lot of the offences were not known in Trinidad and Tobago, but known in that jurisdiction it was argued relentlessly here that persons should be tried in the jurisdiction where the offence was committed.

In fact, in one instance during the history of that item—and I am talking here about the Galbaransingh/Ferguson extradition matter—we did receive a series of senior counsel advice, which was presented in the court and made public in the newspapers, where one very eminent senior counsel’s treatise was that these nationals should not be extradited; the place to be tried is in Trinidad and Tobago because that is where the offence was committed. Therefore, they should not be extradited to a foreign country where the charges have been laid and where others have gone to prison with respect to offences in which these people were mixed up.

8.50 p.m.

Now, Mr. Deputy Speaker, the State was advancing an argument in response to the challenges of that extradition litigation where Trinidad and Tobago was saying no, we would like to comply with the request for extradition by sending

these people to the foreign court. In the end that did not happen, because the argument prevailed in this country, in the courts, that they should be allowed to remain here, because this is where the offence was committed and so on. So the State of Trinidad and Tobago lost its attempt to extradite.

Here it is we are now coming to enact law, in this instance, with a clause that says that if a citizen of Trinidad and Tobago commits any of these offences here outside of Trinidad and Tobago, then they are liable to be charged in Trinidad and Tobago, and be held accountable in Trinidad and Tobago for penalties as described.

So, let us assume that somebody from “Oh-he-Oh-ho” in Trinidad and Tobago lives in one of those countries where we have dual citizenship arrangements, and they commit an offence like that, the Government of Trinidad and Tobago will be required to enforce this law, and you cannot go to their country where they are and enforce it. You will have to extradite them to Trinidad and Tobago to be able to prosecute them under this law. Does that not sound a little different to what has been determined here as the correct thing to do?

If the correct thing is that they should be tried and they belong to the court where the offence was committed, and that was last year’s position, how come this year, it is as if they had committed the offence over there, they must be brought here to be tried here? What is the story? And can this stand up in the court, the very court that ruled that they must not be extradited, because the argument of trial in the area where the act is committed prevails. Does clause 12 have any merit, or is it that the Government of Trinidad and Tobago is doing this without reference to what our expectations are and this clause was just put in there in an attempt to ensure that we make this Bill as broad as possible?

So in the same way the items that can be dangerous fall under the category of “any”, and the same way that the offence is created, because you did not reasonably satisfy the police officer, as broad as you can get, and the same way that the officer is seeking reasonable information, whatever that means, and now wherever you are in the world, if you commit this offence, you run afoul of the law of Trinidad and Tobago and extradition arrangements will now prevail, even though we have been saying that we are to be tried in the area where the crime is committed.

Mr. Deputy Speaker, I raised these few points to demonstrate why I have an unease about this piece of legislation. I am not comfortable with it. It appears not to have been clinically thought out, crafted and drafted and the penalties are far

too severe to be so lax and so loose. If you want to level such penalties against people it has to be more watertight. We have to go beyond reasonable assistance to the police; we have to go beyond generalities as to what the police are looking for. I would say it is possible to be able to identify the genera of animals and plants that pose a threat, at least, have some listing of regulations which will, in turn, indicate what kinds of things you are looking at and what kinds of things can cause the kind of offence that you are talking about because without that, this Bill is simply attempting to be draconian against a very serious threat which has to be addressed that needs to be addressed, but the context, the drafting, the clauses and the substance of the Bill do not really give us what we can call good law.

On that basis, Mr. Deputy Speaker, I want to ask the Government to look at this again, have this properly looked at by people who are in a position to provide us with good drafting and bring us a Bill which will serve the purpose for which the Minister [*Desk thumping*]*—*the Minister has identified the evil that is required to be addressed. We have no argument with that at all. The Minister made a thorough presentation of what we are facing, and it has to be addressed, Mr. Deputy Speaker, this does not address this. Bring us a Bill that we can support.

Thank you, Mr. Deputy Speaker. [*Desk thumping*]

Mr. Deputy Speaker: Is there anyone else who would like to contribute?

The Minister of Foreign Affairs and Communications (Hon. Dr. Surujrattan Rambachan): Thank you, Mr. Deputy Speaker. Let me thank both hon. Members, the Leader of the Opposition and the Member for Point Fortin, for their very comprehensive statements and analysis of the Bill that is before us. It is always good to see that Members have done some study of the Bill in presenting their arguments.

I almost got the impression when the Member for Point Fortin was speaking, that it almost seemed that she wanted us to make a law that would not be applicable or functional, given the kinds of changes that she was asking to be embodied in the law, and I will give you one example. The Member referred to the members of the committee and suggested—Member for Point Fortin, you can correct me, that you wanted a more detailed list of the 11 members who were to comprise this committee. But, if you read clause 6 of the Bill, you will see that it says that it shall consist of at least seven and no more than 11 members as the Minister from time to time appoints in writing, and there are some specifics given in the Bill.

The members appointed under subsection (1) shall comprise of—and there are certain persons here who, in fact, their professionalism and talents have been noted by naming the profession—a medical doctor, a toxicologist, an attorney-at-law and a microbiologist. Those are people who will be able to assist, very greatly, in terms of the work to be done, whether it is to identify the toxins, or to say it is a biological agent. They have the experience, and that is why in the other place there was a debate on this matter, and two representatives from the Ministry of Health were added, because of the experience that they are going to be looking for. It would be people from the Ministry of Health who could contribute to the objectives of this Bill.

Mr. Deputy Speaker, it did not say, just contribute but “contribute meaningfully” to the work of the committee, and there is something in the word “meaningfully”. You have public health officers; you have Insect Vector Control Officers and you have an array of people designated with professional skills and talents and technical skills and talents who are working in the Ministry of Health, as Dr. Browne would advocate, who can contribute to this. So that to go further and just name two persons, what you might virtually be doing is locking out the Minister and locking out the committee from the benefit of people who can contribute, and who need to be here.

Similarly, “such other persons who by virtue of their skill or experience can contribute meaningfully to the work of the Committee”, and that might include other technocrats and other professionals from different disciplines who can contribute in this regard.

Mrs. Gopee-Scoon: Thank you Member for giving way. I understand what you are saying in terms of being specific about the first four persons; the medical doctor, toxicologist, microbiologist and attorney-at-law, but for the other seven persons, that is where there are no specifics at all, and the Bill allows you to go to a maximum of 11.

If you go to the 11 members and then when you examine clause 6(4) where a simple majority will allow the members of the committee to move forward, it may well be that that simple majority, in the face of the committee of 11, may well be the six persons for which the Minister could be very subjective. The medical doctor need not be there; the toxicologist need not be there; and the microbiologist need not be there, because you have allowed a very wide area of subjectivity by virtue of clause 2(e) and (f) comprising then of seven persons which may form the majority. So you may very well have none of your named specialists in that committee, and therein lies my concern, especially where

history has shown that you have acted—when I say “you”, I mean the Government has acted improperly in the naming of persons to committees and making of appointments and so on.

Hon. Dr. S. Rambachan: Mr. Deputy Speaker, it seems that the Member does not trust the people who are put here to do their work in a very responsible manner. [*Desk thumping*] I trust citizens of this country, and when citizens of this country have been appointed to boards and committees, they accept the responsibility and they take their duties very seriously. I will know from our own experience that the persons whom we have appointed to boards and appointed to committees have been taking their work very seriously and doing their work very seriously.

Dr. Browne: Like CNMG.

Hon. Dr. S. Rambachan: Mr. Deputy Speaker, the other point made by the Member for Point Fortin related to the powers of the police and abuse of powers by the police. Mr. Deputy Speaker, in this country, we have laws that protect the citizens from abuse of power by the police. We have laws. There are checks and balances in our system. People who have been offended by the police have been able to go to court and get redress. Every day you read in the newspapers about people who have been ill-treated or who have been the recipients of the misconduct of police officers, and they have been able to get redress in the courts of Trinidad and Tobago.

We have a very active Police Complaints Authority that has been taking a more active role in terms of people who are affected or who complained about being affected by the police, but to simply accuse every policeman of the potential for abuse, I do not think it is justifiable and I do not think it paints a very good picture of your perception of the police in this country.

Our policemen and policewomen in this country work very hard. In the majority, they are people who are decent, law-abiding and are respectful of the rights of citizens and who go about their duties in accordance with the law, and one should respect that and have some trust in the police service and in our policemen. So that to simply accuse—to make a big point as you were trying to make that the police will abuse these powers, you are not looking at the checks and balances in the system, and you are not looking at the history of people who have been offended, but have been able to get redress in the country.

9.05 p.m.

In fact, policemen who have misused their positions have been charged under the law for the most serious of offences, and there are some who are before the

courts even now for offences. So there are checks and balances in terms of what you are advocating or in terms of what you are saying. I will stand in defence of the police in this country, when you talk about the potential for abuse. In every human being there is some potential for abuse, but I believe in the system of checks and balances which we have in this country, and from time to time we do see the system coming into play in order to protect the rights of citizens.

The other point made by the hon. Member for Point Fortin, which was a good point, was the matter of education of the public about the contents of the Bill, and the need to educate the people who would implement the Bill. I think it is a very good point and it is something that has to be done as we go along, educating the public and those who have to implement the Bill, about the content of the Bill and some of the potentials that need to be looked at, outcomes in the Bill.

The Member for Point Fortin also made tremendous intervention about the role of the DPP, and whether the DPP should be given a role and whether it should be a magistrate or a judge. The reality is that if you look at the clause you are referring to, 8(1) and if you read it again, it says:

“A magistrate who is satisfied...”

And how is he satisfied? He is satisfied—“by proof upon oath”; so he has to have evidence:

“that there is reasonable ground for believing that there is in any building, place, vessel, aircraft, carriage, box, motor vehicle, or any conveyance any biological agent or toxin, which is being stored or utilized...in contravention to this Act...”

Only when he is satisfied, and this is one case where the word “reasonable” is not placed there, he must be satisfied by proof upon oath that there is reasonable ground for believing. Only then does he issue a warrant under his hand, authorizing the police officer to search such building, place, vessel, aircraft, carriage, box, motor vehicle or any other conveyance, and to do the other things in section 8(1)(a), (b), (c), (d), (e), (f) and (g).

So while you make the point about the DPP and the judge, and you refer to the Anti-Terrorism Act, this Bill is very clear about what are the responsibilities of the magistrate. You must have some faith in the judicial officers of this country. You must have faith in the judicial officers of this country.

Only today we took the giant step of moving to the Caribbean Court of Justice (CCJ). We must have some faith in the judicial officers of the country. It seems to

me that you lack faith in them. Is it that you lack faith in yourselves? In the history of this country it would be written that it was the People's Partnership Government, under Kamla Persad-Bissessar, who had the courage to take the steps that were described here today, and not you when you were in office and you did not take such a step to move it.

Mrs. Gopee-Scoon: Because you would not support it!

Hon. Dr. S. Rambachan: It is this Government in 1995 who worked towards bringing it about, and now has come back in this incarnation to ensure that we move forward. But I do not want to go there at all. I do not want to get into political bacchanal. [*Crosstalk*] So you do not trust the judicial officers, you do not trust police officers. Who do you trust?

Mrs. Gopee-Scoon: Not you all. [*Laughter*]

Hon. Dr. S. Rambachan: Mr. Deputy Speaker, it was on May 24, 2010, that the people trusted me to be placed as the Member of Parliament for Tabaquite, and trusted 28 others to be placed in their positions in this country. They did not trust you, and that is why you are sitting where you are sitting today as an Opposition. [*Desk thumping*]

Mrs. Gopee-Scoon: No more rose-coloured glasses.

Hon. Dr. S. Rambachan: A question was raised about the definition of biological agent, and a lot of time was spent by the hon. Leader of the Opposition, and rightly so, in terms of definitions, and he wanted a listing of what would be these biological agents. I want to refer the hon. Leader of the Opposition to clause 4 of the Bill.

It says:—

“In this Act ‘biological agent’ means any microbial, infectious substance or virus”—whatever its origin or method of production—“capable of causing”—and this is what is important—

- “(a) death, disease or other biological malfunction in a human, animal, plant or other living organism;
- (b) deterioration of food, water, equipment, supplies or other material of any kind; or
- (c) deleterious alteration of the environment;”

This is what it does; it defines what a biological agent means.

Dr. Rowley: Does that include methane gas exuded by cows?

Hon. Dr. S. Rambachan: Mr. Deputy Speaker, I would not even attempt to answer that. The ridiculous must be left with those who are ridiculous. [*Laughter*]

It is well defined here, and part of your committee will consist of people who would be able to make that determination. That is why you have experts on the committee.

Mrs. Gopee-Scoon: But you could very well have a quorum without experts.

Hon. Dr. S. Rambachan: The Leader of the Opposition also talked about section 9(3) of the Act. He talked about transport and said, if I heard him correctly, that those transporting must also be charged. But he seemed to have forgotten that this Act is about intent and purpose. What is the intent behind the use of these agents or toxins? What is the purpose behind it? The Member for Point Fortin was very clear that biological agents are also used for good purposes. For example, *E. coli* is used for the production of penicillin, I am advised by Dr. Tim Gopeesingh. So you are going to lock up someone who is transporting something for a good purpose?

The law is very clear in terms of who is to be charged and for what violation. If you want me to read clause by clause of the law before us, I can read them, but it is very clear about who is to be charged and for what. The Leader of the Opposition also made a heyday of the word “reasonable” and how do you determine reasonableness; how do you determine “reasonable”. I would think that one of the first requirements for determination of what is reasonable is a willingness to cooperate. If someone is found in a place where there is the storage of biological agents, toxins and so on, and a policeman attempts to get information from you and the policeman is satisfied that there is something amiss, and you fail to cooperate with the police officer, then you are not being reasonable. So the first requirement of “reasonable” would be a willingness or unwillingness to cooperate.

Dr. Browne: Whose judgment, the police officer’s?

Hon. Dr. S. Rambachan: The policeman is there in the first instance because he has a warrant. A search warrant was issued. A search warrant issued under subsection (1)—if you read clause 8(2), it says:

“A search warrant issued under subsection (1) may authorize any suitably qualified person”—also—“named in the search warrant to accompany the police officer and assist him in taking any of those steps specified in the warrant.”

So the policeman has assistance also, of someone who is suitably qualified.

[MR. SPEAKER *in the Chair*]

The policeman is not acting whimsically. He is acting also on the basis of a person who is suitably qualified and assisting him in the process.

You must have some trust, as I said, in the judicial system and in the judicial officers, because the magistrate would have been satisfied by proof upon oath, that there is reasonable ground to believe something is amiss. That is why the warrant was, in fact, in the first place granted. Mr. Speaker, I think we must go back to the intent behind this Bill.

Mrs. Gopee-Scoon: We are okay with the intent.

Hon. Dr. S. Rambachan: I am happy to hear that the hon. Member for Point Fortin is happy with the intent of the Bill. In the other place, this Bill was carefully examined and what is before us today is something that has received great support in the other place.

Mr. Deputy Speaker, it is incumbent upon us as a Parliament, as a country to put aside political differences and to act faithfully in the interest of all citizens of Trinidad and Tobago and by extension our global neighbours.

I thank you, Mr. Speaker, and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: Hon. Members, may I seek your indulgence. I would like to suggest that we probably look at taking some of these clauses en bloc. So we could go with five clauses at a time, because there are 14 clauses. We could go five, five, four. Is there any objection?

Hon. Members: No.

Mr. Chairman: So we can proceed accordingly.

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

Clause 6.

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

Mrs. Gopee-Scoon: Mr. Chairman, I still have a problem with the composition of the committee, from the point of view that clause 6(4) allows a simple majority of the members of the committee to constitute a quorum. In fact, the legislation allows for a maximum of 11 persons. What we are saying is that a simple majority of six would in fact constitute a quorum. With specialist positions identified only for four of these persons, it may very well mean that you may have a quorum without any of the four named specialists in clause 2(a), (b), (c) and (d). You could have a quorum of committee members with very wide-ranging powers and functions and yet not have any of these named specialists on the committee.

My belief is if you want to state that a simple majority would constitute a quorum, you should have some conditions in there that some of the experts are in fact included within that quorum, or else you would have a very meaningless and incapacitated committee, let us say, of six persons who may fall into the category of 6(f), “any such persons who by virtue of their skill or experience”. Those may very well be the persons who end up on the committee, if you leave it as it is.

Dr. Moonilal: Mr. Chairman, we have heard the concerns of the Member for Point Fortin, and I think it was also a concern raised during the debate. The Government is in a position to continue along this path with the amendment as brought from the Senate. It is our belief, as stated by the Minister responsible, that the board will conduct itself in a professional way and ensure that there is a maximum input from the technical and in this case non-technical members as well. We would like to continue with the amendment as it is, from the Senate.

Mrs. Gopee-Scoon: I would like to speak to some other clauses as well, so if you may treat with clause 6 I will be comfortable, but I would like to say something on clause 8.

Mr. Chairman: Okay.

Question put and agreed to.

Clauses 6 and 7 ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Mrs. Gopee-Scoon: Just two points. The concern is, and I had raised it, that the police officer is able to obtain a warrant from a magistrate. I am concerned about the non-involvement of the courts in this procedure. The other point is that this is a limitless warrant, and it should be specific in terms of a time limit. The warrant should be for a particular period, so that a police officer cannot abuse it which is executed by the magistrate.

So there are two concerns: the time limit of the warrant and the fact that the approach is to a magistrate as against a judge and the involvement of the DPP.

Dr. Rambachan: Mr. Chairman, we are not prepared to change our position on this. This has been discussed extensively and we have gone with what is here in the Bill.

Mrs. Persad-Bissessar SC: The Member is raising an issue of why the Bill is proposing to go to the Magistrates' Court. As far as I understand it, these are summary offences. It is for search. So we are advised by the technical staff.

Dr. Moonilal: It is for search and not for detention.

Dr. Rowley: We are in clause 8? I want to revisit subsection (3), and reinstate my concerns where this onus is being put on all persons in a conveyance, commanding them to cooperate in an ill-defined way and where all reasonable assistance is scripted, without being able to be defined in a more acceptable way, towards the purpose of an officer receiving, again, ill-defined, reasonable information.

Mr. Chairman, I think that this is far too loose and requires tidying up, especially in the face of what is to follow in the next section. Therefore I would like the Government to revisit this and rethink or provide an amendment which closes this breadth of offence, where a person in any conveyance is put under this duty to cooperate in an ill-defined way, under penalty of 10 years in jail.

Mrs. Persad-Bissessar SC: Hon. Leader of the Opposition, as I read it, it is not any person. It says "any person named in a warrant"; so it is not every person in the conveyance, it would be only those persons named in the warrant. It says it in the clause, "owner or person in charge" of such, and such and such, "found therein"—named in the warrant.

Dr. Rowley: Okay. You are named in the warrant. What are you supposed to cooperate with, is it do as you are told? Is that what it means? A person is named in a warrant, and a search is to be carried out. What does this mean, that you will do as you are told or do you exercise your right to assume that you are innocent until proven guilty, and be a bystander as the police does police work? Is that what it means? That is what it says. You are required to cooperate in a way, whether you are named in the warrant—it says you are named in the warrant, but assuming that a person is named in the warrant, what does the police want of you then, that you must cooperate to please the police? What does that mean? What does it mean?

What if a person chooses to just stand silently and watch the police do their work? If in fact these items are present in the conveyance, then the police should find them and that becomes evidence against the person. But there seems to be a demand here that the person must cooperate in a way which I think is going beyond the acceptable civil liberties requirements. I should be able to choose to just stand and watch the police do their work. I should not be forced to cooperate with the police in a way that you cannot tell me what the cooperation is going to be. But, of course, if the police is not happy with what they are doing, I could be accused of not cooperating with the police. This is too ill-defined, too loosely defined.

Dr. Moonilal: Mr. Chairman, we are further instructed that this language has been taken from the Summary Courts Act, and is consistent with that. In any event, the issue of reasonableness is reviewable. In addition to that, the warrant would also have particulars, not only of name, but of the reasons for issuing the warrant, and that action is pursuant to what would be stated in the warrant. In any event, there is an action that you could take and review it.

Dr. Rowley: Mr. Chairman, I do not want to prolong this, because clearly the Government is holding its ground. I simply want to go on record. It has been taken from the Summary Courts Act, is it that where it has come from the penalties are as severe as it is. Is that what it means?

Also, it does not matter what the warrant says. The offence here is your reaction to the arrival of the police. The offence is created not by what you have done with the microbes, or what you intend to do. This offence in this clause is your behaviour when the police arrives. That is the big difference. “Can’t” you see that?

So even if you had committed a crime before by breeding and stockpiling microbes, which caused the police to come there, that is separate matter, which is being pursued. But how you behave when the police get there, is 10 years in jail if you are deemed not to have cooperated with the police. Come on, parliamentarians, my colleagues, you “can’t” do that.

I should be able or the person should be able to just stand quietly and watch the police do their work. If the police is after me, and all I am willing to do is stand quietly in my place, why should I then be penalized with 10 years in jail for doing that?

Hon. Members: You could sit.

Dr. Rowley: Okay, that is true, I could sit. I know he is right; I could choose to sit and watch you do the work. But do not tell me that because I have not pleased you with my reaction to your arrival, that I now face 10 years in jail over and above anything I have done or not done. I may not have done anything with respect to the harbouring and growing of microbes, and therefore could not be penalized for that. But for not cooperating with the police during the raid, I can now get 10 years in jail.

Dr. Moonilal: The maximum—

Dr. Rowley: It is not mandatory but you are exposed to it.

Dr. Moonilal: But if you bring the strong arguments you have raised, it would be left to the judge. It would be left to the discretion of the magistrate.

Dr. Rowley: So in other words, I am now to defend myself from your judgment call. You are telling me that I have redress; that is true, you always have redress against every law. That does not mean you should craft law that can be abused or can create hardships for people, and then tell them, “Go and look for redress.” That is not right.

Dr. Moonilal: But by the same token, you cannot swing it the other way to say that this will and must be abused.

Dr. Rowley: But when you are drafting the law, there is an onus on you to minimize, ameliorate the opportunities for abuse.

Dr. Moonilal: And protect.

Dr. Rowley: All that is required here is drafting improvement, that is all we are asking for; drafting improvement. I think the experts needs to look at this. Our assistants have told us it has been taken from the Summary Courts Act. The consequences are too grave for that to be the justification.

Dr. Moonilal: We have indeed heard the Leader of the Opposition. It is the wish of the Government to pursue, at this moment, with the provision as stated. It is a matter that we may well want to consider in the coming months or years, and an appropriate amendment can be brought to deal with any excesses that may arise. [*Crosstalk*]

Mr. Chairman: Can I put the question on clause 8?

Question put and agreed to.

Clause 8 ordered to stand part of the Bill.

Mr. Chairman: Do you want to go one by one again, Members of the Opposition?

Hon. Members: Yes.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Mrs. Gopee-Scoon: Chair, in clause 9, it appears to me, that the Minister has the authority, upon the recommendation of the committee, to seize and dispose of conveyance, meaning property, as well. There is a concern that the property of persons in this country will be disposed of, seized and disposed of, without the involvement of the court. Therefore I strongly resist these immense powers being given to the Minister.

Dr. Moonilal: Member, we are further instructed that the answer to your query is indeed in the amendment that was brought from the other place, in that, at subsection (5) it is for the record:

- “(5) The Minister shall exercise this power under subsection (1) only in circumstances where—
- (a) an immediate danger is posed to the health, safety and security of persons or the environment;
 - (b) the biological agent or toxin is unclaimed or no longer required in connection with the prosecution or any offense under this Act or under any written law.”

So there are two conditions outlined. It is not a power, a carte blanche power, for the Minister just to seek and destroy. It is restricted. These things deal with very, very serious and dangerous threats to national security and citizens.

Mrs. Gopee-Scoon: You are saying then that the Minister still has the power to seize and dispose of persons’ properties without going to the court?

Dr. Moonilal: Only in circumstances when immediate danger is posed or the agent is unclaimed, the material is unclaimed.

Dr. Browne: Just to clarify, who makes the determination of immediate danger and who determines whether these criteria are met, is it the same Minister?

Dr. Moonilal: The particular committee identified will give recommendations. Those are technical people, they will give recommendations to the Minister.

Dr. Browne: So it comes back to the Minister.

Mrs. Persad-Bissessar SC: Clause 9(1) clearly gives the situation upon which the powers of the Minister will be activated. It says:

“The Minister may, upon the recommendation of the Committee, give directions...”

Then when you come to (2) it talks about 1(b) to the owner or occupier, and so on. So it is on the recommendation of this committee. Then in (2):

“The Minister may give directions under subsection 1(b)—”

And then they gave the specific circumstances under (5). You could only exercise this power where there is immediate danger.

9.35 p.m.

Mrs. Gopee-Scoon: What we are saying is, and I understand what you have attempted to bring here, but I am saying that it still should be put before the court.

Dr. Moonilal: By that time half the country blow up.

Mr. Speaker: Must be put before the court before you dispose of persons’ properties, must; I cannot agree to this.

Dr. Rambachan: If there is a bomb, you will wait until the bomb blasts?

Mrs. Gopee-Scoon: I am not hearing your arguments, I do not know if you are just babbling on that side or if you have some serious arguments to proffer.

Dr. Moonilal: Mr. Chairman, I think we would like to end the babbling and let us proceed, the Government is clear in our intent, and in the procedure to be utilized.

Mrs. Gopee-Scoon: Well, let me just say to you that I am appalled that the Minister would be given the kind of very wide powers of seizure and disposal of persons’ properties under this piece of legislation, and that I am strongly resisting it on behalf of the people of Trinidad and Tobago.

Question put and agreed to.

Clauses 9 to 12 ordered to stand part of the Bill.

Clause 13.

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

Mrs. Gopee-Scoon: Just a minor question, is there any time limit to when these regulations may be brought or is it just left in mid-air?

Dr. Moonilal: Our understanding is that they are working on the regulations, and they would be available to us in the very near future. They are working on them now.

Question put and agreed to.

Clauses 13 and 14 ordered to stand part of the Bill.

Schedule 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, without amendment.

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

The House divided: Ayes 28 Noes 11

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar SC, Hon. K.

Warner, Hon. J.

Dookeran, Hon. W.

Mc Leod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.

Seepersad Bachan, Hon. C.

Seemungal, J.

Volney, Hon. H.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Ramadharsingh, Hon. Dr. G.

Ramadhar, Hon. P.

Khan, Hon. Dr. F.

De Coteau, Hon. C.

Indarsingh, Hon. R.

Baker, Hon. Dr. D.

Samuel, Hon. R.

Douglas, Hon. Dr. L.

Roopnarine, Hon. S.

Ramdial, Miss R.

Partap, Hon. C.

Khan, Mrs. N.

NOES

Mc Donald, Miss M.

Rowley, Dr. K.

Cox, Miss D.

Hypolite, N.

Mc Intosh, Mrs. P.

Imbert, C.

Jeffrey, F.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Gopee-Scoon, Mrs. P.

Question agreed to.

Bill accordingly read a third time and passed.

Mr. Speaker: Hon. Members, before we return to the Children Bill, we need to take dinner, and when we return as you know we will be going into the committee stage of the Children Bill, and subsequent to that the DNA amendments from the Senate. At this point in time this sitting is suspended until 10.15 p.m.

9.44 p.m.: *Sitting suspended.*

10.15 p.m.: *Sitting resumed.*

CHILDREN BILL, 2011

Sen. The Hon. V. St. Rose-Greaves: Mr. Speaker, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: Hon. Members, let us be on the same page as we commence. All Members are supposed to have in their possession 23 pages of amendments, and there is a one-page amendment that came a short while ago. All Members are supposed to be in possession—*[Interruption]*

Dr. Moonilal: Mr. Chairman, that one page was for minor alterations that we have, and we will move when get the amendment.

Mr. Chairman:—at the appropriate time. Okay. You are ready? All right. I want to advise that only where there are amendments we are going to stop, other than that we are on a super highway moving down. So, I want to advise Members, only where there are amendments we stop, other than that, I would like to provide a guidance that we are going to take those other clauses as given. *[Interruption]* No, you are not doing it at all, you can stop me.

10.20 p.m.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Children Bill, 2011

Wednesday, April 25, 2012

Dr. Moonilal: Mr. Chairman, I beg to move that clause 3 be amended as circulated:

Delete the word “Homes” and substitute the word “Care” wherever it occurs in the title “Children’s Community Residences, Foster Homes and Nurseries Act.”

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

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

Dr. Moonilal: Mr. Chairman, I beg to move that clause 4 be amended as circulated:

4(1) and (2) Delete and substitute the following subclauses:

Where a person has responsibility for a child and—

- (a) the person wilfully assaults, ill-treats, neglects, abandons or exposes the child or causes or procures the child to be assaulted, ill-treated, neglected, abandoned, or exposed in a manner likely to cause that child suffering or injury to his physical, mental or emotional health; or
- (b) is in bed or in any other place of rest with an infant under the age of three years, and that infant dies as a result of suffocation whilst in bed or any other place of rest with that person, and it is proved that—
 - (i) the suffocation was not caused by disease or the presence of any foreign body in the throat or air passages of the infant, or by any other medical cause; and
 - (ii) the person was, at the time of going to bed or in any other place of rest, under the influence of drink, dangerous drugs or other substances having a similar effect,

the person commits the offence of cruelty to a child.

Children Bill, 2011

Wednesday, April 25, 2012

- (2) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine of five thousand dollars and to imprisonment for six years; or
 - (b) on conviction on indictment, to a fine of fifty thousand dollars and to imprisonment for ten years.

Question put and agreed to.

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

Clauses 5 to 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 9 be amended as circulated:

9(2)(b) Delete—

- (a) after the words “medical practitioner” the words “a registered midwife”; and
- (b) after the words “a practitioner” the words “or midwife”.

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clauses 10 to 12 ordered to stand part of the Bill.

Clause 13.

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

Dr. Moonilal: Mr. Chairman, I beg to move that clause 13 be amended as circulated:

13(4) Delete.

Mr. Imbert: Mr. Chairman, can I get an explanation as to the deletion of clause 13(4)?

Dr. Moonilal: We are instructed that this is already provided for in clause 57.

Mr. Imbert: Okay.

Children Bill, 2011

Wednesday, April 25, 2012

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Clause 14 ordered to stand part of the Bill.

Clause 15.

Question proposed: That clause 15 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 15 be amended as circulated:

Delete the words “that child’s prostitution” and substitute the words “the prostitution of the child”.

Question put and agreed to.

Clause 15, as amended, ordered to stand part of the Bill.

Clauses 16 to 19 ordered to stand part of the Bill.

Clause 20.

Question proposed: That clause 20 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 20 be amended as circulated.

20(1) Delete and substitute the following subclauses:

“(1) A person sixteen years of age or over but under twenty-one years of age is not liable under section 18 if—

- (a) he is less than three years older than the child against whom he is purported to have perpetrated the offence;
- (b) he is not in a familial relationship with the child nor in a position of trust in relation to the child;
- (c) he is not of the same sex as the child; and
- (d) the circumstances do not reveal any element of exploitation, coercion, threat, deception, grooming or manipulation in the relationship.

(2) A person fourteen years of age or over but under sixteen years of age is not liable under section 18 or 19 if—

- (a) he is less than two years older than the child against whom he is purported to have perpetrated the offence;

- (b) he is not in a familial relationship with the child nor in a position of trust in relation to the child.
 - (c) he is not of the same sex as the child; and
 - (d) the circumstances do not reveal any element of exploitation, coercion, threat, deception, grooming or manipulation in the relationship.
- (3) A person twelve years of age or over but under fourteen years of age is not liable under section 18 or 19 if—
- (a) he is less than two years older than the child against whom he is purported to have perpetrated the offence;
 - (b) he is not in a familial relationship with the child nor in a position of trust in relation to the child.
 - (c) he is not of the same sex as the child; and
 - (d) the circumstances do not reveal any element of exploitation, coercion, threat, deception, grooming or manipulation in the relationship.”

Mr. Jeffery: Mr. Chairman, I want to get some clarification on clause 20(1), (2) and (3): “A person sixteen years of age or over”, “A person fourteen years of age” and “A person twelve years of age”; I want to find out what is the situation with a person who is 10 years of age.

Dr. Moonilal: I am instructed that the age for criminal liability for sexual offences is 12 years; so that under 12 years of age, they would not be liable.

Mr. Chairman: Member for La Brea, do you have the amendments before you?

Mr. Jeffery: Yes, I have them here.

Mr. Chairman: Are you looking at clause 20(1)?

Mr. Jeffery: Yes, up to clause 20(3); for example—the whole question of a person 12 years of age or over—somebody who is under the age of 12.

Dr. Moonilal: Member for La Brea, a person under the age of 12 years is not liable under the Sexual Offences Act. This was brought over from the Sexual Offences Act.

Question put and agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

Mr. Imbert: Mr. Chairman, there is a conversation going on to my left; with the acoustic in the Chamber it is making it difficult—Minister of Foreign Affairs and other persons—could you ask—*[Interruption]*

Mr. Chairman: Members, do not quarrel at this late hour, please. I think all the hon. Member is saying is that there is some disturbance. We are asking Members to pay attention and do not have conversations whilst this exercise is taking place, please. *[Interruption]* Member for Mayaro, I am hearing your voice.

Mr. Peters: Me? Not me, not me.

Mr. Chairman: No, I am not saying you, I am hearing your voice.

Mr. Peters: I am not saying anything. “How I get in that?”

Mr. Chairman: You were not saying anything? All right, good, no problem.

Clause 21.

Question proposed: That clause 21 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 21 be amended as circulated:

21(1) Delete and substitute the following subclauses:

“(1) Where a person causes or incites a child to engage in an activity which is sexual under section 18 or 19, the person commits an offence.”

21(3) Insert after the word “child” the words “or sexual touching of a child with respect to the placing of any body part or of an object onto the penis or bodily orifice of a child”.

Mr. Imbert: Mr. Chairman, sorry, I apologize; there was so much noise, and there still is noise.

Mr. Chairman: Yes.

Mr. Imbert: We skipped past clause 20. Could I just get an explanation—

Mr. Chairman: Members in the back, Members in the front, could I have your undivided attention? I would not like to ask you all to leave the Chamber.

Mr. Imbert: Mr. Chairman, could I get an explanation—

Mr. Chairman: No, I want to suggest to you, hon. Member, that we would revisit that in a short while, we are already on clause 21.

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Mr. Imbert: Okay.

Question put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 20 recommitted.

Question again proposed: That clause 20 stand part of the Bill.

Mr. Imbert: Thank you, Mr. Chairman. Could I just get an explanation as to why we are deleting subclause 20(2)?

Dr. Moonilal: Mr. Chairman, we are advised that this subclause to be deleted speaks to the issue of consent and the tenor of the Bill is that we have deleted, in principle, the issue of consent for these offences. We did that on the advice of the DPP.

Question put and agreed to.

Clause 20 again ordered to stand part of the Bill.

Mr. Imbert: Okay.

Clauses 22 to 28 ordered to stand part of the Bill.

Clause 29.

Question proposed: That clause 29 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 29 be amended as circulated:

29(b) Delete the words “that section” and substitute the words “section 32”.

29(c)(i) Delete the word “ten” and substitute the word “fifteen”.

Question put and agreed to.

Clause 29, as amended, ordered to stand part of the Bill.

Clause 30.

Question proposed: That clause 30 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 30 be amended as circulated.

30(a) Delete the words “detained” and “detain” wherever they occur and substitute the words “place” and “place” respectively.

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30(n) Delete the word “detention” wherever it occurs and substitute the word “placement”.

Question put and agreed to.

Clause 30, as amended, ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32.

Question proposed: That clause 32 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 32 be amended as circulated:

32(2)(b) Delete the words “Homes” and substitute the word “Care” in the title “Children’s Community Residence, Foster Homes and Nurseries Act”.

Question put and agreed to.

Clause 32, as amended, ordered to stand part of the Bill.

Clause 33.

Question proposed: That clause 33 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 33 be amended as circulated:

A. Renumber clause 33 as 33(1)

B. Insert after subclause (1) as renumbered, the following subclauses:

“(2) Where a constable has reasonable cause to believe that a sexual offence has been committed by a child, the constable shall immediately notify –

(a) the parents, guardian or the person responsible for the child; and

(b) the Authority.

(3) A constable referred to in subsection (2) shall make a written report of the action taken under this section to his superior officer within seventy-two hours of the taking of such action.”

Question put and agreed to.

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Clause 33, as amended, ordered to stand part of the Bill.

Clauses 34 to 39 ordered to stand part of the Bill.

Clause 40.

Question proposed: That clause 40 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 40 be amended as circulated:

40(1) Renumber paragraphs (d) and (e) as paragraphs (e) and (f) respectively, and insert after paragraph (c) the following paragraph:

“(d) knowingly obtains access, through information and communication technologies, to child pornography;”

40(2) (b)Delete the word “mail” and substitute the word “means”

Question put and agreed to.

Clause 40, as amended, ordered to stand part of the Bill.

Clauses 41 to 47 ordered to stand part of the Bill.

Clause 48.

Question proposed: That clause 48 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 48 be amended as circulated:

48(9) Delete the words “detained” and “detain” wherever they occur and substitute the words “placed” and “place” respectively.

Question put and agreed to.

Clause 48, as amended, ordered to stand part of the Bill.

Clauses 49 to 56 ordered to stand part of the Bill.

Clause 57.

Question proposed: That clause 57 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 57 be amended as circulated:

57(2)(k) Insert after the word “counselling”, the words “, any other rehabilitative intervention or treatment,”.

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57(4)(d) Delete the word “detention” wherever it occurs and substitute the word “placement”.

Question put and agreed to.

Clause 57, as amended, ordered to stand part of the Bill.

Clause 58.

Question proposed: That clause 58 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 58 be amended as circulated:

58(2)(a) A. Delete after the word “punishable” the word “with”.
B. Insert after the word “punishable” the words “, in the case of a person eighteen years of age or over, by”.

58(2)(b) Insert after the word “imprisoned” the words “, in the case of a person eighteen years of age or over,”.

58(2)(b)(i) Delete the words “detained” and “detain” wherever they occur and substitute the words “placed” and “place” respectively.

58(2)(b)(ii) Delete the word “will” occurring after the word “who’ and substitute the word “shall”.

58(2)(b)(iii) Insert after the word “counselling”, the words “or any other rehabilitative intervention or treatment”.

Insert new subclauses Insert after subclause 58(2) the following subclauses:

“(3) Where the child offender is between the ages of ten years and under eighteen years, the Court may order that he be placed at a Rehabilitation Centre.

(4) Where the child offender is under ten years and is charged before a Court, the Court may order that the child be placed at a Children’s Home.”

Renumber clause 58(3) as clause 58(5).
clause 58(3)

Question put and agreed to.

Clause 58, as amended, ordered to stand part of the Bill.

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Clause 59 ordered to stand part of the Bill.

Clause 60.

Question proposed: That clause 60 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 60 be amended as circulated:

60(1) Delete after the words “inflict is” the word “sufficient” and substitute the word “appropriate”.

Question put and agreed to.

Clause 60, as amended, ordered to stand part of the Bill.

Clause 61 ordered to stand part of the Bill.

Clause 62.

Question proposed: That clause 62 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 62 be amended as circulated:

Delete the word “detention” wherever it occurs and substitute the word “placement”.

Question put and agreed to.

Clause 62, as amended, ordered to stand part of the Bill.

Clause 63 ordered to stand part of the Bill.

Clause 64.

Question proposed: That clause 64 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 64 be amended as circulated:

Delete the word “detention” wherever it occurs and substitute the word “placement”.

Question put and agreed to.

Clause 64, as amended, ordered to stand part of the Bill.

Clauses 65 to 80 ordered to stand part of the Bill.

Clause 81.

Question proposed: That clause 81 stand part of the Bill.

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Dr. Moonilal: Mr. Chairman, I beg to move that clause 81 be amended as circulated:

Renumber clauses 81 to 86 as 93 to 98.

Question put and agreed to.

Clause 81, as amended, ordered to stand part of the Bill.

Clauses 82 to 84 ordered to stand part of the Bill.

Clause 85.

Question proposed: That clause 85 stand part of the Bill.

Mrs. Persad-Bissessar SC: Mr. Chairman, I beg to move that clause 85 be amended as follows:

Insert after the word “elsewhere” the words “if the act would have constituted an offence in Trinidad and Tobago”.

Question put and agreed to.

Clause 85, as amended, ordered to stand part of the Bill.

Clause 86.

Question proposed: That clause 86 stand part of the Bill.

Dr. Moonilal: Mr. Chairman, I beg to move that clause 86 be amended as circulated:

86 Renumber clauses 81 to 86 as 93 to 98.

Question put and agreed to.

Clause 86, as amended, ordered to stand part of the Bill

Clauses 87 and 88 ordered to stand part of the Bill.

10.50 p.m.

Mr. Chairman: Before the Schedule we have to deal with the new clauses. We are returning to the new clauses.

New clauses 42A and 42B.

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Dr. Moonilal: Mr. Chairman, I propose new clauses 42A and 42B which read as follows:

Insert clause
42A and 42B

Insert after clause 42 the following clauses:

“Penalty for child offenders under Parts V, VI and VIII and the Sexual Offences Act

42A. (1) Notwithstanding any penalty prescribed for any offence under Parts V, VI and VI and VIII and of this Act and the Sexual Offences Act, a child who is convicted of an offence under these Parts is liable —

- (a) if he is sixteen years of age or over —
 - (i) on summary conviction, to a fine of twenty thousand dollars and to imprisonment for four years; or
 - (ii) on conviction on indictment, to imprisonment for fifteen years;
- (b) if he is sixteen years of age or under —
 - (i) on summary conviction to a fine of ten thousand dollars and to imprisonment for three years; or
 - (ii) on conviction on indictment, to imprisonment for five years.

(2) Notwithstanding subsection (1), the Court may make any order pursuant to section 57 or 58”.

Compensation
for complainant

42B. (1)The Court or body may order a person who is convicted of an offence under this Act, to pay to the complainant adequate compensation which shall be a charge on the property of the person so convicted.

(2) The order made under subsection (1) shall not deprive the complainant of the right to compensation in any other Court, save that the Court that awards further compensation may take the order under this subsection into account when it makes a further award.”

New clauses 42A and 42B read the first time.

Question proposed: That the new clauses be read a second time.

Question put and agreed to.

Question proposed: That the new clauses be added to the Bill.

Question put and agreed to.

New clauses 42A and 42B added to the Bill.

New clauses 58A to 58N.

Dr. Moonilal: Mr. Chairman, I propose new clauses 58A to 58N which read as follows:

Insert new clauses

Insert the following clauses after clause 58:

“Inability of parent to control child

58A. Where a parent or guardian of a child proves to the Court with jurisdiction in family matters that he is unable to control the child, and he desires the child to be sent to a Community Residence under this Part, the Court shall order that the child be brought to the attention of the Authority.

Additional order under the Probation of Offenders Act

58B. Where under the provisions of this Part an order is made for the child to be brought to the attention of the Authority and for the referral of the child to the Court with jurisdiction in family matters, the Court may, in addition to such order, make an order under the Probation of Offenders Act that the child

be placed under the supervision of a probation officer provided that the recognizance into which the child, if not charged with an offence is required to enter, shall bind him to appear and submit to the further order of the Court.

Conveyance to
Community
Residence and
person
conveying to
have powers of
a constable

58C. (1) Where a child offender is ordered to be placed at a Community Residence, the Court shall deliver him into the custody of the constable responsible for his conveyance to the Community Residence, who shall deliver him to the person in charge of the Community Residence together with the placement order or other document in pursuance of which the offender was so placed.

(2) Every person authorized by the managers of a Community Residence to take charge of any child offender ordered to be placed under this Part for the purpose of conveying him to or from the Community Residence, or of apprehending and bringing him back to the Community Residence in case of his escape or refusal to return, shall, for that purpose and while engaged in that duty, have all the powers, protection, and privileges of a constable.

Period of
placement for
a child ten
and under
eighteen years

58D. (1) A Court may order a child offender between the ages of ten and under eighteen years be placed in a Rehabilitation Centre until the offender attains the age of eighteen years.

(2) Notwithstanding subsection (1), the Court may, on the application of the

managers of the Rehabilitation Centre and with the consent of the offender, make an order extending the time of placement to the age of twenty-one years.

Period of placement for a child under the age of ten years

58E. (1) A Court may order a child offender who is under the age of ten years to be placed in a Children's Home until the offender attains the age of eighteen years.

(2) Notwithstanding subsection (1), the Court may, on the application of the managers of the Children's Home and with the consent of the offender, make an order extending the time of placement to the age of twenty-one years.

Temporary placement of child

58F. (1) Where a person who is not a foster parent as defined by Part V of the Children's Community Residences, Foster Care and Nurseries Act, wishes to care for a child who is –

- (a) in the care of a Community Residence;
- (b) not a child offender; and
- (c) not related to him,

he shall apply to the manager of the Community Residence for a licence for such care.

(2) Where an application has been made under subsection (1), the manager of the Community Residence shall notify the Authority of such application and shall supply the following particulars:

- (a) the name and address of the applicant;

- (b) the occupation and place of work of the applicant;
- (c) the marital status of the applicant;
- (d) the relationship if any, with the child;
- (e) the period of intended placement;
- (f) the suitability of the child for such placement; and
- (g) the reason for such placement.

(3) Upon investigation by the Authority as to the suitability of such placement, the Authority may authorise the manager to permit the child to be temporarily placed out with the applicant provided that any order of the Court relating to the care of the child provides that the child may be temporarily placed out with any such applicant on the approval of the authority.

(4) The managers of the Community Residence may at any time, by order in writing made with the approval of the Authority revoke any such licence and order the offender to return to the Community Residence.

(5) Any child offender escaping from the person with whom he is placed in pursuance of this section, or refusing to return to the Community Residence when required to do so on the revocation or forfeiture of his licence, is liable to the same penalty as if he had escaped from the Community Residence.

Licence period
to be deemed

58G. (1) The time during which a child offender is absent from a Community

part of time of
placement

Residence in pursuance of a licence under section 58D shall be deemed to be part of the time of his placement in the Community Residence.

(2) Notwithstanding subsection (1), where a child offender has failed to return to the Community Residence on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be placed in the Community Residence.

Parent may be
summoned to
produce child

58H. (1) Where a licence has been revoked or forfeited and the child offender refuses or fails to return to the Community Residence, a Court, if satisfied by complaint on oath that there is reasonable ground for believing that his parent or guardian could produce him, may issue a summons requiring the parent or guardian to attend before it on such day as may be specified in the summons, and to produce the child.

(2) If a parent or guardian fails to produce the child in accordance with the summons referred in subsection (1), without reasonable cause, he is, in addition to any other liability to which he may be subject under this Part, liable on summary conviction to a fine of five thousand dollars or imprisonment not exceeding three years.

Discharge

58I. (1) The Court may at any time order a child offender to be discharged from a Community Residence either absolutely or on such conditions as the Court approves, and may where the order

of discharge is conditional, revoke the order on the breach of any of the conditions on which it was granted.

(2) Where the order is revoked under subsection (1), the child offender shall return to the Community Residence, and if he fails so to do, he and any person who knowingly harbours or conceals him or prevents him from returning to the Community Residence is liable to the same penalty as if the child offender had escaped from the Community Residence.

Transfer orders

58J. The Court may order –

- (a) a child offender to be transferred from one Rehabilitation Centre to another or from one Children's Home to another;
- (b) a child offender under the age of fourteen years placed in a Rehabilitation Centre to be transferred to a Children's Home; or
- (c) a child over the age of twelve years placed in a Children's Home, who is found to be a bad influence on the other children in the Community Residence, to be transferred to a Rehabilitation Centre,

but the whole period of placement of the offender shall not be increased by the transfer, and where the Community Residence to which a child is ordered to be transferred is a Children's Home not established and managed by the Authority, the order shall have no effect

unless the managers signify their willingness to receive the child.

Transfer for
medical
treatment

58K. (1) The Court may order a child offender placed in a Community Residence to be transferred for medical treatment and care to a hospital or asylum, upon such terms and conditions and for such period as shall seem proper.

(2) A certificate of fitness certifying that the child is in a fit state to be discharged from the hospital or asylum and signed by the Chief Medical Officer (Attendant) shall be sufficient evidence for a Court to order that the child offender be sent back to the Community Residence from which he was transferred, there to be placed until completion of his unexpired term in such Community Residence.

(3) If a child offender fails to return to the Community Residence, under this section, he and any person who knowingly harbours or conceals him or prevents him from returning to the Community Residence, is liable to the same penalty as if the child offender had escaped from the Community Residence.

Re-committal to
Rehabilitation
Centre

58L. (1) Where a person who has been sent to a Rehabilitation Centre, is, either while at the Community Residence or after his discharge from the Community Residence, convicted, whether on indictment or summarily of an offence for which he can, or could were he an adult, be sentenced to imprisonment without the option of a fine, and is, in the opinion of the Court before which he is charged, not more than seventeen years of age, the

Court may, in addition to or in lieu of sentencing him according to law to any other punishment, order that he be again sent to a Rehabilitation Centre for any period not less than one year nor more than five years, but not in any case, extending beyond the date on which such person will, in the opinion of the Court, attain the age of eighteen years.

(2) A person ordered to be sent to a Rehabilitation Centre shall, not in addition, be sentenced to imprisonment.

Transfer from
prison to a
Rehabilitation
Centre

58M. The Court may, if it thinks fit, at any time order a person sentenced to imprisonment, who in the opinion of the Court is under the age of seventeen years to be transferred from prison to a Rehabilitation Centre and there to be placed for any period not less than one year nor more than five years, but not in any case extending beyond the date on which such person will, in the opinion of the Court attain the age of eighteen years.

Power to send
offender to
training

58N. (1) Where a child offender over the age of thirteen years has conducted himself well for at least five months, whether while placed in a Community Residence or out on licence, the managers of the Community Residence may bind such child offender, with his consent, to participate in a valid training programme for such term in such form, and under conditions approved by the Court, notwithstanding that the period of placement of such child offender has not expired.

(2) No term of training referred to in subsection (1) shall continue for a longer period than five years or beyond the day when the child offender attains the age of twenty-one years in the case of a child offender over fourteen years of age and eighteen years in the case of a child offender under the age of fourteen years.”

New clauses 58A to 58N read the first time.

Question proposed: That the new clauses be read a second time.

Question put and agreed to.

Question proposed: That the new clauses be added to the Bill.

Question put and agreed to.

New clauses 58A to 58N added to the Bill.

New clauses 65A to 65F.

Dr. Moonilal: Mr. Chairman, I propose new clauses 65A to 65F which read as follows:

Refusal to conform
to rules

65A. (1) Where a child offender who is placed in a Community Residence is guilty of a serious and willful breach of the rules of the Community Residence or of inciting other inmates of the Community Residence to such a breach, he is liable on summary conviction –

- (a) in the case of child in a Rehabilitation Centre, to have the period of his placement increased by such period not exceeding six months as the Court directs; or
 - (b) in the case of a child twelve years of age or over, and who is placed in a Children’s Home, to be sent to a Rehabilitation Centre and to be there placed subject and according to the provisions of this Part.
- (2) A period of placement may be increased in pursuance of this section notwithstanding that the

period as so increased will extend beyond the limits imposed by this Part.

Escaping from
Community Residence

65B. Where a child offender who is placed at a Community Residence escapes from the Community Residence, he may, at any time before the expiration of his period of placement be apprehended without a warrant, and may be brought back before a Magistrate and shall be liable on conviction to be brought back to the Community Residence from which he has escaped—

(a) and, in the case of a child offender placed at a Rehabilitation Centre –

(i) to have the period of his placement increased by such period, not exceeding six months, as the Magistrate directs; or

(ii) if the age of sixteen years or over, he shall be liable to be sent to the Rehabilitation Centre as established by the Young Offenders Detention Act, for a term of three months and at the expiration of the term, he may be required to serve the balance of the period in the Community Residence; or

(b) or, in the case of a child twelve years of age or over in a Children's Home, to be placed at a Rehabilitation Centre and there to be placed subject to the provisions of this Part.

Period of escape not
reckoned in period of
placement

65C. Where a child offender has been absent from a Community Residence either because he has escaped or been imprisoned under this Part, the time he has been absent shall not be computed as part of the period of his placement and the period of his placement shall continue when he is brought back to the Community Residence.

Placement beyond
limitation period

65D. Where in computing the time of placement under section 65C, the period of placement extends beyond the limits imposed by the Part, the child offender shall continue his placement notwithstanding such extension.

Offence of assisting to
escape and harbouring, etc.

65E. Where a person –

- (a) knowingly assists or induces, directly or indirectly, an offender placed in or placed out on licence from a Community Residence to escape from a Community Residence or from any person with whom he is placed out on licence;
- (b) knowingly harbours, conceals or prevents a child offender from returning to a Community Residence or to any person with whom he is placed out on licence; or
- (c) knowingly assists in harbouring, concealing or preventing a child offender from returning to a Community Residence or to any person with whom he is placed out on licence,

he is liable on summary conviction to a fine of one thousand five hundred dollars or to imprisonment for twelve months.

Orders and notices

65F. (1) An order or other act of the managers of a Community Residence under this Part may be signified under the hands of the managers or their secretary or a clerk.

(2) Any notice may be served on the manager of a Community Residence by being delivered personally to any one of them or by being sent by post or otherwise, in a letter addressed to them or any of them at the Community Residence, or at the usual or last known place of abode of any of the managers or of their secretary or clerk.

(3) No summons issued, notice given, or order made for the purpose of carrying into effect the provisions of this Part shall be invalidated for want of form only.

New clauses 65A to 65F read the first time.

Question proposed: That the new clauses be read a second time.

Dr. Browne: Clause 65E; I am seeking some clarification from the Government on the liability on summary conviction to a fine of \$1,500 or imprisonment for 12 months. These are circumstances describing the luring, the inducing, the harbouring, concealment of a child out of a community residence. The fine appears unusually light, particularly when one regards the newly proposed clause 92 which refers to employment of a child and the penalty is \$12,000 and 12 months imprisonment. I believe these are potentially serious offences under clause 65E and may not be unusual, maybe more common than we would like, and therefore a fine of \$1,500 appears more of a nuisance fine and I would recommend the fine be strengthened.

Dr. Moonilal: Chairman, I am instructed that this was taken from the old Act and it is consistent with the scale that operates at the summary court level.

Dr. Browne: The \$1,500 fine, what was the explanation? I am sorry.

Dr. Moonilal: It is consistent with the scale at the summary court.

Dr. Browne: Well, the whole purpose of this Bill—I do not need to take us back to why this Bill is before us. It is recognizing the evolution of offences and seeking to strengthen them, so I am not very much comforted by the explanation. *[Interruption]* All the measures in this Bill are defeated if you have individuals who are willing—and I suspect there may be those who would be willing—to ignore a \$1,500 fine and lure, induce, harbour, conceal a child, or remove a child from a community residence in an illegal fashion.

Dr. Gopeesingh: So what do you want, \$12,000?

Dr. Browne: Strengthen that fine, give it some teeth.

Dr. Gopeesingh: Well, say that.

Dr. Moonilal: Member for Diego Martin Central, are you in a position now to make a recommendation?

Dr. Browne: I recommend \$12,000.

Mrs. Persad-Bissessar SC: I think you are probably just pulling that out of a hat—[*Interruption*—no, with due respect, because you want to see a greater penalty, but it would be more prudent, this Bill has to go to the Senate for the Minister and the team to look at it and make sure that we are harmonious and consistent with other offences within the legislation. So, we can give that undertaking today that when it goes to the Senate, well, prior to going to the Senate that the penalties be looked at again.

Dr. Browne: All right, and as we are looking at offences, I take offence to reference of pulling something out of a hat. I did make reference to clause 92, where, there was a similar fine recommended under the same Bill.

Mrs. Persad-Bissessar SC: The explanation is taken. I said with due respect.

Dr. Browne: Let us be a little more cautious with our language, please.

Mrs. Persad-Bissessar SC: With due respect, Sir. I did say pulling something out of a hat with due respect to you and your explanation is taken. We give the undertaking that we would consider it; we would go to the Senate and give consideration to your comment.

Mr. Chairman, we do have some further changes to clause 65B, so we will go on to clause 65A for now. [*Interruption*] We ask that clause 65A be amended as circulated and then we go to clause 65B.

Mr. Chairman: Be amended as circulated?

Mrs. Persad-Bissessar SC: Which is insertion; new clause 65A be inserted.

Mr. Chairman: Let us clear new clause 65A first.

Question put and agreed to.

Question proposed: That new clause 65A be added to the Bill.

Question put and agreed to.

New clause 65A added to the Bill.

Mrs. Persad-Bissessar SC: We beg to move that new clause 65B(a) be amended as follows: in the chapeau of 65B(a) insert after the word “offender” the words “under the age of sixteen years”. In addition, we beg to move that new clause 65B(a)(ii) be amended as follows: insert after the word “period” the words “in the community residence.”

Question put and agreed to.

Question proposed: That new clause 65B, as amended, be added to the Bill.

Question put and agreed to.

New clause 65B, as amended, added to the Bill.

Question put and agreed to.

Question proposed: That new clauses 65C to 65F be added to the Bill.

Question put and agreed to.

New clauses 65C to 65F added to the Bill.

New clauses 81 to 92.

Dr. Moonilal: Mr. Chairman, I propose new clauses 81 to 92, which read as follows:

Interpretation

81. In this Part –

Chap. 88:01

“Court” means the Industrial Court established under the Industrial Relations Act;

“employ” and “employment” include employment in any labour exercised by way of trade or for the purposes of gain, whether the gain be to the child or to any other person;

“family” means parents, brothers, sisters and other lineal antecedents and descendants;

“industrial undertaking” includes particularly –

(a) mines, quarries and other works for the extraction of minerals from the earth;

(b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including ship building, and the generation, transformation, and transmission of electricity and motive power of any kind;

(c) construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gasworks, water-works or other work of construction, as

well as the preparation for or laying the foundations of any such work or structure; and

(d) transport of passengers or goods by road or rail or inland waterway, including the handling of goods at docks, quays, wharves, and warehouses but excludes transport by hand.

President may define industrial undertakings

82. The President may by Order define and declare any particular undertaking to be an industrial undertaking for the purposes of this Part.

Restrictions on employment of a child under the age of sixteen years

83. Subject to section 84, a child under the age of sixteen years shall not be employed or work in any public or private undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed; and any person who employs any such child, commits an offence.

Disapplication of section 83

84. Section 83 shall not apply to work done by –

- (a) a child in school for general, vocational or technical education or in other training institutions; or
- (b) a child at least fourteen years of age in undertakings, provided that the work is carried out in accordance with conditions prescribed by the Minister with responsibility for education after consultation with the organisations of employers and workers concerned and the work is an integral part of -
 - (i) a course of education or training for which a school or training institution is primarily responsible;
 - (ii) a programme of training mainly or entirely in an undertaking which

programme has been approved by the Minister with responsibility for education; or

- (iii) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

Duty of employers to keep register of persons under the age of eighteen years

85. (1) All employers shall keep and maintain a register of every child employed by them, as well as the name, address, and date of birth of every person.

(2) The register shall on request by an inspector of the Ministry with responsibility for labour be produced for inspection at any reasonable hour of any working day.

(3) An employer who fails to comply with this section is liable on summary conviction to a fine of two thousand, five hundred dollars and to imprisonment for six months.

Inspectors

86. (1) The Minister to whom responsibility for labour is assigned may designate in writing a suitably qualified public officer as an inspector in his Ministry.

(2) An inspector shall have the authority to require a parent or guardian or an employer or any other person authorised by an employer, except a person engaged in a confidential and professional relationship with that employer to —

- (a) give him information with respect to remuneration paid to, and the terms and conditions of service enjoyed by, a person under the age of eighteen years in the service of that employer; and
- (b) permit him to inspect any record, pay sheet or certificate or representation of age relating to a person under the age of eighteen years.

Powers of entry

87. (1) An inspector may, at a reasonable time and with the permission of the owner or occupier of any premises, enter the premises where a person under the age of eighteen years is employed or where there is any book, record or other document relating to a person under the age of eighteen years which may afford evidence as to the contravention of any provision of this Act and—

- (a) if necessary, with the assistance of any person, search the premises for any book, record, certificate or representation of age or other document; and
- (b) examine such book, record, certificate or other document.

(2) Where during the course of the examination under subsection (1), it appears to the inspector that there has been a contravention of this Act, he may —

- (a) require the parent, guardian, employer, or any other person in the service of that employer to give him all reasonable assistance with, and to answer all questions relating to, the examination; or
- (b) seize and take away any book, record or other document, relating to a person under the age of eighteen years and retain them until they are required to be produced in any proceeding; but where such book, record or other document is necessary for the continued operations of the business, an employer shall be allowed reasonable access to them.

(3) An inspector shall not demand entry to any premises under subsection (1) except on the warrant of the Court.

(4) Where it is shown to the satisfaction of a Judge, on sworn information in writing, that admission to premises has been refused or withheld and that there is reasonable ground for entry into the premises for any purpose stated in subsection (1), the Judge may, subject to subsection (5), by warrant under his hand, authorise entry on the premises.

(5) A Judge shall not issue a warrant under subsection (4) unless he is satisfied either that written notice of the intention to apply for a warrant has been given to the occupier; or that the giving of such notice would defeat the object of the entry.

(6) Where an inspector enters any premises by virtue of this section he may take with him any other person as may be necessary to effect the purpose of his entry.

(7) A warrant issued under this section shall continue in force for such reasonable time as may be necessary to effect the purpose for which it was issued.

(8) A person who obstructs any person doing anything that he is authorised to do under this section or any person who, unless he is unable to do so, fails or refuses to do anything which he is required under this section to do, commits a contempt of the Court, and shall be dealt with as such by that Court as provided under the Industrial Relations Act.

(9) In this section "Judge" means the President or Vice-President of the Industrial Court.

Neglectful parent

88. A parent or guardian who conduces to the employment of a child under the age of sixteen years through wilful default, or by habitually neglecting to exercise due care, commits an offence.

Liability of agent or employer	89. Where the offence of taking a child under sixteen years of age into employment is committed by an agent or workman of the employer, the agent or workman commits an offence as if he were the employer.
False certificate of representation of age	90. Where a child under sixteen years of age is taken into employment on the production by, or with the privity of the parent or guardian of a false or forged certificate, or on the false representation by his parent or guardian, that he is not sixteen years of age, the parent or guardian commits an offence.
Presumption of age	91. Where a person is charged with an offence under this Part and it is alleged that the child in respect of whom the offence was committed was under sixteen years of age at the date of the commission of the alleged offence, the child shall, for the purposes of this Part, be presumed at that date, to have been under sixteen years of age unless the contrary is proved.
Penalty	92. A person who commits an offence under this Part where no penalty is prescribed is liable on summary conviction to a fine of twelve thousand dollars and to imprisonment for twelve months.”

New clauses 81 to 92 be read a second time.

Question proposed: That the new clauses be read a second time.

Mr. Imbert: Mr. Chairman, I will start with clause 85, and this is relevant in the context of a query that the Member for Diego Martin Central raised with respect to clause 65E. If you look at the penalty in clause 85(3)—[*Interruption*—no, I am talking about clause 85.

Mr. Chairman: Is that a new clause?

Mrs. Persad-Bissessar SC: Yes.

Mr. Chairman: Well, let us deal with clauses 81 to 84 “nah”, and then we will come to clause 85.

Mr. Imbert: Sure, but you went to clause 92. No problem.

Question put and agreed to.

Question proposed: That the new clauses 81 to 84, be added to the Bill.

Question put and agreed to.

New clauses 81 to 84 added to the Bill.

Mr. Imbert: Thank you, Mr. Chairman. The fine in clause 85(3) is \$2,500; the term of imprisonment is six months. When you look at other clauses such as 92 the fine is \$12,000, imprisonment for 12 months—and I will deal with clause 92 when we come to it—because when I see clause 85—and I would like to us revisit clause 65E if we can—there appears to be some inconsistency in the mix of custodial sentence and fines: 2005, imprisonment for 6 months, then later on, \$12,000; imprisonment for 12 months and previously a fine of \$1,500 and imprisonment for 12 months. It seems to be a bit a bit confused and inconsistent.

Dr. Moonilal: Mr. Chairman, may I also add that was the 2009 Bill, passed by the former administration, this is exactly how they had it. It is copied from that: “An employer who fails to comply in the exact fines”, so it was taken from the 2009 Bill. [*Interruption*]

Mr. Imbert: Yes, when I get a chance I will answer you. The 2009 Bill was in fact not passed; remember it went to a select committee and it died a natural death. But be that as it may there is some arbitrariness in terms of the fines when you match them to the custodial sentences. They do not really make sense. They are not consistent. You cannot have a fine of \$1,500 and a custodial sentence of 12 months, then a fine of \$2,500 and a custodial sentence of six months, and then a fine of \$12,000 and a custodial sentence of 12 months; there is no parity in terms of the fine and the custodial sentences. This needs some looking at; something is wrong here.

Dr. Moonilal: Mr. Chairman, we are prepared again to look at this as we indicated earlier, when it goes to the other place. I am told that it deals with the severity of the conduct of the employer, but it is something that we can look at, notwithstanding that it was in the 2009 legislation.

Mr. Imbert: But even so, even so, what is the crime here, simply not keeping a register, a logbook—

Dr. Moonilal: You find it is too severe?

Mr. Imbert: No. I am just saying that if for not keeping a book with the name and address of children who are employed you are going to be fined \$2,500; but if you are helping somebody to escape from a place of detention you would only be charged \$1,500; it does not make sense.

Dr. Moonilal: Okay, you are already building a case for the Member for Diego Martin Central.

Mr. Imbert: Well, he was right. He was right, there is an issue there.

Dr. Moonilal: Okay, we would look at it. We would make the commitment that—in the Senate, if you could speak—well, I do not know if you communicate with Sen. Al-Rawi, but if your colleagues there—

Mr. Imbert: Are you trying to put me in trouble now?

Dr. Moonilal: If you send a letter to him, you know, we can raise it, sure.

11.05 p.m.

Mr. Imbert: Once you give the commitment that you would look at those three clauses 65E, 85(3) and 92, and harmonize the fines and the custodial sentences, I think we can accept that.

Dr. Moonilal: We give the undertaking, and Member for Diego Martin North/East—the Government would be very pleased if you would also communicate with your colleagues in the other place so that we can all be on the same page.

Mr. Imbert: Still trying to put me in trouble. But yes, I will do so. I give you that assurance. I give you that undertaking.

Question put and agreed to.

Question proposed, That the new clause 85 be added to the Bill.

Question put and agreed to.

New clause 85 added to the Bill.

Mr. Imbert: There is another problem with 92 apart from the inconsistency of the fine and custodial sentence. I think you need to add some words to the

effect that, “notwithstanding any penalty prescribed in this part” or “if there is no penalty prescribed”, because 85 prescribes a penalty and it is in this part. The penalty in 85 is \$2,500 and six months. But 92 says:

“A person who commits an offence under this Part is liable on summary conviction to a fine of twelve thousand dollars...”

So you have to distinguish where no penalty is prescribed. This is a catch-all that is saying that the fine would be \$12,000 and imprisonment would be 12 months.

Mrs. Persad-Bissessar SC: What the counsel is saying to us is that it can go as is, but out of an abundance of caution we may be able to clarify it right now.

Mr. Imbert: I have seen it in other legislation where you make it clear where no penalty is prescribed. Right, okay.

Mrs. Persad-Bissessar SC: We are saying that we are so willing to do. So counsels will address their minds.

Mr. Imbert: Just put, “where no penalty is prescribed”.

Mr. Chairman: I would like to clear clauses 86 to 91 first and then we would go to clause 92.

Question proposed: That new clauses 86 to 91 be read a second time.

Question put and agreed to.

Question proposed: That new clauses 86 to 91 be added to the Bill.

Question put and agreed to.

New clauses 86 to 91 added to the Bill.

New clause 92.

Dr. Moonilal: Mr. Chairman, I beg to move that new clause 92 be amended as follows:

“A person who commits an offence under this Part where no penalty is prescribed is liable on summary conviction to a fine of twelve thousand dollars and to imprisonment for twelve months.”

After the word “Part” in line 2, we insert “where no penalty is prescribed”.

Question proposed: That the new clause, as amended, be read a second time.

Question put and agreed to.

Question proposed: That the new clause, as amended, be added to the Bill.

New clause 92, as amended, added to the Bill.

Question put and agreed to.

Mr. Chairman: We have a new clause 99?

New clause 99.

Dr. Moonilal: Mr. Chairman, I propose a new clause 99 which reads as follows:

“Inconsistency 99. Where a person may be charged in respect of the
With other laws same conduct both with an offence under the
provisions of this Act and an offence specified in
any other enactment, the provisions of this Act
shall apply to the exclusion of any such
enactment.”

New clause 99 read the first time.

Question proposed: That the new clause be read a second time.

Question put and agreed to.

Question proposed: That the new clause be added to the Bill.

Question put and agreed to.

New clause 99 added to the Bill.

Mr. Imbert: Mr. Chairman, could I just get a confirmation that we dealt with the amendment to 93 and 98(a). Have we done that previously?

Mr. Chairman: Yes we did.

Mr. Imbert: Okay.

Schedules 1 and 2 ordered to stand part of the Bill.

Schedule 3.

Question proposed: That Schedule 3 stand part of the Bill.

Dr. Moonilal: I beg to move that Schedule 3 be amended as circulated:

Schedule 3 Delete and substitute the following paragraph:
Item 3(e)

“(e) in section 16—

(i) by deleting subsection (1) and substituting the following subsection:

“(1) A person who commits an act of serious indecency on or towards another is liable on conviction to imprisonment for five years;”

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- (ii) in subsection (2)(a), by deleting the word “or”;
- (iii) in subsection (2)(b), by inserting the word “or” at the end thereof; and
- (iv) by inserting after subsection (2)(b), the following paragraph:
 - “(c) persons to whom section 20(1) and (2) and (3) of the Children Act, 2012 apply.”

Schedule 3 Delete the word “11” and substitute the word “13”.

Item 3(i)(b)

Question put and agreed to.

Schedule 3, as amended, ordered to stand part of the Bill.

Preamble approved.

Mr. Chairman: I want to advise that the renumbering, all the consequential renumbering will be done by the CPC before it goes to the Senate. So we do not have to detain ourselves on those matters.

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

House resumed.

Bill reported, with amendment.

Mr. Speaker: This Bill requires a special majority of three-fifths and a division is required.

The House voted: Ayes 39

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar SC, Hon. K.

Dookeran, Hon. W.

Mc Leod, Hon. E.

Sharma, Hon. C.

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Alleyne-Toppin, Hon. V.
Warner, Hon. J.
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.
Ramadharsingh, Hon. Dr. G.
Ramadhar, Hon. P.
De Coteau, Hon. C.
Khan, Hon. Dr. F.
Indarsingh, Hon. R.
Baker, Hon. Dr. D.
Samuel, Hon. R.
Douglas, Hon. Dr. L.
Roopnarine, Hon. S.
Ramdial, Miss R.
Partap, Hon. C.
Khan, Mrs. N.
Mc Donald, Miss M.
Rowley, Dr. K.
Cox, Miss D.
Hypolite, N.
Mc Intosh, Mrs. P.
Imbert, C.

Children Bill, 2011

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Jeffrey, F.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Gopee-Scoon, Mrs. P.

Question agreed to.

Bill accordingly read the third time and passed.

11.20 p.m.

ADMINISTRATION OF JUSTICE (DEOXYRIBONUCLEIC ACID) BILL, 2011

Senate Amendments

The Minister of Justice (Hon. Hubert Volney): Mr. Speaker, I beg to move the following Motion in my name:

Be it resolved that the Senate amendments to the Administration of Justice (Deoxyribonnucleic Acid) Bill, 2011 listed in appendix 2 to the Order Paper, be now considered.

Question proposed.

Question put and agreed to.

Mr. Speaker: Hon. Members, as you are aware, there are some 37 amendments coming from the other place. With your leave, could I suggest we deal with these in groups of 10? Is that acceptable to hon. Members?

Assent indicated.

Mr. Speaker: I think the ayes have it. We shall proceed in groups of 10.

Senate amendments read as follows:

Clause 4.

A. Insert in the appropriate alphabetical sequence the following definitions:

“ “complainant” means a person against whom an alleged sexual offence has been committed;

“Forensic DNA analyst” means a person who conducts forensic DNA analysis on behalf of the Trinidad and Tobago Forensic Science Centre;

“suspect” means a person whom the police have reasonable grounds for believing-

- (a) is about to commit an offence; or
- (b) may have committed an offence, and who is being investigated by the police in relation to that offence;”.

B. In the definition of “non-intimate sample” insert the word “plucked” before the word “hair”.

C. In the definition of “representative” –

- (i) delete the word “or” after the words “worker;”;
- (ii) insert the word “or” after the words “Authority;”; and
- (iii) insert after paragraph (e) the following new paragraph:

“(f) a person appointed by the Court;”.

D. Delete the definitions of “analyst” and “DNA register”.

Clause 5.

Delete clause 5 and substitute the following clause:

Official
Forensic
DNA
laboratory

5(1) The Trinidad and Tobago Forensic Science Centre shall be the official forensic DNA laboratory for Trinidad and Tobago.

(2) The Trinidad and Tobago Forensic Science Centre shall have custody of and control over all DNA samples and DNA profiles, including the Forensic DNA Databank of Trinidad and Tobago.

(3) For the purposes of this Act, a register to be known as “the DNA Register” shall be established by the Trinidad and Tobago Forensic Science Centre.”

Mr. Speaker: Hon. Members, may I have your attention, please. The Clerk has begun reading extensively clauses 4 and 5, coming out of the other place. I would like to suggest that all the clauses are before us and they have been before us for the last few weeks. So with your indulgence, may I ask Members if we can proceed with just outlining the numbers? So if we are going in groups of 10, we would go to 4, 5, 7, 8, 9, 10, 11, 13 and 14.

Mr. Imbert: A point of order, Mr. Speaker: 59(3).

Mr. Speaker: Yes, continue.

Mr. Imbert: Mr. Speaker, 59(3) says that the Clerk must read out the entire amendment.

Mrs. Persad-Bissessar SC: Hon. Speaker, if I may, I beg to move that Standing Order 59(3) be waived in this instance so that we can take the amendments en bloc. [*Crosstalk*]

Mr. Speaker: Hon. Members, hon. Members, may I have your attention again? I got the distinct impression before you rose that there was an agreement.

Dr. Moonilal: There is.

Mr. Speaker: You see, under Standing Order 94, once there is an agreement between the parties, we proceed.

Mrs. Gopee-Scoon: What agreement is that?

Mr. Speaker: Well, the Member for Port of Spain South is in agreement that we approach the matter as I have identified. That is how the agreement has come about. So we are saying that we want to take it in groups of 10 and we deal with the numbers rather than go through the entire exercise. [*Crosstalk*] Hon. Members, hon. Members, you see, I was trying to arrive at a consensus, and if there is no consensus on this matter I will ask the Clerk to continue as he has started.

So could you go on as you have started, please? There is no agreement.

Clause 7.

In subclause (2)—

- (i) insert the words “Subject to section 26”, before the word “DNA” in the first place it appears; and
- (ii) delete the word “may” and substitute the word “shall”.

Clause 8.

- A. In subclause (1) insert the words “a public officer and shall be” after the word “be” in the second place in which it occurs.
- B. Delete subclauses (2) to (6).

DNA Bill, 2011

Wednesday, April 25, 2012

- C. Insert the following new clause after subclause (1) and renumber accordingly:

“(2) There shall be a Deputy Custodian of the Forensic DNA Databank who shall—

- (a) be a public officer; and
- (b) in the absence or incapacity of the Custodian, act in his place.”

Clause 9.

Delete clause 9 and substitute the following clause:—

Dr. Khan: Mr. Speaker, could I get a point of order?—44(1). [*Crosstalk*]

Mr. Speaker: Hon. Members, I would suggest that in the circumstances I will have to put to the House this particular matter and somebody will have to move a Motion to that effect.

Mrs. Persad-Bissessar SC: Hon. Speaker, thank you for this opportunity.

I beg to move that in accordance with the relevant Standing Order 44, that Standing Order 90 be suspended to permit—hon. Speaker, I am hearing whimpering from the other side. [*Laughter*]

Thank you, hon. Speaker. I beg to move, in accordance with Standing Order 44(1), that the relevant Standing Order 59 be suspended to permit this House to proceed to consider the Senate Amendments to the DNA Bill, according to groups of 10 without the same being read by the Clerk.

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

Question put and agreed to.

Mr. Speaker: So we will proceed in accordance with the wishes of the House.

Senate amendments read as follows:

Clause 9.

Delete clause 9 and substitute the following clause:

“Transitional 9(1) Without prejudice to the power of the Public Service Commission to make an appointment to the office of Custodian or Deputy Custodian, where prior to the

making of the first appointment, after the Act comes into operation, the exigencies of service require a person to perform functions related to that office, the Minister may engage a person on contract, in order to secure the interests of the Forensic DNA Databank.

(2)The engagement of a person on contract under subsection (1), shall be in accordance with the guidelines for contract employment established by the Chief Personnel Officer.”

Clause 10.

Delete paragraphs (c) and (d) and substitute the following:

“(c) ensure that DNA data is securely stored and remains confidential;

(d) perform such functions and duties as may be required of him under this Act or any other written law, and in the exercise of such functions, act independently.”

Clause 11. In subclause (2) insert the words “, but not later than six months after receipt” after the word “thereafter”.

Clause 13. A. In subclause (1) insert the words “or qualified person” after the words “police officer”.

B. In subclause (2) –

(i) delete the word “A”;

(ii) insert the words “No one other than a” before the words “qualified person”; and

(iii) in paragraph (d), insert the words “and has been charged with or convicted of a criminal offence” after the word “facility”.

C. Insert the following new subclause after subclause (2):

“(3) A sample under subsection (2)(c) shall be taken in the presence of a witness.”.

Clause 14. A. In subclause (6) –

(i) insert the words “by a qualified person” after the word “taken”; and

(ii) in paragraph (d), insert the words “and has been charged with or convicted of a criminal offence” after the word “facility”.

B. Insert the following new subclause after subclause (6):

“(7)A sample under subsection (6)(c) shall be taken in the presence of a witness.”.

Clause 16. Delete clause 16 and renumber accordingly.

Clause 17. A. Delete subclause (1) and substitute the following subclause:

(renumbered
as 16).

“(1)Where a citizen of Trinidad and Tobago –

- (a) is deported from any place outside Trinidad and Tobago; and
- (b) has been convicted of, or has served a term of imprisonment for, an offence which would have been an indictable offence if it had been committed in Trinidad and Tobago,

a non-intimate sample shall, on that citizen’s arrival in Trinidad and Tobago, be taken from him without his consent by a qualified person at any port of entry.”.

B. Delete subclauses (3) to (8) and renumber accordingly.

C. In the renumbered subclause (3) delete the words “a “citizen of Trinidad and Tobago” has the meaning assigned to it by the Immigration Act.” and substitute the words “citizen of Trinidad and Tobago” and “port of entry” have the meanings respectively assigned to them by the Immigration Act.”

Clause 18.

(renumbered
as 17).

A. Delete subclause (1) and substitute the following subclause:

“(1)Where a person is reported missing, a police officer may collect and submit for forensic DNA analysis:

- (a) any item belonging to or used by the missing person; or
- (b) any sample by which a familial relationship to the missing person may be determined.”

B. In subclause (3) insert the words “or a qualified person” after the word “officer”.

Mr. Volney: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the amendments to clauses 4, 5, 7, 8, 9, 10, 11, 13, 14, 16, 17 and 18.

Mr. Volney: Unless there is some request of Members opposite—

Mr. Speaker: I think you just owe us a little duty; just give us a brief, you know, explanation.

Mr. Volney: Mr. Speaker, for clause 4 a new definition was added for complaint to define victim of sexual offences. The definition of “analyst” was changed to “Forensic DNA Analyst” for greater clarity. The definition for “suspect” was added in order to define that group with more certainty. The word “plucked” is included before “a hair” in the definition of non-intimate sample, because the DNA is only retrievable from a hair follicle. And the definition of “representative” is broadened to include persons appointed by the court.

In clause 5, as a result of a diligent and detailed, collaborative effort in the other place, it was decided that the TTFSC, Trinidad and Tobago Forensic Science Centre, was entrusted with custody of the samples and profiles, including the National Forensic DNA Databank. The DNA register is to be established and maintained by the Forensic Science Centre now with a view towards documenting and better securing the chain of custody for evidential purposes.

Clause 7, it was agreed—and I submit that the Bill is significantly strengthened—that the exclusionary clause, clause 26, would be included to make provision for profiles to be expunged in specific cases, so that the profiles of complainants’ children and exonerated persons will not be kept on the DNA databank for an excessive length of time.

Clauses 8 and 9: the offices of custodian and deputy custodian were made public offices—this is a change—with a view towards ensuring their independence, and there is a transitional provision included that prior to the first appointment by the Public Service Commission, the custodian and deputy

DNA Bill, 2011
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custodian may be hired on a contractual basis in order to ensure that the implementation of the legislation is not duly hampered by administrative red tape.

11.35 p.m.

Mr. Speaker, this was in response to the concerns raised in this very Chamber when the Bill was first before the House.

Mr. Speaker, clause 10: additional provisions were included here towards ensuring that the DNA data is securely stored and remains confidential. Report of the custodian in clause 11; provision was included that the Minister shall cause the report to be laid in Parliament within one month of receipt but no later than six months after receipt.

Again, these are matters that were requested by those opposite. And, in clause 14, qualified persons are now authorized along with police officers to take non-intimate samples. Samples are now to be taken from juveniles resident in a juvenile residential facility, who are charged with, or convicted of a criminal offence. This is a change that was asked for by those opposite in this honourable House.

Given those explanations, Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in those amendments.

Question proposed.

Mr. Imbert: Thank you, Mr. Speaker. Mr. Speaker, it is unfortunate the Government thought it was appropriate to hide from the general public the extent of the amendments by moving a Motion that they not be read. [*Desk thumping*] It is all very well, through you, Mr. Speaker, for the Leader of Government Business to say that we in this Chamber are privy to these amendments but the general public is not, because there is no record of the amendments because you have prevented the clerk from reading our the amendment. It is therefore necessary—

Mrs. Persad-Bissessar SC: Mr. Speaker, on a point of order. Thank you very much, hon. Speaker. The hon. Member, in my respectful view, is in breach of Standing Order 36(5) imputing improper motives to Members of the Government.

Hon. Members: Yes, yes.

Dr. Moonilal: The Order Paper is a public document.

Mr. Speaker: Hon. Member, I want to advise that the House has properly determined its business. I think that, you know, we live in a democratic society

and I think if the House has determined democratically how it wants to conduct its affairs, I think you need to be a little careful in trying to impute or trying to attribute negative views to the Government side. So, I want to sustain that point.

Mr. Imbert: Thank you, Mr. Speaker. [*Crosstalk*] Would you be quiet? I will now go to the first amendment, which is the amendment to clause 4. This amendment creates a definition of an individual entitled a Forensic DNA Analyst. And a Forensic DNA Analyst which is now introduced into the Bill, means a person who conducts DNA analysis on behalf of the Trinidad and Tobago Forensic Science Centre.

Another definition that has been introduced into this legislation is the definition of “suspect” which now means a person whom the police have reasonable grounds for believing is about to commit an offence or may have committed an offence, and who is being investigated by the police in relation to that offence.

Now the import of these definitions is that the Government, using its majority, is going to railroad this through the Parliament and the effect of this—let me deal with the second one first.

The effect of defining a suspect in this way means that all of those young men who were corralled into a prison during the state of emergency, if this had been in effect then, their DNA could have been harvested. They would not have committed any crime, they were eventually not charged for any crime, but if this Bill had been in effect then, the DNA of all those men unfortunate young men would have been harvested and then they would have been released back into the system.

We on this side cannot agree to legislation where you simply will identify a suspect as somebody that the police have reasonable grounds to believe is about to commit an offence, may have committed an offence and is being investigated. And, you just pick up a whole bunch of young men from our constituencies in particular, people from depressed areas—[*Crosstalk*] You could say what you want, you know, facts are facts. The effect of this redefinition of suspect means that innocent young men can be picked up and detained and you can harvest their DNA in the hope that you would eventually catch them associated with some crime. You just pick them up. Thousands of young men can be just picked up and you harvest their DNA. We on this side are not agreeing to that.

Let me signal right off the bat. This is not like the legislation that we just dealt with, you know, where the Minister of Gender, Youth and Development had the sense to listen to the proposals made by the Opposition, had the good sense and

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the good grace to listen to the proposals made by the Opposition and as a consequence we have a vastly improved Children Bill. It is not like that. What you are trying to do here, you have completely ignored the main points made by the Opposition in the debate on this Bill. And, Mr. Speaker, I object to the misleading impression being given by the Minister of Justice that these amendments are as a result of requests made and positions advanced by Members of this side during the debate. That is just not true. I want to signal that we are not supporting this Bill. [*Desk thumping*] We will not support any move by this Government to just pick up innocent young men and harvest their DNA just because you think they do not look the right way or they are stereotyped. You just pick them up and harvest their DNA. We are not agreeing to that. That was the first part of clause 4 that we object to.

The second part that we object to is—this is highly irrational—you could just put in a Bill that a Forensic DNA Analyst is somebody who conducts forensic DNA analysis on behalf of the Forensic Science Centre. No qualifications—no qualifications, nothing to establish that this person is in fact an expert. We will come to that in due course, when we deal with the appropriate section.

I cannot support, Mr. Speaker, as someone with a scientific background—the Minister does not have a scientific background. But, there are Members opposite who have a scientific background so they should speak to him. I cannot support designating somebody as an expert in matters where you are dealing with life and death, where persons could be incarcerated, where persons could be sentenced to death and you simply get up one Monday morning and you say a Forensic DNA Analyst is somebody who works with the Forensic Science Centre. Nonsense! Cannot accept that!

It has to be a suitably qualified person who would be defined as a DNA analyst. Not just somebody who works with the Forensic Science Centre; this is just unacceptable. I am convinced that the first person who is charged with respect to this DNA legislation who has the means to hire competent lawyers, this legislation is going to be struck down as being unworkable and in fact even unconstitutional. [*Desk thumping*] I am satisfied with that. [*Interruption*] [*Crosstalk*] Thank you? I am only on clause 4.

If we go to clause 5 now, Mr. Speaker, look at what clause 5 says:

“The Trinidad and Tobago Forensic Science Centre shall be the official Forensic DNA Laboratory for Trinidad and Tobago.”

And, it goes on to say:

“The Trinidad and Tobago Forensic Science Centre shall have custody of and control over all DNA samples and DNA profiles, including the Forensic DNA Databank...”

And this is why I was aggrieved when the decision was taken by the hon. Members opposite not to have these things read out, because people need to know what this Government is up to. And, the Minister by imperial fiat, by decree, has with the wave of a magic wand, without any accreditation, without any certification by any competent body, with the wave of a wand, has decreed that the Forensic Science Centre is now an accredited laboratory—because, he say so. Because the hon. Minister of Justice says that, the Forensic Science Centre is now an accredited laboratory, it is so. This is absolutely unacceptable in a civilized country.

So we have a situation where the Minister by imperial decree has designated the Forensic Science Centre as an accredited laboratory without them having to go through any accreditation procedure and an analyst is now by imperial decree, designated by the Minister as somebody who works in the Forensic Science Centre and does DNA analysis—so in matters of life and death where persons can be sentenced to death based on DNA analysis. [*Desk thumping*] This is unacceptable. I really would like to know what judicial officer in Trinidad and Tobago would accept DNA evidence from a laboratory that has not been accredited by any competent body and from analysts who have no qualifications according to law.

That is why I say, I am satisfied that the first person who has means, who can hire a competent lawyer who challenges this legislation will succeed and this legislation will be deemed to be incompetent and will be struck down. It is unbelievable.

When we had the select committee of this House on a previous occasion, in a previous incarnation where we had persons such as the Member for Caroni East who in those days was adopting a very scientific approach to the whole question of the accreditation of the Forensic Science Centre, quite properly telling us in the committee that standards are important and you cannot have a Forensic Science Centre just willy-nilly, just giving information and certificates without any form of accreditation. And, the hon. Member for Caroni East demanded that we put a regime in place to accredit the local Forensic Science Centre to international standards.

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He was absolutely correct in his requirements in the previous incarnation when he was a Member of the committee dealing with the Forensic Science Centre. He was right. It is amazing what happens when you have a change of Government.

11.50 p.m.

The same person who is a medical doctor by profession, a scientist, who knew a couple of years ago how important it was to have international third party accreditation of our forensic laboratory and international third party accreditation of the personnel inside of there, who are dealing with samples and doing DNA analysis, it is incredible that the hon. Minister, the hon. Member for Caroni East, knew then that that was a requirement and should be done in order to avoid injustice and in order to avoid wrongful conviction and so on, but he does not know now.

He is part of the Government and he does not know now and he is going along, the hon. Member, with the accreditation of the Forensic Science Centre by imperial fiat. “He cyah say nothing.” The record of the verbatim accounts of the committee that he sat on, the hon. Member, is there. He is the one who insisted—
[*Interruption*] Sure.

Dr. Gopeesingh: During that contribution, where we had discussions in a Special Select Committee, there was indication that the forensic laboratory of Trinidad and Tobago will seek accreditation internationally with an international accreditation body, but they will be able to function while we are waiting for the international accreditation.

So, as it is at the moment, with this Bill, we can still work with the forensic lab as it is while still waiting for international accreditation. There is no hard and fast rule that we must get accreditation internationally first before this must be recognized as the forensic laboratory. I am sure you will agree with me on that.

Mr. Imbert: Mr. Speaker, what I can agree with and what I recognize, through you, is that the hon. Member is singing for his supper; he is a Member of the Government. [*Interruption and crosstalk*] “Singing for his supper” is unparliamentary now?

Mr. Speaker: You cannot do that; you know better than that.

Mr. Imbert: Well, I withdraw. The hon. Member is singing a different song now than when he was singing the song he was singing a couple of years ago. There are no meals involved, whether it is lunch, breakfast, dinner or supper.

But, the fact of the matter is, what the hon. Member for Caroni East just omitted to tell this Parliament is that when we looked at this matter previously—and he was the one who insisted on third party accreditation to avoid injustice—was that we agreed that only for a period of time would the Forensic Science Centre be allowed to operate, but within a particular period of years—I believe it was two or three years—they must obtain international accreditation and that was put into the law.

Dr. Gopeesingh: For three years.

Mr. Imbert: Yes, for three years; “yuh now remember”. Mr. Speaker, through you, he is now remembering that in the law, we had said that the Forensic Science Centre could operate for three years, but at the expiry of that three-year period, they must obtain international accreditation. That is now gone from this legislation. Disappeared! Kaput! Gone up in smoke!

So the concerns that the hon. Member for Caroni East had before, that they must obtain accreditation, as I said, in order for justice to be preserved, in order for proper standards, in order to have third party verification of the work of the centre, that is all now out of the window. That is why I uttered the words that offended the House about persons singing for meals and so on. Because, I just could not believe that this hon. Member could be adopting a proper position while in Opposition and a complete flip-flop while in Government.

Let us move on, Mr. Speaker. This is why we will not approve/agree. You could use your majority and railroad it through but we on this side shall not agree.

Let us move now to clause 8 and clause 9. Clause 9 requires the custodian, who is the person in charge of this Forensic Science Centre, the person in charge of the DNA databank, the person in charge of the maintenance and protection of DNA samples, which as I said could make the difference between life and death, the custodian will now be a public officer and all that is associated with being a public officer. For example, as a public officer, that person would be appointed by the Public Service Commission, and there will be a process of advertisements, interviews and so on. But, the mischief, Mr. Speaker, is in clause 9. Clause 9 says:

“Without prejudice to the power of the Public Service Commission to make an appointment to the office of Custodian or Deputy Custodian...”

Because, in clause 8, they have added now a deputy custodian who will act as the Custodian in the absence or incapacity of the custodian.

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“where prior to the making of the first appointment, after the Act comes into operation, the exigencies of service require a person to perform functions related to that office, the Minister may engage a person on contract, in order to secure the interests of the Forensic DNA Databank.”

Now, you see why they did not want us to read that out? I read it out because there is a close parallel with the Financial Intelligence Unit.

Dr. Rowley: FIU all over!

Mr. Imbert: What happened with the FIU? A person was appointed on contract, the Public Service Commission did their work—advertised, interviewed and selected a person or made a recommendation for the person that they felt was best qualified to do the job. The Prime Minister vetoed the appointment.

Mrs. Persad-Bissessar SC: Look who is talking about veto!

Mr. Imbert: The matter was raised with the Integrity Commission; the matter was raised in the public domain—[*Interruption*] Mr. Speaker, “I doh know whats going on there.” But, the important point is, the Prime Minister in explaining why the hon. Prime Minister operated her veto, the Prime Minister told us and the nation, there is somebody already in the job and we do not want to disrupt the work of the Financial Intelligence Unit. So, we have to veto the person recommended by the Public Service Commission because the person who was appointed on contract is already in place and doing their work.

Mr. Speaker: This is not a debate; these are just amendments, so make that en passant but you cannot debate it in that kind of way again, please.

Mr. Imbert: Certainly. [*Interruption*] Oh hush! Mr. Speaker, I am speaking to you. When you put a clause like this inside of here where before the Public Service Commission completes its work in making an appointment of custodian and deputy custodian, which are the most important positions in this forensic framework, that the Minister could appoint somebody on contract, you open the door for arguments later on that you have to keep that person as the custodian because they are already on the job; it is so important the whole sky will fall, the nation will collapse, if you remove that person and allow the person that the Public Service Commission has recommended to come in, as happened with the Financial Intelligence Unit. It is a fact.

Mr. Speaker, I will move on.

Mrs. Persad-Bissessar SC: Specimen!

Mr. Imbert: Well, you did not read them; I have to read them. I go to clause 13 which tells us insert the words “or qualified person” after the words “police officer”. What does this mean? Let us go and take a look at clause 13 because we need to look at clause 13 to see what is the effect of the amendment to the Bill. Clause 13 reads as follows:

“Subject to subsection (2), a police officer shall take a non-intimate sample from a person without his consent where—

(a) the person is a suspect, detainee or accused;”

Now, that takes us back to the definition I have raised because we are doing this thing in sections, and in the first item, clause 4, I made the point of the broad definition of suspect:

“a person whom the police have reasonable grounds for believing—

(a) is about to commit an offence; or

(b) may have committed an offence...”

That now ties in to the amendment to clause 13, because clause 13 allows a police officer to take a non-intimate sample from a person without his consent where the person is a suspect, and now you are adding in the qualified person. So, it is not just the police officer, it is a qualified person as well, who can take a sample from a suspect without consent. Mr. Speaker, we object to this whole concept of harvesting DNA from innocent people without their consent because we have seen what has happened in this country where a whole category of persons, [*Desk thumping*] a whole class of persons were deemed to be suspects and they were detained for months and then released without charges. We do not agree to this idea of allowing you to take DNA without consent. [*Desk thumping*] You can go right ahead. You will hear it 25 times; we have 25 clauses to deal with. [*Crosstalk*]

Mrs. Persad-Bissessar SC: No, you have 81.

Mr. Imbert: No, I am talking about the amendments.

Mrs. Persad-Bissessar SC: Go through all 81!

Mr. Roberts: Go ahead!

Mr. Imbert: We are doing this thing in sections.

Mrs. Persad-Bissessar SC: No, no, no—

Mr. Imbert: This section goes up to clause 18, and I will rest now and I will resume when we go on to the clauses after—[*Interruption*]—but they have not

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been moved. I cannot debate amendments that have not been moved. [*Crosstalk*] No, I will rest until we get to clause 19. Thank you.

Mr. Volney: Mr. Speaker, like the Member for Diego Martin North/East, I have nothing of substance to add. [*Desk thumping and laughter*] I move that the amendments be put to the vote.

Miss Mc Donald: “You see, duh is wha wrong with St. Joseph, any time yuh back against de wall, yuh insult. Why yuh do dat?” [*Continuous interruption and crosstalk*]

Mr. Speaker: Please, please, I am about to put the question and I need your undivided attention. Member for Port of Spain South, I need your undivided attention, please.

Question put and agreed to.

Senate amendments read as follows:

Clause 19.

(renumbered as 18) Delete clause 19 and substitute the following renumbered clause:

- | | |
|--------------|--|
| Complainants | <p>(1) 18. Where a report of the alleged commission of a sexual offence is made a police officer shall, without delay, make arrangements for a qualified person to examine the complainant.</p> <p>(2) Subject to subsection (3) where a complainant is medically examined by a qualified person in the course of an investigation of a sexual offence, the qualified person may take a sample from the complainant with consent.</p> <p>(3) Where a complainant is a child or an incapable person, a qualified person shall obtain the consent of the representative of that child or incapable person for the taking of a sample.</p> <p>(4) A qualified person who proposes to take a sample from a complainant shall –</p> |
|--------------|--|

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Form 3
Second
Schedule

(a) obtain the consent of the complainant or his representative in the form set out as Form 3 in the Second Schedule before the sample is taken;

(b) inform the complainant or his representative that the sample may be the subject of a search and that his DNA profile will be stored in the Forensic DNA Databank; and

(c) inform the complainant or his representative of his right to withdraw his consent before the sample is taken.

Form 3
Second
Schedule

(5) Where the complainant or his representative has consented to the taking of a sample, he may withdraw his consent in the form set out as Form 3 in the Second Schedule.

Clause 20.

(renumbered as 19) In subparagraph (b) insert after the second place in which the word “taken” appears, the words “and, where the person from whom the sample is being taken so requests in writing, in the presence of a specified person of the opposite sex”.

Clause 21.

Delete clause 21 and renumber accordingly.

Clause 23.

(renumbered as 21)

In the renumbered clause 21:

A. Insert the words “(1)” after the words “21.”.

B. Insert after the proposed subclause (1) the following subclause:

“(2) Subsection (1) shall not apply where a sample is to be taken from a complainant.”

Clause 24.

(renumbered as 22)
and the heading
immediately before:

Delete the heading immediately before clause 22 and clause 22, and substitute the following:

“PART V

PROCEDURE FOR TAKING NON-INTIMATE AND INTIMATE SAMPLES AND POST
COLLECTION PROCEDURES

- | | |
|---------------------------------------|--|
| Dealing with a
DNA sample | 22 A police officer or qualified person who takes a sample from a person under this Act shall – <ul style="list-style-type: none"> (a) place the sample in a container; (b) seal and label the container with an identifying mark; (c) place the container in a package; (d) seal the package; and (e) label the package with the same identifying mark that is shown on the label affixed to the container. |
| Storage and delivery
of package 23 | (1) A police officer or qualified person who takes a sample from a person under this Act shall – <ul style="list-style-type: none"> (a) as soon as practicable, submit the sample to the Trinidad and Tobago Forensic Science Centre for forensic DNA analysis; (b) ensure that between the time the sample is taken and the time of delivery to the Trinidad and Tobago Forensic Science Centre, the package containing the sample is properly stored; and (c) complete the form set out as Form 4 in the Second Schedule. |
| Form 4
Second Schedule | |

(2) A person who receives the package containing the sample at the Trinidad and Tobago Forensic Science Centre for forensic DNA analysis shall –

- (a) ensure that the package is properly sealed, labelled and identifiable both by him and the police officer or qualified person who delivers the package; and
- (b) record the following information in the DNA Register to be established and maintained at the Trinidad and Tobago Forensic Science Centre:
 - (i) in the case of a police officer, the name, rank and service number;
 - (ii) in the case of a qualified person, the name, profession and place of employment;
 - (iii) the identifying mark which is affixed to the package;
 - (iv) the date and time the package was delivered to the Trinidad and Tobago Forensic Science Centre; and
 - (v) the name and designation of the person receiving the package.

Duties of

Forensic DNA analyst
24.

- (1) Subject to subsection (2), a Forensic DNA analyst who conducts a forensic DNA analysis shall prepare and submit a certificate of analysis to the Commissioner of Police.
- (2) Where a certificate of analysis is prepared in respect of any matter which is under investigation or before a Court, a Forensic DNA analyst shall submit that certificate of analysis to the relevant investigating officer.

- (3) A Forensic DNA analyst shall submit a DNA profile obtained by him through forensic DNA analysis to the Custodian for storing in the Forensic DNA Databank.

Chap. 7:02(4)

A Forensic DNA analyst shall be deemed to be a Government expert for the purposes of the Evidence Act.”

Clause 25.

Delete clause 25 and substitute the following clause:

“Retention of sample 25

(1) Except in the case of:

Act No. 10 of 2011

- (a) offences referred to in the First Schedule to the Anti-Gang Act, 2011;

Act No. 20 of 2011

- (b) offences referred to in Schedule 6 to the Administration of Justice (Indictable Proceedings) Act, 2011; or

- (c) persons referred to in the Third Schedule, a person from whom a sample has been taken under this Act or a person who is not suspected, accused or convicted of an offence, may not, before the expiration of five years from the date of the generation of the DNA profile, apply to the Court for an order that the sample be destroyed and the DNA profile be expunged.

(2) A sample taken from a person suspected, detained or accused of an offence under subsection (1)(a) or (1)(b) shall be retained indefinitely.

(3) A sample taken from a person under subsection 1(c) shall be retained until ten years after retirement.

(4) The Trinidad and Tobago Forensic Science Centre shall, within three months after the end of each calendar year, provide the Commissioner of Police with -

- (a) a list of samples and DNA profiles which have been entered in the DNA Register and Forensic DNA Databank, respectively; and
 - (b) a list of the samples and DNA profiles which are proposed to be destroyed and expunged, respectively.”.
- (5) Where the Commissioner of Police, after consultation with the Director of Public Prosecutions, does not object to the destruction of a sample or the expungement of a DNA profile on a list referred to in subsection (4) within three months of receiving the list, the Trinidad and Tobago Forensic Centre may destroy the samples and expunge the DNA profiles.”

Mr. Volney: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments. The substantive Bill was passed in this honourable Chamber and was taken to the Senate where it was unanimously approved with the amendments and has now returned with Senate amendments that were unanimously approved, I repeat. [*Interruption*]

Dr. Moonilal: By Al-Rawi! The leader!

Mr. Volney: In making the amendments as I did, in proposing them as I did in the Senate, I took into account just about every request that was made by the Opposition in the Senate.

Mr. Speaker: I have advised Members that the Senate is an independent place and we are an independent place. [*Desk thumping*] Do not make reference to the Senate in terms of—we are dealing with this House, forgot the Senate. Please let us go on. [*Crosstalk*] Member for Diego Martin West, please.

12.05 a.m.

Mr. Roberts: “Jus so yuh geh loose cannon boy? Yuh eh take yuh tablet or wah?”

Mr. Volney: Mr. Speaker, we start with clause 19. That is a provision which raised some concern, it had started with clause 18: Victims of sexual offences. Upon critically examining the substance of the objections and suggestions relating to this clause proffered by Members of this House, we decided to delete the entire

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original clause and replace it with a provision which more closely reflects the original intention of the clause, which is to bring perpetrators of sexual offences to justice swiftly and conclusively, while ensuring that the inalienable rights, safety and dignity of complainants are jealously guarded.

Now, samples may be taken from complainants with consent by a qualified person. Following in that vein, we have also exempted complainants from the use of force—clause 21—so that no person is authorized to use reasonable force to take a sample from a complainant. This amendment is a reflection of an effort to further protect complainants and in recognition of the fact that samples are given by complainants with consent.

The conditions for taking an intimate sample in clause 19: provisions include that where an intimate sample is being taken, it may be taken in the presence of a specified person of the opposite sex upon request in writing. Therefore, as it now stands a person may have a spouse or significant other present when an intimate sample is being taken for the comfort of that person, and to ensure that complainants are made to feel more at ease, confident and comfortable during that emotional time.

Clauses 22 and 23, here we are dealing with a sample, storage and delivery of a package. This refers to two clauses which were not included in the original incarnation of this Bill. The first prescribes the method of treating with a sample upon collection, and the second prescribes the method of storing samples and delivering them to the Forensic Science Centre.

This, if I may remind those opposite, was hotly debated on the other side in this House, Mr. Speaker. We brought the amendment in the Senate and it has returned hopefully, it will be recognized by Members opposite, that this is what they wanted and this is what came back from the Senate.

The first provision relating to dealing with a sample and storage was reinserted from the 2007 Act with a view to ensuring that samples are treated within the correct manner post-collection, so that a usable DNA profile can always be extracted from the sample. The second provision was included to further ensure that the integrity of samples collected is maintained.

As regards clause 25, this clause was amended with a view to keeping pace with jurisdictional trends and other jurisdictions that have great archival knowledge and experience with DNA legislation. As such, the entire original clause was deleted and replaced with a provision that persons from whom samples

have been taken may apply to the court for the samples to be destroyed and profiles expunged after five years, except in the case of persons suspected, detained, accused or convicted of blood crimes, whose samples and profiles shall be retained indefinitely.

The amendment is intended to safeguard the interest of persons whose profiles no longer bear much relevance to the criminal justice system, while at the same time ensuring that the criminal elements are retained in the DNA databank for criminal justice purposes.

Mr. Speaker, on this side, we support this Bill and this measure as amended, because we are on the side of the right-thinking, upright, law-abiding citizens. [*Desk thumping*] All I have heard on that side is the protection of those on the other side of the law.

Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments.

Question proposed.

Mr. Imbert: Mr. Speaker, I did not bother to raise Standing Order 36(5). I should have, with that comment from the hon. Minister that we on this side are seeking to protect persons who are in breach of the law, but I take strong objection to it especially coming from the hon. Member for St. Joseph who has found himself the subject of public commentary recently with respect to persons accused of being on the wrong side of the law. [*Desk thumping*] It is quite politically hypocritical of the Minister, but that is okay. We expect this kind of statement from the hon. Member for St. Joseph.

Let me start with the amendment to clause 23. The amendment to clause 23 deals with the whole question of the use of force. In order to understand it, one has to go back to the parent Bill and read what is there, and it goes as follows under the rubric: Use of force:

“A person authorized under this Act to take a sample, or a person assisting such a person, may use reasonable force to take and protect the sample.”

And the amendment that is being made is that the use of force does not apply to a sample taken from a complainant. This amendment and subsequent amendments that deal with the use of force have no place in this legislation, because what the Minister is not understanding, is that you are now allowing persons to use force to take an intimate sample, but the only intimate sample that is taken from someone, is someone who volunteers to provide it, or a complainant, somebody who is a victim of a crime who consents. Why would you want to use force against a

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volunteer, somebody who volunteers to give an intimate sample? And why would you want to use force against any other person giving an intimate sample? It just demonstrates to us on this side that the Members opposite just do not do their work, but that is a small issue.

Let me move to the substantive amendments to clauses 24 and 25. This goes to the point I made earlier about this mystery person, the Forensic DNA Analyst. [Interruption] Mr. Speaker, they seem to be having some fun on that side. [Crosstalk] “Yuh hear, Mr. Speaker? Yuh hear?”

Mr. Speaker: Please! Please! Members! Please!

Mr. Imbert: Thank you, Mr. Speaker. In the amendment to clause 24 under the heading: Duties of Forensic DNA analyst, it reads as follows:

“Subject to subsection (2), a Forensic DNA Analyst who conducts a forensic DNA analysis shall prepare and submit a certificate of analysis to the Commissioner of Police.”

So you see how important it is, Mr. Speaker, this Forensic DNA Analyst, who will now be appointed by imperial decree, does not have to have any qualification, any certification, simply has to be working with the Forensic Science Centre, could be an unqualified quack, will now be prepare preparing a certificate of analysis to the Commissioner of Police obviously to deal with criminal matters. It goes on:

“Where a certificate of analysis is prepared in respect of any matter which is under investigation or before a Court, a Forensic DNA Analyst shall submit that certificate of analysis to the relevant investigating officer.”

So this unqualified person is now providing a certificate for use in a criminal trial. But it gets worse:

“A Forensic DNA Analyst shall submit a DNA profile obtained by him through...analysis to the Custodian for storing in the Forensic DNA Databank.”

The unqualified person and this is the worst part of this amendment, Mr. Speaker.

“A Forensic DNA Analyst shall be deemed to be a Government expert for the purposes of the Evidence Act.”

I want Members to understand this. By imperial decree, the forensic sciences laboratory is now deemed to be an accredited lab just because the Minister “say so”, and persons working there on DNA matters are now experts, analysts, because the Minister “say so”. But it goes further; let me repeat:

“A Forensic DNA Analyst shall be deemed to be a Government expert for the purposes of the Evidence Act.”

So what this is in effect doing is contaminating the entire criminal justice system, because these analysts do not require any qualifications. They are working in an unaccredited laboratory, they have been deemed to be experts, and the lab is deemed to be a good lab by a wave of the magic wand of the Minister, and they are now coming into the court and are now Government experts for the purposes of the Evidence Act by the imperial decree of the Member for St. Joseph.

Dr. Rowley: Running true to form.

Mr. Imbert: I will tell you something, Mr. Speaker, I want to repeat, anybody with means will be able to successfully challenge the designation of analyst, the designation of laboratory as an accredited lab merely by the imperial fiat of the Minister, without having to subject themselves or itself to any examination by any competent body.

Now, let us go to clause 25:

“A sample taken from a person suspected...of an offence...shall be retained indefinitely.”

So the same suspect who the police thinks might be going to commit a crime, or they believe may be involved in a crime, or they think is involved in a crime, turns out to be innocent; according to this, the sample taken from the suspect shall be retained indefinitely, Mr. Speaker.

12.20 a.m.

What is going on? Who comes up with these things? *[Interruption]* No, no, no. Member for Caroni East, Mr. Speaker, through you, you have not read it. I will read it for you. Clause 25(2):

“A sample taken from a person suspected, detained or accused of an offence under subsection (1)(a) or (1)(b) shall be retained indefinitely.”

Subsection (1)(a) is anti-gang, so that means that those 3,000 people they pick up suspected of being gang members, they can harvest their DNA and retain it indefinitely; and (1)(b) is offences referred to in Schedule 6 of the Administration of Justice (Indictable Proceedings) Act.

Dr. Gopeesingh: Clause 25(2). Let us take for example, the Akiel Chambers case. If that DNA sample was retained indefinitely, somebody would have been charged today, but the DNA sample was destroyed or whatever happened to it, and because it was not kept indefinitely, somebody has gone free. Are you arguing against that?

Mr. Imbert: I do not mind giving way to the Member for Caroni East because he was on the committee which I chaired dealing with the last DNA law, which benefited from his intelligent and scientific input; but the hon. Member is not reading this properly. We are talking about somebody picked up as a suspect. They may subsequently be charged; they are exonerated, but you are keeping their DNA indefinitely. He does not understand, Mr. Speaker, so it means that anybody who is picked up as a suspect, you can keep their DNA indefinitely.

In no civilized country is this done. There must be a period of time. In some countries it is three years. In the United Kingdom, it is three years. You must have compelling reasons to keep somebody's DNA beyond three years; not indefinitely; not 10 years as they have inside here.

“A sample taken from a person under subsection (1)(c)”—which is persons referred to in the Third Schedule of Act No. 20 of 2011—“shall be retained until ten years after retirement.”

The hon. Member for Caroni East, while he might be well-intentioned—I will give him the benefit of the doubt—is mixing matters. This has nothing to do with that. You are telling me that you can pick up somebody as a suspect and keep their DNA for 40 years? All sorts of things could be happening with that DNA during that period. It could be contaminated; it could be mixed with other DNA. All sorts of things could be done to that DNA.

You know, the approach of the Minister in this matter is intriguing, bearing in mind his public utterances about law enforcement officers recently. It is interesting that when he is in this House trying to railroad through draconian legislation, the law enforcement officers can do no wrong. They are all little angels when he is in here; but when he is outside, it is a different matter. He is bashing them left is right.

Mr. Speaker, we on this side cannot agree to amendments that would allow unqualified persons to be designated as Government experts just because the Minister says so. We cannot agree to that. We cannot agree to a laboratory being deemed to be the laboratory, without accreditation, just because the Minister says so. We cannot agree to DNA being harvested from suspects and kept indefinitely. We cannot agree to that and we are not agreeing to this legislation.

I will rest until we come to the other clauses.

Mr. Volney: Mr. Speaker, as I said before, from what I have heard, this is a rehash of what the hon. Member said when this matter was debated for the first

time in this House. It is quite clear that we on this side are about putting criminals before bars and that is why we have these amendments before the House today.

I beg to move.

Question put and agreed to.

Miss Mc Donald: [*Inaudible*] He is like a bully.

Mr. Speaker: Please. Withdraw that! Please, please!

Miss Mc Donald: Mr. Speaker, I—

Senate amendments read as follows:

New Clause 26.

Insert the following new clause after clause 25 and renumber accordingly:

Expungement of profile in certain circumstances

26. (1) Notwithstanding section 7(2), where the Commissioner of Police, after consultation with the Director of Public Prosecutions, is of the view that the DNA profile of a complainant is no longer necessary in relation to a matter under investigation or before the Court he shall, in writing, notify the complainant or, where the complainant is a child or an incapable person, his representative, of the decision to expunge the DNA profile from the Forensic DNA Databank.

(2) A complainant or his representative shall, within three months of the date of the notification under subsection (1), indicate in writing to the Commissioner of Police whether he objects to the expungement of his DNA profile from the Forensic DNA Databank.

(3) Where a complainant or his representative fails to indicate, after the expiration of three months from the date of the notification, whether he has an objection to the expungement of his DNA profile from the Forensic DNA Databank, the Commissioner of Police shall, in writing, inform the Custodian of the Forensic DNA Databank that the DNA profile may be expunged.

(4) Where the Custodian is informed, pursuant to subsection (3), that the retention of a complainant's DNA profile is no longer necessary, he shall take the necessary steps to have the DNA profile expunged from the Forensic DNA Databank.

(5) Notwithstanding section 7(2) and subject to subsections (6) and (7), a complainant or, where the complainant is a child or an incapable person, his representative, may apply to the Commissioner of Police to have his DNA profile expunged from the Forensic DNA Databank.

(6) Where an application is made under subsection (5) for a DNA profile to be expunged from the Forensic DNA Databank and the Commissioner of Police, after consultation with the Director of Public Prosecutions, is of the view that the DNA profile of that complainant should not be expunged on the grounds that it is needed in relation to a matter under investigation or before the Court he shall, in writing, inform the complainant or his representative that the DNA profile will not be expunged on the grounds that it is needed in relation to a matter under investigation or before the Court.

(7) Where an application is made under subsection (5) for a DNA profile to be expunged from the Forensic DNA Databank and the Commissioner of Police, after consultation with the Director of Public Prosecutions, is of the view that the DNA profile of the complainant is no longer necessary in relation to a matter under investigation or before the Court he shall, in writing, inform the Custodian of the Forensic DNA Databank that the DNA profile may be expunged.

(8) Where the Custodian is informed, pursuant to subsection (7), that the retention of a complainant's DNA profile is no longer necessary, he shall –

- (a) take the necessary steps to have the DNA profile expunged from the Forensic DNA Databank; and
- (b) notify the Commissioner of Police, in writing, that the complainant's DNA profile has been expunged.

(9) The Commissioner of Police, on receiving the notification referred to in subsection (8) from the Custodian of the Forensic DNA Databank, shall inform the complainant, in writing, that his DNA profile has been expunged from the Forensic DNA Databank.

(10) Notwithstanding section 7(2), where a sample is taken from a child, the Custodian shall cause the DNA profile derived from that sample to be expunged from the Forensic DNA Databank after the expiration of ten years from the date on which the profile was generated.

(11) Notwithstanding section 7(2), where a sample is taken from a person who is exonerated in relation to an offence referred to in the First Schedule to the Anti-Gang Act, 2011 or Schedule 6 to the Administration of Justice (Indictable Proceedings) Act, 2011, the sample and DNA profile derived from that sample shall be destroyed and expunged from the Forensic DNA Databank, respectively, after the expiration of ten years from the date of exoneration.

(12) Notwithstanding section 7(2), where a sample is taken from a person who is exonerated in relation to an offence other than those referred to in subsection (11), the sample and DNA profile derived from that sample shall be destroyed and expunged from the Forensic DNA Databank, respectively, after the expiration of five years from the date of exoneration.”

Clause 27. Delete the renumbered clause 28 and renumber (renumbered as 28) accordingly.

Clause 28. In subclause (1) insert the words “using reasonable force” after the word “person”.

Clause 29.

A. In subclause 1 –

- (i) in paragraph (b), delete the words “and the person from whom a request was made”; and
- (ii) in paragraph (d), delete the words “an analyst” and substitute the words “a Forensic DNA analyst”.

B. In subclause (3) delete the number “4” and substitute the number “5”.

Clause 30.

- A. In subclause (1)(c) delete the word “DNA”.
- B. In subclause (2) delete the word seven and substitute the word “ten”.

Clause 31.

Insert after the first place in which the word “Act” appears the words “, other than a complainant,”.

Clause 34.

In subclause (2) delete the word “negative” and substitute the word “affirmative”.

Clause 37.

Insert the words “, Chap. 5:34,” after the word “Act”.

New clause 39.

Insert the following new clause after clause 38:

“Chap. 7:02 amended

39. The Evidence Act is amended in section 19(4) by inserting after paragraph (i) the following new paragraph:

“(j) a Forensic DNA Analyst;”.

Second Schedule.

Delete Form 1 and substitute the following:

“FORM 1

[Section 12]

REPUBLIC OF TRINIDAD AND TOBAGO
VOLUNTEERING A SAMPLE

Please note that—

1. Under section 4 of the Administration of Justice (Deoxyribonucleic Acid) Act—

“intimate sample” means a specimen of biological or other material taken from –

- (a) any part of a person’s genitals; or
- (b) a person’s bodily orifice other than the mouth

“non-intimate sample” means a specimen of —

- (a) blood obtained by a prick of the finger;
- (b) epithelial cells obtained by means of buccal swab;
- (c) plucked hair; or
- (d) saliva

- 2. You are not obliged to volunteer your DNA sample.
- 3. The representative of a child or incapable person shall be present when any sample is taken.
- 4. The sample shall be taken in the presence or view of a person who is of the same sex as the person from whom the sample is being taken.

I,.....

(Name of Volunteer/Representative)

of.....

(Address)

understand the above notice and I hereby—

[Tick appropriate box]

[] Volunteer to give a sample to be used in the investigation or prosecution of.....

.....

(Give details of alleged offences)

[] Volunteer to give a sample. I am required to attend

.....

(Give address/location of the crime scene)

in my capacity as a

(Profession/vocation/public office)

in order.....

(Give details of purpose)

Signed

(Volunteer/Representative)

Date

Signed.....

(Witness)”

Date.....”

Delete Form 2 and substitute the following:

“FORM 2

[Section 14(3)]

REPUBLIC OF TRINIDAD AND TOBAGO

NOTICE: TAKING A REPEAT NON-INTIMATE SAMPLE

Notice is hereby given, in accordance with section 14(3) of the Administration of Justice (Deoxyribonucleic Acid) Act, (“the Act”)

that you.....

(Name)

of.....

(Address)

are required to: (tick as appropriate)

() attend thePolice Station

() avail yourself within twenty-four hours from the date of service of this Notice upon you, for the purpose of having a repeat non-intimate DNA sample taken from you.

The previous sample taken from you was: (tick as appropriate)

() unsuitable/insufficient for the purpose of obtaining your DNA profile

() lost

() destroyed

() not useable because

.....
.....

Take Notice that section 14(4) of the Act authorizes a police officer to arrest without warrant a person who is not in police custody or imprisoned for failure to comply with this Notice.

.....

Name, Rank and Service Number of Police Office

.....

Date of Service

..... ”

Signature of the above-named

A. Delete Form 3 and substitute the following:

“FORM 3

[Section 18]

REPUBLIC OF TRINIDAD AND TOBAGO

CONSENT FOR TAKING A SAMPLE FROM A COMPLAINANT

Please Note that—

1. Under section 4 of the Administration of Justice (Deoxyribonucleic Acid) Act—

“intimate sample” means a specimen of biological or other material taken from –

- (a) any part of a person’s genitals; or
- (b) a person’s bodily orifice other than the mouth

“non-intimate sample” means a specimen of—

- (a) blood obtained by a prick of the finger;
- (b) epithelial cells obtained by means of buccal swab;
- (c) plucked hair; or
- (d) saliva

“sample” means a non-intimate or intimate sample

- 2. You are under no obligation to consent to a sample being taken.
- 3. If you give consent for a sample to be taken, you may at any time before the sample is taken, withdraw that consent.
- 4. Any sample taken will be analyzed and may be used as evidence in a criminal investigation or prosecution.
- 5. A DNA profile obtained from your sample may be checked against other DNA profiles in the Forensic DNA Databank. You may apply,

pursuant to section 26, to have your DNA profile expunged from the records of the Forensic DNA Databank.

- 6. Only a qualified person is entitled to take a sample from you.

A “qualified person” means—

a registered medical practitioner under the Medical Board Act, or a person registered under Part II or III of the Nurses and Midwives Registration Act, acting under the supervision of a registered medical practitioner.

A. Consent

I, of
(Name of person/representative giving consent)

.....
(Address)

further to a request being made
by.....
(Name of qualified person making request)

hereby consent to the taking of a sample
from.....
(Signature of person giving consent)

.....
(Place where consent is given)

In the presence of:

.....
.....
.....
(Name in block letters and signature of qualified person requesting consent)

at.....
.....
(Place where consent is given)

Witnessed by.....
Signature of Witness.....
Date.....

B. Withdrawal of Consent

I,of
(Name of person/representative withdrawing consent)

.....
(Address)

further to giving my consent pursuant to section 18(4) of the Act for a sample to be taken from.....hereby withdraw my consent.

The reasons for withdrawing my consent are as follows:

.....
.....
.....

Signed:.....
(Signature of person/representative withdrawing consent)

.....
(Place where consent is withdrawn)

In the presence of:.....
(Name in block letters and signature of qualified person requesting consent)

at.....
(Place where consent was withdrawn)

Witnessed by.....

Signature of Witness.....

Date.....”

B. Insert a new Form 4 as follows and renumber accordingly:

“FORM 4

[Section 23]

REPUBLIC OF TRINIDAD AND TOBAGO

RECORD OF TAKING OF SAMPLE BY A POLICE OFFICER / QUALIFIED PERSON

INFORMATION OF PERSON FROM WHOM SAMPLE IS TAKEN:

Name:

Address:

Date of birth:.....

Gender of the person:

Type of sample: Non-intimate/Intimate [tick as appropriate]

Date taken:.....

INFORMATION TO BE COMPLETED BY PERSON TAKING SAMPLE:

Time and place of taking of the sample:

.....

I certify that both the container and the package holding the sample are labelled and sealed:

.....

The information on the label affixed to the container and the label affixed to the package:

.....

.....

The nature of the sample:

.....

[Tick appropriate box]

Name, Rank and Service Number of the police officer taking the sample:

.....

Name, Profession and Place of Employment of the qualified person taking the sample:

.....”

Third Schedule.

A. Delete item 1 and substitute the following:

“1. A person who is employed, or applies for employment as:

- Chap. 26:30 (a) an officer of the Protective Services;
- Chap. 25:04 (b) a member of the Municipal Police Service;
- Chap. 15:03 (c) a member of the Special Reserve Police;
- Chap. 15:02 (d) a constable within the meaning of the Supplemental Police Act;
- Chap. 14:01 (e) a member of the Defence Force;
- Chap. 78:01 (f) a Customs Officer of the Customs and Excise Division; or
- (g) a private security officer.”.

B. Delete item 2 and renumber accordingly.

Mr. Volney: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments.

This time, in clause 26, we have made provision for the oversight of the DPP. Where the Commissioner of Police is of the view that the DNA profile, as opposed to a sample of a complainant, is no longer required, he shall, in writing, notify the complainant or, where the complainant is a child or an incapable person, of the decision to expunge the profile from the databank. Provision is also made for a

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complainant or his representative, within three months of the notification, to indicate any objection to the expungement of the DNA profile.

These provisions, basically, are to protect both the person from whom the DNA has been taken, the profile has been developed, as well as to watch and keep the interest of the state in DNA profiles that could be of interest to cold cases being solved. That is something I do not think Members opposite quite understand. There are cold cases, and if we dispose of DNA profiles before time, these cases, the victims and their families, will never see the face of justice.

Mr. Speaker, the other amendments really have to do with the administration of the DNA Act. The Parliament provides that a forensic DNA analyst will be an expert for the purpose of the Act, not the Minister. This is a provision; this is legal drafting that is known well to legislative draftsmen. It has been done before under the watch of the other side when they were in Government and I do not think that the hon. Member for Diego Martin North/East, who is grumbling, understands it. If he takes the time to study section 19 of the Evidence Act, he would perhaps not make the suggestion on a point that he may well come to make again.

I think that these are good amendments coming from the Senate and I beg to move.

Question proposed.

Mr. Imbert: Mr. Speaker, there is nothing good about these amendments. The hon. Minister can fool himself into believing that, and he can rant and rave and misbehave, but it will not change the price of coffee. If in the United Kingdom, the United States, Canada and in a series of developed countries, it is recognized that it is wrong to keep DNA samples indefinitely; if, in the whole of Europe, it is recognized that it is wrong to keep DNA samples indefinitely; all those developed countries recognize that it is a breach of civil liberty, it is a breach of fundamental human rights, to harvest someone's DNA and keep it indefinitely; in all those countries they know it is wrong, but the hon. Minister would have us believe that in Trinidad and Tobago it is right. What a joke!

Let me move on. He knows that in the United Kingdom—there is a famous case with the European Court where a lady's DNA had been taken and she was exonerated of the crime and she asked that her DNA be destroyed. They refused and she went to court in the United Kingdom and they turned it down. She took the matter to the European Court and the European Court ordered the authorities in the United Kingdom to destroy the DNA because it was the view of the European Court that it was wrong to keep people's DNA indefinitely for no possible reason.

We in Trinidad and Tobago are somehow different from France and Spain and Belgium and Holland and Norway and Sweden and Denmark and Italy and all the countries of the European Union. They know it is wrong to keep DNA indefinitely, but we are in Trinidad and Tobago are some kind of different creature where it is okay to keep our DNA indefinitely. That is not even worthy of a response.

Let me go to the clauses that deal with force. There is an amendment to clause 28, which inserts the words “using reasonable force”. It will now read as follows:

“No proceedings, civil or criminal, shall be brought against a person using reasonable force in respect of the taking of a non-intimate or an intimate sample in accordance with this Act.”

Again, in clause 31:

“Where a person from whom a sample is to be taken under this Act, other than a complainant, refuses to give a sample, or otherwise obstructs or resists a police officer...”

they are guilty of an offence and liability to imprisonment for two years.

I have pointed out and I want to repeat: the only way under this law—I sometimes wonder and I do not mean to be the pejorative—I wonder if the hon. Minister reads everything that is presented to him. The only way an intimate sample can be taken is if you volunteer to provide it or you consent to provide it. There is no other way an intimate sample can be taken. If you go through the Bill, there is no process that allows for the taking of an intimate sample unless you volunteer it or consent to it.

If you volunteer or you agree, why is the police officer taking force to take the intimate sample from you? Why? Why have you put in there that someone has agreed, you can take my DNA; the person is the victim of a crime or they are a volunteer; they have filled out the requisite form so that you can take an intimate sample from them; then you say that a policeman can use force to take that intimate sample that you have agreed to and you are putting that in law and saying that no proceedings could be brought against a person using reasonable force to take a sample where someone has consented?

12.35 a.m.

Suppose the person is hurting the person? Suppose the person taking the intimate sample is acting in an inhumane manner and hurting the person, you are saying you cannot take proceedings? No proceedings shall be brought against a person using reasonable force. How could force be reasonable if the person has

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agreed to the taking of the sample? That is what I am saying. Sometimes I get the impression the Minister does not read everything that is put before him. [*Crosstalk*]

Hon. Member: “To think he was a judge, eh?”

Mr. Imbert: “Yeah!” Well, I am not going there, but sometimes I get the impression he does not read everything. I hope I am wrong.

Now, Mr. Speaker, let me move on to clause 36. [*Crosstalk*] Mr. Speaker, I do not know if that is some kind of threatening going on here.

Mr. Speaker: It is crosstalk between the Member for Diego Martin West and the Member for St. Joseph.

Mr. Imbert: It sounds like a threat to me.

Mr. Speaker: Allow the Member to speak in silence.

Mr. Imbert: It is sounding like a threat, but whatever. [*Laughter*] Clause 38, again, this deals with the whole question of this lab being deemed to be an appropriate lab by the hon. Minister and everything that they have done is now going to be legalized. The unaccredited lab, everything that they have done is now going to be legalized by this legislation. The unqualified analyst, in the unaccredited lab, every DNA sample they take and every DNA record that they produce is now going to be legalized and validated by this legislation.

Mr. Speaker, if only the Minister would listen. As I said, there are other Ministers in this Government who listen. They understand what we say on this side, they recognize the wisdom in what we say and they make appropriate adjustments to the legislation, but this hon. Minister is not one of those persons. As a consequence, this particular hon. Minister will have the unenviable record of being the Minister who has put the greatest amount of bad law onto the statute books [*Desk thumping*] using the majority of the Government to railroad through bad law.

I am satisfied, because of this law and the amendments that have been made, that as soon as somebody challenges this law, and they have a good lawyer, this law will be struck down. I will say it 55 times. This law will be struck down, Mr. Speaker, I thank you.

Dr. Gopeesingh: I want to first go back to clause 25, which the Member for Diego Martin North/East was speaking about.

Mr. Imbert: Mr. Speaker, on a point of order.

Mr. Speaker: That has been agreed to by the House, so we are no longer on clause 25. No, no, not at this time, please.

Mr. Volney: Mr. Speaker, Parliament is empowered to make the law of the land, and that is what we are doing here. We are making good law on this side, contrary to what is being said on that side. They on that side keep saying that we are not making good law, and they hope that the more they say it, is the more they might believe what they are saying [*Laughter*] but we know better on this side.

Mr. Roberts: The people know better.

Mr. Volney: I want to pay tribute to all those hard-working public officers [*Desk thumping*] who are being insulted in this House by the hon. Member for Diego Martin North/East—

Mr. Roberts: Shame! Shame on you!

Mr. Volney:—for their long hours of putting this Bill together; experts in the field from the Forensic Science Centre. All of them have sat here and in their homes and watching the hon. Member insulting their professional ability and integrity.

Hon. Member: Shame!

Mr. Imbert: Mr. Speaker, Standing Order 36(5).

Mr. Volney: I say nothing more.

Mr. Imbert: I did no such thing.

Mr. Speaker: I do not believe that the hon. Member for Diego Martin North/East made such remarks. [*Desk thumping*] It is not on record, and you may interpret what he has said, but it is not on record. So, I think, you are on the wrong road and I do not think you should travel further along that road, please.

Mr. Volney: Mr. Speaker, I accordingly beg to move that this House doth agree with the Senate amendments to clauses 26—37, new clause 39 and the Second and Third Schedules. I beg to move.

Question put.

Dr. Moonilal: Mr. Speaker, out of an abundance of caution, it is the request of the Government for the Parliament to confirm the amendments from the other place by way of a division.

The House divided: Ayes 28 Noes 9

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AYES

Moonilal, Hon. Dr. R.
Persad-Bissessar SC, Hon. K.
Warner, Hon. J.
Dookeran, Hon. W.
Mc Leod, Hon. E.
Sharma, Hon. C.
Alleyne-Toppin, Hon. V.
Gopeesingh, Hon. Dr. T.
Peters, Hon. W.
Rambachan, Hon. Dr. S.
Seepersad-Bachan, Hon. C.
Seemungal, J.
Volney, Hon. H.
Roberts, Hon. A.
Cadiz, Hon. S.
Baksh, Hon. N.
Ramadharsingh, Hon. Dr. G.
Ramadhar, Hon. P.
Khan, Hon. Dr. F.
De Coteau, Hon. C.
Indarsingh, Hon. R.
Baker, Hon. Dr. D.
Samuel, Hon. R.
Douglas, Hon. Dr. L.
Roopnarine, Hon. S.
Ramdial, Hon. R.
Partap, Hon. C.
Khan, Mrs. N.

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NOES

Mc Donald, Miss M.

Rowley, Dr. K.

Hypolite, N.

Mc Intosh, Mrs. P.

Imbert, C.

Jeffrey, F.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Question agreed to.

ADJOURNMENT

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, at 12.45 a.m., I beg to move that this House do adjourn from today April 26, 2012 to tomorrow, Friday, April 27, 2012 at 1.30 p.m., and that day is Private Members' Day, and I would ask the Opposition to indicate to us the nature of the business that the House will conduct on that day. I beg to move.

Miss Mc Donald: Mr. Speaker, on Friday, April 27, 2012, which is tomorrow, I hereby give notice to the Government that we will be debating under "Private Business" Motion No. 1.

Mr. Speaker: Hon. Members, before putting the question on the Motion for the adjournment, I wish to inform Members that there are two matters by the Member for Diego Martin North/East that are qualified to be raised on the Motion for the Adjournment of this honourable House. I would now invite the Member for Diego Martin North/East to proceed with his matters on the Motion on the Adjournment.

Saddle Hill Recreation Ground (Restoration of)

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. I hear the moaning and groaning on the other side, but as the elected representative for the constituency of Diego Martin North/East, it is necessary to bring the

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incompetence and mismanagement of the UNC-controlled Diego Martin Regional Corporation to the attention of this Parliament and, by extension, the national community.

On February 08, 2012, representatives of the community of Saddle Hill wrote to the hon. Minister, Jack Warner, as follows:

Good morning, hon. Minister,

I wish to thank you for meeting with us, the Saddle Hill residents—

Mr. Speaker, there is a hum on that side.

Hon. Member: “Stop wasting time nah man!”

Mr. Speaker: All right, you have my protection.

Mr. C. Imbert: Thank you.

Mr. Speaker: Please, please, Members. Continue, Member.

Mr. C. Imbert: The letter went as follows:

Dear Minister,

I wish to thank you for meeting with us, the Saddle Hill residents yesterday. The document attached is a petition from the Saddle Hill residents to the Diego Martin Corporation to improve the layout and restore the function of the Saddle Hill Recreation Ground. The original we sent by post to the Chairman, Mr. Anthony Sammy.

We look forward to working with your ministry.

Here is the petition, Mr. Speaker. The petition is dated January 27, 2012, written to the Chairman of the Diego Martin Regional Corporation, Mr. Sammy:

Mr. Sammy,

This is a petition from the residents of Saddle Hill Maraval, to the Diego Martin Regional Corporation, representative from the Ministry of Works Drainage Engineer, representative from the Ministry of Sports, sport consultant...to improve the layout and restore the Saddle Hill Recreation Ground as was discussed on January 11, 2012 on the ground itself.

12.50 a.m.

We the residents observe the dumping of debris on the Saddle Hill grounds around the end of November and by mid-December our health and well-being were being affected.

We lost the comfort of our homes and the use of the Saddle Hill grounds.

The petition goes on to give details of the problems that the residents of Saddle Hill, which is in Maraval, have experienced since the Government dumped flood debris onto their recreation ground and destroyed it. There are a number of signatures attached to the petition. Virtually every resident of the Saddle Hill community has signed this petition; hundreds of signatures.

Mr. Roberts: “It doh have no hundreds living there.”

Mr. C. Imbert: “Yuh could count it yuhself.” Look, three pages. [*Mr. Imbert displays document*] Count it yourself.

Mr. Speaker, on March 14 the residents once again raised this matter with the corporation and wrote another letter to the hon. Minister Warner and Mr. Sammy, the Chairman, as follows:

The residents of Saddle Hill, Maraval wish to acknowledge the visit of the Minister of Works and his team on February 17, 2012. As previously expressed, we the residents of Saddle Hill are distressed and unsatisfied with the condition of the recreation ground on the Saddle Hill. The inconsiderate dumping of debris by the Diego Martin corporation has left the said facilities useless and has created a health hazard. We have had many correspondences with the councillor—UNC councillor—for the area and a meeting with the Diego Martin Chairman—a UNC Chairman—who expressed their intention to work with the residents and to have these problems resolved. This was followed by a visit from the Ministry of Works and an engineer from the Ministry told us that the Ministry of Works should find out if the Sports Ministry had any plans to deal with the grounds. We have seen no actions towards improving and restoring the function of the ground—March 14, Mr. Speaker.

A letter is sent again to the hon. Minister on March 29. You see, one of the things the hon. Minister of Works likes to do is to go to areas where people are in distress and say, “I will fix that now. By next week it will be fixed.” So it is with the collapsed wall by the Country Club, which was damaged during this same flood in November and December of 2011. The hon. Minister visited the site and said, “By next week that wall will be reconstructed.” That was five months ago, now we have April 10, 2012 and the collapsed wall is still there, an eyesore. It is the same kind of approach.

Let us go now to April 10, 2012. This is now a letter written to me:

Attached is a letter sent to various arms of the media—*Newsday*, CNC 3—et cetera—We need the support of the press to have this story highlighted. We

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have received no response from the Diego Martin Corporation or the Ministry of Works concerning this mess in front of our homes.

Here is the letter, entitled: Crime against humanity.

Disaster created by the Diego Martin corporation in the Saddle Hill community, Maraval. We have no confidence in the Diego Martin corporation run by the UNC.

This is how it runs:

We the residents of Saddle Hill, Maraval, believe that the UNC Chairman, Anthony Sammy, should resign from his position as Chairman and the councillor should be removed from an elected post, because they are the responsible parties of the corporation that has created a disaster in our community of Saddle Hill. And here are the facts:

During the month of November 2011, La Seiva Village in Maraval experienced heavy flooding. On November 21, residents of Saddle Hill witnessed dump trucks discarding debris onto the Saddle Hill Recreation Ground. This debris consisted of all types of garbage, mangled into a heap of mess in front of our homes. Can you imagine having your beautiful green neighbourhood ground turned into a dumping ground by a government organization whose responsibility is to build community resilience against disasters?

The management of the Diego Martin Corporation, UNC-controlled, has proven they know how to create disaster not mitigate them. It is now an eyesore. This is where the residents held their annual children's party and Easter parade and members of the community enjoyed a lively game of football or cricket. We have since endured hazards which include inhaling a horrible stench coming from the field filled with toilets, mattresses, tyres, sewage, mud and grime.

We questioned the UNC councillor for Moka/Boissiere to clarify what is taking place on the ground. The councillor explained that the corporation had to make a hasty decision to dump the debris on our ground temporarily....— and so on and so on.

The bottom line is that in the community of Maraval there are just two recreation grounds. We have the Maraval Recreation Ground and we have the Saddle Hill Recreation Ground. This uncaring Government dumped stinking garbage onto the Saddle Hill Recreation Ground and has now created—[*Interruption*] It is stinking. They say it is a stench. Yes I have been there. I was there up to yesterday

afternoon. The ground continues to be an eyesore five months after the hon. Prime Minister visited Maraval and promised to deal with the problems created by the unprecedented floods of November.

The Minister of Works came and promised to fix the ground. The Chairman of the corporation promised to fix the ground. The councillors came and promised to fix the ground, and they have done nothing for the last five months, and they have treated the residents of my constituency, my community with absolute contempt.

Today I got an email where the residents informed me that after doing nothing for the last five months, some representative from the Diego Martin corporation—which is only temporarily in the hands of the UNC and shall soon be returned to the caring hands of the PNM. [*Desk thumping*] Here is an email I received:

Good morning, Mr. Imbert, yesterday employees of the Diego Martin Corporation visited the recreational ground—this is April 25—they informed my neighbour who spoke to them briefly that Mr. Imbert complained about the field hence the reason why they came. Has the corporation indicated in any way what they are doing to restore the grounds? Last week the Minister of Sport, Mr. Anil Roberts, stated that the Ministry of Sport allocated funds to repair 50 recreational grounds. We would like to know if Saddle Hill is among them.

The whole point is, Mr. Speaker, not only has the UNC destroyed a community recreational ground that has provided quiet enjoyment for my constituents for the last 50 years—not only did they do that—the PNM had awarded contracts to upgrade the Saddle Hill Recreation Ground to make it a proper field, to put stands, to put bleachers, to put proper facilities for the people of Saddle Hill.

When the UNC-controlled coalition came into Government, they cancelled the contracts. Look how they are punishing the residents of Maraval. There was a contract to upgrade the ground, they cancelled it for no reasons and they have not resumed the work. Now, having done that, they add insult to injury, having cancelled the contract for the upgrade of the ground, they have now dumped stinking garbage on the ground. Can you imagine what it is like to open your window and in front of you, you see toilets, mattresses and raw sewage?

I call on the Minister of Local Government to tell this Parliament—*[Interruption]* I read the petition from the people. I am not fabricating anything. These are facts. If the hon. Minister of Sport was doing his work, and he took the time to visit the Saddle Hill Recreation Ground, he too would be appalled at the disgusting condition it has been converted to by this uncaring Government.

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I call upon the Minister of Local Government to tell us in this Parliament and tell the people of Maraval: what are you doing to reverse this injustice that has been done to my constituents?

Thank you, Mr. Speaker.

Mr. Roberts: “You say all dat with a straight face, boy?”

The Minister of Local Government (Hon. Chandresh Sharma): Mr. Speaker, the first thing to note is that there are 14 corporations in Trinidad, and all 14 are manned by 134 elected local government practitioners, Diego Martin being one of them.

The existence of the corporations is to provide goods and services. Local government practitioners have been with us for close to 200 years, serving. It could not be that the Diego Martin Regional Corporation has been serving all the years and suddenly stopped serving. It is very silly and in poor taste to say that and to hide behind the destruction by the Diego Martin Regional Corporation.
[*Interruption*]

Mr. Speaker: When you were speaking, Member for Diego Martin North/East, I gave you full protection. I did not hear the Member for Fyzabad interrupting you. I ask you to give him your full attention and not to interrupt him. And these remarks you keep throwing across the floor, I do not think the time is late, but somehow you seem uneasy. I am appealing to you to allow the Member to speak in silence. Hon. Member, continue, please.

Hon. Member : He does not want to go home.

Hon. C. Sharma: Did you take your tablets?

Mr. Imbert: Mr. Speaker, Standing Order 36(5). Mr. Speaker, come on.
[*Crosstalk*] You started this thing now.

Mr. Roberts: So you do not take aspirin or Panadol?

Mr. Speaker: Member for Fyzabad, do not go there, please.

Hon. C. Sharma: “Gimme meh back de tablet ah give yuh den; gimme it back.”

Mr. Speaker, it is very unfortunate that this Member was at one time related to local government, to attack local government like this. Regional corporations exist for the service of the people of Trinidad and Tobago, and to come here and attack local government and the practitioners is very unkind. The Diego Martin

Regional Corporation provides approximately 32 services; among them recreational grounds. The people of Trinidad and Tobago are very, very happy for the services. I happen to be the Minister with responsibility, and they are totally happy.

What happened in November, because of the poor work and the poor representation of the Member of Parliament for that area and the then Minister of Works and Transport, the area was flooded. [*Desk thumping*] I joined with the Minister of Works and Infrastructure and a number of Government Ministers, and the Prime Minister also visited. We went there, and the Member of Parliament could not be seen. He was hiding. He could not visit the area.

Dr. Ramadharsingh: While the people were suffering.

Hon. C. Sharma: We were lending assistance there. We met with the residents and they cooperated. They brought out their equipment. They brought out sandwiches. We worked for two or three days. We said that in the interest of time, to return the area to safety, we immediately started to truck the material and put it there. This is the global practice; wherever there is a disaster of this kind, you look for the nearest place to secure—that is what we did.

The Member is trained in some kind of field, he must know that is the practice. [*Interruption*] No way? It was in consultation with the residents; we did not work in isolation. All of us worked on that for two or three days; the entire community. The defence force came out, the URP came out, the CEPEP workers came out and the residents came out. It was shown on national television, and it was reported in the newspapers. They were very happy to see Mr. Jack Warner. They were very happy to see Mr. Cadiz, the hon. Prime Minister. The residents came out and they praised the Government for responding. Nowhere could that Member of Parliament be seen. To manufacture all this information and to claim hundreds of signatures—[*Interruption*]

Mr. Imbert: Mr. Speaker, Standing Order 36(5). I have manufactured nothing. [*Crosstalk*]

Mr. Speaker: All right, listen, we cannot have two Members speaking. Member for Fyzabad, be careful. Do not accuse a Member of manufacturing anything, please.

Hon. C. Sharma: Mr. Speaker, the Diego Martin Regional Corporation is doing its work. There is no question about that. So the first thing we need to make crystal clear is that there is no destruction by the Diego Martin Regional Corporation of Saddle Hill Recreation Ground in Maraval.

Mr. Imbert: What!

Hon. C. Sharma: There is absolutely no destruction by the Diego Martin Regional Corporation. You do not know English. Putting some material there which resulted from the floods is not destruction. We had a responsibility to return that community to use by all the residents in the shortest possible time, and that is what we did. [*Desk thumping*] To claim that there is stinking garbage there, is a stinking lie, Mr. Speaker. But I will withdraw that immediately. [*Crosstalk and laughter*]

Mr. Speaker: No, no, wait, wait, wait, please. Member, withdraw that, please. [*Laughter*] [*Mr. Imbert rises*]

Mr. Roberts: “Is wetting after wetting after wetting.” [*Laughter*]

1.05 a.m.

Hon. C. Sharma: Mr. Speaker, where are we today? Soon after the election of May 2010, for the first time in about 50 years, the Prime Minister immediately started a clean and beautify programme for Trinidad and Tobago. [*Desk thumping*] Massive success; we cleaned up the entire country.

Mr. Roberts: Including his constituency.

Dr. Gopeesingh: They nearly cleaned up Mr. Imbert too.

Hon. C. Sharma: “Nah”. We immediately started that programme.

Mr. Roberts: Three more maxis.

Hon. C. Sharma:—planted flowers, shrubs, cleaned up, and that is a programme that is ongoing. We are very careful about how we dispose of our garbage, we are maintaining best practices. In the past all the garbage went in the same place, we are maintaining the environment-friendly standard. So what have we done in this area?

First of all, you would remember in the last couple of months we have had unusual rains, so the work could not continue in the way we would like it to be, and this has affected many playgrounds all over. This particular playground is under the road level. No work was done previously.

Mr. Roberts: None!

Hon. C. Sharma: The Minister [*sic*] claimed that a contract was awarded. So, in the last 10, 15 years, under PNM governance, no work was done on the recreation ground, and he himself indicated that they awarded a contract. How

come they suddenly awarded a contract? On the day when you were going to lose the election, you awarded this contract? He did not tell us the date of the award of the contract. It was a political ploy—[*Interruption*]

Mr. Roberts: The sign was rusted.

Hon. C. Sharma:—and part of the campaign. So we are in the process of making sure, and the Minister of Sport has announced 50 recreation grounds. The Member of Parliament for the area is aware that among those 50 includes this ground.

Mr. Imbert: Who say so?

Hon. C. Sharma: Who say so?

Mrs. Gopee-Scoon: The Minister of Sport.

Hon. C. Sharma: But you just asked me to tell you. You just asked me to tell you.

Mr. Roberts: Pascall.

Hon. C. Sharma: So, the residents are very happy with the work of the Government of Trinidad and Tobago. Now the Minister [*sic*] claimed that he got an email today. What the Minister [*sic*] is not aware is that this morning, I met residents as well.

Hon. Member: Member, Member.

Mr. Roberts: Oh, oh.

Hon. C. Sharma: I met residents from the area—[*Interruption*]

Mr. Roberts: And they wrote something for you? What they told you?

Hon. C. Sharma:—and I am not aware that they have asked him to say all the things he has said there—[*Interruption*]

Mr. Imbert: What?

Hon. C. Sharma:—I am not aware of those signatures. [*Crosstalk*] I am not aware of those signatures, and I am going to ask, Mr. Speaker, through you, to get a copy of those signatures because I think the Minister [*sic*] is misrepresenting, so I would like to get those and certify—[*Crosstalk*]

Hon. Member: How that could be hundreds?

Hon. C. Sharma:—because I am wondering if this Minister [*sic*] took time at 1.08 to mislead this House. [*Crosstalk*]

Hon. Member: A hundred and twenty US becomes hundreds!

Hon. C. Sharma: Mr. Speaker, in closing, residents in every area in Trinidad and Tobago will continue to receive the service of the Government of Trinidad and Tobago. Thank you, Sir.

**Diego Martin Regional Corporation
Appointment to Disaster Management Unit**

Mr. Colm Imbert (*Diego Martin North/East*): Oh, so you are leaving. Destroy the people field and leave it just so, I like it. [*Crosstalk*]

Yes, Mr. Speaker, this Diego Martin Corporation, since it was taken over by the UNC, apart from destroying people's community grounds, is doing other strange things. The same corporation, during those same floods of last year, had been holding a number of seminars, meetings and so on, and there is a reference to one of them in the *Guardian* of April 04, and it is entitled "Shelter managers need training to detect diseases", and this was a seminar put on by the Diego Martin corporation dealing with emergency shelters managers, and I will just read the last line of the article:

"The training course's programme co-ordinator Jerry David said the aim was to create the capacity for the Diego Martin corporation to handle shelters well and to have approximately 200 shelter managers trained over the next two years."

Again, on April 10, another article "Red Cross trains for disaster handling in Diego Martin", and again in the article:

"The training course was organised by Disaster Management Unit (DMU) Jerry David DMRC chairman alderman Anthony Sammy."

So this Jerry David fellow is certainly a prominent person within the Disaster Management Unit of the Diego Martin corporation under the UNC. In 2010—
[*Interruption*]

Dr. Moonilal: Jerry who, Hospedales?

Mr. C. Imbert: David. In 2010—[*Interruption*]

Mr. Sharma: Narace?

Mr. C. Imbert:—there were, again, rains and there were landslides in the Long Circular area, and an article in the *Newsday*, "Debe family loses home in landslide", November 28, 2010. I will just read an extract:

The UNC councillor visited the area, along with shadow Member of Parliament for Diego Martin North/East, Garvin Nicholas—ha, ha, big joke—
[*Laughter*] and ODPM official Jerry David.

So the shadow PM, the person who was defeated in the 2010 election is going around with this ODMP official Jerry David.

I was intrigued to hear the Minister of Sport speak in this House, where he gave reasons for the dismissal of members of the Boxing Board of Control, and I have an article here published in the *Newsday* on March 10, 2012, “Roberts sheds light on TTBB dismissals”, Boxing Board dismissals.

“Sport Minister Anil Roberts shed some light in Parliament surrounding the recent dismissal of Trinidad and Tobago Boxing Board members with an ex-member coming in for stern criticism.”

Mr. Roberts: Ricardo Phillip, call his name, “doh frighten”.

Mr. C. Imbert: Okay, Mr. Speaker, I was not going there. [*Interruption*]

Mr. Roberts: “Doh frighten,” Ricardo Phillip.

Mr. C. Imbert: Mr. Speaker, I would not ask for your protection; I would not ask for your protection. I will link it.

Mr. Speaker: I am trying to see the connection.

Mr. C. Imbert: It would be very quick.

“It arose whether anybody on the Boxing Board had a record and on searching for the answer, we found that to be true.”

What had happened is that this person had allegedly been convicted of fraud, according to the Minister, and served 18 months imprisonment.

Mr. Roberts: Hard labour.

Mr. C. Imbert: Hard labour, thank you very much. [*Crosstalk*] Therefore, the Minister was announcing the policy of Government that persons convicted of fraud should not be given positions of responsibility. I shall now link; I was glad that the Minister had indicated that persons convicted of fraud should not be given positions of responsibility, and as soon as he found out that this member from the boxing board had a criminal record for fraud—[*Interruption*]

Mr. Roberts: Removed.

Mr. C. Imbert:—he removed him from the board forthwith.

I shall now read an article from the *Newsday*, October 24, 2003; “Pastor guilty of UTC \$1.7 million fraud”:

“A pastor who was an agent at the Unit Trust Corporation yesterday pleaded guilty in the San Fernando High Court to a \$1.7 million fraud charge. Pastor Gerry David, 43, of Morne Coco Road, Petit Valley, took money from

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Glenwyn Mottley to invest in a UTC Second Scheme fund. Instead, David invested the \$1.7 million in the United States Day Market...He lost every cent...

Pastor David charged with fraudulent conversion contrary to the Forgery Act, in that between February 26 and May 1, 1999, he fraudulently converted to his own benefit, the sum of money in the form of cheque which was certified to the UTC. The charge was laid by the head of the Fraud Squad Snr Supt. Wellington Virgil.

In outlining the facts to Justice Rajendra Narine in the Second Assize Court, State attorney Narissa Ramsundar said that Pastor David was an independent agent of the UTC. Mottley already had \$1.7 million deposited in the First Scheme, but according to the prosecutor, David convinced him (Mottley) to withdraw the money and invest it in the ...Second Scheme. The judge heard that the UTC issued the cheque payable to Mottley who"—then—"in turn endorsed it to David."

And of course, David took it and invested in it some questionable investment, and lost every cent.

After pleading guilty to the charge David's attorney made a stirring plea in mitigation, he cited several testimonials from various church leaders, et cetera, et cetera.

I have here the actual criminal commitment.

The keeper of the State prisons

Whereas at a session of the High Court in the said island held in San Fernando, on the said island on Wednesday the first day of October, in the present day of our Lord 2003, before His Lordship the Hon. Justice Narine, Gerry David on the 23rd day of October, 2003 was convicted in due form of law, for that he, the said Gerry David on a date unknown between the 25th day of February, 1999 and the first day of May, 1999 at San Fernando, in the county of Victoria, fraudulently converted to his own use or benefits certain property, that is to say, cheque No. so and so dated 25th February, in the sum of \$1,700,000 entrusted to him by Glenwyn Mottley order for him, the said Gerry David to apply same towards the purchase of units, and therefore, the said court did adjudge that the said Gerry David for his said offence should be imprisoned in the State prison for the term of four years and to be kept there in hard labour during the whole of the said term of imprisonment.

Mr. Roberts: What is his position in Government?

Mr. C. Imbert: This gentleman, as I indicated to you, this is the same Jerry David who is parading around my constituency with the defeated UNC candidate, as an official of the Diego Martin Regional Corporation—*[Interruption]*

Miss Mc Donald: What?

Mr. C. Imbert: Yes, the same Jerry David, the person who is convicted of stealing \$1.7 million of somebody else's funds. The Chairman of the Corporation is promoting this gentleman as the head of the Disaster Management Unit in the Diego Martin corporation, and the Member for Diego Martin West can attest that that is so.

As the Member of Parliament in the constituency of Diego Martin North/East which falls within the region of Diego Martin, I place on record my strongest objection to this Government promoting a convicted criminal, somebody convicted of fraud, somebody who stole \$1.7 million, to head the Disaster Management Unit in my area or to hold any position of responsibility within the Diego Martin corporation, specifically within the Disaster Management Unit.

I would like the Minister to tell us whether his investigations have demonstrated to him, whether in promoting this individual to head the disaster unit in Diego Martin, whether any check was made of this person's criminal record. Did the Diego Martin Corporation vet the background of this person? Or is it that the Chairman of the Diego Martin corporation is well aware that this person had been convicted and served four years hard labour for fraud, and is promoting him in a position of responsibility and trust within the region of Diego Martin because he is a political activist working for the UNC? I would like the Minister to tell us what his investigations have revealed.

Can he tell us whether the Chairman of the Corporation has told him, because I saw the Chairman here today, you know, they all came here. I would like to know if the Chairman of the corporation has told the Minister, that he knew that the said Jerry David was a convicted conman who had stolen \$1.7 million, the same person, and whether the Chairman has told the Minister whether he intends to promote this person in a position of responsibility within the disaster unit or any position within the corporation?

Mr. Speaker, this corporation under this UNC is the most reckless and irresponsible group of people I have ever come across. I cannot believe that a corporation could be so reckless as to be promoting somebody who has demonstrated that he is not capable of dealing with people's money with propriety and integrity. I cannot believe a

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corporation under the UNC will be promoting a criminal into a senior position within a regional corporation, and I wait to hear what the Minister has to say.

1.20 a.m.

The Minister of Local Government (Hon. Chandresh Sharma): Mr. Speaker, I am not sure what I am being asked to answer because the Motion that was sent to me by the Leader of Government Business reads as follows:

The reckless and irresponsible employment practices of the Diego Martin Regional Corporation, specifically in the Disaster Management Unit and the need for the Minister of Local Government to ensure that persons are properly vetted before they are hired by the corporation.

So, I am not sure what he presented, but he did conclude by asking me if the Chairman of the Diego Martin Regional Corporation told me a number of things. He did not tell me any such things. What people have told me is that the mover of this Motion might be very close to doing some very ugly things.

Mr. Imbert: Mr. Speaker, Standing Order No. 36(5).

Hon. C. Sharma: But, allow me to finish. Premature.

Mr. Speaker: Member, this Motion is not about the Member for Diego Martin North/East; so I think that we have to be careful, right?

Hon. C. Sharma: Yes, Mr. Speaker.

To raise a number of matters about somebody's conviction—if, in fact, that obtains—which is not part of the Motion, is ugly, and, to ask the Minister of Local Government to respond to those things is very unfair. No Government Minister is an investigator. I have no resources in my Ministry; there is no heading under any of the expenditures at the Ministry, nor at any one of these ministries, aside for the Attorney General's office or the Ministry of National Security. [*Interruption*] When they used to investigate you, it was not at the Ministry of Local Government. So that, it cannot obtain to ask the Minister of Local Government, or any Minister for that matter: "Did you investigate the criminal record of someone?" That is not the duty of the Minister of Local Government.

More than that, Mr. Speaker, since he made reference to the Disaster Management Unit, the existence of the Disaster Management Unit came about by Cabinet Note 1347, dated May 23, 2008. The Disaster Management Unit in all the corporations came about at that period.

At the Diego Martin Regional Corporation, which came in 2008, the coordinator was Herbert Tyson the Field Officer was Mr. Jerry David. He was employed by the PNM. [*Crosstalk*] Jerry David was a PNM activist. [*Desk thumping*] One of the instructions the hon. Prime Minister gave to us, is that where we met officers, we were to allow them to finish their period of employment and then you can revisit. We do not victimize people. We demonstrated that in CEPEP; we met 5,000-plus, today we have 12,000 workers. This is the Jerry David they want us to investigate. They used and they abused. That is their style.

The Minister [*sic*] brings this Motion, argues something totally different; my response is that he wants us to do his political work. He is scared of this Jerry David campaigning against him and wants the Government to do a set of investigations; wasting the parliamentary time. Where did Jerry David come from?

Hon. Member: “2008, he is a PNM!”

Hon. C. Sharma: Mr. Speaker, the Diego Martin Regional Corporation—he was talking about reckless and irresponsible employment. This Member of Parliament engaged the regional corporation in hiring persons, so did the Member for Diego Martin West; because they are Members of Parliament. The Member of Parliament for Diego Martin North/East, in his capacity as Member of Parliament; the Member of Parliament for Diego Martin West, among other Members of Parliaments, on both sides of the House—in Government and in Opposition—assist persons in finding employment at MTS, at WASA, at the regional corporations and elsewhere. They cannot deny that. They cannot deny that.

Hon. Members: Not me! Not me!

Hon. C. Sharma: They do that all the time; that is part of their responsibility. So, now they are talking about the reckless and irresponsible employment; by whom? By the Member for Diego Martin West? By the Member for Diego Martin North/East? By whom? Which one am I to investigate, Sir, and for what period? They use people, abuse them, and come to use the protection of the Parliament to claim that this guy has \$1.7 million, whatever; trying to engage the Government.

Mr. Speaker, since the Member has raised the matter of the Disaster Management Unit, they are doing excellent work; working beyond the call of duty, night and day. The Member did indicate that there were some floods in the Diego Martin area—never seen in this part of the country, never seen. The same

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Disaster Management Unit, led by the Chairman, Mr. Anthony Sammy—engaging the NGOs and CBOs, faith-based organizations in that community, for more than one month, went and took care of people; making resources available: food, medical, shelter. They had a number of volunteer doctors and faith-based workers come out. Not one day did the Minister for Diego Martin North/East visit that area or lend any assistance, and coming to attack the Disaster Management Unit.

You see, Mr. Speaker, what is crystal clear—I want to read this again for the national community to understand what is happening. The Minister [*sic*] sends, through your good office, Sir, and the Leader of Government Business instructed me to prepare for this:

The reckless and irresponsible employment practices of the Diego Martin Regional Corporation, specifically in the Disaster Management Unit and the need for the Minister of Local Government to ensure that persons are properly vetted before they are hired by the corporation.

I heard the Member talking about somebody, whose name he has called, saying that he is accused of some money, asking the Minister of Sport something; nothing related to this; absolutely nothing related to what he sent to the Parliament.

Hon. Member: He abused the process.

Hon. C. Sharma: Abused it; and making it a personal attack; personally attacking the gentleman, whatever he has done; Jerry David, personally attacking him.

So, I have nothing to answer, Sir; and I apologize to Jerry David and to anyone who this Member has used this Parliament to attack. This is not the style of the Government here. Every citizen in this country obtains the protection of the Constitution and they shall find employment based on their qualifications. We are not to deny people employment. [*Crosstalk*] The Constitution does not allow us that and the oath of office I took as a Minister, and as a Member of Parliament, is not to investigate employees, that is not our job; and not to use the Parliament to destroy the character of people, hiding under this thing. [*Crosstalk*]

So, I am very proud of Mr. Anthony Sammy, Chairman of the Disaster Management Unit. I am very proud of all the councillors and in that regional corporation there are PNM councillors; there are UNC councillors, there are People's Partnership councillors. We had a meeting with them today talking about

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additional work to do. Here we have a Member of Parliament, a former Minister, who will never see ministerial office again, never! In fact, it is crystal clear. In some ways the two Motions brought by the Member for Diego Martin North/East are a blessing in disguise; never shall the PNM see Government again!

Thank you very much.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 1.29 a.m.