

**HOUSE OF REPRESENTATIVES**

*Wednesday, April 05, 2017*

The House met at 1.30 p.m.

**PRAYERS**

[MR. DEPUTY SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. Deputy Speaker:** Hon. Members, I have received communication from the following Members: Hon. Camille Robinson-Regis, MP, Member for Arouca/Maloney; Mrs. Christine Newallo-Hosein, MP, Member for Cumuto/Manzanilla, have asked to be excused from today's sitting of the House.

The leave which the Members seek is granted.

**PAPERS LAID**

1. Annual Audited Financial Statements of the National Schools Dietary Services Limited for the financial year ended September 30, 2015. [*The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert)*]  
*To be referred to the Public Accounts (Enterprises) Committee.*
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sangre Grande Regional Corporation for the year ended September 30, 2004. [*Hon. C. Imbert*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sangre Grande Regional Corporation for the year ended September 30, 2005. [*Hon. C. Imbert*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sangre Grande Regional Corporation for the year ended September 30, 2006. [*Hon. C. Imbert*]

**UNREVISED**

5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sangre Grande Regional Corporation for the year ended September 30, 2007. [*Hon. C. Imbert*]

*Papers 2 to 5 to be referred to the Public Accounts Committee.*

6. Annual Administrative Report of the National Information and Communication Technology Company Limited (iGovTT) for the period October, 2014 to September, 2015. [*The Minister of Public Administration and Communications (Hon. Maxie Cuffie)*]

### URGENT QUESTIONS

#### Ministry of Education ICT Technicians (Details of Contract)

**Dr. Tim Gopeesingh** (*Caroni East*): Mr. Speaker, to the Minister of Education: Given that more than one hundred (100) ICT Technicians at the Ministry of Education have been subjected to month to month contracts over the last year, could the Minister indicate when they will be given the three year contracts?

**The Minister of Education (Hon. Anthony Garcia)**: Mr. Deputy Speaker, I am pleased to state that a note is now being prepared for the submission to Cabinet and as soon as Cabinet has decided then we will be able give to those IT Technicians their three-year contract. Thank you. [*Desk thumping*]

**Dr. Gopeesingh**: Is there any reason hon. Minister why these were made to languish with a one-year contract over the last 15 or 16 months rather than a three-year contract?

**Hon. A. Garcia**: Mr. Deputy Speaker, the Member for Caroni East would know better than all of us the reason why those persons have not been given their three-year contract, because during his tenure they were not given those contracts. He is solely responsible. [*Desk thumping*]

**Dr. Gopeesingh:** Is the Minister aware that during my tenure they were given three-year contracts rather than what you just said? Are you aware that they were given three-year contracts?

**Mr. Deputy Speaker:** Member! Member, question.

**Dr. Gopeesingh:** Is he aware that they were given three-year contracts?

**Hon. A. Garcia:** Mr. Deputy Speaker, I am aware that I am at this point Minister of Education. Thank you very much. [*Laughter and desk thumping*]

### **CT Scanners (Current Status)**

**Dr. Lackram Bodoie** (*Fyzabad*): Thank you, Mr. Deputy Speaker. To the Minister of Health: Could the Minister indicate whether the 16-slice CT scanner located at the Accident and Emergency Department at the San Fernando General Hospital is currently working?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you, Mr. Deputy Speaker. The 16-slice scanner is currently not working. The tube was ordered many weeks ago, however Siemens of Sweden shipped the wrong part. The wrong part arrived in the country, it was discovered it was the wrong part, it had to be returned, the correct part is currently in the country, and the scanner should be up and functional by Friday. [*Desk thumping*]

**Dr. Bodoie:** Thank you, Minister, can the Minister provide this House with the service contract deliverable as it pertains to the up time expected for this relatively new machine, and whether he is satisfied with the performance on this service contract?

**Hon. T. Deyalsingh:** That is a very detailed question for service contract, which was not part of the original question, but I am happy to provide the information if posed correctly.

Urgent Questions (cont'd)

2017.04.05

**Dr. Bodoë:** Thank you, Minister. Can the Minister then confirm that a single company is responsible for servicing of the CT machines at all public institutions, and whether he is satisfied of this arrangement—

**Mr. Deputy Speaker:** Member for Fyzabad, I would not entertain that question, that will be another trend of thought, so I would not entertain that question, please. Member for Naparima.

### **CT Imaging (Reduction of Waiting Time)**

**Mr. Rodney Charles** (*Naparima*): Thank you, Mr. Deputy Speaker, the Minister of Health: Given the intermittent functionality and the recent downtime of CT scanners in the public system, could the Minister indicate what measures are in place to reduce the exacerbated waiting time for CT imaging at the nation's hospitals?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you, Mr. Deputy Speaker. First of all, there is no exacerbated waiting time. All emergency scans which are to be done, as was the practice in 2010 to 2015, were sent to the private sector, we continue to make use of that facility. In the interim, we sent patients to Mount Hope where the CT scanner was working, so all patients that needed CT scans they were accommodated in very quick time, so there was no exacerbated waiting time. We utilized the private sector as has been done in the past, and we utilized other public sector facilities.

**Mr. Charles:** Would the Minister then tell us what was the waiting time prior to this problem, and what is the waiting time now, so that I could advise my patients, and since you have said that it has not been exacerbated?

**Hon. T. Deyalsingh:** Mr. Deputy Speaker, I cannot give exact information on waiting time, but what I can tell you, every emergency case was attended to and

non-emergency cases were accommodated in quick time at the Mount Hope facility. So, there was no disadvantage to any patient, I can assure you of that.

**Dr. Khan:** Thank you, could the Minister indicate if you have found any evidence of sabotage of those CT scanners in the institutions?

**Hon. T. Deyalsingh:** Mr. Deputy Speaker, we are looking at all angles to determine why the CT scanners at San Fernando and Port of Spain coincidentally went down at the same time. I have no definite report here that I can say it was due to reason a, b, c or d.

### **Heritage and Stabilisation Fund (Reasons for Withdrawal)**

**Mr. Rodney Charles** (*Naparima*): Thank you very much. To the Minister of Finance: Given that the IMF is still working on proposals to separate the heritage and stabilization components of the HSF, could the Minister provide the reasons for continued withdrawals from the HSF in the absence of this policy?

**The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):** Mr. Deputy Speaker, the Heritage and Stabilisation Fund is governed by legislation, and the two withdrawals made so far are strictly in accordance with the existing rule.

**Dr. Tewarie:** Follow up question.

**Mr. Deputy Speaker:** Member, we know the procedure, okay, I will allow it. Go ahead.

**Dr. Tewarie:** Thank you, Mr. Deputy Speaker. I just would like to ask, Minister, what is the thinking behind the loan portfolio that you are building together with the withdrawal from the HSF?

**Hon. C. Imbert:** Mr. Deputy Speaker, that is a completely different question, if the Member wants to put it in writing I would be happy to answer it.

**Mr. Charles:** Mr. Deputy Speaker, we are dealing here with policy of withdrawals, is there a policy to use the withdrawals for investment purposes rather than consumption?

**Mr. Deputy Speaker:** Member, no, I would not allow, the question was specific towards the Heritage and Stabilisation Fund.

**Mr. Charles:** I am talking about withdrawals, sir.

**Mr. Deputy Speaker:** No, but you are talking about the policy in general also. You added together with that. All right, so, Member for Fyzabad.

**Mentally Ill Patient  
(Reported Shooting)**

**Dr. Lackram Bodoë** (*Fyzabad*): Thank you, Mr. Deputy Speaker, to the Minister of National Security: In view of the reported shooting of a mentally ill patient by a police officer within the precincts of the Point Fortin Area Hospital, is the Minister satisfied with the manner in which the incident was handled?

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** Thank you, Mr. Deputy Speaker. The matter is currently under the investigation of the Trinidad and Tobago Police Service. I am therefore not seized of the facts of the matter, until such time I cannot say the degree of satisfaction.

**Dr. Bodoë:** Thank you, Minister, for that answer. It is alleged in the public domain that it took place within the institution, in view of that and the outcome, Minister, with consideration, or is consideration being given to the usually non-fatal devices, for example, stun guns in the restraint of these patients?

**Hon. Maj. Gen. E. Dillon:** That can only be determined based on the results of the investigation, Mr. Deputy Speaker. And I would really like to put on the table that consideration with respect to use of non-lethal weapons is presently being considered by the Commissioner of Police.

**Dr. Khan:** This supplemental to the Minister. Can the Minister indicate if there are any police officers trained in restraining mentally ill patients, and what is the mechanism that they do use?

**Hon. Maj. Gen. E. Dillon:** Mr. Deputy Speaker, members of the police service go through different types of training at the Police Barracks, including how to treat with mentally ill patients. Bear in mind again that the situation here involved the municipal police to a large extent, and they also do some part of that training which I could confirm afterwards.

**Children's Life Fund  
(Access to Website Link)**

**Mr. Barry Padarath** (*Princes Town*): Thank you, Mr. Deputy Speaker, through you to the Minister of Health: Is the Minister of Health aware that the link to the application form on the website of the Children's Life Fund is broken, making it extremely difficult for parents or guardians of children to access same, and what urgent steps will be taken to rectify this situation?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you, Mr. Deputy Speaker. Yes, I am aware that the link is down. The link is there for parents or guardians to access the forms, not to make formal applications. So, the link is down, what we have done as of today, any parent or guardian wishing to get forms can simply call the CLF, and we will have the forms delivered to the nearest health centre or CMOH office. The IT Technicians are currently working on the problem, but I cannot give you an exact time yet as to when the link will be up, but forms are freely available at the office of the Eric Williams—Wendy Fitzwilliam Children Hospital, and any parent who wishes to have forms delivered closest to them at the nearest health centre, or County Medical Officer of Health, we are making arrangements to do that so any inconvenience is minimized.

Urgent Questions (cont'd)

2017.04.05

**Mr. Padarath:** Thank you, Mr. Deputy Speaker. To the hon. Minister, hon. Minister I visited the Children's Life Fund on Friday, March 31, 2017, together with several parents including that of the well-publicized case of young Shannon Luke, could the hon. Minister—

**Mr. Deputy Speaker:** Member for Princes Town, please come to the question, right, rather than, you know, the preamble, because you are going down a different road with bringing in Shannon. Okay, so—

**Mr. Padarath:** Thank you. Could the hon. Minister indicate whether he is aware that the Children's Life Fund has no customer service representatives and information officers, and members of the public—

**Mr. Deputy Speaker:** Member for Princes Town. Member!

**Mr. Padarath:** Yes.

**Mr. Deputy Speaker:** Member for Princes Town, again, it is a totally different—

**Mr. Padarath:** [*Inaudible*]

**Mr. Deputy Speaker:** Member, it is a totally different question, customer—

**Mr. Padarath:** Of course, hon.—

**Mr. Deputy Speaker:** Hold on. Hold on Member, it is a totally different question, I cannot entertain it, sir.

**Dr. Khan:** Could the Minister indicate who is responsible for giving out the forms at the Children's Life Fund?

**Hon. T. Deyalsingh:** The forms are accessible in hard copy or soft copy, and from the best of my information it is the people who administrate the funds, and there are people at the Wendy Fitzwilliam Children's Hospital to do that. They can be collected in hard copy or soft copy. So, there are personnel at the facility.

**Mr. Padarath:** But they are screening them.

**Mr. Deputy Speaker:** Member for Princes Town, there is a procedure how we go



about asking your question, right. You still have the option for two more questions, please do it in the proper fashion. Supplemental? Member for Princes Town.

**Mr. Padarath:** Hon. Minister, are you aware that a data entry clerk is screening persons or applicants asking for these forms, and determining whether or not they would be successful or not before these forms are being given out?

**Hon. T. Deyalsingh:** There is no such activity taking place.

**Mr. Padarath:** I was there.

**Hon. T. Deyalsingh:** The determination—[*Interruption*—]—of who is successful is done by a committee, headed by a medical—there is a medical panel, so no clerk can screen.

**Mr. Padarath:** It is happening.

**Mr. Deputy Speaker:** That is it, Member, four questions were allowed already.

### ANSWERS TO QUESTIONS

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you, Mr. Deputy Speaker, there 12 questions for oral answer, we are answering all, but we ask for a deferral of two weeks for questions Nos. 62, 83, 88 and 92. As for written questions, all answers will be circulated with the exception of question No. 69, again, for which we ask for a two-week deferral.

**Mr. Deputy Speaker:** Acting Leader of Government Business, the last question is which one, after 92 you mentioned?

**Hon. T. Deyalsingh:** The oral questions that we ask for a two-week deferral are: 62, 83, 88 and 92.

**ORAL ANSWERS TO QUESTIONS**

*The following questions stood on the Order Paper:*

**Petrotrin's Cautionary Closure  
(Details of)**

- 62.** Could the hon. Minister of Energy and Energy Industries indicate the total cost of the cautionary closure of critical installations at Petrotrin in anticipation of proposed strike action recently served by the Oilfields Workers' Trade Union? [*Dr. R. Moonilal*]

**CARICOM Nationals  
(Details of)**

- 83.** Could the hon. Minister of Foreign and CARICOM Affairs state:
- a the number of CARICOM nationals granted Trinidad and Tobago work permits for 2014, 2015 and 2016 and provide the list of applicable nationalities for each year; and
  - b. the number of CARICOM nationals deported from Trinidad and Tobago for 2014, 2015 and 2016:
    - i. as a result of criminal offences;
    - ii. for reasons other than the commission of criminal offences; and
    - iii the nationalities of the CARICOM nationals deported for each of the specified years in (i) and (ii)? [*Dr. T. Gopeesingh*]

**Audit Reviews by Ernst & Young  
(Details of)**

- 88.** With respect to audit reviews by Ernst & Young for Ministries, Departments, Statutory Corporations, State Enterprises and Special Purpose Companies since September 2015, could the hon. Prime Minister indicate:

- a. the list of audit reviews completed to date;
- b. the list of audit reviews in the process of being completed;
- c. the cost of per audit in (a) and (b) above;
- d. the total amount spent to date; and
- e. the outstanding quantum of monies yet to be paid? [*Dr. R. Moonilal*]

**Tobago House of Assembly Divisions  
(Number of Full Time Employees)**

- 92.** Could the hon. Minister of Finance state the number of full time employees in each Division of the Tobago House of Assembly:
- a. Community Development;
  - b. Enterprise Development and Labour;
  - c. Education, Innovation and Energy;
  - d. Finance and the Economy;
  - e. Food Production and Fisheries;
  - f. Health, Wellness and Family Development;
  - g. Infrastructure, Quarries and the Environment;
  - h. Office of the Chief Secretary;
  - i. Settlements, Urban Renewal and Public Utilities;
  - j. Sports and Youth Affairs;
  - k. Tourism, Culture and Transportation? [*Dr. S. Rambachan*]

*Questions, by leave, deferred.*

**Illegal Contraband  
(Details of)**

- 61. Mr. Rodney Charles** (*Naparima*) asked the hon. Minister of National Security:
- Could the Minister state:

- a) the steps taken by the Government to prevent the inflow of illegal guns, drugs, ammunition and other such contraband; and
- b) whether the steps provided in part (a) are expected to yield at least a 20 per cent reduction in such illegal contraband?

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** Mr. Deputy Speaker, the Government of Trinidad and Tobago has taken the following steps to prevent the inflow of illegal guns, drugs, ammunition, and other such contraband into Trinidad and Tobago. As a responsible Government, we have utilized the six vessels acquired in conjunction with the Trinidad and Tobago Coast Guard fleet, and increased the Trinidad and Tobago Defence Force capacity to stem the flow of contraband items into the country. Evidence of this may be seen as recent as February 2017, when the Trinidad and Tobago Coast Guard in support of the United States Coast Guard seized one of the largest cocaine finds since 1999. [*Desk thumping*] This seizure was in fact estimated to weigh 4.2 tons with an estimated street value of almost \$900 million.

You may have also seen an increase in maritime domain governance and awareness. This support denies smugglers freedom of action within the maritime domain, causing them to be interdicted by the Trinidad and Tobago Coast Guard vessels. This is ably supported by a Trinidad and Tobago Air Guard, which conducts aerial surveillance in our maritime borders and across the land mass of Trinidad and Tobago. The Trinidad and Tobago Defence Force which is a broad range of intelligence mechanism both on lands, air and sea, inclusive of the national coastal surveillance radar system, which enhances the situation awareness of the Trinidad and Tobago Defence Force. We have also strengthened the collaboration with national, regional and international stakeholders. This involved deepened collaboration among the Trinidad and Tobago Police Service, the

Strategic Services Agency, the Customs and Excise Division, the Immigration Division, the Maritime Service Division, and the Fisheries Division at the national level.

At the regional and international levels, stakeholders including the Venezuelan Coast Guard whom we have partnered with since re-establishing the bilateral corporation with Venezuela in recent times, we do a number of partnering with them and communications continue between the commander of the Guardia Costa and the commanding officer of the Trinidad and Tobago Coast Guard, share maritime presence in the Gulf of Paria and in the South and North of Trinidad and Tobago.

The regional security system also acts together with us in support through our aerial surveillance. The United States Coast Guard and the United States Southern Command through the joint Inter-Agency Task Force South, and the area where we have a presence that continues to support our interdiction efforts and our surveillance, on both sea and land. These collaborative efforts are further enhanced by the Trinidad and Tobago Defence Force diplomatic efforts through its military attachés in the United States, in Venezuela, in the United Kingdom. We have also increased what we consider land-based coastal patrols. Land-based coastal patrols are conducted by members of the Trinidad and Tobago Defence Force together with the members of Trinidad and Tobago Police Service in most of our coastal areas and our rural villages, to mention a few areas such as Icacos, Los Iros, Moruga, Blanchisseuse, Toco, to name just a few.

The steps taken, Mr. Deputy Speaker, have contributed to a significant increase in the interdiction of illegal guns, drugs and ammunition and other such contrabands in Trinidad and Tobago. While it is difficult, if not sometimes impossible to assign a specific percentage, because of the situational manner to

expected future reduction of the inflow of illegal guns and other such contrabands, for the years 2015 and 2016 there has been approximately 350 per cent increase in interdiction exercises by the Trinidad and Tobago Defence Force, having seized over \$18 million worth of drugs in 2015 and approximately \$65 million worth of drugs in 2016. This, Mr. Deputy Speaker, together with the Government's unrelenting approach, should serve as a deterrent to individuals engaged in the trade in contraband. [*Desk thumping*]

**Mr. Charles:** Is the Minister in a position to say whether there is a 20 per cent reduction, or some percentage reduction, so that at some stage we could look forward to a 100 per cent ultimately?

**Hon. Maj. Gen. E. Dillon:** Mr. Deputy Speaker, I just mentioned that it is difficult to give a percentage, again based on the situation that we are dealing with, but maritime situation in respect to security is very dynamic, and therefore it is difficult to give a percentage.

**Mr. Charles:** Therefore, there could in fact be an increase in the number of guns and ammunition coming into country?

**Hon. Maj. Gen. E. Dillon:** There could also be a decrease, Mr. Deputy Speaker.

**Mr. Charles:** So, we are guessing? So, therefore we are in a position—and this is the point, that we are not in a position to say yes. Are we in a position to say definitively there is a percentage decrease? And if we are not, we are simply guessing.

**Hon. Maj. Gen. E. Dillon:** Mr. Deputy Speaker, I mentioned a while ago that for the years 2015 to 2016, there has been approximately 350 per cent increase in the interdiction exercise, having seized \$18 million worth of drugs in 2015 and \$65 million worth of drugs in 2016. [*Desk thumping*]

**T&T Nationals from the US  
(Number Deported)**

**82. Dr. Tim Gopeesingh** (*Caroni East*) asked the hon. Minister of National Security:

Could the Minister state the annual number of Trinidad and Tobago nationals who were deported from the United States for the past ten years?

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** Mr. Deputy Speaker, hon. Members are advised that over the last 10 years 1,793 Trinidad and Tobago nationals were deported from the United States of America as follows: 2007, 260; 2008, 325; 2009, 264; 2010, 227; 2011, 157; 2012, 148; 2013, 125; 2014, 114; 2015, 77; 2016, 96. A total of 1,793 persons were deported during that period, Mr. Deputy Speaker.

**Dr. Gopeesingh:** Hon. Minister, is there a follow up to these individuals who have been deported? The approximately 1,800 who have been deported over the last ten years?

**Hon. Maj. Gen. E. Dillon:** Mr. Deputy Speaker, persons deported from the United States are placed in different categories based on the reason why they have been deported, and therefore follow up was done based on the categories that we selected and determined by the Trinidad and Tobago Police Service, in particular, special branch.

**Dr. Gopeesingh:** If just one vivid example or one example of the most serious category, what is being done in the follow-up process?

**Hon. Maj. Gen. E. Dillon:** The most serious category, of course, would be those who have been deported for murder and would have served sentence for murder in the United States, or involved in other like terrorist activities, and therefore they would be placed on a high category where they will be monitored by the

intelligence services and members of the Trinidad and Tobago Police Service.

**Queen's Park Savannah Panorama Events  
(Moneys Collected)**

**85. Dr. Tim Gopeesingh** (*Caroni East*) asked the hon. Minister of Community Development, Culture and the Arts:

Could the Minister state:

- a. the sum of money that National Carnival Commission collected as gate receipts from each Panorama event held at the Queen's Park Savannah in 2017; and
- b. the sum of money that Pan Trinbago collected for each Panorama event held at the Queen's Park Savannah in 2016?

**The Minister of Community Development, Culture and the Arts (Hon. Dr. Nyan Gadsby-Dolly):** Thank you, Mr. Deputy Speaker. The National Carnival Commission collected gate receipts in 2017 for the panorama semifinals as well as the panorama finals competition. For the pan semis the total collected was \$2,382,050; for the pan finals the amount collected \$1,267,450; giving a total of \$3,649,500, and these represent the unaudited financials. And, in going forward for Pan Trinbago with respect to what was collected in 2016, their figures taken from the Pan Trinbago unconsolidated financial statements, 30<sup>th</sup> of June, 2016, on page 25, the figure represented there includes revenue from the junior national panorama, national single pan prelims, semis and finals, national conventional small, medium and large, prelims as well as semifinals inclusive of the Greens as well as the national conventional small, medium and large finals, and pan on the road, the consolidated figure that is presented there is \$4,654,616.

**Mr. Padarath:** Thank you, Mr. Deputy Speaker. Hon. Minister, can you indicate



to us when would the forensic auditor be appointed to look into the activities of Pan Trinbago as promised?

**Mr. Deputy Speaker:** Member, again, that is a totally different question, forensic audit. The question relates to what were the income from the different “festives”. Right, so I would not entertain that question.

**Dr. Gopeesingh:** Would the hon. Minister indicate whether moneys collected by the National Carnival Commission will go to help defray some of the expenses of Pan Trinbago, since a decision has been made to get National Carnival Commission collecting their fees and not Pan Trinbago in certain instances?

**Hon. Dr. N. Gadsby-Dolly:** Mr. Deputy Speaker, that issue is before the courts at this time and so it would be determined by the courts how that proceeds.

### **Lobbyist or Lobbying Firm (Details of)**

**89. Dr. Roodal Moonilal** (*Oropouche East*) asked the hon. Prime Minister: Could the Prime Minister state:

With respect to the lobbyist or lobbying firm hired by the Government to promote the interests of Trinidad and Tobago in the United States, could the Prime Minister indicate:

- a. the date that the decision to hire was taken;
- b. the person/entity that made the decision to hire;
- c. the procurement process for the services;
- d. the total cost incurred to date;
- e. the total cost for the services; and
- f. the terms of reference or scope of work?

**The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):**

Thank you, Mr. Deputy Speaker. The answer to part (a), December 23<sup>rd</sup> 2015; the

answer to part (b), Cabinet; the answer to part (c), sole selective; the answer to part (d), US \$300,000; the answer to part (e), US \$2,400,000; the answer to part (f), the entire contract with the terms of reference or scope of works is publicly available on the website of the US Department of Justice at the following link: <https://www.fara.gov/docs/6388-exhibit-ab-20161118-2pbf>.

**2.00 p.m.**

**Dr. Moonilal:** Could you repeat that?

**Mr. Deputy Speaker:** The Member for Oropouche East, supplemental.

**Dr. Moonilal:** Thank you very much, Mr. Deputy Speaker. Could I ask the question, could the hon. Prime Minister tell us the terms of reference or scope of work as opposed to the website address of it?

**Mr. Deputy Speaker:** I am addressing you as Acting Prime Minister, Sir? Okay, proceed Acting Prime Minister.

**Hon. C. Imbert:** Thank you, Mr. Deputy Speaker. As I indicated, the entire contract, the whole thing, with the terms of reference or scope of works is publicly available on the website of the US Department of Justice. I will write the website address for the Member on a piece of paper and send it to him, Mr. Deputy Speaker.

**Dr. Moonilal:** May I ask now seriously, is it that the Government is not prepared to indicate the scope of works alone in answering this question and refers [*Desk thumping*] us to a website address for the entire contract? The question is very specific, the scope of works. Is it that the Government is not prepared to state the scope of works?

**Hon. C. Imbert:** I repeat, Mr. Deputy Speaker, the entire contract, including the entire scope of works is publicly available on the website of the US Department of Justice. I will make sure that the website is printed on a piece of paper for the hon.

Member and sent to him within the next five minutes. Thank you, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** Member for Naparima, supplemental.

**Mr. Charles:** Mr. Deputy Speaker, thank you. Given that the answer to (a) is the 23<sup>rd</sup> of December, 2015, is the Prime Minister satisfied that enough time was given to assess the offer by the lobbyist and who was involved in making that assessment?

**Mr. Deputy Speaker:** I will entertain the first part of the question. Hon. Member.

**Hon. C. Imbert:** Yes.

**Mr. Deputy Speaker:** Last supplemental, the Member for Oropouche East.

**Dr. Moonilal:** Could I ask the Acting Prime Minister, what were the reasons that led to a decision to hire a lobbyist or is that also on the website?

**Hon. C. Imbert:** Mr. Deputy Speaker, that does not flow from the original question. I think this matter has been fully ventilated in this honourable Chamber by the substantive Prime Minister on more than one occasion and therefore the answer to that question, just like the contract, is publicly available. And if hon. Members would look at the Standing Orders, if something is publicly available, it is there and there is no need to repeat it.

**Dr. Moonilal:** I am asking what is the decision—[*Interruption*]

**Mr. Deputy Speaker:** Member, Member, Member, please, please. We now move on to question 91 and I call on the Member for Tabaquite.

**Dr. Rambachan:** Question 90.

**Mr. Deputy Speaker:** Question 90, the Member for Tabaquite.

**Garbage Disposal Landfills  
(Details of)**

**90. Dr. Surujrattan Rambachan** (*Tabaquite*) asked the hon. Minister of Public Utilities:

Could the Minister state the daily tons of garbage dumped from January 1 to December 31, 2016 at:

- a. Forres Park Landfill;
- b. Beetham Landfill;
- c. Guanapo Landfill; and
- d. Guapo/Point Fortin Landfill?

**The Minister of Public Utilities (Hon. Fitzgerald Hinds):** Thank you very much, Mr. Deputy Speaker. For the period January 01<sup>st</sup> to December 31<sup>st</sup>, 2016, it is estimated that the tons of garbage disposed of at the following landfills are as follows: Forres Park Landfill, 223,216 tons; for the Beetham Landfill, 291,760 tons and for the Guanapo Landfill, 80,650 tons.

As it relates to the garbage disposed at the Guapo/Point Fortin Landfill, Mr. Deputy Speaker, this question is more properly directed to the Ministry or the Minister of Rural Development and Local Government since this landfill does not fall within the purview of the Solid Waste Management Company, but rather within the purview of the Point Fortin Regional Corporation. I thank you.

**Regional/Borough Corporations  
(Garbage Collection)**

**91. Dr. Surujrattan Rambachan** (*Tabaquite*) asked the hon. Minister of Rural Development and Local Government:

Could the Minister state the total annual expenditure in 2016 on garbage collection for each of the 14 Regional/Borough Corporations?

**The Minister of Rural Development and Local Government (Sen. The Hon.**

**Kazim Hosein):** Thank you very much, Mr. Deputy Speaker. The total annual expenditure in 2016 on garbage collection for all 14 Municipal Corporations is \$277,721,515.90. A breakdown of the expenditure for each Municipal Corporation is listed below:

Port of Spain City Corporation, \$21,318,561;  
 San Fernando City Corporation, \$9,676,177;  
 Arima Borough Corporation, \$5,295,819;  
 Point Fortin Borough Corporation, \$5,975,793.76;  
 Chaguanas Borough Corporation, \$20,085,650;  
 Diego Martin Regional Corporation, \$30,596,334.31;  
 San Juan/Laventille Regional Corporation, \$52,799,672;  
 Tunapuna/Piarco Regional Corporation, \$62,856,244;  
 Sangre Grande Regional Corporation, \$15,114,583;  
 Couva/Tabaquite/Talparo Regional Corporation, \$15,122,048;  
 Mayaro/Rio Claro Regional Corporation, \$9,247,169;  
 Siparia Regional Corporation, \$12,912,481;  
 Penal/Debe Regional Corporation, \$7,666,540; and  
 Princes Town Corporation, \$9,054,443.

A total of \$277,721,515. 90. [*Desk thumping*]

**Dimanche Gras Competition  
(Details of)**

**94. Dr. Fuad Khan** (*Barataria/San Juan*) asked the hon. Minister of Community Development, Culture and the Arts:

With respect to Dimanche Gras Competition 2017, could the Minister state:

- A. the total amount collected from ticket sales;
- B. the total quantum of prize money and to whom?

**The Minister of Community Development, Culture and the Arts (Hon. Dr. Nyan Gadsby-Dolly):** Thank you, Mr. Deputy Speaker. The unaudited figure for Dimanche Gras 2017 sales is, \$389,900. The artistes who would have received the prize money are as follows: Dr. Hollis Liverpool, \$700,000; Karene Asche, \$400,000; Heather MacIntosh, \$200,000; Terry Lyons, \$100,000; Rondell Donawa, \$75,000; Devon Seales, \$40,000; Rodrick Gordon, \$40,000; Victoria Cooper-Rahim, \$40,000; Lynette Steele, \$40,000; Anthony Hendrickson, \$40,000; Weston Rawlins, \$25,000; Winston Peters, \$25,000; Kurt Allen, \$25,000; Sasha Ann Moses, \$25,000; Lornet Nedd-Reed, \$25,000; Miguella Simon, \$25,000; Marsha Clifton, \$25,000; Brian London, \$25,000.

**Booth Rentals Around Queen's Park Savannah  
(Details of)**

**95. Dr. Fuad Khan** (*Barataria/San Juan*) asked the hon. Minister of Community Development, Culture and the Arts:

With respect to the booth rentals around the Queen's Park Savannah, could the Minister state:

- A. the amount of money collected; and
- B. the percentage of booths that were occupied?

**The Minister of Community Development, Culture and the Arts (Hon. Dr. Nyan Gadsby-Dolly):** Thank you Mr. Deputy Speaker. The amount of revenue collected from the rental of booths around the Queens Park Savannah stood at \$113,100. The percentage of booths that were occupied stands at 97 per cent.

**Dr. Moonilal:** Mr. Deputy Speaker, Standing Order 29(13). Mr. Deputy Speaker,

pursuant to Standing Order 29(13), I ask that the Speaker of the House cause to be written to the Minister of Energy and Energy Industries a stern letter indicating his tardiness in response to Question No. 62 and the unacceptable reasons for the delay in answering.

**Mr. Deputy Speaker:** Your Standing Order has been noted, Member for Oropouche East and it will be so dealt with.

**Dr. Moonilal:** Thank you.

**CRIMINAL PROCEDURE  
(PLEA DISCUSSION AND PLEA AGREEMENT) BILL, 2017**

[Second Day]

*Order read for resuming adjourned debate on question [March 22, 2017]:*

That the Bill be now read a second time.

*Question again proposed.*

**The Minister in the Ministry of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Mr. Deputy Speaker. As usual, it is indeed a privilege and a pleasure to be afforded the opportunity to make some contributions here this afternoon on what we on this side believe is a very important piece of legislation. And the piece of legislation that we are discussing this afternoon is:

“An Act to establish a system of plea discussions and plea agreements and for matters incidental thereto”

And to just put it in a context, Mr. Deputy Speaker, if I may, I would like to refer to the Explanatory Note to the Bill and to just put on record that:

“The purpose of this Bill is to enable a Prosecutor and an accused person, which includes a person suspected of committing a criminal offence”—  
which is a very important demarcation that I will come to a little later on—

“and a defendant in proceedings before the court for criminal proceedings, (whether on his own or represented by an Attorney-at-law) to engage in plea discussions aimed at arriving at a plea agreement. Plea discussions”—Mr. Deputy Speaker—“may be initiated by either the accused person or prosecutor in both summary and indictable offences. Under a plea agreement, the accused agrees to plead guilty to a specified offence or undertakes to perform any other obligations contained in the plea agreement in exchange for the prosecutor’s undertaking to take a particular course of action.”

Mr. Deputy Speaker, we have heard a lot of commentary with respect to this Bill and if I may be permitted to just explain, and I do not even think it needs explanation, but really to just put on the record that there is no single magic pill, magic Bill or any magic moment in its singularity that can fix crime. However, the improvement of the criminal justice system is a critical element in the fight against crime. On the last occasion, the hon. Member for Siparia pointed out that all we are hearing about is legislation to deal with the criminal justice system and how does that deal with the detection of crime and the prosecution of crime, et cetera.

Mr. Deputy Speaker, just to remind us in this House, when we are here in the House our duty and what we have been elected to do is to pass legislation and legislation that we believe is good for the citizens of Trinidad and Tobago. It is my submission, Mr. Deputy Speaker, that this particular Bill, which is one element in a suite of legislation that has been brought by this administration, does exactly that. And this suite of legislation is aimed at improving the dispensation of criminal justice by the improvement of the criminal justice system, because it is a value chain. You start with the committal of a crime, the detection investigation, the



charging, and you move along to then coming into the element of the criminal justice system which is, interaction with the DPP, interaction with your attorneys, interaction with the Magistracy or the High Court and the criminal system that dispenses justice.

Mr. Deputy Speaker, if I may be permitted this opportunity to pause at this stage and to ask that we in the House acknowledge the young minds who are the future of this nation and those students who have taken time out of their very busy schedule [*Desk thumping*] from the San Juan South Secondary School, welcome, welcome to the Parliament of Trinidad and Tobago. [*Desk thumping*]

Thank you very much, Mr. Deputy Speaker. So I was at the point in saying that this particular Bill is one element in a suite of legislation, and if I may, we currently have before, either this House or that other place, the abolition of preliminary enquiries; trial by judge alone, which is an election of whether one chooses to have a jury or not have a jury and be tried by a judge alone; access to bail, there is an Access to Bail Bill that is meant, and we will get to it, to make it easier for persons who have been granted bail to access it by allowing certified cheques to be utilized, et cetera. There is also a Bill to amend the Motor Vehicles and Road Traffic Act which is doing, again with the use of cameras at traffic lights, et cetera, and really releasing certain elements in the criminal justice system and making it easier. All of these Bills together with this one are part of a suite of legislation that is before the Parliament to improve the criminal justice system. So if I may, Mr. Deputy Speaker, this particular piece of legislation is introducing and continuing, and making more efficient, a system that currently exists in Trinidad and Tobago since 1999 and it is a system of plea discussions and plea agreements. It is not, we are not talking about plea bargaining and we have very,

very, carefully chosen the use of the words, “plea discussions and plea agreements”. And if I may be permitted the opportunity, Mr. Deputy Speaker, to explain the intent of this legislation and what it is that we are hoping to achieve with this legislation and when one looks at the Bill, as I will do in a short while, and you go through the Bill you will see that it is a very, very transparent process. At every stage, it is intended that it be done in public, the victims are taken into account, we have specifically legislated it should not be done in camera, it should be done in open court to allow the victims and others to participate in the process. Because, Mr. Deputy Speaker, as my friend and colleague, the Member for St. Augustine, will know, having practised in the criminal arena for many years, especially in the criminal arena, the perception of open transparent dispensation of justice is a critical, critical element in a society’s belief in the system and the upholding of the system. And I put on record and submit respectfully, Mr. Deputy Speaker, that this Bill is designed to do exactly that and as we go through it step by step we will see how it accomplishes that.

Mr. Deputy Speaker, this Bill allows persons to negotiate even before a criminal charge, to have discussions even before a criminal charge is laid. So what it means is, it allows people to cut down the amount of time and resources used, but it also permits and opens an opportunity which is an important element in the fight against, for example, white-collar crime. Because what you find very frequently in a study of white-collar crime and the successful prosecution of white-collar crime is, there is something called a big fish.

So there is somebody who sits up in the clouds called a big fish, Mr. Deputy Speaker, and very often they have made it very difficult for the documentary evidential chain or the bank accounts, because they use cash, et cetera, to line their

pockets. But down below the big fish, there is some small fish who are critical to the carrying out of crime. And those small fish are the ones who very frequently have left their fingerprints and their footprints on the scene of the crime. So when these smaller individuals are held and presented with the evidence that is contained against them, for example, elements such as, bid-rigging, elements such as manipulation of contract awards, elements that are part of white-collar crime and corruption and they are presented with that and it can be shown to them by the prosecutor and by the police that here is evidence against you and a successful case can be built out against you, conspiracy charges, damages to the Treasury, et cetera, they can now enter into discussions and give up the big fish, because if they agree to plead guilty to lesser offences or to offences and not put themselves through a trial they can be part of the discussion how they can provide that evidence, that nexus, that link, with the big fish.

So you see, Mr. Deputy Speaker, this particular Bill is a very, very important element in the criminal justice system and in the fight against corruption and white-collar crime. It applies equally, of course, to crimes which have to do with narcotics and illegal drugs and firearms. As we get into the Bill, you will see that it is built out in a way, for example, as happens now, again anyone who practises criminal law will know, if you are travelling in a car or the police raid a house and they find any illegal firearms and narcotics everyone in the car is taken to the police station and can face a charge, everyone in the house is taken to the police station and can face a charge. And in this piece of legislation there is expressed provision for the person who is really the perpetrator and really the person guilty of having the illegal firearm or the narcotics to put their hand up, to enter into discussions with the prosecutor and to take the responsibility and thereby as part of

his or her agreement, allow the rest of the innocents, or the innocents to be released and to go free.

But I think it is important this afternoon, Mr. Deputy Speaker, to put down a marker and this is the Government's marker here, that this is yet another element and a step in the fight against corruption and white-collar crime. [*Desk thumping*] This piece of legislation is going to allow legal negotiations for reduced sentences and charges in exchange for evidence leading to the prosecution of the big fish or Mr. Big. So white-collar crime and corruption is going to be addressed by this particular piece of legislation. And if I may, when you are looking at this legislation it is an important part of it to look at other jurisdictions and whether it has worked successfully in other jurisdictions, how it operates in reality. As I said and I will come to in a while, we have had this type of legislation in place since 1999. Perhaps it has not been utilized as much as it should. We have taken on board a lot of the critiques and commentary with respect to the particular legislation and it has been amended. Now this new Bill is being brought, it was the work of the former administration back in 2014. They had a very important symposium and we will get to that in a short while.

The point is that citizens of Trinidad and Tobago and all those right-thinking citizens of Trinidad and Tobago and law-abiding citizens of Trinidad and Tobago must look at this piece of legislation, marry it and link it in the puzzle of the other pieces of legislation, that suite we have talked about, and understand this is all aimed at improving the criminal justice system. And we have heard the commentary about the resources needed by the DPP's department, the resources needed at the High Court and those are positions that the Government has taken on board and are addressing. Again, there are other constitutional bodies that must

assist with it, the Judicial & Legal Service Commission is the constitutional body charged with providing more bodies to the Director of Public Prosecutions and his office and there is active conversation going on between the hon. Attorney General and those bodies to ensure that adequate and proper resources are provided. So that the implementation of all of this legislation is able to proceed in the right and proper manner.

Mr. Deputy Speaker, I would like to look at the jurisdiction of New Zealand because those of us who practise law will understand that we very often look at Commonwealth jurisdictions, to see how their law operates, what the law is, how their systems operate, et cetera, because we do not believe in reinventing the wheel and we believe in learning from other persons mistakes, to try and narrow and decrease any opportunity for us to make the same errors.

So, Mr. Deputy Speaker, I would like to refer to a paper prepared by the Equal Justice Project Access Team for the “Symposium Paper: Plea Bargaining in Our Justice System” presented at the University of Auckland on the 4<sup>th</sup> of October, 2016. So just a few months ago in New Zealand they looked at it, at a very important symposium, plea bargaining in our justice system and they came up with this particular paper. I think there are a lot of analogies that we can draw from it and a lot of useful information. So if I may, to start by—and it is found at paragraph two, plea bargaining:

“Plea discussions usually take place at the case management stage, where a defendant has pleaded not guilty to an offence. They consist of the defendant’s lawyer and the prosecutor coming together to discuss whether the matter will proceed to trial. Both parties will jointly complete a memorandum about the charges, including whether the defendant intends to

change their plea, and whether the prosecutor proposes to amend, withdraw or add any new charges.

The aim of allowing such discussions is to reduce the amount of time taken for cases to be resolved, and increase the amount of cases where pleas are entered or charges are withdrawn outside of court. These discussions can also provide for greater direction and clarity when the case proceeds to court, by offering a general pathway that both parties have agreed to follow.”

Mr. Deputy Speaker, in New Zealand there is no formal legislation in place, but for very many years they have applied an informal process that permits this. As happens in Trinidad, we have a formal process via legislation and we are improving it. But it is, to put it in the contextual framework, that what you are now allowing someone, that is an accused, with legal advice to sit down with the prosecutor—use something, for example, as murder. There may be difficulties evidentially in proving murder but the person may be willing to plead guilty to manslaughter, that is, a lesser charge. And if that is done, and the prosecutor and the accused agree and it is then sanctioned by the court, what that immediately does, and one can understand, is that it frees up the resources of the court. So that case no longer has to go to trial. We have had some trials that have taken place in the criminal system, we have had one recently with the very brutal murder of a businesswoman and it went to trial and some people were freed, some ordered for retrial, et cetera. But in a system such as this, and if this is utilized properly, it immediately frees up the resources.

On the last occasion the hon. Attorney General pointed out the cost of criminal trials and the cost of defence attorneys and the cost of the prosecution of a matter,

the gathering of evidence. This Bill allows at a very, very early stage, even prior to being charged, for the prosecutor to put to the accused and his attorney-at-law, this is the evidence against you. We are thinking of charging you with X, what are you prepared to do? And it allows now an accused the opportunity to say, you know what, I do not want to go through the next 15 years of my life in Remand Yard and to fight the criminal justice system all the way to the Privy Council and back which could take up 20/25 years of my live, I am going to plead guilty now to this charge, which might be a slightly lesser charge and let us work out the type of sentence that you would be willing to approve as the prosecutor that we then put forward to the judge. And if that happens successfully you can immediately see the benefits to the system, it works on the criminal backlog and jam, it works on allowing people more certainty in their life, et cetera.

**2.30p.m.**

And, in fact, this paper goes on to talk about some of the pros of plea discussions. So at paragraph 2.4 it talks about the “Value of plea discussions”. And it says:

“...plea discussions between parties have ‘significant value for the administration of the criminal justice system’. The benefits include:

- Relieving victims or complainants of the burden of the trial process;”

Which, Mr. Deputy Speaker, is what I just described. It also allows:

- “...resources saved in Court time, prosecution costs, and legal aid to be better deployed in other areas of need.”

Again, these are elements that we are in desperate need of and elements that can only contribute to a more efficient criminal justice system. It also provides:

- “...a structured environment in which the defendant may accept any

appropriate responsibility for their offending that may be reflected in any sentence imposed.”

What that means, Mr. Deputy Speaker, is you are now providing an accused with the opportunity to participate with more clarity, and certainty in the determination of their fate, for crimes that they would have accepted that they committed.

So, for example, with smaller crimes, the petty crimes of say, stealing someone's fruit, et cetera, rather than find yourself clogged in the system in Remand Yard for a number of years being unable to access bail, this piece of legislation now allows you to have an open discussion—transparent discussion—with the prosecution and say, “If I plead guilty, what is the type of sentence that you will then suggest to the court? What is the type of sentence that I will have to serve?” And for them to work out between themselves in a plea discussion, an agreement that can then go forward to be sanctioned by the court. So it allows persons, in all different aspects of the criminal justice system from the smallest crime to the largest crime, to utilize it and to come up with how they can go forward and thereby free the resources of the court.

This particular paper from the University of Auckland goes on to say at paragraph 5.1, Mr. Deputy Speaker, the advantages they see of plea bargaining, and if I may:

“One way plea bargaining preserves justice is by ensuring convictions in cases that may not have succeeded at trial. There is a high level of uncertainty during trials, and there is always a possibility that the defendant will be found not guilty. There are instances that clearly deserve the intervention of the criminal justice system, but technical difficulties may make it difficult to secure a conviction for the most serious charge available. Plea bargaining has a level of certainty a trial cannot offer, and thus ensures



that the guilty party will not walk away without a conviction. Even if it is through a less serious conviction, justice can still be achieved in the sense that defendant will face repercussions for their actions.

Another advantage is that plea bargaining can help the judicial system to better allocate resources. Sentence indications and plea bargains allow unnecessary trials to be avoided. Resources can then be better distributed, increasing the efficiency of the Court system in the long term.”

With that contextual background in place, we will move towards how this particular piece of legislation, and the Bill that is before us, addresses those issues; how is it that we intend that this will free up the court system, allow them to use their resources more effectively, more efficiently. I think I have given some examples of how it could affect the daily lives of those who have found themselves caught in the net of the criminal justice system, and I would like to tell them that this, when passed, it also acts for anything that was done retroactively, prior to the Act. So those who are in the system currently can approach, utilize, once this legislation is passed, what it is that this Bill is intended to do.

So, Mr. Deputy Speaker, respectfully, I find it very, very difficult to understand—and in going through the *Hansard* contributions of those who have contributed before, I did not see anything, really, that stood as a blockage or a prevention from the passage of this Bill. In fact, there was a general amount of support. Those who spoke before talked about probation and different instances which really have nothing to do with the Bill. We have gone through a system where a similar piece of legislation has been in place since 1999, so this is not something that is new to the system. But what we are doing now, almost some 20 years later, is we are looking at what applied and we are now seeking to improve it—actually, almost 20

years later, yes, Mr. Deputy Speaker.

So, Mr. Deputy Speaker, if I may then go to—and I think both the hon. Attorney General as well as the hon. Leader of the Opposition, referred to a Policy Paper on the reform of the criminal justice system, and something that took place in 2014 in a symposium where there was a gathering of the DPP's office; persons who utilize the criminal justice system; the Judiciary, the defence attorneys; the Criminal Bar Association, et cetera, and at Chapter 2 they stated:

Statutory plea bargaining has existed in Trinidad and Tobago—Mr. Deputy Speaker—since 1999. Plea bargaining, otherwise called plea discussions and plea negotiations can be briefly described as discussions between an accused and a prosecutor aimed at arriving at an agreement for the disposition of the case without a trial.

And I think that is a critical element of understanding that what you are trying to do is free the system of trials that are going on unnecessarily or utilizing the resources of trial. But it also allows, even after a trial has been concluded, for the accused to sit down with the prosecution and then take to the judge what they may come up with as a plea agreement.

A plea agreement is an agreement between the prosecutor and accused whereby the accused agrees to plead guilty to certain charge or charges in exchange for the prosecutor offering concessions for the guilty plea.

The terms “plea bargaining” and “plea agreement” are sometimes used interchangeably. *Black's Law Dictionary*, the Tenth Edition, defines “plea bargain” as:

A negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offence or to one of multiple

charges in exchange for some concessions by the prosecutor, usually a more lenient sentence or a dismissal of the other charges.

This system is one that has received the public endorsement of the Judiciary and it is something that the Judiciary has been encouraging. But the Judiciary is really the last element, the last piece of the puzzle, the last piece of the formula and equation in the system. What the system needs is the prosecutor and the defendant, the accused and his or her attorney, to sit down and work out terms, negotiate the terms of an agreement and then take it to the court. So what we are hoping this will do is now encourage those who are in the system to utilize it more efficiently and effectively, as opposed to what has gone on previously.

The Chief Justice of Trinidad and Tobago, the hon. Mr. Justice Ivor Archie, in his address at the opening of the 2013/2014 Law Term, acknowledged that the plea bargaining legislation has not so far been employed with any regularity. He further stated that our present criminal justice system is in crisis. In fact:

“A brief look at the High Court statistics will illustrate the point. The 42 % increase in disposition of indictments from 64 to 91 in the last term is modest having regard to the fact that indictments filed increased from 116 to 339.”

And this is in 2014.

“If we take one non-bailable offence alone, murder, I regret to inform you that as I speak there are 575 persons in custody awaiting trial in respect of 468 murders.”

I think at this stage the latest figure I heard, Mr. Deputy Speaker, is we are close to 800 indictments for murder waiting at the High Court to be tried. So one can imagine that if this is applied to those and there are lesser pleas of manslaughter, et

cetera, how much we would free up the criminal justice system.

“With the length of the average murder trial running into several weeks, we could have 10 judges assigned to try nothing but murders cases for the next...”—

**Mrs. Persad-Bissessar SC:** Minister, could you kindly give way? You said there are 800 matters relating to murder and you are hoping that this plea bargaining legislation would help to, in some way, lessen that number. But would we not have a concern that a deal is made under the plea bargaining—that is what it is for, plea agreements and so on—a deal is made that may allow a murderer to walk free? Now, we have had an experience like that before, where deals were made and there is a murderer walking amongst us. Would there not be some check and balance [*Desk thumping*] that we can put into this to prevent—especially with murder? I thought of blood crimes as a hold, but definitely with murder. Both of you, I would be happy to hear.

**Hon. S. Young:** Thank you very much for that intervention. The answer is it already exists in the legislation. When I go through it I will show that there are very, very expressed stipulations that must be in play before it will be agreed. Of course, there is the discretion, ultimately, by the court as to whether it will accept or reject, and we are trusting the court, the judge, in that instance, to look at the evidence because he or she would have it presented before them. You have to have statements, et cetera, also a victim statement. They can look at it and decide: “I am not accepting this. This is unacceptable to the court.” They could send it back out. Of course, you have your due process, as I will come to, that that can then either be appealed by the prosecutor or by the defendant.

So the answer to your question, Leader of the Opposition, is there is always in the

system the potential for that to take place. And it is not that we are advocating, and it certainly does not allow for a person to walk free. What it is, in a situation like murder, you may then agree, based on the evidence, because we know how difficult it is. I just referred to a trial that I think took close to two years in the High Court system and cost millions and millions of dollars and at the end of it quite a lot of people walked “free”. Some were ordered for retrial. In fact, what we had in that system was some who walked free were then themselves the victims of murder thereafter. So it has that whole question. But with murder, you would be agreeing to maybe a lesser offence of manslaughter which, of course, will carry a sentence with it. Murder is a mandatory, as you know, death penalty. Anything under that, it can be as much as 20 years, 25, whatever. It is then the discretion of the court, ultimately, as to what is the sentence that should prevail. If I may proceed.

**Mrs. Persad-Bissessar SC:** Maybe in the committee stage we can take it further, but I would ask the hon. Attorney General to consider—I do not want to unduly disturb your contribution but it is something we will want to look at, whether we put a schedule to exempt. You see, if we had done like categories of murders—we have not gone that far, we tried to do it, it has not happened—we could have exempted that this Act may not apply to first degree murder, and in that way the other ones, manslaughter and lesser offences. So, AG, can you look at it and in committee stage we can talk a little more on it? Thank you for your explanation.

**Hon. S. Young:** Thank you very much. And if I may proceed then, with continuing to quote the hon. Chief Justice:

“With the length of the average murder trial running into several weeks, we could have 10 judges assigned to try nothing but murder cases for the next 5 years and we still will not have cleared the backlog (assuming that all

matters go to trial).”

The hon. Chief Justice further stated that:

“There is absolutely no way that all of the matters before the courts can be disposed of by trials within a reasonable time frame.”

He proceeded to describe plea bargaining as “an essential feature of most modern criminal justice systems”, where he said—

**Mr. Deputy Speaker:** Hon. Member, your speaking time has expired. Do you care to avail yourself of the additional 15?

**Hon. S. Young:** Yes, please.

**Mr. Deputy Speaker:** Kindly proceed.

**Hon. S. Young:** Thank you, Mr. Deputy Speaker. And he went on to say:

“...and is a rational, albeit not perfect way—”

So he accepts, and the Judiciary accepts, there is no perfect way, but it:

“...is a rational way albeit not perfect way of weeding out those matters that can be justly disposed of without a trial.”

Tremendous benefits—the policy paper goes on to say—can be derived from successful plea negotiations.

And I think this point is very important, Mr. Deputy Speaker, and for the citizens listening on. This is one of the main purposes of legislation such as this:

Witnesses are spared the agony, trauma and inconvenience of testifying.

Prosecutors avoid lengthy trials. The accused is relieved of the uncertainty of trial outcome. Defence attorneys save time by not having to prepare and

conduct lengthy trials. Judicial resources are more efficiently utilized by judicial officers not having to conduct trials of all of the matters on their list.

Though plea bargaining exists in several jurisdictions, there are no consistent

mechanisms. Some countries like the United States of America, South Africa, Zambia, Jamaica and Guyana, have a formal legislative framework, while in Canada the process is informal. In New Zealand the process is informal. In the United Kingdom, apart from cases of serious and or complex fraud, there is no formal legal framework of plea bargaining.

*[Interruption]*

So, Mr. Deputy Speaker, I was going to take the time to—

**Mr. Deputy Speaker:** Excuse, Member, you were doing it in the proper fashion earlier, you know.

**Mrs. Persad-Bissessar SC:** Yes.

**Mr. Deputy Speaker:** So please—*[Crosstalk]* Go ahead, proceed.

**Hon. S. Young:** Thank you very much, Mr. Deputy Speaker. The Leader of the Opposition is going to give me some injury time. I was going to go through various jurisdictions, Mr. Deputy Speaker, for the *Hansard*, to show how it is applied, but I do not think I have sufficient time to do it and I would like to really concentrate on some specific provisions in the Bill, if I may. And if I may start with clause 1—well, actually clause 1(2), and just put on the record that this Act, when it is passed, only comes into play when there is proclamation. So the important point is those who are saying there are not sufficient resources in the system, that things are not ready for implementation; that is something we are aware of. As I said, the hon. Attorney General is working on that and it will be proclaimed when resources have been ramped up.

But the truth is, we cannot wait for that nirvana that may or may not exist, because there is always a moving timeline; there is always a moving amount of resources. No one ever thinks they have sufficient resources. Ultimately you have to take that

leap. You have to implement and you have to get on with it. It is also very interesting when you look at the definition of an “accused person”.

“‘accused person’ means a person suspected of committing a criminal offence or a defendant in proceedings before the Court...”

So a person who is held under suspicion of a criminal activity, taken to a police station, may at that stage invoke this legislation and say, “Listen, yes, I had this small amount of narcotics in my possession but I am willing to plead guilty to that if this is the sentence, and I will give up ‘Mr.Big’ who is the person that is importing so much more of this narcotics, so much more of the illegal guns and firearms.” And it immediately allows someone in that situation to enter into negotiations with a prosecutor.

We go on, a “relative”. This, again, is another fundamental change that is being introduced in the definition of “relative”.

“‘relative’, in relation to the victim, means—

- (a) a parent, a step-parent or guardian;
- (b) the spouse, cohabitant or fiancé;
- (c) a person responsible for the care and support; or
- (d) a child, step-child or other dependent;”

So we have broadened the ambit of persons who are defined as relatives, which is applicable when you come now to the victim statement.

At clause 3 we go on to say that it is applicable to both indictable and summary offences. So this covers all, the whole ambit of criminal offences, and importantly: “...committed before or after this Act comes into force.”

So that is the point I was alluding to a short while ago. When this becomes the legislation, it is applicable to those who are already in the criminal justice system.



It defines, at clause 4, what a plea agreement is. And this is where it defines what a plea agreement is; it is:

“...an agreement made between the prosecutor and the accused person in which—

(a) the accused person agrees—

(i) to plead guilty to an offence which is disclosed on the facts and on which the charge against the accused person is based; and

(ii) to fulfil any other obligations specified in the plea agreement;  
and

(b) the prosecutor agrees to take a particular course of action including—

(i) the withdrawal or discontinuation of the original charge or charges against the accused person or a co-accused;

(ii) the reduction of the charge against the accused person or a co-accused...”

And the point I was referring to that happens very frequently with firearm offences and narcotics offences, and this is at 4(b)(iii):

“an undertaking not to institute charges against family members or friends of the accused person in respect of the matter with which the accused person is charged;”

That goes frontally, expressly and directly to the situation, for example, when you are in a car—a motor vehicle—and you are held, et cetera, but you may not have had any knowledge, whatsoever, of what was being transported in that car, the accused can say to the prosecutor, “Look, I will take the bounce for that. It is my firearm. It is my narcotics. Let my friends and family go.” And it lists a number of things. Now, to take on what the Leader of the Opposition was talking about, this

is the first time place that we start to introduce, at clause 4(2):

“A prosecutor shall not agree to take a particular course of action unless—

(a) he has taken all of the relevant circumstances into account; and

(b) he believes such an undertaking would not be contrary to the interests of justice.”

So we are putting down markers that would govern these types of situations.

At clause 5 we talk about plea discussions and where it may be held and plea agreements concluded at any of the following stages, and it goes, as I say, before charges are instituted all the way down to:

“at any time before or during the trial of a summary or indictable offence.”

There is protection offered at clauses 9 and 10. Well, clause 9 is when the accused person is represented by an attorney-at-law, a prosecutor cannot engage in direct conversation with plea discussions with the accused person in the absence of his attorney-at-law. Clause 10 deals with when you are not represented by an attorney-at-law, and sets out some very instructive protection measures.

Clause 11 is a very important one. It is the prosecutor’s duty to disclose evidence. So, again, statutorily and expressly, we are putting it in there that the prosecutor must put forward to the accused and his or her attorney-at-law, all of the evidence that they have against him. Because what you are doing is creating an environment where you know in advance what the case may or may not be against you. You can measure with your attorney the strength and weaknesses of the case against you. Factor that into your plea discussions which may ultimately result in a plea agreement. [*Interruption*]

Part III of the Bill—and this is an important one; this was important to me, Mr. Deputy Speaker—the Victim Impact Statement. When you read the literature in all

of the other jurisdictions, a victim impact statement, it is very important for the victims of crime, and this also includes businesses that may have been subject to crime; it also includes children who may be the unfortunate recipients of criminal activity. It allows them to participate in the process because the whole psychology of the criminal justice system is that victims who have been hurt, who have been harmed, are allowed to say, “Look, this is how I see the world.” They are allowed to participate in the process. They are allowed to say, “I think it should be a higher sentence”, et cetera, et cetera.

So the whole of Part III captures that and I think that is a very, very important feature of this legislation. It is acknowledged that clause 13(1):

“Every victim has the right to provide the prosecutor with a victim impact statement explaining the physical or emotional harm, financial loss or other impact that the offence has had on the victim.”

It goes on at (2):

“Before a plea discussion is concluded, the prosecutor shall inform the victim of his right to provide the prosecutor with a victim impact statement and of the restrictions specified in section 14 with respect to the content of the victim impact statement.”

At (3):

“A prosecutor who concludes a plea agreement with an accused shall ensure that the victim is informed...”—

And this is critical. This is where you are ensuring that the victim’s rights are acknowledged and protected. So the: “

“...prosecutor who concludes a plea agreement with an accused person shall ensure that the victim is informed of—

- (a) the substance and reasons for the plea agreement unless compelling reasons, including the likelihood of serious harm to the accused person or another person, require otherwise;
- (b) the date of the plea agreement hearing and the victim's right to attend all stages of the hearing and to be heard at the hearing; and
- (c) the victim's right to read his victim impact statement in Court or to have his victim impact statement read by the prosecutor or an officer of the Court if the victim does not wish to read the victim impact statement himself."

At (4):

"If a victim elects not to give a victim impact statement, the Court, at the plea agreement hearing, shall not draw any inference that the offence did not result in harm to the victim."

Part IV of the Bill goes on to deal with Plea Agreements and Plea Agreement Hearings and how they should be conducted. Importantly, it sets some very tight time frames for matters to be done and when they should be concluded.

Clause 24:

"A plea agreement hearing shall be held in open court unless, having taken all of the circumstances into consideration, the Court considers that the hearing should be held *in camera*."

And this is a point that I was alluding to earlier, Mr. Deputy Speaker, in ensuring the full transparency of the system. Because as my friend, the Member for St. Augustine, would acknowledge, as we discussed before, it is very important that there is the perception of justice being dispensed and the reality of justice being dispensed. So as legislators, we are making sure there is an expressed provision to

ensure that in this case.

And it goes on to say at 24(2):

“At a plea agreement hearing, the prosecutor shall disclose the following information to the Court in the presence of the accused person and his Attorney-at-law or in the presence of the accused person who has elected to represent himself...”

And it goes on to list what has to be presented:

“Before accepting or rejecting a plea agreement, the Court shall make enquiries of the accused person in order to determine...”

And it goes through the normal matters that you would expect to be determined; that they understand the nature and substance of the plea agreement; they receive legal advice, et cetera.

Clause 25 is for the Leader of the Opposition where I was discussing where a court can reject the plea agreement. So you see that at 25(3):

“The rejection of a plea agreement by a Court shall not operate as a bar to the conduct of any subsequent plea discussions and plea agreement.”

And above it talks about—well, at 25(1):

“Subject to subsection (2), the Court may reject a plea agreement entered into between the prosecutor and the accused person if the Court considers that it is in the interest of justice to do so.”

So that protects the ultimate discretion of the court as to whether they would accept the plea agreement and, of course, for sentencing purposes.

Clauses 28(2) and 29(1) allow appeals from that. And the point I was just referring to 25(3) is, it still allows even if the first one is rejected, for the parties, that is the accused as well as the prosecutor, to go back, come up with an alternative

agreement, bring it back to the court for sanction.

At clause 26 is the ultimate conclusion of the process:

“If the Court accepts the plea agreement, the accused person shall plead to the charge.”

Part V deals with a number of general terms via clauses:

The—“Accused person’s right of appeal against rejection of plea agreement”

The—“Director of Public Prosecutions’ right of appeal against rejection of plea agreement”

So, Mr. Deputy Speaker, my submission, simply, is that this is good legislation.

We will, of course, take on board what was stated by the Member for Siparia. But this is to be seen in the context of the suite of legislation. And I would like to take this opportunity, as a citizen of Trinidad and Tobago and as a representative of Port of Spain North/St. Ann’s West, to thank the hon. Attorney General for bringing this suite of legislation that all fit into place in an attempt to reform the criminal justice system. [*Desk thumping*]

**Mr. Deputy Speaker:** Hon. Member, you have two more minutes.

**Hon. S. Young:** Thank you very much. I would not use the full two minutes, Mr. Deputy Speaker. So this is good legislation. This is legislation that we hope would be supported by those on the other side because it really goes for all of the citizens of Trinidad and Tobago and citizens of Trinidad and Tobago who are affected by crime; those in the criminal justice system, including the victims, including the accused and the prosecutors, and this is meant as one of the steppingstones towards a reform of a more efficient and, hopefully, a conclusion towards a more efficient criminal justice system. And we, as a Government, are committed to providing the resources within the wherewithal of the economic climate to ensure that that

happens.

So, Mr. Deputy Speaker, I would like to thank you and the Members of the House for the opportunity to have contributed on this important piece of legislation. [*Desk thumping*]

**Mr. Deputy Speaker:** I recognize the Member for St. Augustine. [*Desk thumping*]

**Mr. Prakash Ramadhar** (*St. Augustine*): Thank you very much, Mr. Deputy Speaker. I must admit today I am refreshed in having heard my learned friend from Port of Spain North/St. Ann's West, be void of the regular, to be assumed, rhetoric and toxic nature of some of the conversations [*Desk thumping*] of some earlier contributors.

**Hon. Member:** Under a new Prime Minister.

**Mr. P. Ramadhar:** He was gracious enough to have accepted, and admitted upfront that this present administration is the beneficiary of much of the work that had been done by the former People's Partnership administration. [*Desk thumping*] Many seeds were planted but, as you know, like everyone who is interested in growth, that things have to be nurtured and everything in its time. So I also want to congratulate the Attorney General for having brought this piece of legislation that I think is much needed, that is required as a tool, as my learned friends have indicated, to deal with the issues of a backlog in our courts and also to deal with future and prospective criminality.

**3.00 p.m.**

But it will be remiss if I had not referenced some of the earlier speakers' statements, when without any reference to the facts or to the truth, billions of dollars were put into the play as if they were wasted by the Ministry of Justice. To have suggested that money had been spent with nothing to show for it really is an

admission of not knowing the facts, and if you did know the facts, to have deliberately did something else to our ears and our consciences. I will not name who it was, but one of the former speakers mentioned the expenditure of billions of dollars of the Ministry of Justice. I was Minister for a short period of time and I could tell you the amount of work that had gone before, the amount of work that had been put in train. One of the fruits of that and the administration of the People's Partnership was a plea bargaining—whatever you call it—legislation. I also heard another speaker say—and it was troubling to no end for him to have suggested that when the People's Partnership, by the recommendations of the defence forces, said that we required a state of emergency, one was declared, but under our Constitution with due process, my friend had the gall to have suggested and it is news to me coming from the Ministry of Communications—that even the President had not known of this before it was declared. I could not understand where he would have got that, but what I want to tell my friend is this, that the state of emergency that was declared by the People's Partnership was done under due process under the Constitution. [*Desk thumping*]

What they will not recognize—and the Minister of National Security must have sleepless nights on this—is that this country is now under a state of emergency [*Desk thumping*] because our rights are being taken away in terms of freedom of movement, we now have hours within which we keep ourselves locked in, and the Attorney General by some of the legislation is undermining the Constitution as we proceed.

So having said that, now let us deal with the legislation before us. This legislation is incredibly useful. Just like a surgeon's scalpel, by a good surgeon it can do imaginary work to heal things, but put that scalpel into the hands of a mischievous



miscreant, what you have is a dagger that could be used against the innocent. [*Desk thumping*] I rise here today in congratulating the effort but at the same time there is a lot of work to be done.

This thing about plea bargaining and I will use that term because whatever prettier name you wish to call it, it is that. It is a bargain, and it is a bargain between the State and also between criminals, and therefore, one would expect to have—it is a very murky and dirty affair and one has to move with the greatest transparency as my friend, the Member for Port of Spain North/St. Ann's West, had indicated, and it must have in it built checks and balances to ensure that the streams of justice—because that is what we are dealing with here—are kept pure, clean, unpolluted. That is a very difficult task especially in Trinidad and Tobago, especially in regard to the history that we have in our criminal prosecutorial process and then the judicial process.

Let me explain. This legislation has absolutely no control in terms for those who wish to manufacture evidence. [*Desk thumping*] None! I am sorry the children have left, but for those who are listening in, our entire judicial process is based on something called evidence, but evidence comes from many sources. One, you could have scientific evidence like DNA which the People's Partnership put in train to ensure that their prosecutions go forward with a scientific component. It can go forward from confessions, and my friend, the Member for Port of Spain North/St. Ann's West, referenced some of the legislation that we had worked on in terms of the introduction of videotaping. From the moment you walk into a police station, either as a suspect or as a victim, you have a record. So you have that level of continuity and transparency from the very beginning of the process.

You have the issue now of the viva voce evidence which has been so used, abused,

and I tell you it is one of the most dangerous bits of evidence you could use in a criminal process, but it is not just evidence from people just saying, they have to go on oath in a criminal court for it to become evidence. There are, of course, some exceptions and I do not have the time nor the scope today to deal with all of that, but let us deal with the issue of witnesses before a court to prosecute a case. In Trinidad and Tobago, we have perjury laws. What that says is if you swear to speak the truth, or to put your name to a document which you swear is the truth and you deliberately and with knowledge say something that you know or do not believe to be true, you can be found guilty of perjury. I ask the question to all of “meh” friends, the Member for Port of Spain North/St. Ann’s West: when was the last perjury prosecution that emanated from a trial of a lying witness in this country? Almost none.

**Mr. Singh:** The Chief Magistrate, man.

**Mr. P. Ramadhar:** And you could go through a long list—*[Interruption]*

**Mr. Deputy Speaker:** Member for Chaguanas West, please, please, please.

**Mr. Singh:** My apologies.

**Mr. P. Ramadhar:** My friend from law is assisting me because he took away the toxin that I wish to put forward, but that is the truth. *[Laughter]*

**Mr. Deputy Speaker:** You are on your feet, you can do it. You can do it.

**Mr. P. Ramadhar:** I am grateful for any help that I can get. There is only one essence of the thing, but almost on a daily basis in the criminal courts, in particular, you will have witnesses who literally lie through their teeth. Nobody believes them and then they walk out of that court free to carry on with some of the mischief that they are already engaged in and will continue to engage in because there is no consequence in this country to lying under oath and that is a serious

thing.

In America, the United States pre-Trump and hopefully post-Trump, we will have the respect for the courts there, and my friend made reference to the transparency of the process. It is because in America if you lie under oath they take it as a very, very serious thing and you are prosecuted and you go to jail for it. In this country—and I do not wish to say too much because there is a matter pending—I am doing a case in the Assizes where a police officer 10 years ago, a judge made a statement that he was a lying witness and called upon the DPP as to whatever action he will take in the prosecution for the perjury. Well, guess what? That officer was not charged, he was promoted. That is just one of the most glaring examples of recency, but I will tell you of hundreds of them where everybody knows manufactured evidence is polluted and put before the court for the court to make decisions, whether it is judge alone or jury.

I want to tell you something about jury. Juries have a way, because of their experience, their common sense, to be in a far better position than anybody who believe that they have a pre-given right by God to know what is true and what is not above a jury, and that is a fallacy in the country that certain persons, because of their professional training, their legal training, are better positioned to know the truth. Nothing could be further from the truth.

I want to go now into the issues of the penalty that is required in this legislation. The only check, if I may put it as high as that in this legislation, is that if it should become known that there was a misleading either by the prosecutor or by the potential “plea bargainer”, then they will reject the plea agreement. There is nothing more. And to suggest that they will use the old form that you will charge them for perjury, well I tell you, I have not seen any of that to give me the

confidence that a person who is willing to perjure themselves, because part of this—and my friend said it openly in the face that they will be going after white-collar criminals, or white-collar suspects. But if we should examine the cases that have gone to court in the past of supposed white-collar offences, I will tell you something it is one of the easiest of cases to prosecute by manufactured evidence.

[*Desk thumping*]

There are a lot of “smartmen” in the society and they are ones who do the corruption, and you think they “geh ketch”. They would not know because we have advertised this so proficiently that—look, I want to tell you, Mr. Deputy Speaker, that in the prisons today word has come to me that the boys are salivating for this legislation. They are salivating because the most immediate beneficiaries of this thing would be those who have multiple charges before the court. Career criminals who will then produce themselves that I have four matters before the court; I can get 10 on each if I go to trial; it will be 40 years if I am convicted and I can do one and get 10 or less; and having regard to the length of time I stayed in custody it will be discounted; so I am free in a few years. That is why I am sorry to put a little wet blanket on this thing, but we have to be very, very careful. As I tell you, this scalpel could turn into a dagger. [*Desk thumping*]

That is not to suggest that we are not supporting it. We created it, we want it, we need it, but we must do it right. As a learned Leader of the Opposition has always said, “You bring good law we will support you”. [*Desk thumping*] “If you bring bad law we cannot.” If you bring so-so law we will help you fix it, and we are going to help you fix it.

Now, I was making the point about the guys who are now in custody and those who have many offences who are on bail preparing themselves to avail to this, but

it is a long and sordid history of the use of criminals as witnesses for the prosecution. [*Desk thumping*] For those who are too young to remember, Randolph Burroughs, a former Commissioner of Police, whether he was innocent or guilty, the witness—and in those days we called them star witness—was Cuthbert Charles, a notorious man who I ultimately defended for murder. There is a story he is now dead so I can speak it. The case was very strong against him. Whether he was guilty or not, it is a matter for the jury. When the jury returned a verdict and it was read—this was a murder case. I defended him—“Ladies and gentlemen of the jury, how do you find in relation to the charge of murder?” They said, “Not guilty.” Cuthbert Charles shouted out in open court, “Oh God, oh God, but I am an innocent man”. He was convinced of his guilt, but the jury was not. [*Laughter*] So the point I am making is that they use people who are from literally the lowest levels of criminality, and sometimes they speak about those who are up in the clouds, let me tell you something. Every one of us at the higher level in society, who becomes now what we consider a juicy prospect for prosecution, is then now a target of those miscreant minds. [*Desk thumping*] I am speaking the truth across the board.

I saw my good friend, the Member from the Senate, Mr. Franklin Khan here, he will tell you that there was a witness used against him for the worst of offence—this is for a public official—but under cross-examination and so, the case was destroyed. So too in the name of Eric Williams.

**Mr. Singh:** Junior.

**Mr. P. Ramadhar:** Junior. Former Minister of Energy. “Like this energy ting have a problem”, you know. [*Laughter*]

**Hon. Member:** They have no energy.

**Mr. P. Ramadhar:** Well bad energies, bad energies. The point I am making is that the witnesses used in that case, or the witness used in that case was never charged, and that was a mischief that this Bill in the way we conceived it was supposed to deal with. I will give you a long history and I started with Randolph Burroughs, but the most difficult one for me is a Naraynsingh matter and I will come to that after I deal with a former Minister—[*Interruption*] No, no, no. Dhanraj. In that case I too had the good fortune of being involved—I was one of his defence counsels. In the Magistrates' Court I was the lead counsel there—and the witness they produced was a guy by the name of Hypolite. By almost poetic justice, he put himself as a fabricator and that is exactly what he was.

This was a man—they say, “Boy, you was uncannily real.” “Hypolite hypocrite, fabricator, fabricator.” When we were cross-examining him in Mayaro Magistrates' Court, it was abundantly clear that what he said and, having regard to the physical evidence, that it could never have happened the way he said it did, but he was “star witness” who admitted to participating in murder. I am so happy the Leader of the Opposition picked up on it immediately because—anyway I shall not go there, but she picked up on it directly that there are persons who manipulate the system. Here was a man who admits to the police he was involved in the killing of another human being. Premeditated, cold-blooded killing, but he turned out a star witness. He never pleaded to any charge, whether manslaughter or otherwise, but he was treated to the embrace of the State where he was clothed, fed, you name it. He never was held to account for his actions.

In this legislation anyone who negotiates, you have got to plead. So the old way, the old common law factor of taking a person and turning them into state witness because they could give “evidence”—and remember I spoke about false evidence,

and we are coming to that. Dhanraj Singh, it was physically impossible for Hypolite's evidence to be in accordance with the scientific physical evidence in the case. But there was a more horrific example of the abuse and I think this is the matter that the Leader of the Opposition must have referenced, that is Naraynsingh, and I will take a few moments just to give you a quick background to this.

When I received a call that this woman, Seeromani Naraynsingh—who I had not known—had been incarcerated, we found her in a police station and I went in there. I had never seen or met with her and she was in the cell. When I went in she was on her knees praying. So ultimately she was released. There was no evidence. There is something in Hinduism called Raksha Bandhan, and she came to me and asked permission—Leader of the Opposition, I would ask you to hear this one—she asked permission if she would allow me to tie the rakhi. Now, what that means is that the moment you accept that, you take a responsibility as a brother to defend and to protect. She was ultimately charged for murder, together with Dr. Narynnsingh and a businessman from San Fernando, a murder that occurred in June 1994. Member for San Fernando East, you were still probably in common entrance class. Anyhow, the long and short, the reason I am putting this in context of age, this was a killing of a most beautiful person, a doctor who had gone to a location to volunteer her services—[*Interruption*]

**Mr. Hinds:** Be careful, you know. “Somebody kill she.”

**Mr. P. Ramadhar:** A person—exactly, and we know who did.

**Mr. Hinds:** “Somebody kill she”, you know.

**Mr. P. Ramadhar:** Parris. Junior Parris.

**Mr. Hinds:** “Somebody pay him.”

**Mr. P. Ramadhar:** Shawn Parris—

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Mr. Ramadhar (cont'd)

2017.04.05

**Mr. Hinds:** Somebody paid him. He serving 34 years in jail.

**Mr. P. Ramadhar:** We will come to that.

**Mr. Deputy Speaker:** Member for Laventille West and Member for St.

Augustine, please. And also, as I am on my feet Member, you have been making these links with these various cases and you have been on the same point actually even though you are bringing up different cases. I do not know if you can probably move on accordingly.

**Mr. P. Ramadhar:** My friend is so jittery. It is my duty now as the Member for St. Augustine [*Desk thumping*] to alert to the real life dangers. [*Crosstalk*] I was making the point—please, gentlemen, we have important business not to be troubled by the Member for Laventille West—where after 10 years, after a decade, this person who on sworn testimony said that he went there, pretended to have been wounded in a cast and waited for this good lady to come and he pumped bullets into her. Cold-blooded killer. But after 10 years he is used by the police in this country as a star witness, having pleaded for that cold-blooded murder, an assassin—whoever paid him, God knows, he knows—and they allowed him to plead guilty to manslaughter and he was jailed. He gave evidence and after the entire ugly ordeal of 1994, more than a decade after, a sudden witness appeared, his cousin Junior Morris—Junior Morris and Shawn Parris. Morris who admitted to being participating in the plan to kill was never prosecuted, and they gave evidence—

**Mr. Hinds:** He was Dole Chadee right-hand man.

**Mr. Deputy Speaker:** Members please, and also additionally, link your point directly to a particular clause in the Bill so that I can clearly understand what is happening. I know what you are trying to say, but at least link it off because you



Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Mr. Ramadhar (cont'd)

2017.04.05

have been making the same point with different cases.

**Mr. P. Ramadhar:** With all due respect, Mr. Deputy Speaker, I agree, but there is no greater link than where this piece of legislation can be used as a weapon against the innocent [*Desk thumping*] and I ask you to bear with me, it shall not be long. Well, I have only 45 minutes and much of it has gone. This is a debate that could really go on for days and we do not expect to have that, but rest assured my words are always very concise and it carries a message with it. I will not waste the time of the population or your good self. Let me tell you what happened and the mischief in that case. It was just convenient for the prosecution of Dr. Naraynsingh a decade more after, together with Seeromani, and you know what the only link between them and this case was?—the viva voce evidence of those two witnesses.

**Mrs. Persad-Bissessar SC:** Nasty.

**Mr. P. Ramadhar:** Nasty, disgusting, worms, scoundrel of the worst kind, and I say those terms unabashedly because in cross-examination, identification was crucial and this is important. This man was able to give the description of Seeromani, how she appeared; what her face looked like; the kind of hair; the day he was supposed to have met her that she was wearing a tikka, she was wearing certain earrings, a red sari. I cross-examined—do you know what happened?—because I knew what had happened there. I cross-examined him and he gave a full and proper description of a photograph that was in the newspapers. So they sat—  
[*Interruption*]

**Mr. Deyalsingh:** Mr. Deputy Speaker, I rise on 48(1) please, about the case. This is not about a case. [*Crosstalk*]

**Mr. Deputy Speaker:** Members. Members please. Members? Member for St. Augustine, as I said, I want you to link it clearly to the Bill, one; and then, also you

have been making reference to various cases so it could be considered even tedious repetition. So please, you know what I mean. The point has been made so I think you can probably move on.

**Mr. P. Ramadhar:** With all due respect—[*Interruption*]

**Mr. Singh:** It is called the abuse of power. That is what it is.

**Mr. P. Ramadhar:** And not just that, I have never been accused of tedious repetition. I am sorry if you think so, but what I will tell you is that those who do not learn from our history are bound to repeat it. [*Desk thumping*] And there you go, these are two persons, three of them, who could have faced a noose, hanged and died already, had we not been able to unearth by cross-examining before a jury, this sort of thing.

So let us put that to rest, that this thing is subject to incredible mischief and there is no penalty. That is the link, and if it was missed before I shall repeat it. There is no penalty within this legislation [*Desk thumping*] to deal with those people. All you will lose is your deal. All you will lose is your deal if it should come forward that you lied under oath. Where is a penalty within this legislation for you to deal with this thing? [*Desk thumping*] And that brings me to the other point.

Forgive me, I am getting a little bit troubled now that maybe I am not as articulate as I should be because the enormity of what I am speaking to requires more than 45 minutes, but to be accused of being tediously repetitious is troublesome in the extreme.

Let me say this: I represent the people of St. Augustine. I am a member of the Opposition in this Parliament, and if we do not have a clear and concise understanding of the real world, that this is not the pristine air- conditioned

environment that we are dealing with. We are talking about persons from the gutter of the society who have used the power of the State to prosecute persons that could have led to their deaths [*Desk thumping*] and when—[*Interruption*]

**Hon. Member:** Serious. More serious.

**Mr. P. Ramadhar:** It could be no more serious than this thing and we are participating giving the scalpel that could turn into a dagger. That is what we are talking about. Let us deal with this thing as we go forward.

I am so happy it is no longer, as we say, taking a person out of the dark, put them as your state witness, they have to plead in this thing. Many have come to me in last several days and said, “Listen, this thing should not be retroactive you know.” I say, “But, no, no. The whole point of this thing is really to get rid of the backlog.” They say, “Well listen, what you do not appreciate and maybe you have forgotten because you have been out of practice for a bit.” I am back now and that is why I am more open to the concerns of the other side, that if what we are hearing from the prison is that they are salivating and they are conjuring, those are the persons who you will expect to come forward and cut deals. I do not wish it on my friend from anywhere, the Member for Port of Spain South, the Member for St. Joseph, or the Member for—as I walked in I saw a big placard “Come clean”.

I would not call the name, but suppose—because we hear now this Government is interested in going after white-collar criminals. Some little miscreant somewhere who have some fraud in some bank come forward and say, “Listen, I know you know.” They know enough because they research. These are not stupid people. They know enough to give you a little bit, half a truth, and as Justice Deyalsingh had said years ago, the best place to hide a lie—and I will repeat this—the best place to hide a lie is between two truths. So they give you a little bit. It sounding

real like the police were fooled, or whether they participated knowingly in Naraynsingh, to have allowed this man because he gave a description that fit the women, but it was in the newspapers that they had in their possession. That is the link.

Retroactivity, do we allow this now to give the benefit as we proceed to all of those who will make mischief and then corrupt in the worst possible way, the very good law that comes forward? That is the query. Or do we go forward now as prospective, as it seems from retroactive, so that those who now come into the system, the first-time offenders, would let this thing run for a bit.

Look, forgive me if you vex, Mr. Deputy Speaker, but I have to say this. In this country—and the law enforcement officers know—there was a fella by the name of Lizard—he is now dead—that operated a business. I know how it worked. It is almost unbelievable, but it is true and those who are in the system know it. A witness will come forward to the police and say they know about a murder that happened in wherever. You say really, but you know the names they will call? Either known drugs lords or persons who the police do not like, and they will use that witness, charge that person, extort money from the person who is charged and then kill the witness. It happened several times in the early '90s, and then they will charge another person—I do not know why these witnesses did not understand what was happening when they put themselves forward—kill that witness and then charge another drug dealer. This is how it worked, and it went on and on. I shudder to imagine that the police did not know this at the time.

It was a business, a transactional thing, and they used the system, the power of the State to prosecute maybe bad people but not necessarily guilty ones. So who vex, vex, but this is the reality of a nuclear weapon, not just a scalpel now that we

giving to the State to use. I did not hear a word what the DPP's position is on this. I am troubled now because I know "meh" friends are always very clear about who they consulted and so, what the DPP's position in relation to this legislation. Forget that which has gone, which we wrongly assumed the DPP had agreed to in the removal of preliminary enquiries.

**Dr. Gopeesingh:** He say no.

**Mr. P. Ramadhar:** Good DPP? Maybe he was not consulted and we need to fix this thing, Mr. Deputy Speaker.

Let me tell you something. There is a continuous mischief going on and who do not want to hear about case, they have to. There was a case in San Fernando where one of the richest men in this country, a very successful contractor, name start to call for a murder. Well, he knew what we were doing, he called me. We went in. So I brought in Senior Counsel Mr. Ramesh Lawrence Maharaj with me and we were able in the initial stages to analyze the witness statement, the information that was being given, to show the total lack of coherence, the lack of truthfulness, the impossibility of the evidence, and fortunately because of that early intervention that contractor was not charged.

But guess what? That same witness, they used him to prosecute 10 or 11 men. Known drug dealer. There were several retrials, they finally gave him a—he was on a murder charge by the way for another one and do you know what the murder was? Where a kidnapped victim—this is what I was told. I was not in the court—struggled and he took a fork—Leader of the Opposition—and went through that man's chest and heart, killed him, and they gave him a manslaughter. They gave him a manslaughter because he was a star witness against somebody they did not like, somebody they did not want, somebody they thought they should be rid of.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Mr. Ramadhar (cont'd)

2017.04.05

[*Desk thumping*] When I opened, I spoke about vitriol. There are so many times we hear “we go lock all yuh up. We go lock up this one, lock up that one, lock up.” Real hate venom—[*Interruption*]

**Mr. Deputy Speaker:** Member, your 30 minutes has expired. You care to avail yourself of the additional 15?

**Mr. P. Ramadhar:** Indeed.

**Mr. Deputy Speaker:** Proceed.

**Mr. P. Ramadhar:** Well, you know there is much more. There is much, much more. So let me just very quickly indicate that we need to fix this Bill by making it not retroactive, but prospective. [*Desk thumping*] Two, we need to deal within the confines of the Bill itself a serious enough penalty for perjury because the old perjury do not work in this country. This is a new dynamism, so therefore we must give it new electricity, new energy to deal with that. There is much, much more. You know, in this country and I do know how my friends—you see sometimes when we look at things only foreign, we do not appreciate the reality.

**3.30 p.m.**

The witness statement is crucially important. I think it is so important because in this country, when an offence is committed, it is the State versus. The victim and his family have no say in the matter in the past, now they do, but they are limited to father, mother, guardian or whatever. This is Trinidad and Tobago. What about your brother and your sister? What about your co-worker who will grieve to no end at your loss for murder or for whatever else? That is something we need to fix. And I shall not be infra dig to mention the lack of—what shall I say? The typographical errors in this thing. I mean, there are clauses 13 and 15 where they left out altogether witness statement, they left out statement. That should

never come to our Parliament. I know it is the printer's devil, as they say, but we need to do better than that.

Mr. Deputy Speaker, if we are to go forward properly, we must have a new understanding that not everybody who is suspected, is guilty, not everyone who is guilty, is suspected; but we need to enhance the quality of evidence that is culled and presented to a court and indeed now with this, to a suspect. We cannot rely only on the viva voce, that is the word of mouth evidence. We must go more into the scientific level of evidence which is what the Americans have mastered. The issue—and we, the People's Partnership Government, gave so much in terms of the ability to obtain evidence, electronic and otherwise, surveillance and everything else.

So that when a person comes forward, it is not just their word you test. You have to test, now, if there are other independent bits that corroborate—and that is a legal term—what he has said. Because we have had uncorroborated evidence of star witnesses who turned out to be lying through their teeth and put you through the orgy, the humiliation, the fear of prosecution with conviction at the end of it. So the quality of evidence is crucially important but not just for those who have evidence on others but indeed for those who you wish to present the evidence to and say whether you wish to plead or not. Because if you put up “ah jokey case”, no lawyer, in his right senses, knowing full well that you have no real case, will advise a person to plead guilty unless something else is happening. So that you need a high quality of evidence so that those who are guilty will plead to it.

You know, one of the few moments I have, I love to look at TV and there was a movie called “An Innocent Man” with Tom Selleck. I ask you all to look at it.

Very simple 1990s movie, where this man was set up by two very bad policemen.

Because “they busting block” every week, they became heroes. They went to a wrong address, shot the man in his home and then fabricated a case that he was—anyhow, watch the movie. He was met in America with a plea deal: whether he goes to trial, he will get 12, if he took the plea, he will get six. He went to trial, they gave him six, but the pain he had to undergo, “he know he was innocent” but the evidence that was produced by two police witnesses were convincing to a jury, but he knew he was innocent. He took his chance, he was convicted. And there is a real danger, and that is why we must ensure that the evidence that we produce in a court is subject to the highest rigours of scrutiny and transparency as we proceed. Mr. Deputy Speaker, really, this debate requires far, far more than 45 minutes and I know my learned friends will continue as we proceed. But I think it is important for us now to also understand the almost spiritual relevance of this legislation I am sure, unplanned as it is, to have come now. Yesterday, Hindus around the world and today even, celebrate Ramanavami, the birth of Lord Rama. In the Islamic faith, it is a very holy month of Rajab. What this is? It is a preparation period for the month of Ramadan when we cleanse ourselves of all the wrong things and prepare ourselves for fasting and equally next week is holy week where confession, redemption and rebirth is what it is about.

So this law, in an indirect way, allows people to confess to their wrongs and the old Scottish saying that open confession is good for the soul is very important. And this tool that we give is almost a spiritual thing but it must be put in the right hands with the right level of correction and control. It is as simple as that and that there is a most troublesome bit. There are two—there are many others but I do not have time for it today and probably in the committee, we will deal with it.

Under this PNM, clause 34 in this Bill, there is something called sealing of the



entire proceedings. I do not know how that reach in our law you know, this thing called sealed. What it does—and we heard sometime earlier this year about some people who have sealed matters before the court and thing. I do not know where they got this thing from or how it allowed itself to take route in this country where justice is now done behind closed doors and nobody knows. There is, in this law, a restriction on the use of a person's conviction after they pleaded and bargained that they cannot use it as bad character evidence. This now sanitizes criminals as they go forward to give evidence against witnesses and they give the evidence, that you cannot cross-examine them about their criminal conduct of the past. I cannot understand how that could be in our law. Member for Laventille West, it is something we need to fix.

Because when you go before a court—and I hope you never do—and a person goes into the box, you do not know who they are, you do not know their history but somebody has to judge whether they are speaking the truth but you can, by a lawyer, cross-examine to show that they lived a total criminal life that cannot be believed and that, to me, is a frightening development in our law. This thing called sealed. So you would have persons who appear and giving evidence and all of their lives is fraud, trickery and everything else, nothing redemptive about them but—

**Dr. Gopeesingh:** And you sealed it.

**Mr. P. Ramadhar:** “And yuh seal it. Yuh sanitize this thing.”

**Mrs. Persad-Bissessar SC:** Hide it.

**Mr. P. Ramadhar:** Hide it up behind closed doors and that was a specific section but repeated twice. One, you cannot use it to show prior bad character and two, that you could seal this thing. Now, I understand there are some security issues so that you keep it—what shall I say—not public but certainly not sealed because seal

means what it means. You cannot peep in, “yuh doh even have ah light coming out”, nothing, it is dead, and therefore that, to me, is a most dangerous window into the evils of this legislation. [*Desk thumping*]

Now, Mr. Deputy Speaker, there is another issue here. In one of the clauses, they say that the DPP, who is the prosecutor who could negotiate, cannot afford to make any deal that he does not have the capacity or capability to do. Now, I find that, again, an incoherence in the entire process because part of—and the Minister of National Security knows this and as Minister of Justice, I was head under the ministry of witness protection. The DPP has no authority to put anyone under witness protection, it comes from a different authority. So if part of the deal, and rightly so, is that you will give evidence that is corroborated, but that part of it equally is that it will put you and your family in witness protection, then the DPP cannot offer it. So they have taken away now—giving on the one hand and take away a foundation from him on the other. So that is something we need to look at. But witness protection is important. When I became Minister of Justice, I said what is happening with witness protection. It would shock you to learn that there were persons who were in witness protection for 11 and 12 years. [*Interruption*] Some of them died. Right, I would not go into the Chadee trial. Levi Morris, a deal was cut with him clearly. He pleaded guilty to murder and he was committed the very day, but within a couple of years, “woop, he out ah de country”. The country never knew nor was the defence ever told about that deal behind closed doors. We cannot return to those days. This legislation must be a light forward but in that light, we have to careful we are not blinded by the very failures and weaknesses inherit in this Bill.

So, having said all of these things and there is so much more I could tell you, I

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Mr. Ramadhar (cont'd)

2017.04.05

want to say that there is a lot of work that could be done, must be done and we will help you do it. Mr. Deputy Speaker, I thank you very much for the opportunity.

*[Desk thumping]*

**The Minister of Public Utilities (Hon. Fitzgerald Hinds):** Thank you very much, Mr. Deputy Speaker. We are here to discuss a measure in a Bill entitled an Act to establish a system of plea discussions and plea agreements and for matters incidental thereto. I listened to the last speaker on the other side and one would have thought that we were here discussing something else or other things, including with specific reference on several occasions to particular cases and presenting his interpretation of those and there are other interpretations, which I am entitled to interpret. And of course, a large part of the discussion, for those are unwary and not keenly observant as this Member is, is almost as if it is ad hominem debate and discussion with a concern for particular things that might develop in the future and using this Parliament to guard and protect against that. That is what is called ad hominem legislation. *[Crosstalk]*

And, Mr. Deputy Speaker, my friend spent a long time and I could hear it in his tone, worried about what will happen in future for persons in the society and debating in a manner that is cautioning the Government and the society against what they anticipate. You know the troubles of the heart. That is what is happening here today. And more than that, Mr. Deputy Speaker, because there are different interpretations—*[Interruption]*

**Mr. Charles:** Standing Order 48(6), he is imputing improper motives to a hon. Member of this House. We cannot stand for that.

**Mrs. Persad-Bissessar SC:** “Yuh hata be careful wah yuh doing.” That is how he is.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. F. Hinds (cont'd)

2017.04.05

**Mr. Deputy Speaker:** Member, proceed, please.

**Hon. F. Hinds:** Thank you very much. And trying as well in my view, as I said, logically, since there are other interpretations, to rewrite the history of Trinidad and Tobago. I do not intend to spend too much time about it except to say in response to him that there is a fella called Shawn Parris—he mentioned it—who is serving a 34-year sentence, and all the evidence in the case demonstrated and he was convicted for killing someone and it was done on the advice and payment of someone else who was charged and then we heard a lot about that and the dismissal of the cases today. But Shawn Parris acted on the advice and in conspiracy with somebody.

But I heard my friend here call Shawn Parris, which he might be, and Junior Morris, he described them as persons from the gutter but I learnt a long time ago, if you have to keep down cork, “you hata to be down dey too” and somebody was in the gutter with them. So when he comes here to try to rewrite the history—

*[Interruption]*

**Mr. Deputy Speaker:** Member, please, not he, not he, hon. Member.

**Hon. F. Hinds:** The Member, the Member. I understand exactly what they are going through and I understand. And I saw—I will leave that for the time being. “Ah better leave that for the time being.” *[Crosstalk]* Yes, let me proceed. But they will not be allowed to rewrite the history of this country and to call some people gutter and some people from the gutter, well everybody who was involved in all of that from the gutter and charged for doing all manners of things. *[Crosstalk]* The other matter that the Member for St Augustine raised so, so—I was about to say dishonestly—but so inaccurately. The Member stood up here and told this House that there is a provision in the Bill that has to do with sealing of a person’s

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. F. Hinds (cont'd)

2017.04.05

criminal record. You look at this Bill, you will see no such thing. Let me read for you clause 34 for the benefit of the public who would be watching this. Clause 34, in this Bill, simply says—because we are dealing with deals, plea bargaining. Hear what clause 34 says:

“A Court may, upon application by either party...”

Meaning the prosecution or the accused.

“...or in its discretion...”

The court may, in its own discretion; independent of both sides.

“...order that the records of the plea discussions or a plea agreement be sealed...”

Not no conviction. That is what the provision says.

“...if the Court is satisfied that the sealing of the records is in the interest of the effective administration of justice.”

Nothing to do with hiding criminal records. “They too lie”—lie is unparliamentary.

They are too—[*Interruption*]

**Miss Cudjoe:** Slippery, slippery.

**Hon. F. Hinds:** Slippery?

**Miss Cudjoe:** Yeah.

**Hon. F. Hinds:** Is that parliamentary?

**Mr. Singh:** If you are a “**jantee**”. [*Laughter*]

**Hon. F. Hinds:** Nothing to do with hiding criminal records and I heard the Member for Siparia, ill-advised as she is, jumping in agreement, shouting.

**Mr. Charles:** She? That is my leader. Not she.

**Hon. F. Hinds:** Blindly jumping behind that when no such thing exists.

**Mrs. Persad-Bissessar SC:** What happen, hon. Speaker? Where do you draw the

line?

**Hon. F. Hinds:** So let me press on, let me press on.

**Mrs. Persad-Bissessar SC:** Why do you not get on to the Bill?

**Mr. Deputy Speaker:** Members, members.

**Hon. F. Hinds:** Mr. Deputy Speaker, let me get on with it.

**Mrs. Persad-Bissessar SC:** Too nasty.

**Mr. Deputy Speaker:** Members. Each Member will have their turn to participate in the debate. Right now, it is the Member for Laventille West's turn, the Member for St. Augustine spoke before and all other Members will have her or his time. Kindly, proceed.

**Hon. F. Hinds:** Thank you. And he made reference to a state witness in the Dole Chadee trials in which 10 persons were hanged. Some people say "hung" but the correct language or the correct grammar is "hanged". In which 10 persons were hanged. It is well known to jurisdictions in criminal law everywhere in the administration of criminal justice, from time immemorial, that sometimes the State finds it necessary because there is no other way, particularly in the absence of scientific evidence today as now exists. Very often in the past, before these technologies and the scientific methods, that we now know, have developed, it was necessary for the State, and it still might be necessary even today, to use one of those who were involved in the conspiracy for the particular crime, for the benefit of convicting the others. Nothing strange. It happened under their watch, it happened under all watches since we became an independent nation and long before in the colonial era. Nothing strange about that and it is necessary for that to happen.

Had it not been for Levi Morris and—and this Bill gives an incentive to

persons to plea and state witnesses sometimes need—because all of them was involved in the thing. He had gone to buy KFC “so he wasn on de scene” but he was knowledgeable, he was party to the whole thing and it is necessary for the State to protect itself, sometimes to use somebody who was involved in the issue to deal with the rest. Nothing new, nothing strange. But because some people would know, since we are physical human beings and our conduct will always be recorded and somebody will know, in the ad hominem principle I described a while ago, people jumpy.

I attended a CPA conference last week in London. I had the benefit of participating and learnt much. The big lesson that came out of that, and I will put it this way. One of the major themes that ran through the entire week at Lancaster House and in the Parliament where we met, one of the themes that went through is how could legislators, how could parliamentarians contribute to protecting society against cybercrime, against counterterrorism and all the other types of crime that afflict us in Trinidad and Tobago and in every jurisdiction. Because in my conversation with officeholders everywhere across the Commonwealth, 37 countries were represented, we all have the same problem. [*Interruption*]

**Mr. Deputy Speaker:** Member for Naparima, I heard your statement. Please.

**Hon. F. Hinds:** I thank you, Mr. Deputy Speaker. And the answer that flowed on every occasion when that question was asked is that parliamentarians can, and must do a lot. We are the ones who legislate. And this is why I cannot understand, the minute the Government mentions a measure, that our friends—from the time they hear about it, without proper—before the Bill is even produced, before it is properly analyzed, sometimes no analysis at all. I have just showed you what the Member for Tabaquite did over clause 34. Interestingly 34 and the history of this

country which they will want to rewrite will show what they did with another clause 34 to free their friends.

**Dr. Gopeesingh:** Mr. Deputy Speaker, 48(6) and 48(1) as well.

**Mr. Deputy Speaker:** Retract that statement, please, Member.

**Hon. F. Hinds:** I withdraw that. I withdraw that. The calypsonian sing it. A wise man has said—he is on record as saying, if I write your songs, the nation's songs, it does not matter who writes its laws, it is already written, clause 34. They could do what they want. [*Desk thumping*]

**Dr. Gopeesingh:** Mr. Deputy Speaker, 48(6). Insinuation.

**Mr. Deputy Speaker:** Member, the Member was asked to retract, he did and he has moved on. Continue.

**Dr. Moonilal:** We want him move out.

**Hon. F. Hinds:** The Attorney General, on the principle of how parliamentarians can operate to protect society from those who want to harm us, whether it is terrorism, whether it is cybercrime, whether it is murder, whether it is robbery, whether it is rape and a lot of crime taking place in this country. The Attorney General is a parliamentarian. He is the Government's legal adviser. He is responsible for presenting Government measures in laws for discussion and passage here. He is involved in the fight against crime. He is using the tool that he has at his disposal. Not a rifle, he is not a policeman, he is using the law. That is why he is the Attorney General of Trinidad and Tobago and we are legislators.

**Mr. Deputy Speaker:** Member, please. Attorney General and Member for Siparia, you all are free to go and have a side bar. All right?

**Mr. Al-Rawi:** Apologies, Sir.

**Mr. Deputy Speaker:** Proceed, Member for Laventille West.



**Hon. F. Hinds:** “Just don’t take no bad advice.” We are legislators and we have to use the tool that is available to us, this forum. And you know, they say—Mr. Panday used to say, back in the 1990s when I sat opposite to him, in the other place, he used to say: this is a warrior forum, we fight here with words and ideas. Had it not been for Parliament, we would have been fighting out on the streets. So let us do the fight here. But this thing requires intellect, it requires thought, it requires analysis and it requires a spirit of cooperation and magnanimity. Not the stupidity of one side against the next always and wanting to object to everything.

**Dr. Gopeesingh:** Unparliamentary language.

**Hon. F. Hinds:** And this is what this Bill is about.

The last time we were here and I participated in the preliminary enquiry Bill as I would call it, I complimented the Attorney General simply for trying new things. Simply, Mr. Deputy Speaker, because, you know, they are the first to criticize. They just left Government, they having been thrown out by the people of this country, and for the time they were here, all of the problems that now complain about subsisted, still exist. And wherever we are now is as a result of what we did or failed to do over an accumulation of time from independence to today. So if the Attorney General decides to try something different, to me that is persuasive in itself. All we do is analyse it, take it in good spirit and pass the Bill.

But they say that this measure will not solve. Nobody told them that this will solve the crime problem. This, like flour in making bread, is necessary but not sufficient. To make bread, you need flour, you need some oil or some butter, you need some yeast and you need water and you need heat. It is necessary, a measure like this, but not sufficient. We said so from the start. The last speaker, on this side, made that very, very clear. So I do not want the public to be misled. They will try

to give you the impression that we are saying, if you have a plea bargaining system, it will solve all of our problems. Nobody is foolish enough to say that! It is necessary but not sufficient. And the Attorney General is bringing measures for our consideration here bit by bit by bit and then the whole tapestry comes together much more than they did when they were in office. They spent time with clause 34 and it cost them their Government, among other things, of course.

So, Mr. Deputy Speaker, let me analyse some of the provisions in this Bill for the benefit of the public—please permit me—who may not have had the time to read this Bill, as we did, so as to be able to unearth the untruth that the Member for St Augustine spoke in relation to clause 34 in this Bill, like they have a problem with clause 34 as I told you. Clause 5 of this Bill—you know, in the civil jurisdiction, from the time a pre-action letter is issued and all the way through, the jurisprudence in the civil jurisdiction now permits both parties to settle all along the way. There is no point during the whole process from pre-action protocol up to the judgment.

The other day, the former Attorney General sued me for speaking on a platform in Valencia—just to give you an example—and claimed that I said slanderous things against him, and after the matter was heard, witnesses gave evidence, and I was sitting there with my lawyer, Mr. Gregory Delzin, who I call senior counsel, he is worth it in golden. We were waiting for a judgment in positive anticipation. The next thing you know, I got an offer from the former Attorney General of Senior Counsel, who I have accused of giving himself that along with others in this House today. He offered, at that point, to withdraw the matter against me. I did it grudgingly. I did it. So just like plea bargaining, all along the way of the trial process from before the man is charged to after he is charged, before indictment,

after indictment, before arraignment, after arraignment, anything before the judgment, he is free to bargain akin to what is a settlement in the civil jurisdiction. Am I correct, AG? Yes. And that is what this thing is all about any time and it is a sensible thing.

In clause 2, there is a definition for “improper inducement” and that is—I do not want to spend time quoting it but that is a—let me treat with it for the benefit of the public because we read it but they did not.

“improper inducement” ...”

—according to the Bill:

“...includes—

- (a) the laying of a charge not believed to be supported by the provable facts;”

So if the prosecutor knows that he cannot prove the case and he still goes to the man and encourage him or induce him to plea bargain, knowing that he did not have a strong case, that is improper. We have that here. And then:

- “(b) the laying of a charge that is not usually laid with respect to an act or omission of the type attributed to the accused person;”

If you try to have him plea bargain on that basis, that too, and then the thing continues through (c), (d), (e), and (f). Mr. Deputy Speaker, all of that to protect the accused from improper imposition by the prosecutor.

There is another measure in this Bill to assist in his protection. No prosecutor could deal directly with the accused once he has an attorney on record. So he has the benefit of a legal sifting of the ideas offered to him. Yeah? So I am only highlighting—there is a definition in here of “victim”. One that goes much further than any other definition I have read. “Victim” here does not only mean the person

who suffered directly, it means a person who suffers—it includes:

“(b) a person who suffers physical, mental or emotional harm or economic loss as a direct result of the commission of an offence against another person...”

Wide definition of “victim”.

It includes:

“(c) a business that suffers economic loss as a direct result of the commission of an offence...”

So a business suffers economic loss, it is as well a victim. And of course, with that wide definition, you now have a “victim impact statement” where before the plea bargain process is consummated, the victim, widely defined as I have just shared with you, Mr. Deputy Speaker, has an opportunity to bring to bear his concerns, his circumstances, in the whole plea arrangement. Protection for the victim.

In the United States, there is something known as the Brandeis Brief. In English jurisprudence, you will hear nothing about the character of the accused, except in exceptional circumstance, before he is convicted. It is unfair to him, typically in English law. But in the United States, there is what is known as the Brandeis Brief, a sociological look at the accused which is allowed to be heard by the judge and jury before, and that is the fundamental difference with the English and the American jurisdiction.

**4.00p.m.**

There are complaints here that victims are a standby. The prosecution and the accused do their thing and the victims have no say. This Bill is allowing victims to participate in the process, in keeping with modern concepts of rehabilitation and all of that. Yeah? So their loss is taken into account, a solid

measure.

We go to clause 6. You must have the written permission of the DPP in order to enter and settle a plea bargain, you must. And the DPP is an independent office holder, highly skilled, very experienced, doing that same job now as we speak, because under the Constitution he could initiate, he could take over or he could bring to an end any prosecution. That is his remit under the Constitution. In this Bill, you cannot enter and settle a plea discussion or bargain between both parties without the expressed written permission of the Office of the Director of Public Prosecutions; another check and balance.

And talking about checks and balances, I saw the Member for Siparia get up when the Member for Port of Spain North/St. Ann's East was speaking and asking about check and balance, which convinced me that the goodly Member perhaps did peruse the Bill as well as the Member ought to, but that did not surprise me. Did not surprise me. That is a normal thing.

So let me say this. Let me say this. Let me say this. Mr. Deputy Speaker, let me say this and “we not taking no bad advice, dah is de whole point. We not taking no bad advice.” Let me say this. There are a whole host of protections, checks and balances. So to respond directly to the Leader of the Opposition, she wanted to know whether—[*Interruption*]

**Mrs. Persad-Bissessar SC:** Who is she?

**Hon. F. Hinds:**—the Member for Siparia—you could strike a deal where a murderer could go free. Well, I am saying that is very, very, very, very unlikely, miniscule possibility, because of the forensic process. And this Bill provides that you must have the DPP's permission. You have the victim impact statement. You have a situation where the judge, after they both agree, could reject it.

Let me show you something, Mr. Deputy Speaker, that happened in the United Kingdom. A judge of the Chelmsford Crown Court, one Judge Roger Hayward Smith of Queen's Counsel, he sat in a matter where a prolific burglar had escaped a four-year prison sentence after he plea bargained with the prosecution.

The judge sitting in the case was furious after what he described as an absurd deal, forced him to hand out a lenient sentence of one year on career criminal Barry Smith, Barry. The 31-year-old had been charged with a catalogue of serious burglary offences including stealing and setting fire to a BMW and could have been jailed for up to four years but they made a deal. The judge was furious. He complained that their hands in England are tied.

You see this Bill, Mr. Deputy Speaker, that cannot happen in Trinidad and Tobago when this is passed. Do you know why? Because the judge could reject a plea bargain arrangement. So that cannot happen. So the possibility that the Member for Siparia raised is absurd as the judge found that to have happened in England.

Because you have to get the involvement of the DPP and now the judge could look at it and the judge would decide this "ain" going down. And, of course, the victim and the prosecution could appeal the judge's decision.

So there are a whole host of protections against that possibility, but when the Member for St. Augustine was on his legs it is as if they were tag teaming. One talked something wrong, the other one agreed. Somebody say something more wrong. When the Member for Siparia said that, the Member for St. Augustine shouted his approval.

Yeah? So I want the country to know, do not listen to them on the other side. They have an aversion to good law and they take an ad hominem approach. Anything they feel that could affect some persons directly they oppose it in this Parliament.

That is my commitment. That is my suggestion. Anything they feel has some kind of implications for certain persons, they object to it in an ad hominem fashion, not for the sake of all of us but for the sake of a few. That is what they use the Parliament to do sometimes and I have evidence of that in clause 34. I could back that up.

**Dr. Rambachan:** Then why did you vote for it?

**Hon. F. Hinds:** Why did I vote for it? I voted for it, because it was presented with deception and we thought we were dealing with a backlog of cases, as the Attorney General is trying to deal with here in genuine spirit now. But we did not know there was a sting in the tail; just like when we supported the anti-gang legislation and they grabbed it and went out there and did what they did. Not a single conviction, and now the country cries out for anti-gang legislation. [*Crosstalk*]

**Mr. Deputy Speaker:** Members, Members, please. I really do not want to tolerate the continuous, you know what I mean, shouting across the Chamber as we continue along. It has been going on all afternoon. Please, Members, let us, you know, the Member is supposed to speak in silence. Let us continue and let us ensure that we maintain the Standing Orders. Member! It has been going on for quite a while. So please, Member for Laventille West, proceed.

**Hon. F. Hinds:** So, Mr. Deputy Speaker, the legislation before us did not come from the whim and fancy of the Attorney General, it came as a result of, and when you read the note, it came as a result of collaboration with all the stakeholders in the criminal justice system.

And let me just share with you, just for the benefit of those who would listen.

According to the report on the Validation Meetings and Plea Bargaining Workshop, National Centre for State Courts, the Director of Public Prosecutions

has indicated that only about 12 cases have been disposed using plea bargaining. I was part of the Parliament and debated the Plea Bargaining Act, 13:07 back in 1999, and I contributed to that debate. And since then to today, only 12 cases were disposed of using plea bargaining. And the reason for that is because the law as it then was, was very complex. It was cumbersome, according to the DPP and others. The DPP have to sign off or accept. It was very onerous and I think as well on my own there was a tremendous amount of lawyer unfamiliarity with it. So, many lawyers did not know of it or they did not take the time to study it and therefore it went a begging and there was no clear incentive for the accused.

In the United States, in a plea bargaining arrangement, the accused knows in advance that he gets one-half or one-third of the sentence off. We did not have a similar provision in ours, and, therefore, there was no clear incentive to it. In the same things I mentioned a while ago coming from the lips of the Member for St. Augustine, if 11 men are involved in the murder of the Ramkissoon family, as had happened in the Dole Chadee case, you had to provide some incentive to one of them to give evidence against his colleagues, so he could do it. It is either that or none at all, based on how the fact pattern of that particular matter went. So, be careful of what you ask for. You do not want to give that up, because one day we will need it. It does not matter who is in government.

**Dr. Lovell:** Good law is good law.

**Hon. F. Hinds:** Good common sense. Right? And we have heard tremendous submissions about the fact that it takes place, to some extent, in practice. And, of course, it is about saving a lot of critical and expensive judicial time. And once a man—the earlier a man gets to plea bargaining, the more favourable he would find himself at the court's dispensation.



But I was telling you, the Act has not achieved, that is the old Act, its stated objective and has failed to have the successes that had been achieved in other jurisdictions such as Canada, and so on, employing a plea bargaining process.

**Mr. Singh:** What is the source of your information?

**Hon. F. Hinds:** Of this document? This is from, as I said a while ago, a report on the Validation Meetings and Plea Bargaining Workshop, National Centre for State Courts that was held some time ago. The workshop was held on the 24<sup>th</sup> and 25<sup>th</sup> of April, 2014.

**Mr. Deputy Speaker:** Hon. Member, your 30 minutes have expired. You have an additional 15, do you care to avail yourself?

**Hon. F. Hinds:** Yes, indeed.

**Mr. Deputy Speaker:** Proceed.

**Hon. F. Hinds:** And there were a number of other afflictions with it, and as a result it did not work. I could list them but there is no need. I can share the document with my friends on the other side, if they have not yet had access. When I contributed back in 1999, I read my *Hansard* contribution last week from what I had said in 1999, because I have tried, in the interest of my own credibility and my party's and the Government's credibility, remember, Mr. Deputy Speaker, our political leader, the Prime Minister, and the head of the Government Benches told us whenever we stand to speak in the Parliament, in particular, anywhere, but especially in the Parliament, the public is entitled to take what we say as truth. We must be honest. And he said further, if any Member of the Government Benches breaches that principle, that high principle, out you go. This is the standard we live by. Hence, the reason why you would not hear too much scandal from this Bench and as angry as I got at an attempt to rewrite history today, I restrained myself. I

would take on another platform sometime outside of here.

Yeah? But it will not go unattended. I promise you that. So I—when I looked at my 1999 contribution, very quickly because my time is running, I had made reference then to the so-called Lord or Viscount Ron Simmon Report. Viscount Ron Simmon of Doxford. A Royal Commission of Justice was commissioned and he looked at a number of aspects of the criminal justice system. And in the area. So I pulled up a copy of this and I printed it and I started reading this whole document again, because it refreshed my memory on a few things, but more than that some ideas about the current problems floated through my mind.

But, in that report from Viscount as he then was, now Lord Ron Simmon, under the rubric of “Sentence Discounts and Plea Bargaining”, at paragraph 41, page 110 the report says:

For many decades defendants—

And this is a problem that we are addressing in this with all the protections that I have just outlined. So I want the public to hear as I conclude that this is a concern and the present measures before us in this Bill is a palliative. It is a resolution to this concern. In essence, it is where people plead guilty even though they did not commit the offence. That happens sometimes.

It happens in Trinidad and Tobago, because of the pedestrian character of our criminal justice system, unfortunately, which is precisely what the Attorney General, with all the measures within recent time, is trying to resolve. Sometimes a guy decides or an accused, that it is cheaper in terms of the time I spend to plead guilty even though he did not do it. That happens. It is unfortunate and that is what we have to fix. We cannot have citizens or visitors who find themselves in our system in that position, and that is why any timesaving measures and to clean up

the backlog, not with no old bogus clause 34 to release a few, a genuine effort, which is what we are seeing from the Attorney General. That is what makes it critical. But paragraph 41:

For many decades, defendants who plead guilty in the Crown Court have been regarded by the Court of Appeal as usually entitled to a discount or a reduction in their sentence. The usual range of discount is 25 to 30 per cent. The primary reason for the sentence discount is to encourage defendants who know themselves to be guilty to plead accordingly and so enable the resources which would be expended in a contested case to be saved.

A subsidiary reason, applicable in some types of cases, is to recognize that the defendant by pleading guilty has spared witnesses of the trauma of having to give evidence in court. In rape cases, in child issues, and so on, to relive it and to deal with it again.

And paragraph 42 says:

Provided that the defendant is in fact guilty and has received competent legal advice about his or her position to plea, there can be no serious objection to a system of inducements designed to encourage him or her to so plead. Such a system is however sometimes held to encourage defendants who are not guilty of the offence charged to plead guilty to it nevertheless. One reason for this is that some defendants may believe that they are likely to be convicted and that if they are, they will receive a custodial sentence if found guilty after contested trial but will avoid such a sentence if they pleaded guilty.

And this thing continues. I do not think I have too much more time, so I would leave this for the hour and I commend this report to all my colleagues in the House.

It is full of fruits; low hanging fruits with ideas, with intellect. One of the things that characterizes my experience last week in London on the programme that I attended is that it was characterized by intellect thought, cerebral power.

**Dr. Moonilal:** What were you doing there?

**Hon. F. Hinds:** You see that comedian right? That is the same one who put up a banner in Debe condemning in the most ungainly, and I wish I could use other words, manner, the Leader of the Opposition, as he then was. They know how to demean and destroy everything. No institution is safe with them. All has been tarnished, every one.

So forgive me for my exasperation sometimes.

**Dr. Moonilal:** What the banner said? What the banner did?

**Mr. Deputy Speaker:** Member for Oropouche East, you were informed that you would be going after so you will have your turn.

**Dr. Moonilal:** Okay.

**Mr. Deputy Speaker:** Right? You will have your chance. Member for Laventille West.

**Hon. F. Hinds:** And finally, Mr. Deputy Speaker, a Dallas man, and this is out of a report coming out of Texas and I have it here. A Dallas man whom the police accused of killing his cancer-stricken girlfriend went free after prosecutions realized that the law would not allow him to be charged for murder. What happened in this case is that he assaulted the woman and the matter went very quickly to the court and there was a plea bargain which he entered and he received a lighter sentence for that.

The woman died a few days later, actually a week later and then the prosecutors tried to charge him for murder and when they tried to charge him for murder, by then he had

already entered a guilty plea and bargained for the minor offence of assault and the law prevents against double jeopardy, which it would have been. And it happened and the point I want to make, this happened in Texas, in the United States, First World as it is. The police or whoever had the responsibility did not report that to the prosecutors on time. So when the prosecutors went into the plea bargaining, they were not aware that the woman was dead.

It was a, if I may be permitted, faux pas. Yes. It was a major legal faux pas, which shows this does not only happen in one jurisdiction or any Third World jurisdiction. These things happen but the entire forensic process and the legislative regime generally prevents those things.

Mr. Deputy Speaker, I think I have said enough. I hope I have allayed the fears of the members of the public who my misleading friends on the other side would try to influence with peddling falsities.

All the Attorney General and the Government of Trinidad and Tobago is genuinely trying to do, as we are doing with the economy, is to manage this polity, manage this jurisdiction, manage the criminal justice system in a just and fair and efficient manner. We do not want to do anything else. All we want to do is serve the people of Trinidad and Tobago and do right unto each and every one of them. I think this Bill does just that and the people of Laventille West and this Member of Parliament, will lend my strong support when the occasion arises for doing so shortly. I thank you.

**Dr. Roodal Moonilal** (*Oropouche East*): Thank you very much, Mr. Deputy Speaker. I would ask the Member for Laventille West if he would like to leave the Chamber now. I am going to make some comments on his contribution. And I really do not want to offend him further by having him jump up and disturb me. So he is free to leave now.

You see, Mr. Deputy Speaker, it was on February 19, 1999, that one, the Member for Laventille West, spoke on the Criminal Procedure (No. 2) Bill. It was February 19, 1999, and I have his *Hansard* contribution here. I do not intend to waste time by reading extensive quotations, but I do intend to waste a minute or two on him by reminding him, this Member, that when he spoke on that day, the Member for Laventille West, he was at pains to point out how this type of law can be abused by law enforcement. [*Desk thumping*] He was at pains on February 19, 1999, to respond to the Attorney General then and I think short-lived advisor to this administration, Mr. Ramesh Maharaj, and he spoke about how innocent persons could be set up by law enforcement agents and they may actually plead guilty on many occasions.

It is obvious from the statistics that many people plead guilty, when in fact they should not, because they are innocent and they could be set up by police and others, and who—[*Continuous interruption and crosstalk*] you see, I asked him to leave. He did not leave.

**Mr. Deputy Speaker:** Member for Oropouche. I would like to hear the discourse of the Member, so please on both sides. I would like to hear the discourse. So, continue Member for Oropouche East.

**Dr. R. Moonilal:** That is why I asked him to leave because I know he cannot take it. The Member was at pains to point out that police officers and others could go and cut a deal with persons who are innocent and make them guilty and that is why in Opposition then, he had a responsibility to protect his constituents and to protect the citizens of Trinidad and Tobago. That is the same Member who spoke today. And today the Member took offence. If he will not go, you should put him out now. Today, the Member took offence that the Member for St. Augustine stood

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Dr. Moonilal (cont'd)

2017.04.05

and raised in his contribution issues in defence of the people. [*Desk thumping*] And this is why in this country very few people trust this thing called politician, very few. [*Desk thumping*] In 1999, why did you spend 75 minutes then, not 45, you had 75 minutes then and spoke at length on defending the people from abuse by law enforcement, from police? He spoke on this and well quoted here and then offered advice.

But Mr. Deputy Speaker, that is why the Member for Laventille West will not be taken seriously. [*Interruption*] No, I do not intend for you to disturb me this afternoon. Mr. Deputy Speaker, what point of order? Name it. What point of order?

**Mr. Deputy Speaker:** Members, Members. Are you giving way, Member? Okay, proceed.

**Dr. R. Moonilal:** Right. Leave, please. Mr. Deputy Speaker, I want to get to a matter quickly and when we stand here in defence of the people and we stand and raise issues to protect citizens, Members opposite accuse us of what, not being patriot and so on.

You know, I will begin my contribution by reminding the Member for Port of Spain North/St. Ann's West and his colleagues, and he is fresh now, I think, returning from Houston where they had the Houston Shell invitational open on the weekend.

**Mr. Charles:** No jacket and tie.

**Dr. R. Moonilal:** Yeah, they dressed to lime when they gone to business and then dress for business when the others dressed to lime.

Mr. Deputy Speaker, I want to remind them that it was a great Anglo-American political philosopher, Thomas Paine, who influenced the American Revolution that gave rise to the freedoms that America enjoy and Thomas Payne said, and I will

read it:

The duty of a true patriot is to protect its country from its government.

Thomas Paine, he said that. Oh, no, no, I would not display it. I printed it big because I did not have my glasses.

**Mr. Deputy Speaker:** No display.

**Dr. R. Moonilal:** Mr. Deputy Speaker, the duty—Thomas Paine said, Member for Port of Spain North/St. Ann's West, Thomas Paine who influenced a generation of reformists. He said:

The duty of a true patriot is to protect his country from its government. The true patriots, I put it to you, are on this side of the House. [*Desk thumping*]  
You know, Mr. Deputy Speaker, I want to say when we stood in Government as well, those of us who are here, when we were in caucus, my colleagues would tell you I also made that point.

**Mr. Deputy Speaker:** Member for Moruga/Tableland, please. Also the Member for Diego Martin, please. Proceed.

**Dr. R. Moonilal:** When we were in government we also spoke this language. It was our duty to protect citizens from us. We said that it was the duty to protect citizens from a government because by definition governments by impulse, because they have a manifesto to implement in a short time, they take action; sometimes that tread upon rights, that tread upon human rights and they take action that could trample upon freedoms by impulse and, therefore, protecting citizens from a government is really the role of a patriot. I leave that there.

Mr. Deputy Speaker, I want to, in my introduction, ask a fundamental question to the Government. There is a newspaper report. It is dated Sunday, June 15, 2014. It is in the *Trinidad Guardian* and it says:



Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Dr. Moonilal (cont'd)

2017.04.05

“DPP trashes AG’s plan for plea bargaining legislation”

“DPP trashes AG’s plan for plea bargaining legislation”

And quickly to get to the point, Attorney General then, Anand Ramlogan, had spoken at a conference, and so on, and spoke about plea bargaining and the importance of this. In fact, Attorney General Ramlogan spoke the same language, more or less as some of the Government Members are saying now.

But then Mr. Gaspard, the Director of Public Prosecutions, I am quoting from this newspaper. He spoke after he:

“...took the podium moments later, said it was not smart or feasible to transplant foreign legislation into the existing system.”

He said—thank God—

““Common sense ought to suggest to you that the reason why plea bargaining has found such a fecund soil in the jurisdiction of the”—US—  
“is because the inclination of persons charged with criminal offenses to plead guilty or cop a plea as”—they say in America—“...has a direct relationship with the strength of the evidence.’... ‘How can we in this jurisdiction shout about the benefits of plea bargaining out of one side of our mouths and out of the other side we talk about low detection rate,’...”

Gaspard—and I mean no disrespect to him, but it is said here.

“Gaspard said while he too could call on the group to take ‘deep, philosophical meanderings’ and ‘theoretical postures,’ they were not there for that. ‘The problems that beset the criminal justice system fall outside the four corners of procedural limitations.’”

In 2014, the DDP of this country said that he does not support plea bargaining, he does not support it, because plea bargaining cannot be transplanted from a foreign

jurisdiction. The basis of plea bargaining is really your solid evidential foundation, because it is a bargain.

Mr. Deputy Speaker, I come from industrial relations, the area there, where we are involved in industrial relations bargaining. There is a reason why you call it a bargain. You bargain over wages, terms and conditions of employment because you give and you take. You compromise. In plea bargaining, you bargain with people who tell you I am a criminal, the Member for St. Augustine said. The people who bargain, they come to the bargain and the first thing they tell you is "Boss I am de criminal. Can I bargain with you?" In industrial relations, it does not work so. They might do some wrong things but it is not like that. And the DPP is saying that you cannot have plea bargaining if you have low detection rate and you cannot copy wholesale American jurisdiction business.

I want to ask the Attorney General, did you consult, the Attorney General, with the DPP?

**Mr. Al-Rawi:** Yes.

**Dr. R. Moonilal:** Did you consult?

**Mr. Al-Rawi:** Yes.

**Dr. R. Moonilal:** When and how, and you will tell us that.

**Mr. Al-Rawi:** Sure.

**Dr. R. Moonilal:** When and how? And has the DPP changed his mind? He is entitled to change his mind. He is entitled. I ask the DPP today: Did you change your mind from 2014 to today? And you are entitled to say you changed your mind, because it could not be in 2014 you warned the population about this and today you say we are on board.

Attorney General, did you publish this Bill in the newspapers at any time? I think

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Dr. Moonilal (cont'd)

2017.04.05

the answer is no.

**Mr. Al-Rawi:** Why?

**Dr. R. Moonilal:** When Mr. Maharaj, in time gone by—[*Interruption*]

**Mr. Deputy Speaker:** Member, address the Chair, please.

**Dr. R. Moonilal:** Mr. Deputy Speaker, I will slavishly speak to you. In time gone by, Attorney General before would publish a Bill in the newspaper. All would comment. This Government will take a full-page ad to tell us that they did appoint Putna as Managing Director of the HDC. They spent \$200,000 on an ad to tell us they did not appoint Putna as managing director. But the Attorney General will not publish a Bill that has such widespread implications for this country, no Bill. This Attorney General has published no Bill, and this Attorney General, in coming into office 18 months ago, I want to ask if there is one piece of new legislation to deal with crime that you have brought to Parliament and implemented? Nothing has been implemented in 18 months.

**Mr. Deputy Speaker:** Hon. Members, it is now approaching 4.30. We need to break for tea. Hon. Member for Oropouche East, on resumption you will have your 19 minutes of your initial 30 minutes and then, if you desire your 15, you will also be entitled to it. So at this time we break for tea and we return at 5.00p.m.**4.30 p.m.:** *Sitting suspended.*

**5.00p.m.:** *Sitting resumed.*

**Mr. Deputy Speaker:** Hon. Members, I recognize the Member for Oropouche East. You have your 19 minutes to conclude your initial 30. Do you want your additional 15 from now?

**Dr. R. Moonilal:** Yes. I will take it immediately.

Thank you very much, Mr. Deputy Speaker. When we took the suspension for the

tea break, I had been speaking on this matter of the role of the DPP, and just to continue in that vein for a minute or so. The Government and their speakers have now found a new piece of jargon, which all of them now recite with monotonous frequency and with mantra-like zeal, and this is “the suite of legislation”—this is the suite of legislation. So every time they come, it is the suite, it is the suite. It is not one, it is the suite. So it is a bag of sweets.

In this suite of legislation there are several pieces and one deals with the DPP’s role. But in this matter before us, and I want to say on this matter of plea bargaining it must be abundantly clear that the key actor, the key legal actor, the lead actor in this business is the DPP. The DPP is the one who will as prosecutor bargain. He is the bargainer, the negotiator; it is not the Attorney General. If and when this Bill is passed the Attorney General is finished. Well, he is finished long time ago, but his role in this matter is finished.

The Attorney General has no role to play in plea bargaining, plea agreement, it is the DPP. Why I am concerned is that the DPP, as I said before the tea break, is on public record as expressing deep concerns about implanting these foreign approaches to dealing with legitimate concerns of the criminal justice system, its pace and efficiency and so on. So that the Attorney General will tell us that the DPP, thankfully, has changed his mind. He is now comfortable, he is willing and able to make this system work because he is the bargainer.

Just to put this in the context that the DPP is the prosecutor—state prosecutor, the DPP and his or her office as the case may be—they have been in a job to prosecute. We have heard in this very Parliament, and we have the reports to demonstrate the fact, that the DPP has complained to anybody he finds in officialdom. Anywhere he goes and anybody he sees wearing a jacket and tie, he

complains. “I have no office. I doh have staff. I doh have paperclip. I doh have pen. I doh have building.” And he is right. He complains. The prosecution services in this country are overburdened.

Now, we have just given the DPP a role now as a determinant of preliminary enquiries. He is taking over preliminary enquiries, so add that to his plate. Now you are adding he is the bargainer, add that to his plate. So we have a prosecutor, a determinant of whether a matter goes for trial or not, the preliminary enquiry, the committal proceedings, he is the key actor, and then the lead legal actor in plea bargaining. What is happening in this country with the office of the DPP?

The Member for Port of Spain North/St. Ann’s West was very quick to point out—and I took note of that—he said, “We are passing this, but it will be implemented when proclaimed, and we will proclaim when the DPP’s office has been resourced.” Now that may be never. It may be never, and this is why I come to the point to ask the Attorney General, in 18 months since you took your oath of office—he took it upside down, because I think he took it before the Prime Minister—did you bring one piece of new fresh legislation to deal with crime and implement it? Nothing, nothing.

The plea bargaining before us, this Bill, has its roots in a 1999 measure piloted by the former UNC Attorney General, Ramesh Maharaj. That is the root. When we were in office the then Attorney General, Mr. Ramlogan, caused a major discussion to take place in the society, consultations, international help and so on, that came up with the working paper—the working paper or the paper that gave rise to this draft legislation, Reform of the Criminal Procedure, Plea Discussion, Plea Agreement—a major paper by Pamela Elder SC and others working on it as well, we know of that. It was when we were in office we came with this.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Dr. Moonilal (cont'd)

2017.04.05

Then the matter went to Cabinet, and the Cabinet of the People's Partnership considered this matter and agreed in principle to plea bargaining as a process. We also had a draft Bill, and colleagues will share with me, the January 20, 2015 Cabinet Note from the Cabinet of the People's Partnership, where the Cabinet actually considered these matters in detail and agreed to move forward with it. This was January 2015.

Thereafter, of course, the people of Trinidad and Tobago were conned and they made a mistake. Having done that, we are here today. The new Government went into the cupboard, "dust out report, dust out the Bill and brought it". So that those of us on this side have an obligation to give support to this approach, to this strategy, to this principle, and we give that support. But if it is that today the Member for St. Augustine, the Member for Siparia, myself and others would make recommendations by way of amendments to ensure that citizens are protected, then that is our duty, although we agree in principle with this measure.

The Member for Laventille West made several suggestions to then Attorney General, Ramesh Maharaj, in 1999. He cannot remember that. I do not know what happened in the intervening period. He was inside and outside the compound, but we are committed to this principle and this approach. Regrettably the DPP did not share our zeal and excitement in 2014 or thereabout, but he may share that today, which is fine, because he is the lead legal actor in this process. It is not the Attorney General; it is the DPP. And the DPP, I am sure, and his office will be welcoming with embracing arms this legislation, and they would be prepared to meet and treat with it.

Mr. Deputy Speaker, in preparing for this business today, I had the opportunity to reflect upon what I considered to be a very important and influential report by a

group called the “International Network to Promote the Rule of Law, Research Memorandum March 2014”, which is as recent in these types of discussions that you could get almost. It is drafted by several academics out of the University of Texas, the School of Law. I found this document to be terribly influential in this debate. It is because they do a global overview of the use of plea bargaining—a global overview—but they do it from the perspective of developing countries, and they call it here just conceptually “post conflict societies”, but developing countries really, countries of Asia, of Eastern Europe, of Africa, some of which are common law jurisdictions and share similarity with our legal system. *[Interruption]* The very distinguished academic, the Member for Moruga/Tableland, is punning me, but he will have his turn of course which he will use.

**Mr. Indarsingh:** His constituents will take note.

**Dr. R. Moonilal:** Mr. Vice-President, the report states:

Post-conflict countries often consider introducing plea bargaining to address serious problems of case backlogs and prolonged pre-trial detention.

So there is a twin objective. In societies like us we have two major crises. We have many people in jail, it is called “post-trial detention”, and we have a case backlog, all that back up and burden and so on. So we deal with that.

They speak of the advantages of plea bargaining, and of course the logical place you look at is the United States. So they speak about that. That has been said before, so I am not going to repeat all of that. But I want to come to the disadvantages of plea bargaining, because this is why we are rooting our arguments in the concerns. We are rooting it in the very deep concerns that arise when law can be abused. We must make law that is almost waterproof and cannot and ought not to be abused and exploited, and innocent citizens become the victims of the

very laws we pass. [*Desk thumping*] That is what we are about.

The Member for Laventille West, who has returned temporarily to the House—the Member for Laventille West has returned temporarily to the House—and is inviting me to consider clause 34 of the Bill, because I want to take up that point left by the Member for St. Augustine. There is a clause 34 in this Bill, and this clause 34 is—what is the word they like to use “infamous”—is infamous. This clause 34 in this plea bargaining Bill, because the effect of this, as the Member for St. Augustine pointed out, is to sanitize criminal elements.

When you bargain in this matter, you are bargaining with criminals. They are telling you, “I am a criminal, I am here to bargain with you. What do you have for me? Good.” You are telling them that part of that bargain—and I want to repeat the sanitizing of criminals, clause 34 of this Bill. Sanitizing criminals by way of clause 34:

“A Court may, upon application by either party or in its discretion...”

Now it did not say “and in its discretion”, it says “or”. So:

“The Court may, upon application by either party”—the DPP or the prosecutor, or the accused—“order that the records of plea discussions or a plea agreement be sealed, if the Court is satisfied that sealing...is in the interest of the effective administration of justice.”

What is the record of a plea agreement? What is that? What does that include? In that file, what will it have? It will have where Mr. Criminal is telling the court that, “I am the killer. I did this”, as the Member for St. Augustine said, “I took this fork and I plant it in the middle of the chest and ripped out the heart, and I did this on this night, on this day.” The Member for Laventille West I think is cringing when he hears his language. He is familiar with this language. The criminal is telling you



in an agreement in the discussion, “I have done this.”

What you are saying is all of those notes, those statements are now sealed and cannot be used, cannot be seen. So when this person is sanitized this way, he or she goes on to another criminal activity or they may become a witness in a next matter and therefore you cannot have access to this. If that is so, say it. But it is wrong in this way to sanitize criminals in this society by using this clause 34. They will explain themselves; I am sure they can talk. Some of them talk too much, but I am sure they can talk.

Mr. Deputy Speaker, disadvantage of plea bargaining, and there is a quotation. I am quoting still from the report of the International Network to Promote the Rule of Law. It says:

Plea bargaining cannot be separated from the legal and political system into which it is introduced and the informal unregulated nature of plea bargaining. [*Desk thumping*]

It continues:

Plea bargaining, this system, makes the practice vulnerable to abuse in the context of weaker legal systems. Countries facing larger governance and rule of law deficits, like widespread corruption, poor respect for human rights or lack of independence of the Judiciary may find that plea bargaining reflects and in some cases amplify these problems.

So plea bargaining, when rooted into weak legal systems, into corrupt environments, it can amplify the problem and not solve it. This is what they are saying.

You know, no less a person than the Attorney General a few days ago—I think he was addressing a meeting in Chaguanas somewhere, and is on the newspaper—

what was he addressing? Who? In that newspaper article which we read the Attorney General is saying that the problem we face in this country—and he was saying we must confront the problem—is corruption in the law enforcement agencies. He says that is a real problem, we must confess and we must admit it and then take steps, and every government has been playing around with it, but there is corruption in law enforcement. Remarkably, two days later “he tell a fella in Chaguanas if yuh have evidence take it to the police”.

So this is the problem we face, where you have a weak legal system. You have so much allegations of corruption in law enforcement. You are now implanting a system that could be abused. You are begging. All we are saying, because it was our principle and our policy, that let us put the checks and balances in; that is all we are saying. [*Desk thumping*]

They continue that:

Experience in some countries has identified several specific unintended consequences resulting from adopting plea bargaining, including divergent sentencing, penalizing defendants who go to trial, violation of defendants’ rights, encouraging coercion of confessions—we spoke of that—contributing to the negative public perception of the legal system.

And hear this:

Plea bargaining’s failure to focus on truth telling, possibly failures to implement this new process and how plea bargaining may work alongside the legal system.

So that plea bargaining may not have anything to do with truth telling. The fundamental objective of justice is to get to the truth. It really was never the fundamental objective of justice to sentence and convict, it was to get to the truth.

What we have done, and it is part of the modern architecture, if you would like, of criminal justice cultures, is that we are moving now from obligatory prosecution to discretionary prosecution. I think those are the two principles that operate there. As we move to discretionary prosecution, we are letting go of truth. We are getting to process. In letting go of truth, what will happen in the end here is that there will be no end to justice as far as revealing the truth. What you would have is a conviction, because persons have pled guilty and they may implicate others in the process.

Incidentally, when this matter came in 1999 to the Parliament—it is very instructive when you read the *Hansard*—it was really to deal at that time on a major focus which was on narcotic trafficking, where they felt, as they said, the person at the lower rung would be caught and we needed evidence from this person to get Mr. Big. Narcotic trafficking was the issue of that day, and they brought this legislation to see if we could help that. Members of the Government are fond today of standing and telling us, since it was passed in 1999 to 2014, I think more or less, that the survey said only 12 cases there were of plea bargaining, and everybody repeats that because that gives them the confirmation that what they are doing is right.

When you ask but why, one person said lawyers are not familiar, somebody said it is the improper inducement issue, which I am coming to shortly. But we do not have a comprehensive analysis of why exactly this has failed. For us to go forward with this, there must be transparency, publicity, publicizing this, informing the stakeholders, education as well. This is why before the break I was talking about publicizing a Bill. There was a time in this country when you bring out a Bill like this you would put it in the newspaper, and the ordinary citizen, man and woman would read it, at least on a website. It is probably on a website, I do not know, I

have not seen it, but you allow ordinary people to write letters, where the stakeholders could get involved.

Do you know what is happening in this country today because of this suite of legislation? “When de Bill pass here, then de experts talk outside, because it is only then they know what happened, after the fact.” I saw it in the preliminary enquiry matter. It was when the debate finished and the Bill passed, there was an outbreak of experts. They started expressing deep concern. I do not want to call their name because I am not in that, but that happens because you come almost like a thief in the night with legislation like this. You want to meet three/four times to pass it quick, quick, quick and when you pass it they then find out what happened, and they start expressing deep concerns.

Maybe if you consult people, if you publish in the newspaper, if you give people an opportunity to be heard on this, you would not have this problem. Those people who were talking after the PI Bill, I doubt very much they had an opportunity to be consulted, otherwise they would not speak like that.

**Mr. Deputy Speaker:** Your 15 minutes have commenced.

**Dr. R. Moonilal:** Thank you very much. I heard a term from a senior counsel, “legislative babble”. Was I involved in legislative babble? We warned you of that measure. I mean, everything the person said we said, but it came after, and that is the problem with that.

Mr. Deputy Speaker, coming back to my report here, another downside of this matter is encouraging false confessions. Related to the concern about violating defendants’ rights is the concern that plea bargaining could encourage continued routine coercion of confessions. In developing countries, legal systems rely heavily on confessions by the defendant. This can put a defendant in a position where you

force a confession, and that comes to improper inducement.

There is also the issue of exaggerated or falsified information to get a better plea agreement, you falsify information. The Member for St. Augustine spoke with depth and emotion on that matter, because he is a first-hand participant in that arena. He lives and feels and breathes the toxic presence of this thing. When he came today he told you of the contamination. So that is a serious matter. I do not want to spend too much time quoting, because all my 15 minutes will go.

Another interesting matter that came up in this discussion is that you bring this because you want to clear your backlog, you want to fast-track cases, get cases out and so on. But there is a downside to this, even with white-collar crime. And I will make an interesting point now for those who want to hear. The Member for St. Joseph when he spoke, and I think other Members too, spoke about the famous case, the *classicus*, Birk Hillman. They are fond of that because that has to do with the airport under the UNC administration. They said this man, Birk Hillman, whoever he is, went back to America and in record time he was convicted. You know in record time he came out? “De fella is now free to build three more airport, yuh know.” Now is that the end of justice? And you did not get back a cent.

Mr. Deputy Speaker, I read that in this article and I was taken aback by that. Is that the end of justice, where you want people to plea, reduce their sentence, so in effect they do not serve? There is no punitive impact, that you have committed a wrong, you have allegedly stolen millions and millions of taxpayers’ dollars. You cut a deal, so you register a conviction, in five years or seven years you are outside, when you should be really serving 150 years in jail, and you seal it.

It is stated here that in Nigeria, when they dealt with plea bargaining, they developed an antagonism to plea bargaining because for white-collar crime they

called it “sharing loot with the State”. What they would do is make a plea agreement with someone accused of corruption, and that person will say, “If I am accused of stealing \$100 million, I will give back the State and \$60 million and two years in jail”, and “then the person outside in 24 months”. That cannot be the end of justice. So while you have a good intention to hold white-collar criminals to account, as they should, you have to review this thought. That you could be making agreements with people, they pay the State and they really do not serve any time at all for criminal actions that they commit, and you undermine the very essence and the policy consideration of plea bargaining.

I thought that was an interesting point for people who like to talk a lot about white-collar criminals and what they want to do and asset forfeiture, and following the money and all these kinds of things. I thought they should be concerned that plea bargaining can even undermine that effort.

Mr. Deputy Speaker, the other matter has to do of course with legislative drafting. I do not want to go into that. There are some issues there that the Member for St. Augustine has identified, and there are also issues that can be dealt with at the committee stage.

While we conclude that plea bargaining may help countries like ourselves to deal with backlogs and pre-trial detention and so on, we must be mindful as legislatures, policymakers, lawyers in some cases, that we do not engage in a system that has the potential to affect the justice system as we know it, in the worse way possible. I do not want to repeat the point made by the Member for St. Augustine, but if anyone could stand on that side and tell us what protection is there to say with certainty that a coldblooded killer would not walk free from entering into an agreement with the prosecution, we would like to hear that. We would still like to

hear that. It may well be, Mr. Deputy Speaker, that we consider another approach. An approach taken in several countries is that you limit what could be negotiated, because a bargain is a negotiation, so you limit the bargain. It may well be that you decide for serious fraud, which is the white-collar crime I imagine, the serious, complex fraud cases, and murder, heinous blood crime, that they are out of bounds for negotiations. That you have no plea discussions as it relates to specified offences that offend so much. Somebody steal \$100 million and gone, rip off banks and you get five years because you cut a deal, because this thing is cutting a deal. In the criminal arena, it is the line they use, it is “squeal for a deal”. People will squeal for a deal. They will tell untruths for a deal as well. It may well be that we can look at in the committee, and the Member for Siparia may also propose amendments, dealing with specifying offences, including white-collar offences, that are out of the bounds of negotiation.

So you can plea bargain on hitting somebody with a stone, throwing down, beating up somebody, hitting their car or whatever, but you cannot bargain when it comes to murder. You cannot bargain when it comes to the most serious white-collar and complex criminal offences, because that defeats and overturns the rule of law.

When someone can commit such a dastardly act as raiding the Treasury, and they get five years because they cut a deal, and they return to the government who, heartbroken for money, they return some money. That happens in countries throughout the world and it is something that we need to look to.

Mr. Deputy Speaker, there are some other fine points in the Bill that we will also like to examine, and this is apart from the overburdened nature of the role of the DPP in this matter, who is now taking victim statements, unless I am mistaken. So apart from now participating in an agreement and being a party to plea discussions,

plea agreements, the DPP's office is now taking statements. I do not know why, but a victim statement is a victim impact statement, I think VIS, why the prosecution has to take that. Could you not that in another arena and relief the office of the DPP with just taking a victim impact statement? Which is a statement confined by law. It is really circumscribed by law. You do not have much latitude. The law tells you what you can write in a victim statement and what you cannot and ought not to write. Some other entity could do that rather than overburden the DPP with that again.

Mr. Deputy Speaker, there is also this matter concerning the bargain, the deal. The Bill as it is here provides the inducements. So let us say the incentives; I do not want to use the word "inducement", it is negative, because in the law it speaks to that. The incentives for entering into a plea agreement. One is troubling:

An undertaking not to institute charges against family members or friends of the accused person in respect of the matter which the accused person is charged.

Now, that is extremely wide, I submit. It is extremely wide. In the definition, Part II generally of these things, and we can go through it in detail later, while there is a definition of "relative" in relation to the victim—it is here, relative, and we know of parents, step-parents, spouse, cohabitant, fiancé. Is fiancé a legal term? Because people these days—anyway. So, "relative" is defined, but I am not sure "family member" is.

I am not sure that is and maybe we would have to look to some other law to find out what is a family member? What is a friend? I mean, a friend in need is a—

*[Interruption]*

**5.30p.m.**



**Dr. Gopeesingh:** A friend indeed.

**Dr. R. Moonilal:**—yeah, a friend you stay far from. But a co-gang member is a friend. No. There is something, I think, something a bit smelly, worrisome, where you are offering a deal as part of your bargain with the criminal and I keep on saying you are bargaining with criminals, eh. In fact, the reason why they bargain is because they are criminal, they admitted to that.

So, you are telling the criminal element, for the things I charge for, you are going to charge me for which I am pleading guilty to, none of “meh” family members or friends would be held accountable and liable for that.

So what happens in this context? One criminal brother “help out” the next criminal brother. So where you want to create a law that helps you to bring accomplices and the “king pin” in, you put in the inducement, in the incentives, a provision that actually allows co-criminal partners to escape. And with definitions that vague unless found somewhere else, of friends and family members. Who is a friend? Who is a family member?—for the purposes of this incentive to the suspect because that person is a suspect. And on the issue of suspect it is very interesting and dangerous.

When the police, and it will be the police, holds someone, they indicate that you are a suspect in a criminal matter, there is a murder, you are a suspect. Well, let us say wounding with intent or something, you are a suspect. The person is not charged, but the law now provides that that person can enter into plea discussions when the person is not charged, so there is no evidential foundation of a charge, it is of a suspicion. In white collar criminal offences, what will that entail? That you suspect someone collected \$2,000 for some contract, a public officer collects \$2,000 for some contract. We suspect you, but come and do a plea arrangement

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Dr. Moonilal (cont'd)

2017.04.05

with us and tell us about the other people. Something is worrying about that, using the point of, the trigger point to be a suspect, as opposed to a person properly charged and brought before an authority.

So that these are matters which I am hoping that, you know, Members of the Government who maintain a sober mind will listen to us, listen to the amendments, have the discussions in the committee stage and be prepared to make these concessions.

So, Mr. Deputy Speaker, I want to remind the Government, when held them by their arms and dragged them to the JSC on FATCA, the FATCA Bill was better at the end [*Desk thumping*] than what it was in the beginning. We had to carry them on our back. [*Interruption*]

**Mr. Deputy Speaker:** You have two more minutes.

**Dr. R. Moonilal:** Thank you. But in this matter as well I want to advise the Government and the very Attorney General that if you can take advice and you could put some amendments in that protect, put checks and balances in this thing to protect citizens for transparency purposes, for justice, you will produce a better law. Yes, a big part of this is what we did, the reform document comes out of the People's Partnership Government. A draft Bill was fashioned by us, 2015 or there about; this is 2017. We are here as parliamentarians and I want to say to my friends opposite, I consider all of you to be patriots. [*Desk thumping*] I consider all of you to be patriots. The fact that you are here, you are here for your country, your constituents and for God. So if you may consider us "in any other how", that is your business. We consider you patriots. And to be a patriot as well, you must also work in the interest of the entire nation, in the public interest. And the amendments we are putting forward, I believe, that they are amendments that can be used and

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Dr. Moonilal (cont'd)

2017.04.05

they are useful and we invite the Government to reflect on them at the appropriate time. Thank you, Mr. Deputy Speaker. [*Desk thumping*]

**Brig. Gen. Ancil Antoine** (*D'Abadie/O'Meara*): [*Desk thumping*] Thank you, Mr. Deputy Speaker, for allowing me the opportunity to take part in this debate on a:

“Bill to establish a system of plea discussion and plea agreements and for matters incidental thereto”

I would like to start my contribution by drawing our attention to a piece of scripture in the Gospel according to St. Luke. The wisdom of God who became flesh and was amongst us for a while told his disciples in giving advice to them:

As you are going with your adversary to magistrate, try hard to be reconciled with him, knowing that if the case went to trial you would probably end in jail.

So the wisdom of God was saying bargain with your adversary before you are go to trial because then you might prevent yourself from doing some kind of a jail term.

The President of Trinidad and Tobago, President Carmona, when he was a judge back in 2010, and I am quoting from a *Newsday* article, 4<sup>th</sup> November, 2010, he advocated the need to implement plea bargaining legislation to ease the current strain on the criminal justice system. [*Interruption*]

**Dr. Gopeesingh:** Mr. Deputy Speaker, 48(8), bringing the office of the President into disrepute.

**Mr. Deputy Speaker:** Proceed.

**Brig. Gen. A. Antoine:** Yes. Let me quote the *Newsday*, November 4<sup>th</sup>, 2010:

“A HIGH COURT judge has advocated the need to implement plea bargaining legislation to ease the current strain on the criminal justice system.”

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. Brig. Gen. A. Antoine (cont'd)

2017.04.05

They said the judge:

“...was again yesterday forced to adjourn the murder trial of seven men charged with the murder of a real estate agent, Gerard Gopaul, as one of the men was...without legal representation.”

So this learned judge, just like the wisdom of God, agreed that you should bargain virtually for your freedom.

In another newspaper article on the 26<sup>th</sup> of October, 2016, the reporter was a Curtis Williams, it speaks about:

“Four or six Americans”—[*Interruption*]

**Dr. Gopeesingh:** What paper?

**Brig. Gen. A. Antoine:**—*Newsday* article.

“Four of six Americans accused of involvement in defrauding the Government of Trinidad and Tobago of tens of millions of dollars from the Piarco Airport Project have agreed to go to prison.

Serving time in jail is part of a plea agreement, which was yesterday presented to Justice Paul Huck in the United States District Court in the Southern District of Florida.”

In the *Daily Express* it speaks of plea bargaining legislation can help. And it is an *Express, Newsday* March 22<sup>nd</sup>. It says:

“Plea bargaining legislation can greatly assist in reducing the vast backlog of cases currently burdening the Judiciary.”

And this newspaper article quotes Chief Justice Ivor Archie said:

“During the address at the opening of 2013/2014 Law Term, Chief Justice Ivor Archie admitted there was ‘absolutely no way that all of the matters before the courts can be disposed of by trials within a reasonable time.’

The Chief Justice described plea bargaining as an essential feature of most modern justice systems...”—as it is—“...rational, albeit not perfect way of weeding out those matters that can be justly disposed of without a trial.’ ”

It is interesting by our friends across the aisle that one of their luminaries, Ramlogan SC, former Attorney General, who during his tenure had the ability to give himself Silk had a discussion with the present DPP Roger Gaspard and the Attorney General Anand Ramlogan, and this the *Trinidad Guardian*, June 15, 2014. The post for plea bargaining legislation. And said a draft legislation was expected to be completed by the end of the month.

Our colleagues on the other side during their contributions to this debate all speak as though the legislation, and they called it the suite of legislation being put forward by our learned Attorney General, the suite of legislation. And the MP for Siparia said the Bill will not solve crime. The MP for Oropouche West spoke about a national registry of exoneration. The MP for Cumuto Manzanilla, she said the Bill is not about fighting crime and just now the MP for Oropouche East said that the Bill was about bargaining with criminals.

Mr. Deputy Speaker, plea bargaining is a process whereby a criminal defendant can possibly reach a mutually satisfactory disposition of a criminal case subject to the court's approval. Mr. Deputy Speaker, plea bargaining can conclude a criminal case without a trial. It can complete a criminal case without a trial.

Now, I am not learned as my friends on the other side. I am an old soldier who sees things from a different perspective. And seeing things from an old soldier's perspective, I realise that plea bargaining is a good tool in the arsenal of law enforcement, it is a good tool to be used when we are dealing with crime and criminal activity.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. Brig. Gen. A. Antoine (cont'd)

2017.04.05

I know for a fact when the Members opposite were holding on to the seat of power that they had a workshop here in Trinidad and Tobago. And in that workshop different people came about and spoke, it was in April 2014, a two-day workshop in plea bargaining in Trinidad funded by the Justice Sector Assistance to the Caribbean Society, and they all recommended that plea bargaining should be added to our legal system.

So, I am in disagreement with those on the other side. They throughout the activities of my learned colleague the Member for San Fernando West and the various bits of legislation he keeps bringing forward, they keep saying that these are not Bills to fight crime. So, I would say, how can plea bargaining help in the fight against crime? Now, if as one of my colleagues across the aisle is a member of the medical profession, a profession where I am told that you need to have small fingers, but he I am told has large—*[Interruption]*

**Dr. Gopeesingh:** Who told you that?

**Brig. Gen. A. Antoine:**—because when you are doing surgery and so forth you need to be able to use your scalpel. But in other parts of the profession if your fingers are too big it creates problems.

**Dr. Gopeesingh:** With you. *[Crosstalk and laughter]*

**Hon. Member:** Where does he fall?

**Brig. Gen. A. Antoine:** Well, you know, I think the size—*[Interruption]*

**Mr. Deputy Speaker:** Okay, Members. All right. Okay. Let us get back to the debate, please. Member for D'Abadie/O'Meara. All right. Thank you. *[Crosstalk]*

**Brig. Gen. A. Antoine:** So in the medical profession, you study medicine to become a doctor, and of course, all the legal luminaries across there studied law to become lawyers. I as an old soldier studied the art of war to become a soldier, and

of course, I have the Minister, Member for Arima who studied all the art of teaching to become a teacher. You study and spend time with professionals if you want to become a professional in your area that you have chosen.

And I focus back on the Member for Oropouche East because he claimed that the plea bargaining law would be bargaining with criminals. Where would someone go if that person wants to interact and work with criminals? Where can someone learn the fine art of being a criminal? Where can someone find other people who can teach them the art of being a criminal? Where would someone learn how to network with other criminals? Where they can be located? And just like you have universities for medicine and legal, the prison system is one place where you can meet these other people and where they can teach you the fine art.

Now professionalism, Mr. Deputy Speaker, they say the competence or skill expected of a professional, the practising of an activity, especially a sport by professionals rather than by amateurs. When you look at the definition of a professional, they say relating to a job—[*Interruption*]

**Mr. Lee:** A point of order, Mr. Deputy Speaker, 48(1).

**Dr. Khan:** 48(1), squared.

**Mr. Deputy Speaker:** Proceed, Member, proceed.

**Brig. Gen. A. Antoine:**—related to a professional, they say it is related to a job that requires special education, special training, special skills and, Mr. Deputy Speaker, someone certified by a professional body by virtue of having competent studies.

So, Mr. Deputy Speaker, a profession is an occupation, a practice, a vocation requiring mastery of a complex set of knowledge and skills and education, and sometimes a profession is governed by a body of respected professionals. I come

from the military profession. The Opposition prefers to take a narrow view on the war on crime, you all, all of you, senior counsel, Member for Oropouche East, et cetera.

But I like to make a distinction in my old soldier hat, if you want to say, in a difference between lawbreakers, criminals, as the Member for Oropouche said, and professional criminals. Our society is filled with a lot of law breakers. We break the law many times in our lives. I had an instance where the first time that I was away from Trinidad and Tobago for Carnival. I was in Canada. I and some other Trinidadian friends decided that Jouvart morning will not meet us in the barracks, but will meet us having a few drinks as the case may be. So, we went out on the town. It so happened that an ice storm came in and by the time we were finished partying, all the various modes of transport were shut down. Given the option of either freezing to death or survival, we broke into a bus and huddled together until daybreak and eventually we made our way back to barracks.

**Mr. Al-Rawi:** Access and available.

**Brig. Gen. A. Antoine:** Access and available. So, we broke the law. If I had been arrested or we had been arrested—*[Interruption]*

**Hon. Member:** Hypothetical. *[Crosstalk]*

**Brig. Gen. A. Antoine:**—we would have had to bargain with them as it was not intentional. And we can go to all different kinds of stories where other citizens may go afoul of the law. Our colleagues on the other side tend to want to speak about the high criminals. I am speaking about those who have just gone afoul of the law through all sorts of things, road rage. You know, you might be in a wrong frame of mind, somebody gives you a bad drive and something happens and you break the law. You are not a criminal, but a lawbreaker. In that I am not a learned person and



the learned Attorney General can correct me at any point in time in terms of the difference between a lawbreaker and a criminal.

But any legislation that will allow somebody who inadvertently breaks the law from being incarcerated with hardened criminals, in my opinion, is good legislation, and I thank the Attorney General for bringing this suite of legislation that would tend to get rid [*Desk thumping*] of the backlog cases before us in our courts.

So this plea bargaining legislation as my colleagues have pointed out will allow a lawbreaker to be able to negotiate with the police, negotiate with the magistrate, right up to the DPP so that he would get possibly a lesser sentence. And this will allow him not to spend time with the hardened criminals because that is where a lawbreaker can easily graduate to become a criminal or to become a professional hardened criminal by spending time incarcerated with other people who can tell you how to commit crimes, they can tell you how, where are networks. Because we have to be realistic, we have to be realistic that in our country there are networks out there that assist criminal elements in preying on the average citizen.

One time years ago my house was broken into. I came home and found—I had decoration blocks, those were “the go” long time and the police showed me that they came with a carjack and they simply knocked out one brick and then they put in the carjack and they simply cut a path through my decoration bricks into my home, and they stole a lot of electronic equipment.

So I asked the police, “Can you identify the various fences in the area where these guys will take electric equipment to?” And I went to them along with some of my soldiers and I had a healthy discussion with them. [*Laughter*] I bargained with them. It was a good discussion and I persuaded them of the error of their ways.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. Brig. Gen. A. Antoine (cont'd)

2017.04.05

[*Laughter*] I persuaded them, I think I was persuasive. Yeah. I persuaded them to the error of their ways. We had a good discussion. And at the end of the day, believe it or not, a few days after I went back to them and lo and behold they had recovered my electronic equipment for me, and that was bargaining. [*Laughter*] That was good bargaining. A nice discussion, you know. I told them, I know I was, I—[*Interruption*]

**Mr. Lee:** Mr. Deputy Speaker, 48(1).

**Brig. Gen. A. Antoine:**—I like my music.

**Mr. Lee:** We want to get back to the Bill, please. [*Crosstalk*]

**Mr. Deputy Speaker:** Move on with the point, please. [*Desk thumping*]

**Miss Mc Donald:** It is to demonstrate the need for plea bargaining. You are using his personal experiences.

**Brig. Gen. A. Antoine:** So—[*Interruption*]

**Miss Mc Donald:** “Doh” bother with them. Talk.

**Brig. Gen. A. Antoine:** I believe that I was convincing to these fences. I believe I showed them that I could bargain with them, and they agreed and, of course, I recovered my—because I like my music, you know. I like to play my calypso and soca, but chutney too, you know. I like chutney music as well. [*Crosstalk*] Yes. So, Member for Tabaquite, things worked out well and we were able to have a good discussion, they returned my stuff to me free of charge and the police went their way and I went my merry way—[*Interruption*]

**Dr. Rambachan:** You used the soldier against them?

**Brig. Gen. A. Antoine:**—against?

**Dr. Rambachan:** You used your bunch of soldiers to go and get it.

**Mr. Deputy Speaker:** Please, do not encourage the additional chat, please.

Address the Chair.

**Brig. Gen. A. Antoine:** It comes like a lawyer, it comes like a lawyer when he is dealing with people, he will get his lawyers to talk with them. So it is interesting.

So as I say again, any law that prevents a lawbreaker— a petty lawbreaker— from interacting with hardened criminals and being taught the profession of the trade, is good law, and this plea bargaining allows lawbreakers to not spend additional time with lawbreakers, with criminals.

Your learned friend, your learned friend of Silk fame, former Attorney General Anand Ramlogan said in that same article I mentioned earlier, in the United States of America 90 to 95 per cent of all criminal cases do not, in fact, reach trial, 92 to 95 per cent of the cases in the United States of America are dealt with at the plea bargaining stage. That was in the *Trinidad Guardian* Sunday, June 15, 2014. So plea bargaining is a tool we can use, showing that tools you can use dealing with criminal elements in the neighbourhood. It is a tool you can use dealing between the magistrate and all up to the DPP so that you would not have to be incarcerated for any great period of time.

And I heard my learned friend speak about the fact that the law says that if you are in a vehicle and there is marijuana found in that vehicle in a police road block, all the occupants of the vehicle can be arrested. But if one occupant of the vehicle professes his guilt, then the others can go free. So plea bargaining is a tool that can be used to ensure that innocent citizens do not end up amongst hardened criminals. So, Mr. Deputy Speaker, plea bargaining will help our citizens who simply run afoul of the law from being taught in the penal system by hardened professional criminals the tools of the criminal trade. And it is a known fact that young people make mistakes. Young men and young women, they make mistakes, and what plea

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. Brig. Gen. A. Antoine (cont'd)

2017.04.05

bargaining would do as a tool is give these young offenders another bite of the cherry of freedom where they can admit their guilt, take a lesser sentence, maybe community service, whatever is decided upon by the magistrate, whatever is decided upon by the DPP, so that they do not have to go amongst hardened criminals and learn the trade of becoming professional criminals.

So this Act to establish a system of plea discussions and plea agreements is a good one by one of the, I quote my friends across the aisle, the suite of legislation being put forward by the Attorney General to assist in the backlog of cases, but also to put tools in the hands of our citizens that, like the United State of America, 95 per cent in the future of trials do not have to go to the stage of trials, but they can be bargained before and they can come to a swift conclusion and they can prevent a lot of our citizens from spending time among hardened criminals. Thank you, Mr. Deputy Speaker. [*Desk thumping*]

**6.00 p.m.**

**Dr. Bhoendradatt Tewarie** (*Caroni Central*): Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, I am not a lawyer and I am not very versed I would say with the business of the law, but as a Member of Parliament we make laws, and in the end the justice system takes a hold of those laws that we make, and on the basis of the law before them things are done and matters proceed before the court on the basis of those laws. And there is a whole practice of the law that is built around the legal system of laws that have been made over a long period of time, and the laws that continue to be made by parliaments such as ours, in our case in Trinidad and Tobago.

And, when I read this Bill—and I am looking at it clause by clause—I realized that there are many things that come up as questions even as you read the

Bill. Now, the Bill has a lot of problems and I would not chastise the Chief Parliamentary Counsel's office or the Attorney General, or anyone for that, but there are lots of typos in the Bills, and there are—I imagine that is going to be cleaned up by the time we have the final version—other things too that are missing in terms of the sentences in the Bill and so on. But, besides that, when you look at the Bill itself—and I will start at the beginning—and you look at the various clauses, you will see on the first page, which is page 10 of the substance of the Bill, it talks about improper inducement and it says:

“‘improper inducement’, includes—

- (a) the laying of a charge not believed to be supported by provable facts;
- (b) the laying of a charge that is not usually laid with respect to an act or omission of the type attributed to the accused person;”

And it goes on from (a) to (f).

The question that comes up in my mind as a layman is, who is going to have oversight over this? And who is going to manage this process in which the issue of inducement arises even at the very beginning of the Bill, even before you get into the substance of the process, and you have a number of elements identified in the Bill itself which can constitute acts of inducement, and I ask myself who is going to manage this? Who is going to ensure that these inducements are not part of the process? I think it is a legitimate question, and if you have to ask that question at the beginning of the Bill, I think it raises a number of issues, and I want to say that there is a very large issue that is raised by this Bill and two Bills that came here that are part of the suite prior to this one, and that big issue really is about the justice system itself. [*Desk thumping*]

But I want to raise that simple issue of the fact that the notion of inducement is present and raised in the Bill, a number of means of inducement are raised, and I am asking the question, how is this going to be managed? Who is going to have oversight over this? On page 14 it says:

“the prosecutor agrees to take a particular course of action including—”

And it goes on to outline what they are, and then in the second part of it—so it is one and a set of Roman numerals—it says:

“A prosecutor shall not agree to take a particular course of action unless—

- (a) he has taken all of the relevant circumstances into account; and
- (b) he believes such an undertaking would not be contrary to the interests of justice.”

So, there are two questions I want to ask here, which is that, who is going to ensure that all the relevant circumstances are taken into account? And who is going to help to strengthen the general belief in the system that the prosecutor in fact believes that such an undertaking would not be contrary to the interest of justice?

And I am raising the whole question of the oversight issue in the justice system which involves somebody who is going to come before the law and be subject to prosecution, and somebody who may or may not have an attorney to help him through the process as a guide and also as a defender in the system. So, I ask the question, a simple question, as I said I am not a lawyer. I may be helping to make laws here, but I am a citizen, and I want to ask the question, who in this law—I know the lawyers may think that I am being simplistic or naive, and I do not understand, but I want to ask the question, who is the prosecutor here? Is it the DPP? Or is it the police who is the prosecuting person in a Magistrates' Court or in another court of law? Does the Attorney General want to respond, yes?

**Mr. Al-Rawi:** Thank you, hon. Member for giving way. We specifically removed from the old law the concept of a prosecutor being involved—that is something to be frowned upon—and specifically included—*[Interruption]*—sorry, police prosecutor, has been referred to police. We specifically put the DPP, and we are going to propose some amendments to tighten that language, as raised by the Member for Siparia.

**Dr. B. Tewarie:** Okay, this is a very important point, because at the point of advocacy and defence and prosecution, the person who is actually prosecuting, notwithstanding the permission to do so, is the person who is really there at the Magistrates' Court at the bench.

And, I am not aware that in moving to a system—and this law is called the Criminal Procedure (Plea Discussion and Plea Agreement) Bill, and we have talked about plea bargaining but it is mentioned here as plea discussion and agreement, and I assume that there is some bargaining going on, as the Member for Oropouche East pointed out, and the Member for St. Augustine, but the whole point of this is that at the point where the person comes up for trial, the person who is actually prosecuting and doing the discussions and the negotiations and the bargaining and the determination of the agreement, is it not, for all intents and purposes, the person engaged in the prosecutorial process at the point where the matter comes up before the court?

And I think that requires us to be very clear, because it is one thing to have in theory that it is the Director of Public Prosecutions, and another thing to have it in fact that the way the system works is the way that I am suggesting it probably will at the level of the court with the person who is accused, the defence attorney and the person who is actually prosecuting on the ground in the court. This thing

goes on, on page 15:

“Where an accused person is represented by an Attorney-at-law, a prosecutor shall not engage in a plea discussion with the accused person in the absence of his Attorney-at-law.”

Now, that raises the whole question of representation for the person who is accused, it raises the question of where the person sits in the negotiation process, as opposed to the lawyer and the prosecutor engaging in that process; and again, for the system to work there has to be some guarantee—just as we will come to with the rights of the victims—that what is understood to be agreed to is something that this person who is the accused person actually wants and is satisfied with.

Because as I said, remember I said that what we are dealing with here is the system of justice, and I think my colleague, the Member for Oropouche East, actually mentioned the point that what we are moving to is a mechanical system in which you resolve a matter without getting to the point where you will know the truth of the entire case.

Therefore, the right and the wrong, what has actually happened, what are the facts of the case, et cetera, in this system of negotiation, and plea bargaining, and resolution by negotiation, we have therefore two things, which is that you are not going to have the entire story come out, and secondly, you are going to have a situation where the lawyer and the prosecutor may resolve without the individual himself who is accused, being party to the process, until the end where he is asked to say, well, look, this is what we decide and we want you to agree. I suspect that that individual will get pressure both from the prosecutor and his own attorney in that particular situation, given what I know about the justice system.

As you go on further, it says here in item 10—this is on page 15 of the Bill



that I have—(1)(b)(ii), the accused person—it says:

“A prosecutor shall not initiate a plea discussion with an accused person who is not represented by an Attorney-at-law...”

And then it goes on to outline the conditions, but one of the conditions it says here is:

“he agrees to allow an independent third party, identified by the Court, to be present during the plea discussions;”.

Now, where in God’s name are you going to determine this “independent” third party [*Desk thumping*] and appointed by the court? And in that situation where he is the accused to agree? I mean, I am seriously concerned about the way this system that is being advocated here is going to be managed, and how it is going to be monitored, and how it is going to be made to work as it is intended to work, and I have not even raised the question of the justice system as a whole yet. I am simply talking about the mechanics as outlined in this particular Bill. Then in 10(2):

“Nothing in this section shall be construed as preventing the Court from appointing an Attorney-at-law to represent the accused person.”

Now, a person could choose to represent themselves, and the court could appoint a person. These things I know have not worked out in the Trinidad and Tobago courts always in the best interest of the accused. And they have also not worked in my estimation as they are supposed to work.

In other jurisdictions they do not work as well either, and if it is done according to the support system that is used by the State to get an attorney for the individual, there are a whole slew of problems associated with that system that I do not want to go into here. It is not just the lawyers who are there, and in terms of

their willingness to be part of the system, the level of experience that they have, the amount that they are paid, and generally they are dissatisfied with the process and the system, et cetera, and therefore the individual does not, in my view, entitle himself under this piece of legislation, and this thing that is meant to become law, with the best representation of his particular interest. Now, it goes on to say here in 11(2):

“If a plea discussion is initiated after charges are laid but before the prosecutor tenders evidence implicating the accused person, the prosecutor shall provide the accused person or his Attorney-at-law with a written summary of the evidence against him.”

Again, it raises the question of how these things will be managed, how they will be monitored, how the interest of justice involving the rights of all parties is going to be served? [*Desk thumping*] And then 11(3):

“Nothing contained in subsection (1) or (2) is to be construed as requiring the prosecutor to disclose—

(a) all the evidence supporting his case;”

Okay, remember we just said that they are going to get some of the information on the basis of which he or she was charged, and it says:

“Nothing contained in subsection (1) or (2) is to be construed as requiring the prosecutor to disclose—

(a) all the evidence supporting his case;”

So, information might be withheld, evidence might be withheld, the names of the witnesses or any other information by which such witnesses may be identified. So, you do not know in this case who your accuser is, and you do not have all of the information in this particular situation in which you are going to be

charged on the basis of plea bargaining. And the reason I raised these things, because I have a number of pieces of information here on this business of plea bargaining and how it works—both on the American side where it is dominant, and the British side where it has been introduced in a very limited way—to show you that the way plea bargaining works really puts the power and the strength and the capacity for leverage in the hands of the prosecutor. [*Desk thumping*]

So, you could eventually have a plea bargain arrangement for a significantly reduced crime, but in order to get you to agree you may very well be charged with murder. Perhaps I am exaggerating, but I am trying to make a simple point, which is that the leverage in the hands of the prosecutor is such that in order to get you to agree to a plea bargain, to a plea, in order to get you to plead guilty, because that is what it is about, and I want to say, because plea bargaining what? What is it about? It is to get you to say I am guilty of something, I am prepared to agree to be guilty on that in order to get a lesser sentence, whatever it is, time, money, whatever it is, so that I do not have to go through the process of waiting for the case to call, go through the trial, et cetera, and run the risk of being charged for something worse and being convicted on that.

So, I want to raise these issues because, if the prosecutor has the basis of giving you some information, and not all, he has the capacity and the power of leverage, and they can withhold the names of the accusers in the system, it seems to me that in the bargaining process somehow there is no real equality in the system. Now, I am not saying that there should be equality, because the reason the person is before the court is because they are being charged or being pursued on the way to being charged for some kind of thing. But, again, I want to raise the issue of the big issue which is the justice system in this country, and on the basis of

that I want to continue with some of these things before I raise that larger issue. On page 16:

“...if the accused person cannot afford to retain an Attorney-at-law of his right to apply for legal aid under the Legal Aid and Advice Act for the purpose of entering into a plea discussion;”

So, an attorney may be appointed by the court, or you may go the legal aid, and given the way our legal aid system functions, I know its intention is good. In order to provide legal support for someone who cannot afford it. But, I mean, is this something that guarantees and supports a system of reasonable justice in the country?

Then we go to the business of victim impact, which is a progressive element of this Bill. So, the issue of taking the victim's point of view into account is in fact taken into account in this Bill, and it says that:

“(1) Every victim has the right to provide the prosecutor with a victim impact statement explaining the physical or emotional harm, financial loss or other impact that the offence has had on the victim.

(2) Before a plea discussion is concluded, the prosecutor shall inform the victim of his right to provide the prosecutor with a victim impact statement and of the restrictions specified in section 14 with respect to the content of the victim impact statement.”

And it says somewhere here, I do not remember everything, but it says somewhere that you cannot repeat what the person is accused of and what they did, and the facts of the case, et cetera, and you cannot make any nasty remarks about the person who is alleged to have contributed the crime, in other words. Okay? Okay, so you get a chance to make a victim statement, and you are supposed to

follow certain guidelines, follow the law, follow the rules, and you make a statement. But then it says:

“If a victim elects not to give a victim impact statement, the Court, at the plea agreement hearing, shall not draw any inference that the offence did not result in harm to the victim.”

Maybe so, but if for whatever reason, and I do not know what could be the attendant reasons that the victim or the survivors of the victim, in the case of a murder, may not want to give a victim statement, and I want to know, again, what is the procedure? What is the system? What is the structure? What is the thing that makes sure that justice is done, that the rules are followed in the system that allows this system that is being advocated under this piece of legislation to actually work as it is supposed to? And, Mr. Deputy Speaker, I go on to clause 18:

“The prosecutor shall ensure that a victim impact statement submitted to him complies with the requirements of section 14.”

Okay, so that is a section which says how we should do it.

“If a victim impact statement contains material that is not permitted under section 14, the prosecutor shall redact the material from the victim impact statement before it is filed with the Court.”

So, the prosecutor has the capacity to deal with the accused, okay, and negotiate with the accused, and to suggest what that person might be charged with in order to get him to agree to a lesser plea so that the case might be finished, and so that the notion of justice under this plea bargaining system can be dispensed, but the prosecutor also has the capacity to determine what in fact reads in the court as the victim statement. And sure there are rules, but I want to know what is the oversight process to ensure that this thing is done according to the rules, because,

do not tell me that it is going to be done on the day that it comes before the case and the magistrate, for the magistrate to determine that.

“After receiving”—sorry, what is the purpose of this?

“After receiving the victim impact statement, the prosecutor shall serve the victim impact statement on the accused person or his Attorney-at-law as soon as it is reasonably practicable to do so.”

So that means to say that the person also gets a chance to see what that victim statement reads like. On page 22:

“If a plea agreement is filed at any time before an accused person is committed to stand trial in the High Court, the Magistrate shall—

- (a) cease conduct of the committal proceedings, if proceedings have commenced;
- (b) transfer the matter to the High Court for plea agreement hearing; and
- (c) within fourteen days of transferring a matter under paragraph (b), forward the following documents to the High Court:”

—and then it lists all the documents, et cetera, and then it says:

“Where a Magistrate transfers a matter under subsection (1)(b), the Magistrate may grant bail to the accused person under the Bail Act.

(3) Within fourteen days of receiving the documents forwarded be a Magistrate under subsection (1)(c), the matter shall be listed for a plea agreement hearing before the Court.”

Now, does the specification of the number of days there determine as a fact when something shall be heard? When it shall be heard? And determines the process by which this is to be heard? And then it says in 23:

“Notwithstanding any other law to the contrary, if a plea agreement is filed

before the commencement or conclusion of committal proceedings, the Director of Public Prosecutions shall prefer an indictment and file the indictment with the Registrar within fourteen days of the date that the matter is transferred under section 22(1)(b).”

It seems to me—I find it, maybe the lawyers find it simple because they do this in court all the time. But, Mr. Deputy Speaker, I find this an extremely complicated process. I find this an extremely complicated process, especially since—and I want to begin to make this big point about the justice system, especially since this complicated process is going to be introduced in what is essentially, by and large, a dysfunctional justice system. [*Desk thumping*]

So, you have a dysfunctional justice system. We have a backlog of an order of, I do not know if it is 6,000 or 7,000 cases. I do not know what the number is now, but it is very high. You have a system in which you have people in the Remand Yard, literally thousands of them. You have these cases in the Magistrates’ Court which the Attorney General talked about, thousands of them distributed through all the Magistrates’ Courts of Trinidad and Tobago. And then when I read some of the documents here about plea bargaining, they say 90 per cent of the criminal matters in the United States never get to court. Okay? So, here you have a dysfunctional system with all of this, and you want to solve this problem now by plea bargaining, and we hear that the end result is that 90 per cent of the criminal matters do not get to court when you have a plea bargaining system.

**6.30 p.m.**

So I want to know, is this meant now—how are all of these cases before the court going to be resolved? Is it by a plea bargaining process? What is the mechanism—[*Interruption*]

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Dr. Tewarie (cont'd)

2017.04.05

**Mr. Deputy Speaker:** Hon. Member, your original 30 minutes have expired. Do you care to avail yourself of the additional 15?

**Dr. B. Tewarie:** I would like to, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** Proceed.

**Dr. B. Tewarie:** How are you going to deal with all of this through this plea bargaining system and what is the mechanism that you are going to use, given this 14-day arrangement now, all right? It is a simple arithmetical problem and I am asking here, not the big large question of the justice system, 14 days to resolve all of these things and you now have to resolve all of them. You want to do them by plea bargaining and you want the system to work because that is the intention, that when you use the plea bargaining system you are going to clear up the system, et cetera, and somehow the criminal justice system is going to be much more efficient and effective and the courts are going to work better.

I am saying that maybe at the end of the day it might work, I do not know. But I am raising two important questions. Can you introduce this in this existing very dysfunctional system that we have in Trinidad and Tobago today? [*Desk thumping*] And secondly, I want to understand the mechanism that is going to allow us to reduce the number of cases that come before the criminal court to 10 per cent, which would ultimately be the objective of establishing this plea bargaining system in Trinidad and Tobago. And I need the Attorney General to find a way of assuaging my concerns about this because I do not see how it is possible.

And then there are so many things in here, on page 21:

“24(3) Before accepting or rejecting a plea agreement...”

This is the accused now. Remember the lawyer and the prosecutor are talking and



they are resolving this matter:

“24(3) Before accepting or rejecting a plea agreement, the Court shall make enquiries of the accused person in order to determine whether the accused person...”—all right.

And he has to take him through this to make sure that he is satisfied, that he understands:

- “(a) understands the nature and substance of the plea agreement, including the recommended sentence;
- (b) received legal advice before signing the plea agreement;
- (c) understands the nature of the offence with which he is charged and to which he is pleading;
- (d) is aware of his rights”—and they outlined eight different rights here—
- “(e) understands that the Court is not obligated to accept the plea agreement;”

After you go through all of this, the court can say no:

- “(f) understands that if the court rejects the plea agreement he would have the opportunity to withdraw his guilty plea and withdraw from the plea agreement.”

Now, this is Trinidad and Tobago you are talking about. You done say you are guilty already, right. You say you are guilty already, you plead guilty, you are ready to throw in the towel, the judge jumps in, magistrate jumps in, he tells you, okay, I am not allowing this. You now withdraw your guilty plea and you are going to court, “Oh God”. Mr. Deputy Speaker, I told you I am not a lawyer, but I am a citizen. And I am telling you something has to be radically wrong with a system that allows a system—  
[Crosstalk] I will give you 30 seconds, eh. [Laughter]

**Mr. Hinds:** Thank you very much, my good friend, for giving way. I might remind

you that in that situation he does not appear again before the same magistrate or the same judge. Okay?

**Dr. B. Tewarie:** It does not matter. The point I am making, Mr. Deputy Speaker, listen, I want to tell the Members on that side, all right, that I think the intention of this legislation is good. I do not have a problem with it. I do not have a problem with the intention, but I am talking about Trinidad and Tobago where the justice system is dysfunctional, has been dysfunctional for a long time. You are taking this thing now and inserting it into this dysfunctional justice system and you are doing it in Trinidad and Tobago society. I mean, those Members over there are living here just like I am and imagine now, man, I go and I plead guilty. All right? I am prepared to go to jail and the magistrate says, no, we are taking this to court. The only sentence I am likely to get in a place like Trinidad is a higher sentence. This is madness, all right?

I am talking about the simple issue of justice. We are dealing in a small society. I have an article here on the difference of the relationship between the Judiciary, Parliament and the Executive in a small society and how that is so different. This is a small society you are dealing with, man, everybody know everybody. [*Crosstalk*] It does not matter.

I agree with the Member for Laventille West. He says here—it does in fact say here under 25:

“...the Court may reject a plea agreement entered into”—so and so—

“(2) Where a Judge or Magistrate rejects a plea...under”—so and so—“the Judge or Magistrate shall—

- (a) in open court, inform the accused of his right to be tried again before another Judge or Magistrate;

(b) within seven days of the rejection of the plea...”

Now, “dat make papers already and I going to the judge seven days later, boy, that is real trouble”, [*Laughter*] real trouble. Page 23, this is 28(2):

“The accused person shall give notice of appeal in the form set out as”—so and so—

“29. (1) The Director of Public Prosecutions may appeal to the Court of Appeal against the Court’s rejection of a plea agreement.”

Now, listen to this eh, the court just reject my appeal, right—[*Interruption*]

**Mr. Young:** You are right, you are not a lawyer, yes.

**Dr. B. Tewarie:** No, the court just appeal—[*Crosstalk*—do not condescend to me because I do not have a degree in law. [*Desk thumping*]

**Mr. Deputy Speaker:** Members! Members! Members! Hon.Member, address the Chair and, Members, please, the crosstalk, please at this time. Go ahead hon. Member. [*Crosstalk*]

**Dr. B. Tewarie:** Do not condescend to me because you have a law degree, all right? You hear? Let me tell you something here, where I come from, “sense make before book”. [*Laughter and desk thumping*]

**Mr. Deputy Speaker:** Member! Hon. Member! Member! Member, please, we are going fine, address the Chair.

**Dr. B. Tewarie:** Thank you, thank you. And let me tell you something, law is made for the ordinary citizen. [*Desk thumping*] Lawyers may capitalize on it, but law is made for the ordinary citizen. [*Crosstalk*] I started by talking about that here, we make the law here. We make the law here. And you do not have to be a lawyer to make the law.

**Mr. Deputy Speaker:** Member!

**Dr. B. Tewarie:** And that is why—[*Interruption*]

**Mr. Deputy Speaker:** Member for Caroni Central, you are continuing the debate with the Member, Please.

**Dr. B. Tewarie:** Thank you very much, Mr. Deputy Speaker. And then it says here:

“...in the course of plea discussions, willfully misled by the accused...

31. (1) Notwithstanding an accused person’s conviction and sentence pursuant...”

It deals with the fact that:

“31. (1)(a) in the course of plea discussions, willfully misled by the accused person or by his Attorney-at-law in some material respect;...

(b) induced to conclude the plea agreement by threats, force, bribery...”—et cetera.

In other words, the person might not be forced.

Now, all of this is taking place, I talked about the justice system and its flaws. I have no problem. I mean, I would like to see our justice system better, I would like to see it stronger, I would like to see the system work. But let us face it, it is not as it should be. And in this situation, you have a situation where, as the Member for Oropouche East points out, the Attorney General has said that there are problems; many people within the police profession are, in fact, compromised and said to be compromised.

We had a situation where the Minister of National Security went to Enterprise, which is not far from where I live, in the constituency of the Member of Chaguanas East and somebody got up and said and one of his accusations was, all

the people who were involved in all kinds of things, some of which were the police. And you have accusations every day in the country. There is a video flashing around facebook now from somebody who claimed to be a police officer, who gone to Canada and saying all kinds of things about the police. And in that unholy system, which is why I am asking the question to the Attorney General—and Attorney General, believe me, this is no joke and I am not asking any stupid question when I am asking it—I want to know what the public prosecution role means in real terms and whether, in fact, you can have a situation where the police are engaged with citizens in a certain way and in the process of negotiation that becomes the basis on which the entire negotiation process is compromised; “man”, it is Trinidad and Tobago we are dealing with.

And what I am saying about this law is that while its intentions are good and while it may be redeemable by amendments, I want to say that when you take these laws that we are bringing here, whether it is to deal with preliminary enquiry, whether to deal with the jury system or whether here to deal with the plea bargaining system, when you take these laws and you put them in a system in which the whole thing is dysfunctional, these interventionist elements of a part and at a time, no matter how you can conceive the reform of the architecture, cannot in fact reform the dysfunctional system. [*Desk thumping*] And I do not need a law degree to tell me that. [*Laughter and desk thumping*] Logic tells me that.

Logic tells me that that is not possible because it has been tried before and it has failed everywhere. And therefore I want to urge caution on this matter. When I saw this Bill I had no problem. I thought plea bargaining was a good thing. I read the pros and cons of it, look they have it here. I read about what purpose it serves, but I also read where it has gone wrong and terribly wrong and it can go wrong and

you cannot chastise a system if one thing goes wrong in it, because innocent people do get hung.

**Mr. Hinds:** Hang.

**Dr. B. Tewarie:** My friend says it is hanged. But I think I am using—  
[*Interruption*]

**Mr. Deputy Speaker:** You have two more minutes again.

**Dr. B. Tewarie:** Yes. I think I am using it properly here. Innocent people do get hung for even though they might be innocent, it is possible for the justice system to do that. And because we know as we have come to learn now that democracy and the democratic process itself is flawed and we have seen it in more than one place and we have seen it in all places in the United States of America and just so the justice system is flawed. And not only is it flawed in Trinidad and Tobago, it is largely dysfunctional and therefore I want to warn the Attorney General and I also want to warn this Parliament that taking this legislation such as these and throwing them in a dysfunctional system without reforming the entire system is not going to bring justice to Trinidad and Tobago. [*Desk thumping*]

**The Minister of State in the Ministry of Education (Hon. Dr. Lovell Francis):**  
[*Desk thumping*] Good evening, Mr. Deputy Speaker, good evening to the Members of the House on both sides. It is my pleasure this evening to stand and join this debate and I thank you, Mr. Deputy Speaker, for allowing me to do so. It is a pleasure to stand and to add my two cents to this discourse on this Bill to set up a system of plea discussions in this nation. But, Mr. Deputy Speaker, before I get into the substance of what I want to discuss, I would like to take a little bit of the

time allotted to me to respond to, on one hand, the discourse of the Member for Oropouche East and then I will wade in a bit to try to respond to the last speaker, the Member for Caroni Central

My hon. colleague, the Member for D'Abadie/O'Meara in his discussion not too long ago diverted a bit into talking about the issue of professions and what goes into developing a professional. It is well established that I am by academic profession an historian. And I have lamented on a number of occasions in this House that sometimes Members do not understand how ironic they are when they deliver their speeches here.

I see the Member for Oropouche East has left the Chamber, but I was struck and somewhat dumbfounded that he would stand this afternoon or this evening and talk about his innate patriotism as a Trinidadian citing in particular Thomas Paine. Now, one of my jobs as a historian is to have a long view of things, but another one of them is to have clarity and to bring clarity. So I now want to let that pass, because if the Member had done any kind of research, even of the cursory level, he would have perhaps avoided Thomas Paine, because Thomas Paine was a traitor.

**Hon. Member:** How about patriot.

**Hon. Dr. L. Francis:** No, he was a traitor. Thomas Paine was an Englishman who consorted with Napoleon who was a French leader—France being the mortal enemy of England—to encourage the French to invade England. [*Crosstalk*]

**Mr. Deputy Speaker:** Members, Members, the rule of the House still is, when a Member is on the floor he is supposed to deliver in silence. Let us maintain it, let us maintain it. Go ahead, Member.

**Hon. Dr. L. Francis:** Yes, thank you, Sir. If you encourage a foreign power to

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. Dr. L. Francis (cont'd)

2017.04.05

invade your native land, you are a traitor. That is not patriotism. [*Desk thumping*]  
The same Thomas Paine who later would move to America and work  
systematically to undermine the Office of the Presidency and the then President,  
George Washington. That is not patriotism. [*Desk thumping*] Thomas Paine was a  
traitor. So to stand and proclaim your patriotism by citing a traitor is more than 10  
tonnes of irony. [*Desk thumping*] Perhaps social scientists should not talk history.

I want to really discuss a bit the contribution of the Member for Caroni  
Central as I go alone.

**Hon. Member:** “Yuh done with Oropouche?”

**Hon. Dr. L. Francis:** Yeah, yeah, just a trite note. On the issue of the Member for  
Caroni Central and his discussion this afternoon, the Member for Caroni Central  
the former Minister of Planning and Development was once the principal of the  
University of the West Indies, and therein he was charged with guiding the  
development of what we would assume are some of the best and brightest minds in  
our nation. So it is perplexing and disturbing, in extreme, for me this evening to  
listen to a former principal of one of our premier educational institutions attempt to  
make an argument which presents the people of this nation as somehow being  
condign or benighted. When you stand, Sir, and you talk about, I live in Trinidad  
and this is Trinidad, as though somehow we are culturally inferior and nothing  
works—[*Interruption*]

**Dr. Tewarie:** That is your interpretation.

**Hon. Dr. L. Francis:** That was the direct implication—[*Interruption*]

**Mr. Deputy Speaker:** Members, Members. Member, address the Chair. Member  
for Caroni Central, you had your opportunity, the Member is now on the floor so,  
please, those outbursts would not be tolerated. Member for Moruga/Tableland,



address the Chair.

**Hon. Dr. L. Francis:** Thank you, Sir. I am so guided. Mr. Deputy Speaker, when one stands and one says in the manner and the tone, in which the Member for Caroni Central spoke, that he lives in Trinidad and giving the impression that nothing works and nothing can work and nothing will work and I will use the term again, somehow condign and benighted, understanding that this individual was once charged with developing the best minds of our people, I really wonder at the irony that he really fundamentally understands what he is saying [*Desk thumping*] and the implications therein. It is a tremendously cynical and sarcastic way of viewing one's country, while at the same time presenting an argument that you are patriotic and not seeing the irony and inconsistency in that, is even more disturbing.

But anyway, at the end of the day I am here this evening to discuss fundamentally this Bill and if there is one thing I share in common with the Member for Caroni Central is that I too am not a lawyer and I could argue that there are far more gifted legal minds here to stand and discuss this. But I will borrow one line from him, I too am a citizen of this country and I too have concerns direct and indirect that are affected by this Bill.

Mr. Deputy Speaker, we stand at an interesting time in the development of our nation, where we face a very, very, difficult circumstance or a number of difficult circumstances, but one of paramount importance. And the Member is right in at least one instance; he talked about the justice system and the problems contained therein and then, of course, there is the looming issue of crime. And I listened to the public discourse on this issue and sometimes I get the sense that in the public domain we do not really understand what is facing us, because we tend

to use trite and facile words to describe what is ongoing here. We talk about the escalating crime situation, we talk about a scourge of crime and these are very trite and facile words.

What we are really facing, if you look at it in a very critical way, is a paradigm shift in terms of the crime situation facing us. And the Member is correct, at the same time we have a criminal justice system that is logjammed. So what do we have on both sides? Seemingly, we are facing the interesting situation where we have on one side a case of inertia and the other side a case of entropy at the same time. And what do we do? This is not a situation that can be handled in the typical way. We are facing unusual circumstances as a nation, Mr. Deputy Speaker, and in difficult circumstances one must find a prescription that fits the problem you are facing. The Opposition has made great hay about the fact that the Bills that are brought to Parliament are not crime-solving Bills.

**Hon. Member:** A suite.

**Hon. Dr. L. Francis:** Yes, the suite. The suite of Bills brought to Parliament are not intended to solve crime or not capable of solving crime. The Member for Laventille West correctly termed that response, a very narrow view. Because it is consistent to argue that we have this looming crime situation and that we have a difficult system in terms of the justice system not working as it should, but then complain about every single law, every single Bill that is brought here to deal with those situations. It is inconsistent.

The Member for Caroni Central went on and on about the futility of this plea bargaining and about whether every case would be using it and about whether this alone is somehow some kind of panacea for the justice system and I suppose for crime. I do not think any speaker on this side at any point, in any of the debates on

the Bills that were brought in terms of dealing with these situations, has ever tried to make that case. In fact, if one looks at—and I will use the Attorney General’s famous word, “architecture”—of what the Government is trying to do, we are trying to tackle a very difficult situation using a number of remedies.

So, if you look at it in its holistic sense, we have come and we have brought a Bill to abolish preliminary enquiries. We have come and brought a Bill now to establish a system of plea discussions. We will soon come, if I am guided correctly by the Attorney General, to talk about setting up a children’s court as part of the larger family court. We will come not too long to talk about setting up a traffic court. And these things are intended to deal with the same logjam, with the same nonfunctioning justice system that the Member for Caroni Central bemoans.

It is not meant for one pill to solve a massive problem, but combined, if we pass the legislation and then we do the infrastructural things that are required to bring these things to fruition, together they will play a part in reforming, in reformatting, in transforming, in evolving, what is still, in many ways, a very cumbersome and old-fashioned system. [*Desk thumping*]

No one on this side is standing here arguing that a single Bill, a single measure, a single Act, a single law will by itself radically transform, radically modernize, remove the logjam of 7,000 cases overnight and suddenly create a legal system that is totally unencumbered. What we are saying is that, incrementally, the Government intends to bring laws, to enact laws, to make fundamental changes by degrees that will over time address this issue. No one here is pretending that the problems before us are somehow trite and that some magic wand will suddenly make them disappear. But what Governments do is go about the hard task of changing the things that need to be changed.

Members on the other side have made hay about the fact that the Attorney General keeps bringing Bills to Parliament that they at some time contemplated, but all they did was to contemplate. Nothing was ever done. So it is well beyond the threshold of hypocritical to suggest that we should do nothing or that we are doing nothing if we are just using your Bills or the Bills that you proposed when you absolutely did nothing to deal with these very critical situations. At the end of the day, we would be in great dereliction of our duties if in the midst of a whirlwind, which we are facing in terms of crime, we opted to do like the PP Government did in its time, Mr. Deputy Speaker, which was to do little or nothing. [*Desk thumping and crosstalk*] Yes, and it is deserving.

Mr. Deputy Speaker, we have opted instead to view this situation, this dual situation, this diehard, this troublesome crime situation, this problematic justice system situation and try to find prescriptions that can solve both. At the end of the day, a Government is charged with doing what it can or what it must to ensure that the changes required in its society are done. And the Attorney General should be commended. [*Desk thumping*]

**7.00 p.m.**

The Attorney General should be commended for doing something that a number of Attorneys General before him have not done, which is to fundamentally try—and I will use his word again—to transform the architecture.

**Hon. Member:** By a suite. [*Laughter*]

**Hon. Dr. L. Francis:** Yes, yes, by a suite of legislation. Because if you look at these Bills, not just as individual entities but as a cohesive, this Attorney General is in the process of transforming the jurisprudence of this nation, and that is to be appreciated and it is to be commended.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. Dr. L. Francis (cont'd)

2017.04.05

Now, the Member for “Carooni” Central made the case that he—

**Hon. Member:** Caroni.

**Hon. Dr. L. Francis:** Caroni, sorry. “Carooni” Central. [*Interruption*] Caroni Central made the case that he need not be a legal mind to have something fundamental to say on this issue. He also made the important point that at the end of the day the laws are made to deal with, or to benefit the common individual. And on that he is absolutely correct. So it is important to remember, even as parliamentarians who sometimes argue very, very abstract ideas, that at the end of the day, all that we deliberate has an impact on the individual citizens of this nation.

I was very heartened when the Member for Laventille West stood up and spoke about the fact that there were, within this plea bargaining apparatus, some things that would help to alleviate, I would suggest, some of the wrongs, or some of the laws that we had in the past, and I will give you a particular example. The Member for Oropouche East can, you know, make jives and jokes about the constituents in my constituency, but as an MP for a constituency like that, I face a number of difficult situations on a week-to-week basis. Some of them I can intervene, like every other MP in a difficult situation, within a difficult time, within a difficult paradigm, some of which we can make meaningful interventions and circumvent the negative circumstances, some of which are simply beyond our control.

For example, I was visited by one of my constituents a few weeks ago and he had a very particular and peculiar problem. In fact, he came asking me if I could help him go about the process of getting a Presidential pardon, which I found to be an interesting question, because as far as I was aware he had never, at any point in his life, been in difficulty with the law. I did not know him as having any kind of a

record of any kind, so I was bemused as to why he would be asking me to help him to get a Presidential pardon. And then, of course, when I asked him that, he went about telling me the story as to why he literally required it.

He had found himself in a difficult situation, very much like the one outlined by the Member for Laventille West, which was that he lived at home—even though he was grown—with his brothers and his mother. One of his brothers was involved in some less than legal activities and had something illegal in the home, of which he was unaware. The police conducted a raid on the home while he was at home and his brother was not there, and they found evidence of the substances that were illegal. And, of course, the normal recourse when that happens is that regardless of whether there is a belief that you are involved in this or not, regardless of whether you can claim that this is yours or not, every single member of the home, including his mother, was arrested and taken to the police station. And that was not the main kernel of the difficulty.

And to hedge again on the intervention made by the Member for Caroni Central, he got some advice that made his situation worse. Given his fears about being prosecuted or being remanded and spending a lengthy period in the Remand Yard, he got some advice which was to plead guilty and to pay a fine and to make this negative situation go away, and that is what he did. He pled guilty to possessing. He paid a minor fine and as far as he was concerned, that was the end of it. But, unfortunately, that was not the end of it, because right now he is a young man with a child who wants to become part of that overseas farm programme. He wants to go to North America to earn a living to support his daughter. Unfortunately, because of the fact that he has that stain on his record, which people, like the Member for Naparima of course, cannot empathize with, he is unable, or he was

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
Hon. Dr. L. Francis (cont'd)

2017.04.05

turned down—

**Hon. Member:** No visa.

**Hon. Dr. L. Francis:**—could not get a visa to become part of that programme. And that was the reason why he came to me asking for a Presidential pardon. And in this circumstance, there is little I can do, because even if I were to somehow begin the process of going that way, the window within which he would be allowed to leave to go and work has gone.

**Hon. Member:** You are not going to write on his behalf?

**Hon. Dr. L. Francis:** Yes, I have written on his behalf, but the window has gone, so he will not be allowed, Mr. Deputy Speaker, to become part of that programme until the next cycle begins.

**Hon. Member:** “If yuh didn’t close down Caroni Green he coulda plant pepper.”

**Hon. Dr. L. Francis:** And one notes how absurd the Members of the other side can be, Mr. Deputy Speaker. In the midst of a very serious circumstance that affects the life of a young man who is trying his best to raise his daughter—  
[*Interruption*]

**Mr. Deputy Speaker:** I allowed one or two, but the continuous, please. Go ahead, Member.

**Hon. Dr. L. Francis:** Thank you, Sir. Now, he is a victim of circumstance and of bad advice, but had the measures that we are proposing today been in place he might not have found himself in this kind of a circumstance. So good law is not just about the apparatus, and the architecture, and the structure, and the policy, and what you are trying to achieve in that broader sense, it is also about allowing the common man and the common woman, as we might term them, a better chance, especially those who are not able to afford the kind of quality legal advice that

some in this Chamber might be able to afford in the future.

**Hon. Member:** Is that the threat?

**Hon. Dr. L. Francis:** It is about—good law is about helping, as your representative said, Mr. Deputy Speaker, the common man. So whereas I will try my best to have that situation redressed, I would say again, if the measures we are attempting to discuss today, attempting to have implemented, were in place, he might not have found himself in that kind of situation.

Mr. Deputy Speaker, good governance in the midst of difficult times is a very difficult thing, but if there is one thing about this House and the way it operates that remains ever foremost in my mind, I am very respectful of the Members of the House on both sides; I am very respectful of the influence and the power of the Speaker's Chair; I am not fearful of those things. The one thing I am fearful of—and it is partly because of my professional training—is the *Hansard*.

Now, in the debate earlier today the Member for Oropouche East attempted to show that there was some inconsistency in what was said by the Member for Laventille West in an earlier debate on this a decade ago, not, of course, noting that the Member basically said the same thing today that he was reported to have said in 1999. The one thing I am tremendously concerned with in terms of my tenure here, is the record in the *Hansard*, because I am here today, tomorrow I might be gone, [*Desk thumping*] the day after that I will be forgotten. But the one thing that will not be lost is whatever I have said in the time that I have been here. That will exist, perhaps, in perpetuity. And, Mr. Deputy Speaker, I would be very much concerned for some researcher at some point in the future—

**Mr. Deputy Speaker:** Leader of Government Business.



**ADJOURNMENT**

**The Minister of Health (Hon. Terrence Deyalsingh):** Mr. Deputy Speaker, I beg to move that this House do now adjourn to Wednesday, 12<sup>th</sup> April, 2017, at 1.30p.m. At that time we will continue and conclude debate on this Bill, the plea bargaining Bill. We will resume and conclude debate on the Marriage Bill and, time permitting, conduct business on a Bill entitled—and finish and conclude a Bill entitled an Act to amend the Fire Service Act, Chap. 35:50.

**Mr. Imbert:** Bring “yuh” pajamas.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 7.11 p.m.*