HOUSE OF REPRESENTATIVES

Wednesday, April 12, 2017

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have received communication from the following Members: Mr. David Lee, MP, Member for Pointe-a-Pierre; Mr. Prakash Ramadhar, MP, Member for St. Augustine; and Dr. Lackram Bodoe, MP, Member for Fyzabad; requesting 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 Trinidad and Tobago Tourism Business Development Limited for the financial year ended December 31, 2014. [*The Minister of Planning and Development* (*Hon. Camille Robinson-Regis*)]
2. Annual Audited Financial Statements of the Trinidad and Tobago Tourism Business Development Limited for the financial year ended December 31, 2015. [*Hon. C. Robinson-Regis*]

   Papers 1 and 2 to be referred to the Public Accounts (*Enterprises*) *Committee*.
3. Annual Report on the National Insurance Board of Trinidad and Tobago for the financial year ended June 30, 2015. [*Hon. C. Robinson-Regis*]
4. Ministerial Response of the Ministry of Education to the First Report of the Joint Select Committee on Social Services and Public Administration on the Inquiry into the Current Level of Violence among Students in Schools with

5. Particular Focus on Physical and Cyber Bullying. [*Hon. C. Robinson-Regis*]Response of the Statutory Authorities Service Commission Department to the Third Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Child Offenders at the Youth Training Centre, St. Michael's Rehabilitation Centre for Young Male Offenders and St. Jude's Interim Rehabilitation Centre for Young Female Offenders. [*Hon. C. Robinson-Regis*]
6. Ministerial Response of the Ministry of National Security to the Third Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Child Offenders at the Youth Training Centre, St. Michael's Rehabilitation Centre for Young Male Offenders and St. Jude's Interim Rehabilitation Centre for Young Female Offenders. [*Hon. C. Robinson-Regis*]
7. Annual Report of the Public Service Commission for the year 2015. [*The Deputy Speaker* (*Mr. Esmond Forde*)]

PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE REPORTS (Presentation)

The Minister of Social Development and Family Services (Hon. Cherrie-Ann Crichlow-Cockburn): Thank you, Madam Speaker. Madam Speaker, I have the honour to lay the following reports on the Table:

Community Improvement Services Limited

Third Report of the Public Accounts (Enterprises) Committee for the Second Session, Eleventh Parliament on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Community Improvement Services Limited for the financial years 2008 to 2012.

Community-Based Environmental Protection and Enhancement Programme

Fourth Report of the Public Accounts (Enterprises) Committee for the Second Session, Eleventh Parliament on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Community-Based Environmental Protection and Enhancement Programme for the financial years 2009 to 2014.

Point Lisas Industrial Port Development Corporation Limited (PLIPDECO)

Fifth Report of the Public Accounts (Enterprises) Committee for the Second Session, Eleventh Parliament on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Point Lisas Industrial Port Development Corporation Limited (PLIPDECO) for the financial years 2008 to 2015.

Trinidad and Tobago Solid Waste Management Company Limited

Sixth Report of the Public Accounts (Enterprises) Committee for the Second Session, Eleventh Parliament on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Trinidad and Tobago Solid Waste Management Company Limited for the financial years 2008 to 2013.

PRIME MINISTER'S QUESTIONS

School Improvement Project (Enterprise Community)

Mr. Fazal Karim (*Chaguanas East*): Thank you very much, Madam Speaker. Could the Prime Minister state when the community of Enterprise will benefit fromthe School Improvement Project (SIP), as the one recently launched in the community of Laventille?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, the School Improvement Project, which is being pursued in Laventille, is an initiative in a pilot form where certain communities are being mobilized to benefit from an extra effort from all aspects of the Government's offerings with respect to young people.

We are doing the pilot project in Laventille and we have stated that the intention is to, at a later stage when the Laventille experience is a little better organized and we see results of it, then once we are happy that it is contributing, we will move it into similar areas and Enterprise is one of those areas that, probably, would qualify. But as of now there is no specific day.

But we are encouraging the Ministry to look in those areas, but I must tell you that we are experiencing tremendous success in Laventille and it is largely driven by some of the principals and parents who have bought in and I hope that similar buy-in will take place elsewhere, because it appears as though the initiative could be very useful.

Dr. Gopeesingh: Hon. Prime Minister, while the work is going on, on the Laventille Improvement Project, has the Ministry identified any other areas in Trinidad where you may want to run such similar programmes while the work is going on and the results are to come in?

Hon. Dr. K. Rowley: Madam Speaker, I would like to encourage my colleague to pay attention in the Parliament. I just answered that. I said the programme is currently being operated in the Laventille area as a pilot project, and based on its progress and our satisfaction, it is our intention to look at similar areas with standing. Where were you?

State Companies to be Dissolved
(Details of)

Mr. Fazal Karim (*Chaguanas East*): Thank you very much, Madam Speaker. Could the Prime Minister state which state companies are earmarked to be dissolved between 2017 and 2020?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, the Government has done a general evaluation of the state enterprise sector and we have made some decisions on, I think, two or three companies, which we have discontinued. As of now, I could not tell you which companies will be dissolved between now and 2020. But suffice it to say that as the Government examines the role of the state enterprise sector, if there are companies that have outlived their usefulness because of the lack of need for the mandate or that they have, for whatever reason, become not in keeping with their cause of creation, then at that time, on a case-by-case basis, the Government will make those decisions between 2017 and 2020.

At the moment, we are looking at one or two to determine whether in fact dissolution is the best option. So it is a process that will continue as we aim to get the best value for money and taxpayer benefit in the state enterprise sector.

Suffice it to say, that as we looked at the reports that came to us, a number of companies have in fact lost their way and if you had followed our colloquium that took place at the Hyatt about two months ago, with respect to the reporting on these agencies, you will understand what we have been dealing with.

I can tell you now that the vast majority of companies have met the March 31st deadline in supporting their reports. One or two are still outstanding and we are now in a better position to have a clearer look as to what is going in the state enterprise sector.

Mr. Indarsingh: Thank you, Madam Speaker. Just as a supplemental, could the Prime Minister inform this House if the Cabinet has taken a decision to close down

the Community Improvement Services Company Limited, and if so, have the employees been communicated of such a decision?

Hon. Dr. K. Rowley: The answer to that question is yes. That is one of the companies that most likely will be shut down for the reason given earlier, where the mandate of that company is in conflict with good governance.

GATE Report

Mr. Fazal Karim (*Chaguanas East*): Thank you, Madam Speaker. Further to your response to Prime Minister's Question No. 10 on November 18, 2016, could the Prime Minister indicate by when Members of Parliament and the public will obtain a copy of the GATE Report?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, I will answer this question on pure trust of my colleague from Chaguanas East. I could not confirm the date on which I gave the commitment but I know I did give a commitment, and apparently that has fallen through the crack, but I will make it available at the next sitting of Parliament.

Decentralization of Services
(Re: Travelling Public Woes)

Mr. Fazal Karim (*Chaguanas East*): Thank you very much, Madam Speaker. Could the Prime Minister state what services are intended to be decentralized so as to ease the woes of the travelling public?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, this question is so generalized that it is pretty difficult to answer, because traffic congestion exists across Trinidad and Tobago, from Point Fortin to Scarborough. So without saying specifically which area or which particular artery, I could not say that decentralization is a solution to the traffic congestion. One of the reasons is simply a question of we have too many cars and too few roads. So we are expanding the road-building programme as you would have seen and we do have some projects in

the pipeline for the specific areas where the answer is not decentralizing but putting in suitable roads where there is space to be able to create these new roads.

Mr. Karim: Thank you, Madam Speaker. Thank you, hon. Prime Minister. In terms of being specific, I was more or less alluding to the fact that many people still continue to have to come to the city for basic government services, and I was going to ask whether there was a move to decentralize some of those so as to de-bottleneck what was happening in the city?

Hon. Dr. K. Rowley: Now that you are specific, I could answer you more directly. The answer is no. It is not the intention of the Government of Trinidad and Tobago to de-capitalize Port of Spain as the capital city.

As a matter of fact, during the general election of 2015, we specifically outlined our support for Port of Spain as the capital city and we see the capital city as an economic entity. And the answer to whatever problems we may have is not to empty out the city but to get better transport arrangements, and we look to see where we could do—one of the things we had considered was the rapid rail, which would have taken people from point to point. We have since shelved that because of other reasons.

We are looking at creating—one thing that is under consideration is maybe putting a road over the East Dry River entering the city. We are now talking about opening up some discussions with the community of Sea Lots to develop the Sea Lots area so that the entry into Port of Spain will not be bottlenecked, as it is now between Sea Lots and South Quay. So these are the kinds of things we are looking at.**Dr. Khan:** So, since you have acknowledged that there is a problem to enter the city because of traffic problems and also you would not be de-capitalizing the city, based on services, would the Prime Minister give consideration to opening the bus

route in peak hours to decrease the amount of traffic on the major highways and major areas?

Hon. Dr. K. Rowley: That was tried "eh" by the previous Government and all you would have done is to defeat the very purpose of the bus route. The reason why the bus route functions as any contributory factor to the easing of traffic is because you have limited the use of the route so as to allow traffic to flow. If you open up the route to the other traffic on other roads all you do is to create—and it had happened like that.

When the bus route was opened up to general traffic, or almost general traffic, you were having traffic jams on the bus route as bad as on the Eastern Main Road. But in this case, it was traffic jams of vehicles that were carrying many passengers, as against private cars with two or three people. So if you create traffic jam on the bus route, you keep far more people out of the city because the travelling vehicles that carry large numbers, they are now in the traffic jam. So the bus route will only contribute to the ease of the flow if it is kept as a free-flow area.

Madam Speaker: Members are reminded only two supplemental questions are allowed.

Firearms Applications (Creation of a Commission)

Dr. Fuad Khan (*Barataria/San Juan*): Thank you, Madam Speaker. Prime Minister, in light of the continued failure of the Government to protect the citizens of this country from the criminal threat and in the face of mounting applications from these citizens to acquire firearms, is the Prime Minister willing to considerthe creation of a commission to properly evaluate these applications for firearms licences, so that citizens can protect themselves?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, as the laws exist now, the authority for granting firearm licences lies with the Commissioner of Police and there is no intention at this time to change that.

The Commissioner of Police, in managing the flow of firearms into the public, has certain policies being pursued, and just to ensure that those policies are not capricious or oppressive, there is an appeals tribunal in place so that the decision of the Commissioner of Police could be questioned.

In this case that tribunal was not functioning for quite some time. This Government has made the tribunal functioning and the system is in place and we have no intention of changing it.

Dr. Khan: Thank you, Prime Minister. I would like to indicate that in order to go to the Firearms Appeal Board, one has to be denied first. There is no time limit set on the application and granting by the Commissioner. Since the Commissioner, as you said is the person involved to give the firearms licence, based on law, is it not possible to put the Commissioner on the commission at the same time to look at these firearms licences?

Hon. Dr. K. Rowley: I suspect, Madam Speaker, that further discussion could enlighten that but I do not want to suggest that we are going to solve one problem by creating another, and for the moment what the Commissioner is pursuing is a reduction in the number of firearms in Trinidad and Tobago. And I do not know that by creating a commission that you would not have to have a process that in itself might have delays leading into that process. It is not a light switch that you flick on or off.What is happening is that the Commissioner is controlling the applications determining who qualifies for a firearm as against who does not qualify and that is a system that I do not know that any other system would evade, because it will be a selection process.

Early Childhood Education Centres
(Discontinuation of Payments)

Dr. Tim Gopeesingh (*Caroni East*): Could the hon. Prime Minister state the reasons for the discontinuation of payments since October 2016 to Private Sector Partnership Stakeholders of the Early Childhood Education Centres?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, the Ministry of Education has not discontinued the payments for the public/private partnership project. There was a delay in payment to providers because of the untimely release of funds. As you know, across the board in Trinidad and Tobago, we are struggling to make payments on a timely basis because we have a significant reduction of revenues to the Exchequer. So, it is to be expected that, from time to time, the synchronizing of payments and the availability of funds will cause some delay. I can give you the assurance that the payments are aimed to be made before the end of this week.

Universal Early Childhood Education Programme
(Government Policy on)

Dr. Tim Gopeesingh (*Caroni East*): Thank you, Madam Speaker. Could the hon. Prime Minister state the policy of the Government with respect to the future of the Universal Early Childhood Education Programme? I think you gave part of the answer but probably you might want to—

The Prime Minister (Hon. Dr. Keith Rowley): Well, maybe I can give you the other part now. There is no change in the policy with respect to early childhood. As a matter of fact, the Government supports 100 per cent the idea of early childhood care and attention and will continue to make it available as part of our education system and programme.

Angelin Project
(Details of)

Mr. Rodney Charles (*Naparima*): Thank you, Madam Speaker. Given statements by the President General of the OWTU that worker safety issues were the main cause of his union's objections to the Angelin Project and that the regulatory bodies such as the EMA and OSHA were not functioning to protect workers, does the Prime Minister agree with this assertion and what steps will his Government put in place to avoid a repeat of the Angelin fiasco?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, there is no Angelin fiasco—start with that. The investors have made a decision as to how and where they will spend their money. We as a country, and La Brea as an area, we were anxiously anticipating that that decision would have been made so that the project could have been done in La Brea. Unfortunately, that has not been so with our best effort in trying.

However, it is not for me to determine the veracity of what the, or the right of speech of the member, the leader of the OWTU. Every time there was a work stoppage in La Brea, during the period of the Juniper project, it was reported in the media and the reason for the stoppage was given. So I do not think I have to come here and tell you whether it was OSHA or EMA. We all know what went on in La Brea and we all know what the causes were.

However, if any of those stoppages were caused by a state agency—OSHA, EMA—it is for the Government to ensure that those services are made available to protect workers on the workplace.

But interestingly enough, even as that statement is being made by the leader of the OWTU, I have not heard a single statement from the company that operated that contract to contradict that and I find that very strange indeed.

URGENT QUESTIONS

Charter Party Agreement (Super Fast Galicia)

UNREVISED

Mr. Fazal Karim (*Chaguanas East*): Thank you, Madam Speaker. Question No. 1 to the Minister of Works and Transport. Could the Minister state who is the authorizing signatory for the Charter Party Agreement for the Super Fast Galicia?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you Madam Speaker. Madam Speaker, the authorized signature for the Charter Party Agreement was signed by the Permanent Secretary in the Ministry of Transport—Permanent Secretary Verna Johnson. Thank you.

School Social Workers (Employment Status)

Dr. Tim Gopeesingh (*Caroni East*): Thank you, Madam Speaker. To the Minister of Education: What is the future employment status of the 75 School Social Workers who have been on month-to-month contracts for the last year, many of whom have not been paid their March salary, as reported today in the newspaper?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. There are 70 persons who are on short-term employment. The Ministry of Education has submitted a note to the PMCD recommending the retention of these positions. As soon as we receive the report from the PMCD, we will be taking a Note to Cabinet to have these recommendations ratified.

In terms of payments, these officers would be paid by tomorrow as pay sheets are at present being prepared. Thank you very much. **Mr. Indarsingh:** Supplemental to the Minister. He indicated that a note has gone to the PMCD to retain the 70-plus workers, under what terms and conditions? Could you advise the House, in terms of the recommendations?

Dr. Gopeesingh: If it is month-to-month or three years.

Mr. Indarsingh: Month-to-month or three years or—?

Hon. A. Garcia: Who is asking the question, you or the Member? Madam Speaker, at first I was dumbfounded as to who was asking the question because I was being interrupted by the Member for Caroni East.

Madam Speaker, the terms will be decided by the CPO after we have had the decision of Cabinet. So we will depend on the CPO to determine terms and conditions of service.

HIV-Infected Patients (Compensation for)

Dr. Tim Gopeesingh (*Caroni East*): This is directed to the hon. Prime Minister. Could the Prime Minister indicate how his Government intends to compensate the HIV-infected patients including a child, contaminated by blood given from the National Blood Bank Transfusion Centre?

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, Madam Speaker. As is customary in dealing with any issues of liability on behalf of the State, the first thing that needs to be done is a proper investigation, a decision with respect to liability. Thereafter, it goes through a normal process, which we are informed is taking place. The hon. Attorney General and the officers in the Office of the Attorney General are dealing with it and are actively engaged with lawyers on behalf of these individuals.

Dr. Gopeesingh: Bearing in mind one of the patients who were HIV contaminated or infected has passed away, is there any before the Attorney General for compensation for that family?

Hon. S. Young: The first point that needs to be made is this person who unfortunately has passed away is not as a result of this contamination. The second point is, as is customary with law, the estate of a person who is deceased may continue to pursue action on his or her behalf.

Dr. Gopeesingh: Is anyone being held accountable for such unfortunate mishap and terrible mishap?

Hon. S. Young: There is an ongoing investigation taking place and once someone or persons are found to be the cause of the liability, they will be held accountable.

Children's Life Fund (Details of)

Mr. Barry Padarath (*Princes Town*): Thank you, Madam Speaker. Madam Speaker, question No. 4 to the Minister of Health. In light of the rejection of their application to the Children's Life Fund by the parents of Shannen Luke, could the Minister indicate whether a second opinion medical report was sought to consider exercising the provision of section 9(d) of the Children's Life Fund Act?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam Speaker. Madam Speaker, there was no rejection. The application did not satisfy two limbs. Limb one, it was not a life-threatening condition. Limb two, the fund does not provide for reimbursement of expenses.

Let me say that the same board under both administrations and the same chairman sat on this matter. As to the issue of other consultants, the panel which had a minimum of two consultants made a decision. The board with two medical doctors made a decision. There was a second opinion sought from the head of the Paediatric Department of the A&E. There was a third opinion sought from a similar person in Barbados, a haematologist. There was a fourth opinion sought from Tobago. There was a fifth opinion sought from a consultant paediatrician. So not only was there a second opinion. There was a second. There was a third. There was a fourth and there was a fifth.

Dr. Khan: Could the Minister just indicate, based on what you have just read, what is the definition of a life-threatening disorder?

Hon. T. Deyalsingh: That will be a decision for medical doctors to decide on. This is not for the Minister. You and I, neither yourself nor I as a past Minister or present Minister, will make that determination, because we are political appointees. It is for a panel of experts to make the decision.

And may I add, it is under the same chairman that served under your administration, that continues to serve under this administration, and in their expert opinion they will make a determination.

And may I add, under your administration, I have counted to date over 10 applications which were rejected because they were deemed not to be life-threatening, and in Opposition we never sought to politicize the issue but to let the professionals in their professional capacity do their job.

Mr. Padarath: Madam Speaker, to the hon. Minister. Hon. Minister, are you aware that section 9(d) of the Children's Life Fund Act deals specifically with the issue of reimbursement and one of the reasons that you have advanced, through the Ministry, is that the Children's Life Fund Act does not provide for reimbursement when it fully states in section 9(d) that it deals with the issue of reimbursement?

Hon. T. Deyalsingh: The Minister did not make a determination on reimbursement. It is the board and I supported the decision of the board. Also, I will say that similar issues happened in the past and we in Opposition never sought to make this a political football.

2.00 p.m.

Easter Vacation Repairs to Schools

Miss Ramona Ramdial (*Couva North*): Thank you, Madam Speaker. Question No. 5 to the Minister of Education. Could the Minister please indicate which schools if any will be undergoing any Easter vacation repairs?

The Minister of Education (Hon. Anthony Garcia): Thank you very much,

Madam Speaker. The Ministry of Education does not think it necessary to embark on a formal Easter vacation repair programme at this time. This is largely due to the tremendous success that we have been able to have with respect to our ability to have all schools open on time over the last four terms. [*Desk thumping*]

However, Madam Speaker, we will continue to address any emergencies that may affect the school plant and the health and safety of all those who operate within. Thank you very much. [*Desk thumping*]

Super Fast Galacia Termination of Lease
(Transport of Critical Supplies to Tobago)

Miss Ramona Ramdial (*Couva North*): Question No. 6 to the Minister of Tourism. In light of the termination of the lease of the *Super Fast Galacia* by the Government, would the Minister please state what are the Government's plans to assist the Tobago tourism stakeholders in transporting critical supplies on a timely basis from Trinidad to Scarborough?

The Minister of Tourism (Hon. Shamfa Cudjoe): Thank you, Madam Speaker. Madam Speaker, for the first part, the Government did not terminate the lease of the *Super Fast Galacia*. [*Desk thumping*] I would proceed to answer the question.

We intend to utilize the two fast ferries, the *T&T Spirit* and the *T&T Express* to treat with the critical items, which for the most part would be food and perishable goods to bring relief to the Tobago stakeholders in Tobago. [*Desk thumping*]

Miss Ramdial: Minister, the Tourism Stakeholder Association also disagreed, saying that there were delays. We are dealing with the ferries being used to transfer critical supplies. Are you meeting with them any time soon to deal with that?

Hon. S. Cudjoe: Madam Speaker, a meeting was held in Tobago on Wednesday where the Minister of Works and Transport, representatives from the Tobago House of Assembly, representatives from the Ministry of Tourism and the

stakeholders were a part of that meeting.

Right now, even as we speak, there are other recommendations coming in that are being considered by the Port Authority, but with immediate effect as it relates to these critical items, we will be utilizing the *T&T Spirit* and the *T&T Express*.

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. Madam Speaker, we are answering all questions, save and except question No. 107, which is an oral question. We are asking for a two-week deferral for question No. 107.

With regard to the written answers, Madam Speaker, we are answering all questions except No. 84, and we are asking for a two-week deferral. Thank you very kindly, Madam Speaker.

Madam Speaker: Member for Couva South, I am sure you do not intend to be disruptive, but the noise is reaching me.

WRITTEN ANSWERS TO QUESTIONS

Morvant/Laventille School Improvement Project (Details of)

65. Mrs. Vidia Guyadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Education:With respect to the Morvant/Laventille School Improvement Project, could the Minister state:

i. the status of the project;

ii. the measures to evaluate the quantitative success, failure and benefits of money spent on the project;

iii. the factors for the poor student performance in numeracy and literacy in the area; and

iv. the expected ways that the project will mitigate the factors identified in part (iii)?

Trinidad Police Youth Clubs
(Details of)

70. Mrs. Vidia Guyadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of National Security:

Could the Minister state:

a) the number of Police Youth Clubs in Trinidad;

b) the location of each Police Youth Club in Trinidad;

c) the number of police officers assigned to each Police Youth Club;

d) the age group of persons referred to Police Youth Clubs;

e) whether non-students are referred to Police Youth Clubs; and

f) the method that students are referred to Police Youth Clubs?

Police Youth Clubs
(Details of Participants)

71. Mrs. Vidia Guyadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of National Security:

Could the Minister state:

a) the number of youths that have participated in Police Youth Clubs from 2007 to January 31, 2017;

b) the number of repeat offenders included in part (a); and

c) the metrics used to measure the impact and outcome of the Police Youth Club?

Teacher Attendance Data
(Details of)

74. Mrs. Vidia Guyadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Education:

Could the Minister provide with reference to the period September 2015 to January 31, 2017:

A. the teacher attendance data inclusive of regularity and punctuality by school and district;

B. the number of disciplinary actions taken against teachers for irregularity and unpunctuality; and

C. the number of teachers actually disciplined for irregular attendance and unpunctuality?

Violence in Schools
(Student Support Services Division Details)

75. Mrs. Vidia Guyadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Education:

Given the level of violence in schools, could the Minister indicate:

a) the role of the Student Support Services Division in treating with violence in schools;

b) the location of the Student Support Services Division in each school district in Trinidad;

c) whether there is a Student Support Services Division in the St. Patrick District and if not, how soon would one be established;

d) the number of officers assigned to each school district; and

e) the process by which Principals can access the services of the Student Support Services Division?

Vide end of sitting for written answers.

ORAL ANSWERS TO QUESTIONS

The following question stood on the Order Paper in the name of Dr. Roodal Moonilal (Oropouche East):

PricewaterhouseCoopers Audit Reviews

(Details of)

107. With respect to audit reviews by PricewaterhouseCoopers Limited on Ministries, Departments, Statutory Corporations, State Enterprises and Special Purpose Companies which reportedly commenced 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; and

c. the cost of per audit in (a) and (b) above;

d. the outstanding quantum of monies yet to be paid to the audit firm?

Question, by leave, deferred.

Brian Lara Cricket Stadium, Tarouba
(Details of)

86. Dr. Tim Gopeesingh (*Caroni East*) asked the hon. Minister of Sport and Youth Affairs:

Could the Minister provide the opening date and the immediate plans for the Brian Lara Cricket Stadium, Tarouba?

The Minister of Sport and Youth Affairs (Hon. Darryl Smith): Thank you, Madam Speaker. Madam Speaker, the precise opening date for the Brian Lara Cricket Stadium, Tarouba cannot be provided at this time since construction work to complete the facility is still in progress, although it is in its final finishing stages. Notwithstanding this, the first official match would be played at the stadium in May 2017, which is next month.

The immediate plans for the facilities are geared towards the development of cricket for junior athletes, national teams and clubs and for the hosting of regional and international matches. [*Desk thumping*]

Dr. Gopeesingh: If I am getting you correctly, you said you do not know when the

stadium will be completed, but there is a match to be played in May? How could you say that there is a match when the stadium is not completed? When is this going to be completed?

Hon. D. Smith: Well, I think that in itself is self-explanatory, Madam Speaker. We are in the finishing stages, which will be completed before May, before the match. So, it is finishing. [*Crosstalk*]

Madam Speaker: May we have order please?

Dr. Moonilal: Thank you very much. To the hon. Minister of Sport and Youth Affairs. Could the hon. Minister indicate to the House what approach was used to settle outstanding claims by Hafeez Karamath?

Madam Speaker: I would not allow that as a supplemental question.

Confirmed Cycling, Aquatic and Tennis Events (List Details of)

87. Dr. Tim Gopeesingh (*Caroni East*) asked the hon. Minister of Sport and Youth Affairs:

Could the Minister provide a list of the confirmed events in 2017 for:

a. the National Cycling Centre;

b. the National Aquatic Centre; and

c. the National Tennis Centre?

The Minister of Sport and Youth Affairs (Hon. Darryl Smith): Thank you, Madam Speaker. Madam Speaker, 124 events are confirmed so far at the three sporting facilities. Some of these include: poolside clinic for swimming coaches; training sessions for Sport Scholarship Programmes at UTT in the discipline of Swimming; National Secondary Schools Water Polo League; T&T Track Series for Cycling; UCI Easter Grand Prix for cycling last year; the UCI National Track Championship Elite Cycling; World Table Tennis Day Tournament; JITIC Under 18s warm up event for tennis; Triathlon schools series and we will provide a list,

Madam Speaker, because, as I said, it is over 124 events that we have. We will provide a list to the Members.

Madam Speaker: Member for Tabaquite.

Mr. Singh: Madam Speaker, the hon. Member for Tabaquite is stuck in traffic on the way, so I wish to direct this question to the Minister of Finance, No. 93.

THA Contract Employees
(Details of)

93. Mr. Ganga Singh (*Chaguanas West*) on behalf of Dr. Surujrattan Rambachan (*Tabaquite*) asked the hon. Minister of Finance:

Could the Minister state the number of contract employees in each Division of the Tobago House of Assembly:

a. Community Development; Enterprise Development and Labour;
b. Education, Innovation and Energy;
c. Finance and the Economy;
d. Food Production and Fisheries;
e. Health, Wellness and Family Development;
f. Infrastructure, Quarries and the Environment;
g. Office of the Chief Secretary;
h. Settlements, Urban Renewal and Public Utilities;
i. Sports and Youth Affairs;
j. Tourism, Culture, and Transportation?

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. The number of contract employees in each division of the Tobago House of Assembly is as follows: the Community Development Enterprise Development and Labour Division, 193; the Education, Innovation and Energy Division, 728; Finance and the Economy, 71; Food Production and Fisheries, 151; Health, Wellness and

Family Development, 305; Infrastructure, Quarries and the Environment, 151; Office of the Chief Secretary, 250; Settlements, Urban Renewal and Public Utilities, 69; Sports and Youth Affairs, 190; and Tourism, Culture and Transportation, 147.

Harmony Hall Presbyterian Primary School
(Construction of)

96. Mr. Ganga Singh (*Chaguanas West*) on behalf of Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Education:

Could the Minister state when will construction start on the Harmony Hall Presbyterian Primary School given that it was carded to commence in 2015?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, the contractor awarded the contract for the construction of the Harmony Hall Presbyterian Primary School. This project, the contractor issued a terminationletter to the EFCL on the 3rd of May 2016. At this time, designs were 30 per cent complete. The contractor had never taken possession of the site, therefore no construction works were started.

Due to the current difficult financial circumstances facing the country as a whole, the Ministry of Education has had to prioritize projects with those with the greater percentages of works completed being given the higher priority.

The construction of the Harmony Hall Presbyterian Primary School remains a priority for the Ministry of Education, but resumption of works will depend on the availability of funds. The Ministry is, therefore, not in a position to definitely state when construction works on this school will be resumed. Thank you. [*Desk thumping*]

OJT Stipend
(Details of Increases)

97. Mr. Ganga Singh (*Chaguanas West*) on behalf of Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Labour and Small Enterprise Development:

Could the Minister inform this House whether the 20 per cent increase to the OJT stipends promised in the last two budgets has been effected and if so, on what date?

The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus): Thank you kindly, Madam Speaker. Madam Speaker, stipends for trainees in the On-the-Job-Training Programme have already been increased by 10 per cent with effect from 1st of September 2016, and this increase was applied as follows: Level 1 OJT with CXC or Craft Level Training, increased from $2,500 to $2,750; Level 2 OJT with CAPE, A Level or a Diploma, increased from $3,600 to $3,960; Level 3 OJTwith an Associate Degree, increased from $4,500 to $4,950; Level 4 OJT with an undergraduate degree, increased from $6,250 to $6,875; and, lastly, Level 5 OJT with a Post Graduate Degree, increased from $7,200 to $7,920.

Madam Speaker, further increases will be implemented in due course when this country emerges from our current difficult economic circumstances. I thank you, Madam Speaker. [*Desk thumping*]

Mr. Karim: Thank you very much, Madam Speaker. Could the hon. Minister state how many OJTs would have benefited at the various levels or in totality from these increases?

Sen. The Hon. J. Baptiste: Madam Speaker, I do not possess that information at this point in time, but that information can be supplied subsequent to today. [*Desk thumping*]

Petrotrin's Seven-Member Committee
(Details of)

98. Mr. Ganga Singh (*Chaguanas West*) on behalf of Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Energy and Energy Industries:

Could the Minister provide the names and professional backgrounds of the seven member committee to make recommendations on the restructuring of Petrotrin?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam Speaker. The names and professional background of the members of the committee are as follows:

1. Mr. Selwyn Lashley, Chairman.

   Mr. Lashley is currently the Permanent Secretary in the Ministry of Energy and Energy Industries with over 38 years' experience in the energy sector. He holds a Bachelor's of Science Degree inChemical Engineering, an MSc in Natural Gas Engineering and is also a qualified attorney-at-law. He is led and has been a member of several Government appointed committees.

2. Prof. Chandrabhan Sharma.

   Prof. Sharma is a professor in Energy Systems Faculty of Engineering, UWI St. Augustine. He holds a PhD in Electrical Engineering and has over 37 years' professional experience in both the energy sector and in academia. He has previously served on several Government appointed committees.

3. Mr. Gregory Marchan, OWTU representative.

   Mr. Marchan is a trade unionist and is currently a Vice-President on the Central Executive of the OWTU with experience in the oil and gas industry. He possesses an Associate Degree in Human Resource Management and a Certificate in Industrial Relations of Cipriani

College of Labour and Cooperative Studies.

4. Mr. David Abdullah, OWTU representative.

Mr. Abdullah is an experienced trade unionist and a former General Secretary of the Oilfield Workers Trade Union. He is an economist by academic training, and a former Senator who has previously been a member of several Government-appointed boards and committees.

5. Mrs. Helen Drayton.

Mrs. Drayton is a past Executive Director of RBTT financial group and General Manager, Human Resources of the Telephone Company of Trinidad and Tobago. She is currently an adjunct lecturer at UWI, Arthur Lok Jack School of Business for the Executive Masters of Business Administration in Business Communication Networking and Collaboration.

Mrs, Drayton has an Executive MBA from the University of the West Indies and expertise in organizational analysis and design, strategic marketing, brand development, strategic human resource management and corporate communication.

Mrs. Drayton is a former Independent Senator and has been on a number of Government-appointed committees.

6. Mr. Wilfred Espinet.

Mr. Espinet is a business executive with considerable international experience in manufacturing, shipping and the retail industry in several countries. He is a past President of the Trinidad and Tobago Manufacturers Association.

7. And, finally, Madam Speaker, No. 7, Mr. Robert Riley.

Mr. Riley has extensive experience in the oil and gas industry, having

served as the first local in the position of former Chairman and Chief Executive Office of bpTT, LLC. He is also a qualified attorney-at-law.

Thank you very much. [*Desk thumping*]

Dr. Moonilal: Thank you very much. To the hon. Minister. Minister, given the mandate of this committee, does this make the board of directors of Petrotrin irrelevant and redundant?

Sen. The Hon. F. Khan: Far from it, Madam President, the board runs the operation of the company.

Dr. Moonilal: No, they do not.

Sen. The Hon. F. Khan: This committee was specially put together. In fact, this came not even from the Ministry of Energy and Energy Industries, it came from the Office of the Prime Minister. Because of certain challenges we face at Petrotrin, the Prime Minister intervened and set up this special committee, to look at the restructuring of Petrotrin and to so advise the Cabinet through the Office of the Prime Minister. It is not interfering with the work of the board of directors.

Dr. Moonilal: So, Minister, this special approach you outlined, is this an approach to use professional services of persons without subjecting them to the Integrity in Public Life Act?

Sen. The Hon. F. Khan: Far from it, this is not the first time a Government appointed committee is appointed. This is par for the course. It is a standard procedure to set up these committees to review certain aspects of various state enterprises, and this is just another one. It has nothing to do with bypassing the Integrity Commission. It is not a full-time job. [*Desk thumping*]

Dr. Gopeesingh: My understanding from what you just said that the Permanent Secretary is a member of this restructuring committee, does the Permanent

Secretary not oversee the entire issues related to all things within the company and, therefore, it would be a conflict of interest for him to be on the committee? [*Desk thumping*]

Sen. The Hon. F. Khan: The Ministry of Energy and Energy Industries does not run the oil companies. The oil companies, most of them are private companies. Those that are state enterprises, they are still private companies with the State being the shareholder.

The companies are run by board of directors. The Permanent Secretary in the Ministry with responsibility for energy is responsible for the implementation of Government policy in the energy sector, and there is absolutely no conflict of interest in his appointment as chairman of the committee.

Dr. Gopeesingh: So are you saying, therefore, hon. Minister, that the Permanent Secretary has no responsibility over the management of Petrotrin?

Sen. The Hon. F. Khan: He has no direct responsibility on the management of Petrotrin. The board of directors report to the line Minister, myself, being the energy Minister, and in terms of the shareholding, they report to the Minister of Finance as the Corporation Sole. [*Desk thumping*]

STATEMENT BY MINISTER

T&T Natural Gas Situation/Visit to Houston

The Prime Minister (Hon. Dr. Keith Rowley): Thank you very much, Madam Speaker. Madam Speaker, with the authority of the Cabinet, I make the following statement on the natural gas situation in Trinidad and Tobago, and my recent visit to Houston, Texas to conclude the addressing of this very critical aspect of our economic well-being.

Madam Speaker, in 2009, based on the rate of consumption and the observed slower rate of replacement production, it was determined that accelerated efforts

were required as a priority. Against this background, Madam Speaker, discussions and negotiations for increased gas production, the Juniper project, commenced then with bp in 2009 and that was concluded—those discussions, those negotiations were only concluded in 2013

In 2011, Madam Speaker, Trinidad and Tobago began experiencing noticeable gas shortages that resulted in curtailment issues in the downstream hydrocarbon industry at Point Lisas. These shortages were as a result of the producing gas fields becoming mature with an expected natural decline in yields from these fields. At the time, and for the next three to four years, the explanation of "maintenance" was offered by the then Government as the causative factor for the shortages of gas being experienced by the plants at Point Lisas. The country was told—Madam Speaker, I am being disturbed by nattering across there. Could you assist me please?

Madam Speaker: Members, could I please remind you all of the Standing Order with respect to Members listening in silence? Please continue Prime Minister.

Hon. Dr. K. Rowley: Yes, Madam Speaker. The country was told that once the maintenance work were completed, gas supply would return to normal as it had done in previous maintenance cycles in previous years. These ministerial and other statements turned out to be dangerously misleading even in the face of written correspondence to the contrary, emanating from the downstream gas consumers at Point Lisas.

Additionally, and equally worrisome, downstream gas supply contracts between NGC and the downstream parties began expiring in 2013. The first Methanol Holding Trinidad Limited, MHTL company contract with NGC, expired on the 14th of April, 2013. NGC did not negotiate a contract for the MHTL M-iv plant, but rather kept rolling over on a month-to-month basis whilst experiencing a

shortage of gas. Under these circumstances, Madam Speaker, a number of substantial claims were commenced against the NGC in August of 2015.

Mr. Al-Rawi: Say that again.

Hon. Dr. K. Rowley: A number of substantial claims were commenced against the National Gas Company for its inability to supply gas and those claims started in August 2015. The failure to deal with the gas shortages during the 2011 to 2015 period resulted in billions of dollars in claims for gas curtailment being made against NGC.

MHTL claimed during that period, TT $2.622 billion; Caribbean Nitrogen Company, CNC for the same period claimed, $682 million against CNC; the Nitrogen (2000) Unlimited claimed for the same period, $686.6 million; and Point Lisas Nitrogen Limited, PLNL claimed $543.9 million. The total claims against NGC stood at about $4.535 billion against the NGC for its inability to supply gas as per the contracts between NGC and these companies.

By December 2015, 10 weeks after the installation of a new Government was sworn in, further contracts expired between NGC and other MHTL plants. Ideally, these contracts should all have been renegotiated months in advance of expiry. At the very least, negotiations could have been opened but this was not done and led instead to the fuelling of claims being made against the NGC.

In 2015, NGC had contracted supply of 1,960 MMcfd, million standard cubic feet, from four gas producers. So NGC was contracted to supply 1,960 unit of gas.

In 2016, this changed. BP conducted a deliverability test on the dedicated fields as of 2002, and the contract volume was reduced from 255 MMcfd to a contracted volume of 390. So, NGC was contacted to supply 390 units, they were able to supply 255. BG did not renew the base contract and that led to a loss of 250

units from BG.

BHP volume increased by 30 MMcfd and EOG, based on a deliverability test, reduced the contract volume by 100 units, therefore, NGC lost 710 MMcfd of contracted gas in 2016 which represents 36 per cent of contracted volumes. So, in other words, NGC was unable to supply 36 per cent of the gas that it was contracted to supply and faced those liabilities that I mentioned earlier on of the $4.2 billion. Estimated supply of available volumes currently stand at 1,250 MMcfd as against consumption requirements of 1,960.

Additionally, BG, now Shell, suffered a major gas supply shortfall. The Starfish field failed with production falling from 250 MMcfd to zero. The Dolphin field experienced production declines and reduced from 220 MMcfd to zero. Despite these difficulties, the Ministry of Energy and Energy Industries and NGC has managed to negotiation with Shell for 100 MMcfd until December 31, 2017.

And, may I digress for a moment, Madam Speaker, with your permission to indicate that it is precisely, at this time, that the Government of the day approved the Mitsubishi plant with its own consumption of gas to come, and with a condition with whatever gas was available would go first to the Mitsubishi plant. I move on.

Madam Speaker, what the Government and, in particular, NGC faced at the end of 2015 was the perfect storm. NGC was faced with shortages of gas supplies from upstream gas producers and claims being made against it by downstream gas users which expired contracts having to be renegotiated with upstreamers and downstreamer. Faced with this difficult critical situation, the new Government reconstituted, reconvened and operated an energy subcommittee of the Cabinet chaired by the Prime Minister and contained all relevant and willing talent within the public service, the state enterprise sector and further afield.

Discussions between NGC and the upstream suppliers BP and EOG were

ongoing for months with prices being one of the major outstanding sticking points prior to my visit to Huston from March 29 to March 31, 2017. The failure to settle prior to this new agreement with BP and EOG affected future supplies of gas beyond 2019, and even in 2017 where EOG was concerned. These are discussions where differences of one cent per unit could have huge consequences of hundreds of millions of US dollars given the huge volumes involved and the length of the terms of the contracts.

Madam Speaker, the Government and NGC from November 2015, have been actively engaged in negotiations with both upstream gas suppliers and downstream entities at Point Lisas, including those who commenced litigation against the NGC.

2.30p.m.

Prior to my visit to Houston the main outstanding issues were the agreement of prices for future gas and the volumes of available gas with EOG and BP, in the case of BP specifically, the Angelin project. There was also the matter of securing gas from Shell beyond December 31, 2017. NGC and BP had been negotiating up to the day that I arrived in Houston. Minister Stuart Young, Minister in the Office of the Prime Minister, had been overseeing these negotiations and discussions, working closely with NGC and the Ministry of Energy and Energy Industries, and an ad hoc committee headed by former Finance Minister, Wendell Mottley. I crave your indulgence, Madam Speaker, to put on the record of Parliament, sincere thanks, the nation owes former Minister Wendell Mottley a debt of gratitude [*Desk thumping*] for bringing his expertise, his experience and his calming manner into these negotiations.

My first meeting was straight from the Houston Airport to the designated worktable with BP. Present at that meeting representing BP were Bernard Looney,

BP CEO for Upstream matters; Andy Hopwood, BP Chief Operating Officer for Upstream; and Norman Christie, Regional President Upstream based here in Trinidad and Tobago. Also available were the marvels of the Internet which permitted entries to and from NGC as the necessary adjournments were taken and calculations were fed into the discussions against the reality of starved plants already closed at Point Lisas.

At the meeting BP committed to Trinidad and Tobago but not at any price. We are competing for investment dollars. They emphasised that Trinidad and Tobago contributes about 15% of BP's global revenue. We were informed that TROC, the compression project, was on course to start improving gas delivery by this month of April—that should be going on now—and Juniper from the third quarter in 2017. BP stated that once gas price agreements were concluded they intended to invest between US $5 billion and US $6 billion over the next five years in Trinidad and Tobago. Whilst Angelin was their immediate priority, BP identified that in anticipation of a successful conclusion of the gas price negotiation they are currently drilling two exploration wells and are committed to drilling three more.

Madam Speaker, BP was told that the Government has a responsibility to the Citizens of T&T just like BP has a responsibility to its shareholders. BP was informed that even as we want to re-establish ourselves as a place to invest in the hydrocarbon business, this PNM administration would not have agreed to 100 per cent tax write-off on capital expenditure in one year, and that this fiscal incentive policy affected Trinidad and Tobago's revenues so severely and so negatively. The matter of additional volumes of downstream gas from TROC and Juniper, subject to price agreement, was addressed. BP identified additional exploration and joint efforts with neighbouring EOG, and the level of seismic research recently

concluded which they were now processing to facilitate the oncoming investments now that the pricing issues have been confronted.

BP said that they were also prepared to look at hitherto ignored marginal fields and at the Manaquin/Cocquina cross-border field as well. The Angelin platform, which was meant to supplement Juniper when it begins to taper off in about 24 months after operations, was discussed at length, and I again pressed for consideration to be given to the fabrication of Angelin at La Brea. I had made this request on a number of previous occasions, however, BP advised that this was almost impossible as they needed to meet very tight deadlines and any reversal of their already made decision, firm cost contracts already established and materials already marshalled in the fabrication yards of La Brea's competitors, any tampering with this now would result in a minimum project of at least six months delay, and, Madam Speaker, when you bear in mind that the plants in Point Lisas are already closing down, voluntarily entering into a six-month or a nine-month delay was just not on.

It should be clear to all that the fate of Angelin was sealed in the boardroom when the Juniper downside was split off and returned to a US Gulf Coast construction yard to save the delivery of that platform. Given the scale of the now committed BP investment in Trinidad, other platform construction projects are on the near horizon. We did extract a commitment from BP to give serious and early consideration for some of these construction projects to be directed to La Brea at the earliest opportunity for them, post Angelin plant. We eventually agreed the price formulae for future gas between NGC and BP in consultation with NGC. This meant that we successfully closed off the discussion on the future price for gas, thereby keeping Angelin on schedule and opening the doors to US $6 billion of investment. [*Desk thumping*]

Subsequent to that, Madam Speaker, the next day Minister Young and I attended Shell's office for a full day of work on March 30th with Shell for detailed discussions on various initiatives of great significance to the major investments of Shell in Trinidad and Tobago. The visit began with a tour of Shell's world scale Westhollow Technology Center in Houston. We were given tours of the state of the science labs and the techniques being used. Presentations were made showing the technology that is now available and what would be used in Shell's operations in Trinidad and Tobago, including the new seismic technology available and well control science which gives us a second shot at some major troubled oil-bearing fields which form part of Shell's acquisition in Trinidad. I must say, Madam Speaker, as a geologist and a former seismic scientist I was particularly pleased and impressed to have received this from Shell.

In the afternoon we met with Maarten Wetselaar, Shell's Director for Integrated Gas and New Energies; De La Rey Venter, Executive Vice-President, Integrated Gas; and Derek Hudson, Vice-President of Trinidad and Tobago. During this meeting we received a presentation on Shell's strategic vision for their business in Trinidad and Tobago and secured a commitment from the company to invest billions in the next four years. Discussions were had with respect to the specific projects that Shell is undertaking and how optimistic Shell is with respect to the future of the gas industry in T&T.

We spoke to Shell about their assisting with increasing oil production in Trinidad and Tobago, over and above the major focus on gas, and we discussed UTT students having opportunities to intern at Shell's major science labs and programs in order to build up Trinidad and Tobago's next generation of hydrocarbon industry professionals. The progress and partnership of the Dragon project was also discussed, and the next steps to be taken on this project were laid

out. Shell also updated the Government on the status of a number of initiatives, which are at various stages of development and project life cycle as they reaffirmed the company as a major player in Trinidad and Tobago whilst emphasizing the importance of Trinidad and Tobago to it globally, and their desire to work with us to expand the industry.

I requested that the company place greater emphasis on hiring and training local qualified personnel to increase the employment of Trinidad and Tobago nationals throughout the company, striking the right balance between local and expatriate employment. One of the programmes which was subjected to detailed discussions and agreement was the Starfish project, which is now cleared to be subject to new developmental objectives commencing in the next quarter of 2017. We obtained an agreement from Shell to continue providing 100 to 105 MMcfd of gas to December 31, 2018, which allows NGC to facilitate and improve its supply to Point Lisas throughout 2018. Madam Speaker, this is a very important achievement and it is very achievable.

On March 31, 2017, we met with a number of key executives of ExxonMobil to discuss the potential of a relationship with Trinidad and Tobago. Representing ExxonMobil at this meeting were Mike Kunzig, Manager, Upstream Production Operations; Doug Kerins, Commercial Advisor, Refining and Supply; Lisa Waters, Vice-President, Americas Projects Development; Steve Blume, Manager, Global Business Development, Refining and Supply; and Mike Kelly, Upstream Integration Executive, Refining and Supply. Exxon is responsible for leading the discoveries of substantial oil reserves in Guyana over the last two years and is also a shareholder which owns a sizeable portion of the oil in these fields. It was emphasized that T&T is ideally positioned to play a role, and a very key role in assisting with Guyana's hydrocarbon future. Our location, our refinery, our

deep-water harbours, access to markets and expertise in the energy sector all make us the best candidate for a partnership with our Guyanese neighbour.

We discussed Trinidad and Tobago's oil production and refinery position. Exxon was advised that Trinidad and Tobago had opened these discussions with the President and Government of Guyana, and our two CARICOM countries are currently engaged in finalizing a memorandum of understanding against which Trinidad and Tobago stands ready to assist Guyana. There were discussions about the oil from Guyana being refined in Trinidad and Tobago and the expertise that exists in Trinidad and Tobago from a service-industry point of view, including personnel and their vast experience. We also discussed Exxon's obligation to do seismic work in T&T, and I invited the ExxonMobil team to visit Trinidad and Tobago and assess for themselves our readiness to partner with Guyana. The Exxon team accepted this invitation.

We then went on to EOG, the third largest gas producer in Trinidad and Tobago. Here we met around the table with the Chairman and CEO of EOG Resources, William Thomas; Pat Woods, Vice-President and General Manager, International Division; David Trice, EVP Exploration and Production; and George Vieira, General Manager for Trinidad and Tobago EOG. This meeting resulted in an agreement between Trinidad and Tobago and EOG on future gas. NGC and EOG had been negotiating the price of future gas but had not been able to reach an agreement up to that point. Given the progress made over the last few months we finally managed to agree at a price acceptable to both sides resulting with Chairman Thomas immediately instructing his team that drilling recommence in EOG offshore acreage in Trinidad and Tobago, and he also gave the go-ahead immediately for the commencement of additional significant seismic work to

facilitate major investment in a drilling program to increase production from the mature and declining fields.

I urged the company to move with alacrity to work towards increasing gas production and addressing the current shortage issue and EOG responded very positively to this. The parties agreed that conversations would continue towards increased exploration and production. The successful agreements coming out of this short but well-planned and well-timed face-to-face meetings with the highest levels between the Government of Trinidad and Tobago and foreign investors represented by the senior decision-making executives of BP, Shell, EXXON and EOG, impact on some of the immediate challenges, settle the medium term and keep us in the long term of the oil and gas business. This will go a long way towards cementing Trinidad and Tobago's continued role as a place for investment in the hydrocarbon industry as compared to one where reserves are running out and plant closures are the inevitable outcome.

It is now for all of this country's leadership at every level, whether it be Government, business or labour, to act responsibly in our quest to secure these vital foreign investments, so desperately needed, to maintain our standard of living in this small industrialized nation which is located in one of the most idyllic parts of the world. Do not let anybody fool you, Madam Speaker, we have to be attractive in every which way to attract and secure foreign investment.

On the eve of Holy Thursday, this being the season of Easter where we celebrate crucifixion, resurrection and hope for a better life, let us go forward with faith in God and in ourselves. On that note, Madam Speaker, I would like to take this opportunity to wish my colleagues all, on both sides, and the nation as a whole, a happy, holy and safe Easter. [*Desk thumping*]

Madam Speaker: Member for Siparia.

Mrs. Kamla Persad-Bissessar SC (*Siparia*): Thank you, Madam. Pursuant to Standing Order 24(4), to the hon. Prime Minister, apart from the tour of the facilities, which very much impressed the hon. Prime Minister, could the Prime Minister kindly indicate why could these discussions not have taken place in Trinidad where all the public officials from the Ministry of Energy and Energy Affairs, NGC, and otherwise, where all would have been present? Why could these discussions not have taken place in Trinidad?

Hon. Dr. K. Rowley: Madam Speaker, I would ensure that I am very charitable to my colleague, the Opposition Leader, but the question makes absolutely no sense to anybody who understands. This is not a discussion between Trinidad and Tobago and Trinidadians, this is a discussion between the leadership and the decision being made in boardrooms abroad so I had to go there to meet them, and to meet them all where they are. I have no power to bring them to Trinidad and Tobago, [*Desk thumping*] and it might very well be that it is that "cokey eye" arrangement that allowed them to sit in office from 2013 to 2015 and not get themselves interested in what I have outlined here.

Madam Speaker, I have said enough, and anybody in Trinidad and Tobago who heard what I have just said would know the answer to your question. [*Desk thumping*]

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

[Third Day]

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

That the Bill be now read a second time.

Question again proposed.

Madam Speaker: The Members who have already contributed to this debate on Wednesday, March 22, 2017, hon. Faris Al-Rawi, MP, the mover of the Bill; hon.

Kamla Persad-Bissessar; hon. Maxi Cuffie; Mrs. Vidia Gayadeen-Gopeesingh, MP; hon. Terrence Deyalsingh, MP; Mrs. Christine Newallo-Hosein, MP. On Wednesday, April 05, 2017, hon. Stuart Young, MP; Mr. Prakash Ramadhar, MP; hon. Fitzgerald Hinds, MP; Dr. Roodal Moonilal, MP; Brig. Gen.(retired) Ancil Antoine, MP; Dr. Tewarie, MP; hon. Dr. Lovell Francis, MP. Member for Moruga/Tableland. [*Desk thumping*] [*Interruption*] Member, my records show that you have already contributed to this.

Hon. Dr. L. Francis: I was in the midst of speaking.

Madam Speaker: Okay, so you may proceed.

Hon. Dr. L. Francis: Good afternoon, Madam Speaker, good afternoon to Members of the House on both sides, it is a pleasure to rejoin this debate on a Bill to establish a plea discussion procedure. Madam Speaker, when we ended the sitting of the House last Wednesday, I was in the midst of making a point about the significance of the *Hansard* and I will recommence making that point today. I have stood here on a number of occasions and talked about the seriousness with which I view the contributions I make in this House, and part of that has to do with, of course, my training as an academic. However long one has this thing called a career in politics could be long, could be decades long, like some Members opposite, could be very short, there is one thing that will stand in perpetuity and that is the record of what one says when one takes one's legs in this House, and that is to be dealt with seriously.

Madam Speaker, as a researcher I have had recourse on a number of occasions to look at the *Hansard*, in looking at particular aspects of history I was writing, and I sometimes wonder if the Members who were standing at that time when they were talking, were in full cognizance of the fact that what they were saying would be recorded and that record would stand. Madam Speaker, one reads

all sorts of things in records like this, but I think it would be remiss of me, and moreover I will extend that to every single Member of this House, that the point has been made on both sides that we are facing a very difficult situation in terms of the crime situation that we are facing, and the Government is trying to tackle that situation by a number of mechanisms, that we stand at this critical junction in our history, facing perhaps the most difficult situation we have faced for a number of decades, and that given the chance to make a serious intervention, a serious discussion on the legislation in front of us, that we waste that opportunity by saying something trite by not addressing and understanding the seriousness of what we face, and not making the kind of contribution on either side that will work to the improvement of the circumstances we face.

Madam Speaker, five years from now, 10 years from now, 100 years from now, someone is going to stand, or someone is going to sit somewhere and look at the *Hansard* and examine what the politicians who stand in this House today were discussing. And even amidst of a scourge of crime that is unprecedented in our history, Members here do not understand the seriousness of what is facing us and understand that we are all charged in our own separate ways to make a contribution to alleviate that seriousness, and if we stand and we evade the truth, or make arguments based on "strawmanship", or make arguments that basically have nothing to do—[*Interruption*]

Madam Speaker: Hon. Member, the four minutes of your original speaking time have now been spent, you are entitled to 15 more minutes if you wish to continue.

Hon. Dr. L. Francis: Thank you, Madam Speaker. [*Desk thumping*] Yes, Madam Speaker, if Members do not understand that in the time we have here, given the circumstances we face, that we are charged with making interventions that are meaningful and that not just for the betterment of the nation but for their own

legacies as Members of Parliament, knowing that in the future someone is going to sit and look at what we have said, and whether we like it or not, judge us by what we say, because at the end of the day after our careers have gone and we have moved on in whatever way, what will stand are the words that we have said here, then I think we would all be doing ourselves a disservice.

Madam Speaker, Trinidad and Tobago is facing a crime situation of the likes we have never faced before in our history. The Government of the day has the responsibility to do what is needed to alleviate that situation. Led by the Prime Minister, and with the Attorney General at the helm as well, we have been tackling the situation using multiple facets, multiple aspects, multiple directions; some of it operational, some of it legislative. We fully understand that no single law, no single Act, no single Bill is going to be a magic pill that will solve the problem, but we intend to bring multiple Bills to this Parliament in an intention to tackle the situation. That is our responsibility and we have been doing that.

It has been my pleasure, however briefly, to stand and speak on behalf of the Government on this Bill to support the Attorney General on everything that he is doing. I intend to do so on every serious Bill that comes to this House, because I think as a Member of Parliament, and as a person who understands the legacy of history, I would be remiss if I did not do so. Thank you very much, Madam Speaker. [*Desk thumping*]

Madam Speaker: Member for Chaguanas West. [*Desk thumping*]

Mr. Ganga Singh (*Chaguanas West*): Thank you very much, Madam Speaker. I think that as I rise to make a contribution on this Bill, entitled "An Act to establish a system of plea discussions and plea agreement, and for matters incidental thereto", I must respond to my colleague, the hon. Member for Moruga/Tableland, the hon. Minister in the Ministry of Education. In his contribution last week,

Madam Speaker, he called Thomas Paine a traitor; well, as a historian he would recognize that that is not so, that is not so at all. In fact, in my early years, Madam Speaker, I had the fortunate chance to read *The Age of Reason* by Thomas Paine, and Thomas Paine made a contribution both to the thinking in France and in America—[*Interruption*]

Dr. Francis: You would give way?

Mr. G. Singh: No, no, no, no, no, you had your time—both to his contribution. So that, therefore, to engage on, to castigate a man who in the 1700s, you know, and he was an American patriot, so I want to say, historically, historically you are looking through that history through a skewed approach.

The second point I wish to make, Madam Speaker, is that the hon. Member for Moruga/Tableland hoisted himself on a petard and lamented the lack of serious contributions on Members of both sides. [*Interruption*] You said this a few minutes ago, not making serious contribution on either side. So that is the lamentation just a few minutes ago, you know. Madam Speaker, you see the Member also indicated on the last occasion that the People's Partnership administration did nothing, did nothing in the area of legislation, you know, did nothing in the area of legislation as to what was done with respect to the legislative history of the People's Partnership administration, under the leadership of our honourable leader, the Member for Siparia. Madam Speaker, if only he would take note as a professional historian and go and do the necessary research, he would have seen almost 30 pieces of legislation passed by the People's Partnership administration. [*Desk thumping*]

He would have recognized that his statement of nothing being done was a broad-brush approach that lacked credibility. It is clear to me, Madam Speaker, that the hon. Member for Moruga/Tableland is part of a kind of a—there is a

morbid propensity on the part of those on the other side to blame everything on this former administration and take responsibility and accountability for nothing. [*Desk thumping*] That level of morbidity is inappropriate after you are in Government for over 20 months—[*Interruption*]

Hon. Member: Eighteen.

Mr. G. Singh:—18 months. Madam Speaker, it is also clear to me that this academic parliamentarian—you know, Madam Speaker, he has discovered something about the epistemology of the 21st Century. He has discovered something about that. That truth he has discovered, Madam Speaker, truth may be real but falsehood works better, so that, therefore, when he said we did nothing he has engaged in a politically strategic falsehood but really demonstrated his nothingness. [*Desk thumping*]

You know, Madam Speaker, in the "Trumpian" fashion of fake news that is relevant today in the 21st Century, you know, it is said that you can beat a polygraph test if you make some part of your brain believe what you are saying is true, and that in the case of a certain American politician, he really believes when he tweets that it is true. So, similarly, this morbid propensity that is prevalent on the other side of just blaming in everything, taking responsibility for nothing, accounting for nothing, I guess some of you could take and beat a polygraph test.

3.00p.m.

Madam Speaker, I now turn to the Bill before us. This Bill seeks to repeal and replace the existing legislative framework for plea bargaining, as contained in the 1999 Act. So that therefore this is not the first intervention in this area of plea bargaining. I think the Leader of the Opposition spoke about it. So this is what it is, a continuum of those laws and the continuum of government, which is part of the process of governance in our society.

So that when you have a situation where only 12 matters were brought, since 1999 to date, successfully—plea bargaining—and then you might point and take comfort in the fact that this may arise because there were deficiencies in the architecture of the law, in the functioning of the law and that is so and that may be so. But I think that if we just take that mechanistic approach, then we have to question, why did it fail in Jamaica? Why did it fail in Jamaica, a similar piece of legislation over the period 2005 to 2012, Madam Speaker, that there were only 10 successful plea bargains?

Therefore, it then raises a larger question about the culture and the sociology of our societies, whether or not we are imposing a hybrid into our countries, into the cultural milieu that is inappropriate. I think that the hon. Attorney General made reference to the fact that law may change the culture. Well, there is the statement by Daniel Moynihan, former US Senator, that in instances like that it is culture, not politics, that provides for the success of a society and politics can change a culture and save it from itself. There is a dual role.

So the question is, what is the common thread between Jamaica and Trinidad and Tobago in which plea bargaining has been unsuccessful? Was it mechanistically the law or was it culturally? InJamaica, from the time the law was proclaimed in 2005 and then subsequently upgraded in 2010, there is the culture, "informer dead". They regarded by the Jamaican legal profession as an informers law, the plea bargaining and therefore informers were dead. So that explains the sociological environment. What is the commonality also between both countries, Madam Speaker? The narco corruption and the narco culture?

I think the hon. Member for Port of Spain North/St. Ann's West, indicated in his contribution on this debate, and it was carried in the newspapers, that the role of this plea bargaining is to catch the big fish—to catch the big fish. Madam

Speaker, I took the opportunity to look at what I considered to be the real big fish in Trinidad and Tobago in a matter litigated some years aback:

"Monos Island drug trial: six to serve life in jail"

I am sure my good friend, the Member for Laventille West, is familiar with this trial. It is said in the newspaper of May 10, 2008, the *Newsday*:

"Escape of big fish alarming

Justice Alice Yorke Soo-Hon yesterday questioned why the main house at Passy Bay, Monos Island, was not searched following the August 25, 2005 drug bust which netted $700million in cocaine. The cocaine, weighing over 1,749 kilogrammes, along with seven firearms--two rifles, three pistols, one revolver, one sub-machine gun and 247 rounds of assorted ammunition, were found in the caretaker's cabin, which is adjacent to the main house.

She said that she was puzzled as to why the owners of the house, co-owned by…"—certain people—"'never appeared to be interviewed' by the police and 'why the ownership of the drugs was never ascertained'.

These were just some of the questions posed by…Yorke-Soo-Hon as she sentenced six men to life imprisonment for offences arising out of the cocaine bust."

So, that is the kind of cultural environment, and that is the kind of cultural environment which we are seeking to change with this plea bargaining legislation.

Madam Speaker, it is common knowledge that the slow pace of justice haunts the legal system. In Trinidad and Tobago it is a paradise, but it is a war zone. It is a paradise but it is a war zone. So I want to make reference to the context within which this Bill—I have already referred to the narco trafficking culture that exists, and I will deal further on, time permitting, with the role and the analysis by Trevor Munroe, *Caribbean Security in the Age of Terror*, that deals

with the narco culture and the corruption that it brings about and how it impacts upon law and the rule of law.

When we look, we have an empirical appreciation of the extent of the backlog as found in the criminal justice system. In a speech made by the hon. Attorney General on March22, 2017 the Attorney General said, and I quote:

> In Trinidad and Tobago, we have murders that are outstanding for 14 years awaiting trial in the preliminary enquiry arena. We have 2,200- odd cases in backlog in the High Court; we have 29,000 cases in backlog in the Magistrates' Court for indictment alone; we have close to 69,000 cases in the traffic courts, not including Tobago and San Fernando statistics. We have in those circumstances the prison filled with 2,200-odd people, 980-something odd…who cannot come out, because it is a non-bailable offence.

So that is the empirical basis giving the contextual framework of this piece of legislation which, in principle, we support.

This is what Chief Justice Ivor Archie had to say in the *Trinidad Guardian* of Saturday, May 14, 2016:

> "Chief Justice Ivor Archie said…that the current crime rate, coupled with prison overcrowding, continues to place considerable pressure on the criminal justice infrastructure.
>
> He said such a situation was simply unacceptable.
>
> Archie admitted that accused people being held without trial for long periods was also testimony to the fact that the system was not operating satisfactorily...
>
> Plea bargaining, Archie added, was another measure which could reduce the backlog of pending cases."

So you have the Chief Justice, you have the Attorney General. We now turn to

statements made by the DPP on Saturday, July 02, 2016 in the *Trinidad Guardian*:

> "DPP: Justice system in crisis
>
> The Director of Public Prosecutions, Roger Gaspard, has admitted that T&T's criminal justice system is on the edge of a precipice and in a crisis.
>
> He said the 'sluggishness' at which the system has been managing cases was not something 'to be proud of.'…"

He went on to say:

> "I, by no way want to convey…any impression that the Director of Public Prosecutions office is beyond blame.'…
>
> 'Since from all that I can see, the criminal justice system is in a crisis. And we are twiddling virtually on the edge of a precipice.'"

So you have the utterances—this is serious business—talking to the utter failure, the dysfunctional nature of the criminal justice system. And we have now the utterances of Israel Khan, Senior Counsel, in the *Guardian* newspaper of April10, 2016:

> "Criminal justice system about to collapse…
>
> I made the point then, and I make it again at this forum,…life in this country has become nasty, brutish and short.'"

That is a Hobbesian phrase.

> "…our criminal justice system is about to collapse completely if the powers that be keep talking and talking and nothing substantial is being done to stop the rot...it is a national scandal to have approximately 700people in custody at the Remand Yard awaiting trial dates for seven years on charges of murder when we boast of upholding the presumption of innocence and the rule of law. Shame on a nation which cannot protect its women and children and its citizen from fear of being murdered. Shame on a nation that allows

its prison to be a 'hell hole'."

Madam Speaker, these statements made by the Attorney General, the DPP, the Chief Justice and a senior counsel practitioner in the criminal justice system all point to a deep malady in the criminal justice system, and to a larger extent, in the society. So it points to societal and institutional failure to deal with this problem and it cuts across administrations.

Madam Speaker, it is my view that plea bargaining represents a pragmatic, practical approach to deal partially with this problem, as it says something about our society, that only when a matter reaches crisis proportion that we are able to bring about some measure of solution.

Madam Speaker, our Constitution indicates that anyone who is charged with a criminal offence is entitled to certain safeguards. Section 4(a) deals with the right to life, liberty and security of the person. Section 5(c) indicates that Parliament may not deprive a person who has been arrested or detained of the right to be promptly informed with sufficient particularity of the reason for his arrest and detention; two, of the right to retain and instruct without delay a legal advisor of his own choice and to hold communication with him; and thirdly of the right to be brought promptly before an appropriate judicial authority.

Section 5(e) deals with the question of the right to a fair hearing, in accordance with fundamental justice. Section 5(f), Parliament may not deprive a person charged with criminal offence of the right to be presumed innocent until proved guilty according to law, and to secondly 5(f)(ii), to a fair and public hearing by an independent and impartial tribunal.

So there are constitutional guarantees in the system. What is of importance in the context of the plea bargaining legislation is the presumption of innocence as one of the fundamental principles in our criminal justice system. The presumption

of innocence helps to combat prejudice and prejudging in the criminal justice system. But the presumption of innocence is under constant threat. Once someone is arrested and charged, the presumption goes out the window; he has done something wrong. The presumption is also highly vulnerable to the media frenzy around high profile cases. You may recall the murder of the bank employee, Shannon Banfield. In that case, in that situation, the public judgment was swift and vicious. The crime was horrific and the lust for retribution was palpable.

The presumption of innocence is also under assault from fear-driven politics of crime, because every day you see murder. Every day you have a murder count, and what do you have? You have at times the politicians panicking and seeking to get some kind of palliative to stop the problem, rather than thinking of the long-term solution to the problem. We also have historically in our own society punitive culture, so that therefore we seek to dole out punishment without really indicating that, look, we have constitutional guarantees of the presumption of innocence.

Madam Speaker, by utilizing plea bargaining we must be aware that the presumption of innocence is being further whittled down. In this Parliament, supporting the plea bargaining we are consciously uncoupling from the presumption of innocence by providing members to engage in pleading guilty. So there is a conscious uncoupling from the constitutional guarantee of the presumption of innocence. That is why, as we would indicate with amendments, that safeguards are necessary to protect the innocent in a situation like that.

Madam Speaker, so you have a situation: you have the contextual framework; you have the constitutional guarantees. It is now necessary to be able to define plea bargaining. What is this plea bargaining? Stated succinctly, it is a process to negotiate the resolution of a criminal case without a trial, and this resolution is often carried out between the prosecution and the defence. In the

context of the Bill before us, the prosecutor is the attorney-at-law directed and instructed and authorized by the DPP and, in some instances, the defence attorney and also the defence may stand by himself too.

There are three areas generally of negotiating in plea bargaining: the charge bargain. For example, in return for dismissing a charge for murder, a prosecutor may accept a guilty plea for manslaughter, subject to the court's approval. Sentencing bargaining is another element. So that therefore, in return for a lighter sentence, the accused would agree to a plea of guilty. It saves the prosecution the necessity of going to trial and proving its case. It provides the defendant with an opportunity for a lighter sentence. And then of course there is fact bargaining, so that therefore there is an agreement not to introduce certain facts once you agree upon the facts.

But, Madam Speaker, the validity of a plea bargain is dependent upon three essential components: a knowing waiver of rights, a voluntary waiver, and the factual basis to support the charges to which the defendant is pleading guilty. The voluntary plea has two elements: the defendant must understand to what he is pleading and he must make the plea of his own free will. He must not be pressured by anyone to plead guilty. If at the time he pleaded, the defendant was subject to such pressure that he did not genuinely have a free choice between guilty and not guilty, then his plea is a nullity. Under the plea bargain system you cannot say "guilty with an explanation". There is no room as in the American system of the Alford plea. So the plea of guilty must be unambiguous.

Madam Speaker, because there are constitutional guarantees and because of the history and the emergence of plea bargaining from an international perspective in the American system, transplanted to other jurisdictions like New Zealand, Australia, to a limited extent in Great Britain, in the Bahamas, in Barbados, in

Jamaica, there are established notions of pros and cons of plea bargaining. But the case law and the research material in plea bargaining all concern ethics and morals, both professional.

Plea bargaining is unfair because it is said—in terms of abolishment—because defendants forfeit some of their rights, including the right to trial by jury. Plea bargaining is coercive. Plea bargaining allows criminals to defeat justice, thus diminishing the public's respect for the criminal justice system. Plea bargaining raises the possibility that innocent people will plead guilty to crimes they did not commit. Plea bargaining undermines the consistency of outcomes.

But what is of importance for us is that plea bargaining leads to prosecutorial overcharging in two contexts: overcharging for strategic reasons and charging additional offences when plea negotiations for the defendant has failed, with a view to the defendant being assessed at a high trial penalty in the event that he is found guilty by the court. This strategic overcharging and charging of additional offences, we have to ensure that we do not have an entrepreneurial prosecutor, as you have in some instances in the American system, where the District Attorney can become entrepreneurial, and then based on the number of persons, he gets to plead guilty, he becomes a hero.

Before the retention of plea bargaining, it is said that plea bargaining allows the criminal justice personnel to individualize punishments and make them less severe. Plea bargaining is an administrative necessity. Plea bargaining saves the prosecution, the courts and the defendant the cost of going to trial.

So, Madam Speaker, it is clear that even from an international perspective that this is what is happening in the criminal jurisdictions in America, in Canada, in Australia, in New Zealand and in the Caribbean also. However, DPP Roger Gaspard in an article:

500 awaiting trial for murder—

—published on Sunday 15th June, 2014, *Newsday*:

> With the low detection rate and lack of strength of evidence, criminals have no motivation to cop a plea. Maybe that is why only 12 cases in our criminal justice system have been disposed of through this channel of plea bargaining.

So if your detection rate is low, then your plea bargaining will not be an efficient method of reducing your backlog, and nothing has changed in that context in the country—nothing has changed. So it is therefore necessary, whilst we engage and provide this structure, that there also ought to be concomitantly an attempt to increase the detection rate. That falls in the hands of the Minister of National Security and the Commissioner of Police.

Madam Speaker, in a document entitled Reform of the Criminal Procedure System, the authors of this document, Pamela Elder SC and Miss Jehan Mohammed, state in paragraph 2.8 of this document in relation to the existing legislation:

> An examination of the Act reveals several deficiencies which have to be addressed. These include unclear and narrow definitions, limited incentives for a guilty plea, absence of significant provisions such as the reception and use of victim impact statements, guidelines to be followed at plea agreement hearings and the rights of an accused if a plea agreement is rejected by the Court.

Misses Elder and Mohammed go on to make a comprehensive analysis of the existing law and put forward some 60 recommendations, a summary of which is contained in Chapter 5 of this paper. I quote from that:

> In light of the extensive amendments required, we recommend that the entire

Act be repealed. It is hoped that the recommendations advanced in this paper would assist in the drafting of new plea bargaining legislation which would have a greater usage than the current Act.

As a result of that work done in 2014, and then the subsequent drafting, we have the current piece of legislation. While Members would like to jump over that historical fact, as the Member for Moruga/Tableland did, it is that continuum of policy, that continuum of government, that is why the current Bill is before us. [*Desk thumping*]

Madam Speaker, at this juncture—[*Interruption*]

Madam Speaker: Hon. Member, your original 30 minutes have expired. You are entitled of 15 more minutes if you wish to avail yourself of it.

Mr. G. Singh: Thank you, Madam Speaker. At this juncture, I would like to look at what I consider to be concerns and deficiencies in the current Bill before us.

Clause 4(1) of the Bill says:

"A promise to proceed by summons rather than by information."

I am advised by persons in the profession that that is impractical. For certain offences such as possession of firearms and ammunition, possession of marijuana and certain fraud offences, those matters must be laid via information because they are indictable offences. Once laid and the accused is brought before the court, the prosecution at that point in time elects, which gives the accused the right to have the matter heard in the Magistrates' Court or the High Court. Matters that can be tried either way are referred to as "hybrid offences". If the charge is not properly laid, then the accused would be improperly before the court.

In clause 10(c), it is stated, and I quote:

"the Court has been informed of the matters set out in paragraphs *(a)* and *(b)* and approves of the initiation of a plea discussion in the presence of an

independent third party identified by the Court in writing."

The question is, how will this work in practice? I think my colleague, the Member for Caroni Central, in fact was very emphatic on this. Who is this independent third party and how will this matter be brought back before the court? Is it that the prosecutor will have to appear in court before the plea agreement, and inform the court, and obtain the requisite consent? A procedural approach has to be adopted to ensure that this section is practical.

Clause 18 suggests that the prosecutor is the person entrusted with the task of taking a victim impact statement. The question that arises is: At what stage will the statement be taken? Criminal practice requires the police to take statements from the person making the report. Generally, it is the police who should take the statement from the victim, since they are the first responders to the crime.

Currently before the courts, in the practice direction given on Good Year by the hon. Chief Justice, after consultation with members of the criminal justice system, is that in the maximum sentence indication it is the police who bring the victim statement. So that you have a problem. Then additionally, it takes so much time for the DPP to give authorization in writing; and further this clause omits the accused's right to have the victim cross-examined on the content of his victim impact statement. This is a point also made by the hon. Leader of the Opposition.

Madam Speaker, the Government has failed in this Bill to indicate what incentives are attractive in the Bill in order to encourage persons to want to enter into a plea discussion and to conclude a plea agreement. It speaks strictly of procedure, but to no advantage to the accused.

So the current legislation is flawed, but you are perpetuating that flaw in the current Bill before us. In order for the Bill to function effectively, there is an urgent need for the Bill to introduce new custodial sentences which could only be

applicable to persons who enter into plea discussion and plea agreement. It is concluded that this was in the draft Bill. I am advised that it was in the draft Bill, and why is this current Bill totally silent on new custodial sentences? The new custodial sentences can be suspended sentences as it takes place in the Barbados, section 6 of the Penal Reform Act. Intermittent custody is also an option, as in the Criminal Justice Act of the UK. In Canada, it is section 732 of the Criminal Code.

Presently in the High Court there is the process known as the MSI, Maximum Sentence Indication. And that therefore, you have a situation where someone is charged for murder, they plead guilty to the lesser charge of manslaughter, they go before the court, the defence counsel writes the DPP, the DPP then authorizes that lesser count and then they go for sentencing before the judge.

3.30p.m.

In a case that took place very recently, the accused spent eight years in the prison. The maximum sentence was 16 years. When they discounted, it went to 10 and a half years, and then with the further eight years the person will serve two and half years, so the system is working. But in this case there will be no rejection by the judge, the situation is one in which the sentence will be carried out and there is no rejection by the judge.

And I want to know, why are we removing the penalties for improper inducements? In the old Act in the words of Israel Khan, in this Hobbesian society where life is mostly brutish and short, what are we going to do with an entrepreneurial prosecutor? He might want to cut corners and that therefore, there ought to be some penalty for the prohibition of inducements, [*Desk thumping*] there ought to be.

Madam Speaker, so the Bill only speaks of improper inducement, but says

nothing of the consequences in the event of improper inducement. The sanction can be in a broad sense such as a prosecutor defence attorney who engages in any form of improper inducement shall be charged and brought before the court.

Madam Speaker, so that you have a situation where you have a pragmatic approach to dealing with the backlog. The question that I have to ask and hopefully the Attorney General will answer is that: with the DPP playing such a central role, with the DPP indicating that he is bursting at the seams in terms of infrastructure and personnel, what would be done? Will there be a plea bargaining unit in the Office of DPP? And is the DPP going to have prosecutors at the Magistrates' Court level or is it going to be confined to High Court level alone? These are considerations that we must be aware of before—and that therefore they ought to incorporate that.

Madam Speaker, as I indicated earlier, we have to look at the cultural context. When you look at the newspaper of Sunday, 19 March, 2017:

"Sans Souci project halted: Criminals demanded $50,000 from contractor"

And the newspaper goes on to say how the extortion took place in the society. What was interesting for me, the report in that newspaper said—I am talking about the Minister of Works and Transport.

> "Sinanan said he had a discussion with a group of men two Sundays ago at the office of Toco/Sangre Grande MP Glenda Jennings-Smith.
>
> 'We told them what we would and would not tolerate. They claimed they did not threaten anyone and wanted jobs.'
>
> Asked why the police failed to protect the contractor, Sinanan said they intended to deal with the matter…"

So what you had was a situation there, the contractor had a contract for a million dollars, and what you had, he was being extorted $50,000 by elements who

said they had worked in the campaign and they had spent money in the campaign and then subsequently they met at the office of the Member of Parliament for Toco/Sangre Grande and they said they had not done so. But this is the reality of the social environment we are engaged in.

So that therefore, that brings me to the issue, Madam Speaker, of the social contract. So what you have in the society at this moment: Social contract is an implicit agreement among people that results in—the manner in which the society is organized and how it functions, and in return for that the individual surrenders certain liberties in return for the protection of the State.

In the newspaper of Sunday, April 17th, *Newsday*, authored be Peter O'Connor in "A State of collapse" what is happening in our country and I quote.

> Where are we headed right now? Who is in charge and if they can show rather than claim that they have control over anything. When might they step up and begin to lead us somewhere? On every front we are failing and we are offered no sense of leadership to reverse these failings. Certainly on no Government front do we see any initiatives which might promise stability, far less confidence for the immediate or medium-term future.

[*Interruption*]

Madam Speaker: Could the Member who has that device on, please leave the Chamber and put on silence when they return. Member, could you please remind me of the reference of that article?

Mr. G. Singh: Yeah. Thank you, Madam Speaker, it is the *Newsday* Sunday 9th April, 2017 author Peter O'Connor. The editorial of the *Guardian* of Monday, April 10, 2017:

"Where is the Leadership?

It is time for some hard talk: our country is in dire straits and if we ever

needed leadership, it is now.

There is an obvious dearth of leadership, what we have instead is capitulation at best and abdication at worst."

So there is a larger disease in the society. There is a larger disease and therefore, whilst we do our duty as parliamentarians and support this legislation in principle, subject to certain amendments, we are clear that the society is adrift and that we are now getting nowhere fast.

And, Madam Speaker, the fault lies at the feet of the Member for Diego Martin West. As Prime Minister of this country he has failed to articulate a vision, [*Desk thumping*] failed to put together plans in place so that the country will have certainty, hope and direction. And whilst we recognize that it is our duty to participate in the debate in this Parliament, we also recognize that the sociology of our society, the culture of our society it will be hard because of the mistrust, because of the lack of trust, the mistrust that this legislation will be hard-pressed to succeed given the nature of our society. I thank you, Madam Speaker. [*Desk thumping*]

The Parliamentary Secretary in the Ministry of National Security (Mrs. Glenda Jennings-Smith): Thank you, Madam Speaker, for allowing me the opportunity to stand this afternoon and contribute to this debate.

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

Madam Speaker, before I start my contribution I want to respond a bit to the contribution of the Member for Chaguanas West because I was a bit moved when I heard him speak about institutional failure. I was a bit moved when he spoke about, only when a matter reaches crisis something happens. I was moved when he spoke about these things, because, Madam Speaker, if my memory serves me right

this is a Government that just left. The hon. speaker for Chaguanas West, they were in office for the past five years. This Government has been in office for the past 18 months. Institutional failure does not happen overnight. A system does not fall overnight, and he should be ashamed to stand in this honourable House and speak about institutional failure.

So, Madam Speaker, I want to start my contribution by first going back to an article October 12, 2003 written Francis Joseph and it says:

"Depending on a criminal for a conviction", and it reads:

"ACCOMPLICE evidence is nothing new in Trinidad and Tobago. While the subject remains a burning issue in recent years, accomplice witnesses have been giving 'crucial evidence' for the prosecution."

And, Madam Speaker, we saw in the Abdul Malik case where two bodies were buried, gruesome killing of Gale Ann Benson and Belmont barber Joseph Skerritt. And we saw the witness used in that matter to secure a conviction. We saw of the role of Parmessar. Then we saw the Dole Chadee issue where the role played by Clint Huggins and later on, Levi Morris, to also secure conviction.

And, Madam Speaker, I want to refer to the Chief Justice in the *Guardian* of September 15, 2016, and he spoke of the "slow pace", I am quoting here, the "slow pace of judgment". Now that is 2016, September 15, the judgment, the pace of judgment or the process that guides judgment starts on September 2015, Madam Speaker, it started long before, and we had a Government in office five years before.

So what did they do during that five years, seeing that they knew the benefits of this kind of plea bargain arrangement? What did they do? They sat and they talked and talked and they continue to talk this afternoon. And that is why I would not be moved by the number of rhetorics I am hearing this evening here, [*Desk*

thumping] I am going to go to the main point. And our Attorney General after 18 months in office, and I will say less than six months after the Attorney General now, after six months after these comments made by the Chief Justice, the Attorney General has responded, not only with one, eh, but with a suite of legislation, a suite of legislation.

So, Madam Speaker, I want to go back to the US of A, where those on the opposite side have an inclination to speak about over and over during this debate on plea bargaining, and I want to define that plea bargaining as described by the Bureau of Justice Statistics, US Department of Justice, they have described:

> "Plea bargaining is a defining,…feature of the federal criminal justice system"—by—"(Brown and Bunnell, 2006:…"

And again, taken from research summary on that same report on plea bargaining an article from the Bureau of Justice, again, they said: A majority of 90 to 95 per cent of cases resulted in plea bargaining and those who go on trial rather than face a plea are more likely to receive harsher sentences.

Madam Speaker, I went again to the Trinidad and Tobago justice system web page and what I saw there, it described four main arms of the justice system: they spoke about the legislative arm, the investigative arm, the adjudicative arm and the corrective arm. And, Madam Speaker, the legislative arm is to make laws; the investigative arms investigate and detect crime and criminality; the adjudicative arm engages a system of trial; the corrective arm provides correction and rehabilitation. So plea bargaining could redound to assist all the arms of the justice system. Today, I will look at the cycle of crime and violence and what the plea bargaining can do to help reduce and prevent crime.

Madam Speaker, bearing in mind that the justice system seeks to preserve liberty, ensure security and equal justice for all. From the scenarios I quoted

before, this Bill provides a safeguard, remedies to deal effectively and to afford accused persons to engage in plea bargaining, both summary and indictable. And, Madam Speaker, when it is applied it could benefit all the security arms, all the arms of the justice system that I just spoke about. Because when dealing with crime and criminality, when dealing with investigative crime matters, investigating criminal matters, the police depend, or most times, the police depend on someone in the belly of an organization to give cogent evidence that can help to establish the truth of something that has happened.

And we saw it happening in the Malik case and we saw it happening in the Dole Chadee case; I made reference to that earlier on. So when we talk about co-offending, repeat offending, plea bargaining also opens up opportunities to solve more crimes. And how does this happen? How does it happen? In my experiences looking at crime and analyzing crime over my past profession, I can say clearly that in dealing with gang activities, dealing with gang activities we can look at gang as an industry. When we talk about gang activities we talk about syndicates, we talk about reprisal, we talk about enterprise model.

Madam Speaker, if we are talking about plea bargaining we are giving an opportunity to the police officers who have to work this Bill and make a difference to this country. We are giving police officers an opportunity to gather more information, where one man who is inextricably linked, he can give evidence, he can bring information to help solve other matters. And we talk about detection rate high.

Hon. Member: Low.

Mrs. G. Jennings-Smith: We talk about detection rate being too low. Thank you. So, what I am saying is that this Bill, when utilized properly, it can help in bringing about a higher detection rate.

And I will turn to fraud, no more than fraud. Madam Speaker, we saw quite recently with the FIFA investigations, the FIFA investigations where we had persons linked in those matters, where persons engaged in plea bargaining and where they were able to link other people. So, Madam Speaker, we have best practice, you know, we have best practice which is done in international countries, it was done in the US of A, and we saw persons entering into plea bargaining.

So again, I am saying, it provides for evidence and cogent evidence too, for convictions of other matters and with gang violence, reprisal killings which engage in co-offending. We have co-offending partners. So if you arrest one man for a matter, you arrest two persons, but one person can give you evidence to solve six crimes, and with plea bargaining it gives you that opportunity legitimately to engage in that kind of enquiries and bring about that kind of evidence.

So, I am saying, I am saying that with plea bargaining if we open up our eyes and look into the future and look in a visionary approach to what is happening today, it can serve this Government. You see, those on the other side they had a lot to say, a lot of hallucination, a lot of bluffing, right? But, Madam Speaker, what do they have to prove this afternoon? If after five years in Government, today we are now debating to have a plea bargaining Bill brought before Parliament, then it says a lot for the other side. Why was this not done before? It is so important. I would have liked if this Bill was done before when I was serving as a police officer [*Desk thumping*] because then it would have been very valuable to me. And when I sit here, I must stand with passion because I see all the loopholes being left as it was, and then we come and talk about institutional failure. So, who do we blame for institutional failure? This Government is dealing with these situations as I stand here.

And I must compliment the hon. Attorney General for having the foresight

to bring about these matters, and as you all said, bring about a suite of legislation so the police officers who are the workers of the system would have the tools to engage the profession, and they would have the tools to deal with these matters and bring the detection rate higher. And when the detection rate is higher, then we have less crime and then we have less fear of crime and the country is safer. And, Madam Speaker, these are the things that the people of Trinidad and Tobago are concerned about. Today, as I stand these are the burning issues. I would not stand here this afternoon and go into long rhetoric about who was the traitor or who was not the traitor. I am talking here this evening about the plea bargaining Bill. [*Desk thumping*]

I am looking here in answer to the many voices in Trinidad and Tobago: voices demanding justice; voices demanding quick justice; voices demanding higher detection rate; voices demanding reduced crime; and, Madam Speaker, I listened to the other voices too. I listened to the other voices who are joining in a regime that seemingly wants to challenge the hon. Attorney General. And in this Easter time I went to church this Sunday and I want to bring something: they are tackling the Attorney General like John the Baptist. Yes. In the same way that they asked—Herod asked to get the head of John the Baptist, that group of people in this country seemingly looking to target a John the Baptist who is our Attorney General, but I am telling you, I stand here in strong defence of our Attorney General, [*Desk thumping*] I stand in defence—but I want to say something. Now, John the Baptist's head was delivered to Herod, but I can tell you that our Attorney General's head will never be delivered to you and the offending parties out there. [*Desk thumping*] [*Crosstalk*]

And, Madam Speaker, you see, we sit and we talk and we complain and at the end of the day—[*Interruption*]—yes, I know I would have engaged some

interest in that particular line. But we must remember that the Attorney General is the guardian, the guardian of this country when we speak about crime and ensuring safety and security and rights of our citizens.

Madam Speaker, there comes a time when a leader must make decisions and it is not always popular decisions. The Prime Minister of Trinidad and Tobago, he has to stand and he has to make decisions for the benefit of the majority or all the people of Trinidad and Tobago, not some. He makes decisions for the greater good of all of this country.

So that when we stand and we make these decisions in Parliament, we expect those on the other side to have objections to certain issues. We expect the institutions themselves to have concerns, but I want to say this evening, if you look at the occurrences last week with the hon. Attorney General, you would have seen that he has already engaged, talked with the DPP. You would have seen that talks are ongoing. So nothing really comes easy, you know, and on this side as we stand, we know, we know that there will be issues and we are here as a caring Government, a Government that listens to its people and a Government that is intent in bringing a better quality of life to its people. We are going to listen and we are going to engage and we are going to have results. [*Desk thumping*]

But I want to bring this point about plea bargaining. What happens when we engage in plea bargaining? A plea bargain allows a guilty person to elect to engage the process of plea bargaining. We are in a country today where there is hatred, an attempt to get their own vengeance, where people settle the scores, and we must look at the last arm of the justice system which it speaks to restorative justice and reformative justice and reforming of individuals. When a person builds up anger within them and they are given an opportunity to enter plea bargaining and settle that matter, the quick timing of this activity leaves that person in a correct frame of

mind to be reformed. When we talk about reoffending and recidivism rates, we are talking about persons who have engaged in criminality and crime and come back to engage in reoffending.

Madam Speaker, it is important that this country, our arms of the justice system engage these persons and change their whole attitude, and plea bargaining sets up that frame or that framework to allow for individuals along that path to be reformed. When we speak about crime and reducing crime and increasing detection rate, it is a cycle, it is a whole cycle because even violence we have a cycle of violence.

And today, as I stand here in this honourable House I must speak to the issues of the cycle of crime and the cycle of violence and we have a whole arm, a justice arm, the arms of the justice system to deal with these situations. It is no one-fix-all. There is no one-fix-all for the situation we face in Trinidad and Tobago today. We are facing a situation where a suite of legislation is most relevant. A suite of legislation: which attends to the many needs of the various arms of the various institutions; which attends to the institution of the policing; which attends to the institution of the prisons department; which attends to the institution of the courts and the hearings at court; which attends to the community members who serve as jurors; which attends to the community member who would feel a sense of safety, because now we are looking at things in a whole-of-government approach, with multiplicity approaches. What better interaction, what better intervention today when we speak about plea bargaining and plea bargaining, not just one, but a suite, among a suite of legislation.

Madam Speaker, this Government today, I want to say, we are in serious times and this Government recognizes that we are in serious times. This morning the Prime Minister of this country engaged the nation to let them know where we

are. [*Interruption*] Yes, I come back to the plea bargaining Bill and I am saying that because we are in serious times we have a responsibility because as I speak, there are noted lawyers and other people out there in society speaking against the Bill. But I am saying that it is our responsibility to uphold the elements and the Bills that we bring before this honourable House; it is our responsibility to this nation to be truthful. We are a truthful Government, we tell it as it is.

And the opportunity—this Government, Madam Speaker, will not go the route of our predecessors. You have made mistakes and you have made many mistakes and you have had opportunities to bring forth these Bills before Parliament. You did not bring it. This Government in this Bill today before Parliament, I say, this Bill is relevant. This Bill will be useful, and this Bill will certainly add to ensure that our justice system will be improved. I thank you, Madam Speaker. [*Desk thumping*]

4.00 p.m.

Mr. Barry Padarath (*Princes Town*): Thank you, Madam Speaker. Let me first take the opportunity to thank you for the opportunity to contribute to the Bill before the House today. I am almost certain that the intentions of bringing this Bill to the Parliament was a noble one, it has been an issue that has been discussed in the public domain for much some time now. It was a Partnership Government that had raised this particular issue a few years while in Government, and it was certainly met with mixed reviews at that time.

Today, Madam Speaker, we are involved in the continuum of Government. We are here to try new measures that would assist in lifting the heavy burdens off the shoulders of our criminal justice system here in Trinidad and Tobago. I have

heard from several speakers on the Government side that the Opposition is saying that this Bill would not bring down the high rates of crime, and the Member for Toco/Sangre Grande spoke very passionately about that. She spoke very passionately about the intentions of this Bill assisting in the different arms of the State through the criminal justice system to bring down the high levels of crime, but, Madam Speaker, they are right. Members of the Government are right. They are right that this particular piece of legislation will not bring down high levels of crime, but as per usual they only tell half of the story.

We in the Opposition, Madam Speaker, what we are saying is that there must be a multipronged approach to dealing with the administration of justice, there must be a simultaneous approach to fighting crime while we clear the backlogs in the courts of our country. That is our point, Madam Speaker. We are not here to fight that this would not impact on the high crime rate—I believe that to the national population that is already a given—because this measure of plea bargaining is a post facto measure. What we are saying is tell us what are the legislative and operational measures that would deal with the issue of prevention and detection. [*Desk thumping*]

Madam Speaker, my intention today is to deal with a few issues with respect to plea bargaining in terms of strengthening of evidence, in terms of sealing its impact, process and variations across the international spectrum, in also looking at our commonwealth jurisdictions where we share a similar jurisprudence, but also looking at countries like the United States that have already advanced several areas with respect to plea bargaining

The Member for St. Augustine, as well as the Member for Oropouche East, touched the surface of the issue of evidence as it relates to plea bargaining. Again, my friend the Member for Toco/Sangre Grande, I wanted to offer some advice through you, Madam Speaker. You see, you cannot be part of the solution when you are part of the problem. [*Desk thumping*] Madam Speaker, I refer to an article, Sunday, 19 March, 2017, headlined "Sans Souci project halted: Criminals demanded $50,000 from contractor". Madam Speaker, in that article it said that those complaining indicated that:

> "…they campaigned with a politician in the 2015 general election and"—they—"were promised work."

Madam Speaker, we were later told in the same article that:

> The Minister of Works—"said he had a discussion with a group of men two Sundays ago at the office of"—who?—"Toco/Sangre Grande MP Glenda Jennings-Smith."

The article goes on to say:

> '"We told them what we would and would not tolerate. They claimed they did not threaten anyone and wanted jobs.'
>
> Asked why the police failed to protect the contractor. Sinanan said they intended to deal with that matter urgently."

Today I ask in this Parliament, how did they deal with that matter? I ask in the Parliament, how do you profess to want to be part of the solution when in effect you participated in negotiations with criminals? That is the point, Madam Speaker. [*Desk thumping*]

Mr. Al-Rawi: Madam Speaker, 48(1) and (6). I was waiting until he crossed the line.

Mrs. Persad-Bissessar SC: Which line?

Mr. Al-Rawi: Imputing improper motives.

Madam Speaker: Member! Member! In terms of that last statement, I am sure you could find another way to put it. I rule that it has offended the rule 48(6).

Mr. B. Padarath: Sure, Madam Speaker. I would move on from that point. In the *Newsday* article of Sunday, June 15, 2014 by Janelle De Souza, the headline read, "500 AWAITING TRIAL FOR MURDER".

In that article the Director of Public Prosecutions Roger Gaspard had this to say, and I quote:

> "…with the low detection rate and lack of strength of evidence, criminals have no real motivation to 'cop a plea'."

Madam Speaker, let me repeat that:

> "…with the low detection rate and lack of strength of evidence, criminals have no real motivation to 'cop a plea'."

Madam Speaker, what has changed between then to now? What has changed is that the detection rate for criminal liability has and continues to drop and therefore today if we are looking to implement plea bargaining as a mechanism to deal effectively with the administration of justice, how then do we reconcile that on the same hand, the evidence that we are dependent on to make these pleas stick and be successful in a challenging criminal justice system is non-existent because of poor detection rates. Madam Speaker, in the same article the hon. Chief Justice

had this to say:

> "We as lawyers, whether the advocates or the judge, then have to try to explain all the concepts that we think we understand to a jury who we are never quite certain ever understands it."

The article goes on to say that:

> "Archie expressed concern that with a jury there was a chance that the trial would be swayed by a more skilled negotiator instead of by a forensic exercise assessing information to arrive at a verdict"—or a plea within—"the law."

Madam Speaker, both the hon. Chief Justice and the Director of Public Prosecutions stated that while the statistics looked good and sounded good, the reasons persons charged with criminal offences were inclined to plead guilty was that it was so effective in the United States, but the problem was it had an issue with respect to Trinidad and Tobago in our evidence gathering and the evidence that is presented to support these pleas. This is one of the main concerns we in the Opposition have with respect to plea bargaining—the strength of evidence. Where we live in a country—and, Madam Speaker, you will remember, like many others in this Chamber, where we saw a screaming headline of rats eating cocaine; we have seen screaming headlines of millions of dollars going missing from evidence.

Madam Speaker, with the low detection rate in Trinidad and Tobago it makes it almost impossible to believe that the idea of plea bargaining can work effectively if we do not increase and improve the detection rates. Madam Speaker, much has been said inside and outside of this Parliament about increasing our

capacity and fixing and addressing the issue of crime through implementing measures that would yield higher rates of detection.

Madam Speaker, do you know that during the period 2001 up to 2014 the United Kingdom, who we share similar jurisprudence with, faced some of the same problems that we experience right here in Trinidad and Tobago in terms of detection. They too had one of the lowest detection rates in the world, the United Kingdom. While their populations are much more advanced than us, and their criminal justice system is much more advanced than us in term of the technology and in terms of the experience of the law, they face the same problems with respect to detection. And the Leader of the Opposition, in a previous contribution, she spoke about how they tried to grapple with this issue of detection, and I would like to share through the criminal justice reports of 2007, 2009 and 2014, and up to January of 2017, where they were able to come up with measurable devices through their law and through their system to assist them in creating better rates of detection.

Madam Speaker, today if we are dealing with criminal procedure and plea bargaining, we must address the issues that would affect the success or the failure of these measures. Let me for a few minutes discuss some of the areas that the UK focused on, increasing their capacity in raising the detection rates: The crime in England and Wales 2009/2010 findings from the British crime survey and record, and can be found at the Home Office website for the United Kingdom Government just a few weeks ago, as I said, they would have produced their last report with respect to detection rate. Madam Speaker, the Leader of the Opposition, as I said,

had spoken about some of these reports, and this is what those reports had to say:

To have an effective plea bargaining arrangement we must look at the problems that we face with respect to detection. The police detection rate——

——and I am quoting now from the reports of the criminal justice system of the United Kingdom 2017, January 23rd. Madam Speaker, it says that:

The police detection rate for all recorded crimes had fallen to an all-time low of only 24 per cent according to the home office figures published in 2001. While the annual police recorded crime figures show that the clear-up rate for burglary has fallen to the lowest level of only 12 per cent, the statistics also show a worrying four point decline in detection rates for violent offences in the past year, which would have been in 2016.

The overall crime figures show that the volume of recorded offences fell by 2.5 in the year of March 2001 to 5.2 offences, with the sharpest falls taking place in the burglary and car crime figures as well as serious crimes that deal with criminal offences. These gains, however, were offset by a rise in violent crime for the third year in a row, but the rate of increase at 4.3, in slowing down, one can compare to the alarming 16 per cent rise in the year 1999.

The Home Office said the fall in police detection rates from 34 per cent in 1989 to only 24 per cent in the last financial year was partly explained by the exclusion from the statistics of secondary clear-ups such as criminals admitting to other offences during prison visits by the police. Officials admitted there that it did appear to be an underlying decline in the

clear- up rate particularly of violent crime where it had fallen from 59 per cent to 55 per cent in the last year alone.

Madam Speaker, the report went on to identify very clearly what were the successful measures that they implemented to deal with detection rates in terms of the increase in detection rates. And I believe that if we look at some of these measures ourselves right here in Trinidad and Tobago that we would be able to see how some of this can work in tandem with the plea bargaining arrangement.

Madam Speaker, the note that dealt with the particular measures indicated that they provided an update on a comprehensive four-year programme of work initiated in 2016 which aims to improve the design, coverage and presentation of crime statistics for England and Wales. The work has already expanded the coverage of the Crime Survey for England and Wales to include crime types not previously incorporated, including new questions on fraud and cybercrime which were introduced into the CSEW in October 2015. The development of a module of questions on adult respondent recollection of abuse as a child, results of which were published in August 2016. Ongoing work discussed in this note includes development to the crime survey to further expand its coverage and improve its estimates.

You know, Madam Speaker, I heard my colleague the Member for Toco/Sangre Grande say that the Opposition only wants to talk and talk and talk, and that the time for talk is over. Clearly it seems to me that this Government has a problem with something called, you know what, multitasking. So, what we are saying is that while you deal with the specific measure, it must be a multipronged

approach. It cannot be that you are only bringing this one particular measure and you are not looking at detection, you are not looking at other ways in which we can actually apprehend criminals. And again, this measure purely deals with the thereafter, and that is why I was very hopeful that my friend the Member for Toco/Sangre Grande and others would have indicated to the national population, using this opportunity to indicate to us, separate and apart from plea bargaining, what were also some of the other measures that you were putting in place.

You know, as I sat here I just found that another one of my constituents have been killed, and I said how would plea bargaining have helped to save the life of that particular person? [*Desk thumping*] And those are the burning questions, and when you speak about burning questions in the society, the burning questions in the society are: How do we keep our population safe; how do we apprehend these murderers; how do we stop and prevent it from happening? And those are the questions, and those are the questions you on that side will have to answer, and no amount of gimmickry, no amount of the Prime Minister appearing on these programmes would change these burning questions being asked by persons in our society.

Madam Speaker, you know, again, I find it suspiciously—I find it very, very strange that only this morning—today we are dealing with a measure of plea bargaining in our nation's Parliament, but I find it very strange that up to this morning the Prime Minister again is passing the buck on the police. When asked, how do you intend on dealing with serious crime in Trinidad and Tobago, again, like Pontius Pilate, washed his hands, he spoke about John the Baptist; well, we

have Pontius Pilate through our Member for Diego Martin West, who washes his hands of the problems that face the criminal justice system in our country, especially with respect to detection and prevention of crime, and passes the buck yet again. When they do not pass the buck to the Opposition, who else they pass the buck to? The police service.

Madam Speaker, again, today this measure is dealing with the thereafter, we also want to hear about what they intend on doing in terms of arresting the situation in Trinidad and Tobago. Again, with going through some of the measures that the Home Office looked at through those CSEW reports. They looked at domestic violence issues, and the Prime Minister told us, he said I cannot choose for you, I cannot interfere in your bedroom matters. The CSEW report deals specifically with some of these domestic abuse statistics and how it can work in tandem, again, in terms of plea bargaining arrangements where it would have serious implications on other offences.

Madam Speaker, they spoke about the treatment of high-frequency repeat victimization in estimates derived from the CSEW. The Crime Survey for England and Wales was designed as a victimization survey to measure the number of victims in crime in the population. And, Madam Speaker, in some ways this Bill attempts to address some of that by giving a voice to the victim. Again, if we look at some of the measures that they implemented, if we insert some of this into our domestic legislation then we can further strengthen it.

And I know that the Leader of the Opposition, through other Members as well, has indicated that we will be putting forward amendments, and these are

some of the amendments that we will be putting forward as well. And I said, if we look at the Crime Survey for England and Wales up to 2016/2017 it also deals with some of those issues with respect to bringing down serious crime. For example, when they spoke they said it is unlikely victims will not be able to remember the number of times that they were victims of criminal offences. They spoke about issues such as robberies, house break-ins, they spoke about rapes, they spoke about manslaughter, they spoke about murders as well.

Madam Speaker, however, for certain crime types such as violence in a domestic setting they said that the victim may suffer repeat victimization with a frequency that is difficult to quantify over a 12-month period. And again, we must strengthen our institutions, and the Member for Toco/Sangre Grande spoke about strengthening institutions, and that is why when the Member for Caroni Central was there as a Minister of Planning and Sustainable Development, we did look at strengthening our institutions, we did look at creating new avenues that would help us to put together proper data collection in our country. And again, up to now, 18 months has passed, and they have not brought this to fruition, and the Member for Toco/Sangre Grande has the gall to stand up here and speak today about strengthening of institutions.

Madam Speaker, they do not have the political will to deal with crime and criminality in this country. [*Desk thumping*] Madam Speaker, as part of the programme of work to improve crime statistics for England and Wales— [*Crosstalk*]

Madam Speaker: Order! Order!

Mr. B. Padarath: They said that they will be reviewing a full range of statistical outputs; this will include an extensive review of the data tables published with each release focusing on improving the accessibility of the data.

As part of this review they said that they would be seeking views on whether there is a continuing need for all of the data that they publish and whether there are new needs for data which are not being currently produced. Again, sometimes a lot of offences go undocumented in Trinidad, they go unreported, and those are some of the areas that we need to look into as well in terms of strengthening through this plea bargaining arrangement. They said that there is ongoing work, and as a first step in response to feedback from users, that they have reduced the length of quarterly statistical bulletins on crime and change to format in order to make the main messages more accessible.

Madam Speaker, on January 23, 2011 in the *Newsday*—and I am hoping that the hon. Attorney General, I see he has just joined us again. And hon. AG, through you, Madam Speaker, I mean this with no malice and no prejudice, but simply to see whether these organs are indeed operating at this time to assist you and the judicial system in its work. But in 2011 then Attorney General Anand Ramlogan when piloting the Indictable Offences Bill and the preliminary enquiry Bill of 2011, which contained again the controversial section 34 clause, which was later repealed by special legislation, the Attorney General at that time said that the Bill would provide for exhibits to be kept by a designated agency other than the police station where exhibits are normally kept. Again, hon. Attorney General in your wrapping- up I am hoping if you could just give us an idea whether or not these

organs of state, as the Member for Toco/Sangre Grande keeps speaking about the arms and the organs, and so on, whether or not these organs or arms are still available? If it is still functioning and what is the status in terms of these exhibits being kept in a designated agency?

Madam Speaker, the article went on to say that he, meaning the then Attorney General, said that:

> "…there have been instances in the past where rats 'ate' cocaine, or where the weight at seizure was at variance with the weight of drugs at the trial.
>
> The AG said there were also cases where hard drugs seized 'evaporated' by the time of the trial.
>
> He said a magistrate would be empowered to say that money should be held by the Central Bank or drug exhibits held at the Forensic Science Centre."

And again, we know the problems that exist at the Forensic Science Centre, and again hon. Attorney General in your wrapping-up if you can tell us what is the state of play in terms of these exhibits being housed there or what other arrangements have been put since then to now? Madam Speaker, he spoke about:

> "…the move to abolish preliminary enquiries"—meaning then the then Attorney General, and he said—"the Preliminary Enquiry Act had been in operation in this country since 1917.
>
> 'Its abolition is therefore historic,' he said.
>
> Ramlogan said under the new system the witness statements tendered by the prosecution would replace the evidence-in-chief. The magistrate would form a conclusion based on the witness statements."

Again, Madam Speaker, we see provisions for these witness statements in the legislation, we hear about victim reports and so on, and therefore this is really a continuum in terms of governance, in terms of how we can further strengthen what we already had put in place through the Partnership Government; now, a new administration in place, and in terms of how they can seek to strengthen other pieces of legislation that would assist in our criminal justice system. But again, going back to the original point, it cannot only be that we are being myopic and looking along one particular line of dealing with strengthening the evidence that will assist in term of the backlog of cases and so on.

Madam Speaker, I want to deal with the issue of clause 34 in the Bill that deals with the sealing of the criminal records of persons who cop a plea. While several commonwealth jurisdictions with whom we share our jurisprudence have taken an arm's-length approach to plea bargaining as indicated in the last year, I believe, by the Member for Port of Spain North/St. Ann's West, and he went through some various countries, whether it is commonwealth countries where we share our jurisprudence, or whether it was in the United States.

But, Madam Speaker, there are provisions in a few of the jurisdictions in the commonwealth that guard against abuse of sealing records of criminals who cop a plea. There is no way that the Opposition will agree to give a blank slate, a blank cheque, hiding away the truth of hard-core criminals. While we understand the concept of "no free lunch", especially in plea bargaining, there must be a process, and let us look at some of the jurisdictions that have established a process for the sealing of criminal records of persons who cop a plea.

In the following countries, there are no in camera proceedings or sealing of plea agreements that was found in terms of the laws of the countries listed, and they are—and again right close to us here—Bahamas and Guyana. Across on the African continent we have Nigeria. However, some of them, there are some forms of sealing with those proceedings being held in camera. In India, the accused is examined in camera by the judge to determine whether the accused voluntarily applied for plea bargaining, otherwise no provision was found limiting access to the plea agreement or court hearings. In Zambia, a plea agreement can be presented to the judge in open court or for good cause in a judge's chambers. Additionally, the court can seal plea negotiations and agreements upon application when it is in the interest of the effective administration of justice.

Madam Speaker, Jamaica, our own Caricom neighbour, in section 18 of the plea agreement law permits the judge upon application or in his discretion to seal the plea agreements or negotiations. Section 18 in their legislation says:

> "The Judge or Resident Magistrate may upon application or in his discretion, as the case may be, order that the records of plea negotiations or a plea agreement be sealed, where the Judge or Resident Magistrate is satisfied that the sealing of such records is in the interest of the effective administration of justice."

And again, Madam Speaker, we see through the Jamaican legislation where it gives the judge the prerogative to determine whether or not it is effective in terms of the administration of justice and looking after the interest of the parties involved. Additionally, in Jamaica there is also an offence for breaching the

sealing order. And, again, if the hon. Attorney General would go along this particular pathway to indicate to us what are some of these measures in terms of dealing with the breach of the sealing order, we would be most grateful, hon. Attorney General; I believe that those are provisions that must be clarified and must be made. Madam Speaker, in section 19 of the Jamaican legislation it says:

> "Every person having an official duty or being employed in the administration of this Act shall regard and deal with as secret and confidential, all information relating to a plea agreement before it is presented to the Court or consequent upon the records thereof being sealed by the Court."
>
> In item 19(2) of the legislation, Jamaican legislation again, I quote:
>
> "Every person referred to subsection (1) having possession of or control over any documents, information or records, who at any time communicates or attempts to communicate anything contained in such documents or records or any such information to any person otherwise than in accordance with this Act or pursuant to a court order, shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment of a term not exceeding twelve months or to both such fine and imprisonment."
>
> Item 19(3) says:
>
> "Any person to whom information is communicated in accordance with this Act shall regard and deal with such information as secret and confidential."
>
> Item 19(4):

"A person referred to in subsection (3) who at any time communicates or attempts to communicate with any information referred to in that subsection to any person otherwise than for the purposes of this Act, shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such an imprisonment."

Madam Speaker, just a few days ago we saw in Jamaica where the Minister of Justice, Delroy Chuck, he is urging for the greater use of extended plea bargaining legislation, and an article appeared in the *Jamaican Observer*, Wednesday, April 5, 2017, and it says:

Minister of Justice, Delroy Chuck wants people arrested for misdemeanours to allow their cases to go through the new Plea Negotiations and Agreement Act, 2017 in order to help speed up the resolution of criminal cases. Those persons who are on the borderline innocent or guilty, their cases can be moved up the conveyer belt and decided earlier so that justice can be done in a timely manner.

Madam Speaker, what I found quite interesting in that article is that the hon. Minister of Justice of Jamaica indicated that the 2017 Bill seeks to, one, widen the definition of prosecutor to include people who are granted fiats to prosecute cases and persons who initiate private prosecutions. But it goes on to say:

To provide for post-sentence plea negotiation.

Again, Madam Speaker, to provide for post-sentence plea negotiations. It also says:

To confirm the power of the plea judge to reduce penalties for assistance provided to the Crown or to impose lesser sentences than would have otherwise been imposed.

It also, in the Jamaican Bill of 2017, empowers the judge to order that records of negotiations or an agreement be sealed where the judge is satisfied that the sealing of the records is in the interest of the effective administration of justice.

Madam Speaker: Hon. Member, your original 30 minutes have expired, you are entitled to 15 minutes. I would like to suggest that now is a convenient time for us to take the suspension. We shall resume at five o'clock.

4.29 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker: Yes, as we resume after tea, the Member for Princes Town, you concluded your 30 minutes and you care to avail yourself of the additional 15? Kindly proceed as the debate continues. [*Desk thumping*]

Mr. B. Padarath: Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, just before we took the tea break I was dealing with the issue of sealing with respect to plea bargaining and the sealing of those negotiations and some of the jurisdictions both in the Commonwealth and outside of the Commonwealth and how they have attempted to deal with the whole issue of sealing.

Mr. Deputy Speaker, in the United States, having spoken about Jamaica, Bahamas, Nigeria, Zambia and India, I want to turn also to the United States, and in the United States they have had much experience in terms of using the plea bargaining approach. And, Mr. Deputy Speaker, I want to read for you, the "Reporters Committee for Freedom of the Press", an article that was written by Brian Westley after a committee was arranged, both attorneys and judges in several

parts of the United States to determine what were their perspectives with respect to sealing of plea negotiations.

Mr. Deputy Speaker, in that article written by Mr. Brian Westley, it said:

"Although the U.S. Justice Department no longer wants the public to have online access to criminal plea agreements, most federal courts have refused to categorically exclude the posting of such information.

Instead, a majority of U.S. District courts have taken a case-by-case approach to restricting access with a presumption that such records remain open, according to a review of the nation's district courts conducted by The Reporters Committee for Freedom of the Press."

Mr. Deputy Speaker, the article goes on to say that:

"This approach has been welcomed by media organizations"—also by several judges in the United States and also several organizations that represents attorneys in the United States.

It indicated that they were:

"…worried that blanket restrictions on plea information would make it difficult for reporters to monitor how criminal proceedings"—were—"resolved."

The article says:

"It would greatly hamper"—their—"ability, said Ken Ward Jr., a *Charleston Gazette* reporter who recently convinced the U.S. District Court for the Northern District of West Virginia to relax its policy of withholding all plea agreements from the public—both online and at the courthouse.

The Justice Department became alarmed about the public's ability to access plea agreements on the Internet after information about defendants who agreed to cooperate with authorities began appearing on websites

like…(whosarat.com). That prompted the agency in 2006 to urge the federal courts to eliminate the public's access to plea agreements on PACER, the courts' online docketing site.

We are witnessing the rise of a new cottage industry engaged in republishing court filings about cooperators on Web sites…for the clear purpose of witness intimidation, retaliation and harassment, a memo from the agency said."

And I know on the last occasion, the Member for Port of Spain North/St. Ann's West, he dealt with some of these issues with respect to, again, some of the Commonwealth jurisdictions that have no formal regulations when it comes to the plea bargaining arrangements, but also he spoke about the United States. And, again, I know he is the Minister in the Office of the Prime Minister in the absence of the Attorney General who has indicated that he is very much interested in this particular research with regard to Jamaica.

But I would also ask the Member for Port of Spain North/St. Ann's West to also look at this in terms of the arguments that were put forward by three limbs. The judges of the United States—we had about 12 of them, and I can pass the information on to you. We also had several organizations that represent attorneys similar to the Law Association here in Trinidad and Tobago, and we also had the media and the Media Practitioners Association of the United States where they spoke about the access to plea agreement on PACER—the court's online docketing site in the United States.

Mr. Deputy Speaker:

"The Justice Department"—in the United States—"wanted the courts to come up with a uniform, nationwide policy for PACER access. In response…"

And again, when the hon. Member for Port of Spain North/St, Ann's West spoke, he spoke about regulations and regulating whatever information is provided and therefore as I said, we in the Opposition are not of the view that we should just be giving a blank cheque to persons who have committed criminal acts and criminal offences, but rather put the safeguards in place where plea negotiations do not necessarily have to be sealed in cases where it can assist in the apprehension of other criminals and also for repeat offenders.

Mr. Deputy Speaker:

"Rather than adopting a mandatory policy, in 2008 the U.S. Judicial Conference, the federal court entity that implements practices and procedures for all federal courts, asked the federal courts to consider a half-dozen approaches aimed at striking a balance between protecting information about those who cooperate with law enforcement and the need to maintain legitimate public access to court files.

Two-and-a-half years later, The Reporters Committee"—in that article said, that they had—"found that a majority of the 94 federal judicial districts restrict Internet access to the plea agreements on a case-by-case basis."

Again, through the hon. Attorney General and the Minister in the Office of the Attorney General, I am hoping that a similar approach can be looked at in terms of the sealing of plea negotiations and plea arrangements.

Mr. Deputy Speaker:

"This means that plea agreements that reveal cooperation by the defendant are presumptively open to the public. However, in instances where revealing such cooperation could lead to a substantial probability of harm, defense attorneys can move to seal the information.

About a dozen other courts have decided to file all plea agreements publicly,

without any references to cooperation. In those courts, a supplementary document, which is sealed, contains information about the defendant's cooperation or a statement that no such agreement exists."

Mr. Deputy Speaker:

A—"Media lawyer Jeffrey Hunt, who successfully urged the U.S. District Court for the District of Utah to adopt a case-by-case approach to sealing plea agreements, said he believes the Justice Department overreacted to concerns about witness intimidation.

'Courts were afraid that whosarat.com would put all this information out there and there would be all kinds of negative consequences, and that just hasn't been borne out,' Hunt said. 'Once courts dug into the issue and gave it a thoughtful examination, they realized the fear had been greatly exaggerated.'

Indeed, the Middle District of Georgia decided over the summer"—the summer gone—"to soften its policy of automatically sealing plea agreements."

So, Mr. Deputy Speaker, you are seeing the pattern that is emerging, that there are different types of arrangements that has been put in place, whether it is through the different states in the United States of America or whether it is through the Commonwealth or other countries outside of those ambits, that they have different arrangements and that is why we must be very clear today when we leave here what are the arrangements that we make specifically with regard to sealing of plea negotiations and we have many examples. Again, the Leader of the Opposition will advance those amendments when we reach the committee stage and therefore these are also some of the areas that I am hoping that through the research, the Member for Port of Spain North/St. Ann's West and the Member for

San Fernando West would take into consideration as well.

Mr. Deputy Speaker:

"Gregory Leonard, the court clerk for the Middle District of Georgia, said that decision squares with the trend toward greater openness that he has seen over the 26 years…"—and he was in support of this particular openness in terms of plea negotiations.

He said:

"'Back in the old days when I was clerk . . . lawyers would ask the court to seal a lot of things just because they prefer them not to be public.' Today, judges are less willing to grant such requests"—thank God—"unless there is a strong justification, he said."

Again, when you look at the Jamaican legislation, you have seen that they have put the safeguards in their legislation to address this exact point that Mr. Gregory Leonard, the court clerk who has served for 26 years, dealing with several plea agreements that would have been made in the Middle District of Georgia.

Mr. Deputy Speaker, the same articles says:

"At least three courts have adopted the Justice Department's request that all plea agreements be removed from PACER: the Northern District of California, the Eastern District of North Carolina and the Southern District of Ohio."

It is my hope and my sincere hope—and I heard the Member for Moruga/Tableland say that we will be judged many years from now in terms of what we say, and I am hoping that Members will use the opportunity to do a little bit more research in terms of their contributions, because when I heard the Member for Toco/Sangre Grande—[*Interruption*]

Mr. Young: I just want to address the same point.

Mr. B. Padarath: Sure.

Mr. Young: Thank you very much, Member for Princes Town. You have been sending a lot of time on the sealing and I agree with you that documents should really be made public. So I took a quick look at the Bill that is before us and when you look at clause 34, it is really only on the application by someone. So it is an automatic sealer. I just want to make sure you are clear on that. It is not an automatic sealing of documents, it has to be an application. It will be an application of discretion by the court as to whether they would agree to it or not.

Mr. B. Padarath: Thank you, Member for Port of Spain North/St. Ann's West. Yes, I have taken note of that. I also did take note of when you spoke in your contribution, you spoke about the regulations in terms of other jurisdictions and while we share similar jurisprudence with some of the Commonwealth countries, I know that, in one or two of the countries, they have a similar approach.

It is very informal as you said, but again we make law not for today but for many generations to come, Mr. Deputy Speaker, and I think it is in the best interest that while this Bill is before the Parliament that we address and we ventilate some of those matters. I want to go back to the point, therefore, when Members come and we speak here and I heard the Member for Toco/Sangre Grande speak. Again, I am almost certain that they have the noblest of intentions but we must really speak from an informed perspective in terms of the research that we do, that we do not only come here to agree with what the Government proposes or we do not only come here to disagree, but we also advance solutions. I think as a responsible Opposition we continue to do that and today this is our demonstration to Trinidad and Tobago that we are part of advancing the solutions that will affect our criminal justice system but also to advance solutions that will also affect the detection rates in Trinidad and Tobago and also some preventative measures.

Mr. Deputy Speaker, as I wrap up I just also want to turn to, how Colorado and I thought out of all the States in the United States, Colorado had the most interesting way in which they approach the dealing of sealing of records with respect to plea bargaining negotiations.

Mr. Deputy Speaker:

"A person can petition to seal records from a criminal case in which all charges were completely dismissed and can do so immediately. A person can also immediately petition to seal in any criminal case in which they were completely acquitted at trial (found not guilty of all charges). However, in any case in which they entered into a diversion or deferred judgment, petitioner would have to wait the required time period. Lastly, in any uncharged cases, the petitioner would have to wait until the longest possible statute of limitations completely expired (run out for the uncharged offenses).

The general rule is that a person cannot seal the record of a completed deferred judgment and sentence that was deferred as a part of a plea bargain in another case. However, a person may still petition to seal records if they are records of official actions involving a case that was dismissed pursuant to a plea agreement in another case, if

1. 10 years have passed since final disposition of all criminal proceedings against the petitioner, AND
2. The petitioner has not been charged for a criminal offense in the 10 years since the date of final disposition of all criminal proceedings. The petitioner filing to seal the records is also responsible for obtaining and paying for a verified copy of their criminal history."

Mr. Deputy Speaker—[*Interruption*]

Mr. Deputy Speaker: You have two more minutes.

Mr. B. Padarath: Thank you. Mr. Deputy Speaker, in wrapping up I really, again, would like to thank the House for the opportunity to have contributed. This is not a particular area of expertise for me, but I found a lot of joy in terms of doing the requisite research in order to advance solutions and advance ideas that occur in other countries.

Mr. Deputy Speaker, through you, I would like to also ask that the Member for Point Fortin, you know there was a particular case in plea bargaining in the United States that dealt with a six-year-old child who was sexually abused. His name is Clayton Morris, his father, copped a plea. And his father copped a plea and the judge lamented that because of that plea he could not impose a harsher sentence, because it was after the fact. Unfortunately, it was a very old case, hon. Attorney General, the case of Clayton Morris, but in this House I have raised time and time again and I am hoping that the Member for Point Fortin in light of this plea bargaining and the case I just raised where suitable punishment was not imposed, that the Member for Point Fortin can once again tell the Parliament what is the complement of officers in the Child Protection Unit.

I have been asking for this for the past month. You have promised it several weeks ago and it has not been forthcoming. You have made that promise to the House, I will get the *Hansard*, it has not been forthcoming, but if you are serious about helping every man, woman and child in this country you will not only harp on plea bargaining but ensure that all the Arms of the State are working to protect the interest of not only criminals which you are doing today, but to protect the interest of the people of Trinidad and Tobago. Thank you.

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, I rise today to join the

debate:

> "An Act to establish a system of plea discussions and plea agreements and for matters incidental thereto"

Mr. Deputy Speaker, let me first of all compliment the hon. Attorney General for the many legislation that he has brought to this House. There is no other Attorney General within recent time who has brought such a packed legislative agenda to this House, so to speak. [*Desk thumping*] In particular, as the Minister of National Security, I also want to compliment him because to my mind, and I am certain that I am true in this regard, a legislative agenda that he has brought would in fact help us tremendously in the fight against crime in Trinidad and Tobago. We continue to demonstrate the whole-of-government approach.

Mr. Deputy Speaker, before I go into the crux of my contribution I want to just look at, and I also want to assure the Member for Princes Town that the information that he requested will be provided in due course. So it will be presented to you. And I am glad to see that you are, in fact, utilizing some of my very phrases in your contribution. You used some, question of the multi-pronged approach, the question of the legislative agenda [*Desk thumping*] and the operation agenda, the two areas that we spoke about, I am glad to see that.

Mr. Padarath: Yeah, but all talk and no action.

Hon. Maj. Gen. E. Dillon: But you have seen it, you have seen the legislative agenda and you have seen the operational, the two thrust that we spoke about. So I am glad to see that you have taken on board and your suggestions again were well contributed, I must tell you that. You have made some solutions which I myself found very meaningful.

Mrs. Robinson-Regis: Next time he will say, whole-of-government approach.

Hon. Maj. Gen. E. Dillon: That is right, I think he is heading to that. And the

Member for Chaguanas West touched on the whole question of Mr. Paine and his—I am not going to go to that, but I want to touch on something that is connected to that and the Member for Oropouche East touched on it in terms of the whole question of patriotism and a number of the Members on the other side continue to say that they are patriotic and so on. But you see the thing is that Margaret Thatcher, former Prime Minister of England, once said, if a lady has to say repeatedly that she is a lady, then she is not, because you should see her by her actions. So if you are saying to yourself that you are patriotic then one may want to consider—you see, it is really and truly—[*Desk thumping*]

Dr. Khan: "If a lady says she loves her husband, she doesn't, ent?" [*Laughter*]

Hon. Maj. Gen. E. Dillon: It is truly by your actions, you know, it is by your actions that you demonstrate patriotism. It is not by saying that you are patriotic. So it should be seen by your actions and by your commitment and therefore I would hope that by you saying that it will redound into manifesting by the way of your actions in terms of, to a large extent, supporting the kind of legislative agenda that we are bringing to this House because it is the national interest of the people of Trinidad and Tobago and therefore that, to my mind, would determine your true patriotic spirit.

Mr. Deputy Speaker, the Member for Chaguanas West touched on the whole question of the continuum of Government and this—we are a responsible Government, and therefore we will continue. While, again, the Bill that we are dealing with started under the last administration, as a responsible Government we intend to take it a stage further and that is why we are here today, to take that a stage further because we believe, and we sincerely believe, that it is in the interest of the people of Trinidad and Tobago to adjust, to amend and to improve on the criminal justice system.

You see, Mr. Deputy Speaker, the criminal justice system that we inherited has its antecedence in British history and British culture and so the whole system continues to evolve and continues to change and we cannot be standing still while the society continues to change, while the criminal justice system continues to change. We know for a fact that the system as it is right now is hamstrung with delays in the entire system. And to my mind, Mr. Deputy Speaker, these delays do, in fact, have an effect on crime in Trinidad and Tobago. It does have an effect on crime in Trinidad and Tobago. And I believe that every Member of this House will understand that, delays in the court system does have a fact—there is a nexus between the delays and crime in Trinidad and Tobago. And while there is no doubt that initiatives have been done in the past, in terms of trying to adjust, to amend the criminal justice system, it is an attempt, but it is not sufficient. We have to continue to look at ways to amend, to improve the criminal justice system and the Bill before us is only one such measure, Mr. Deputy Speaker. To operate effectively or efficiently, a criminal system must not allow itself to be locked into the procedures of the past, it must be able to adjust as society evolves, because the criminal justice system cannot be static in an environment that continues to be dynamic.

So when we look at, for instance, if we look at for instance, Mr. Deputy Speaker, there was a case in Point a while ago where a person appeared before the Magistrates' Court with respect to arms and ammunition and they were fined $15,000. Now if we understand that arms and ammunition are a part of the weapon of choice right now in our society, then there must be some way that we could amend the criminal justice system to treat with persons who appear before the courts on guns and ammunition. I am telling you that to show that there must be a change in our system to suit the kind of society that we are evolving to. And the

Member for Chaguanas West mentioned that we live in a state of nature, life is short, nasty and brutish. That was a Hobbesian principle. But Hobbes also said that because life is short, nasty and brutish then we had to have the Leviathan.

So that we surrender some of our rights to the Leviathan which in our present day is really the State. And therefore there must be that body that must take charge. We have to surrender some part of our rights if we have to succeed as a society and part of this Bill, Mr. Deputy Speaker, is in fact we have to be able to surrender some aspect of our rights if this must work, as we have to in all jurisdictions in all aspects of our lives. So the Leviathan in Hobbes is really the State and we have to be able to really surrender some of those rights for the State to take control and this Bill we may have to submit some of our rights, but at the end of the day, society will benefit.

Mr. Deputy Speaker, the hon. Attorney General, in his submission drew reference to law and culture and the influence of one on the other. Culture in its simplest form really is how you do what you do and therefore if we are to make significant changes in the criminal justice system we must change how we do, what we are doing in the system. We must be able to change how we do what we do in the system. And again I draw reference to the Bill before us. It is going to change the way in which we do business. It is going to change our very culture and this is one example in which law is going to affect the culture in how we do business. Because we cannot continue in the way in which we are doing it otherwise we will be saddled with again delays, we will be saddled with overcrowded remand facilities and so on.

But more importantly, Mr. Deputy Speaker, we must first acknowledge the problem. What is the problem that we are trying to fix? What are the problems that we are trying to address with this Bill? One of the main problems is the over

crowdedness of our prison right now, in particular, our remand system. And the proposal mentioned in the Bill are in fact practical, they are necessary and appropriate. They are practical because when you look at the measures being proclaimed, the measures being put forward here they are very simple. They are in fact very simple measures that need to be put in place. They are practical because they are very easy to implement. They are necessary because they are relevant to today's society, to today's criminal environment. They are very necessary, Mr. Deputy Speaker. So the Bill that is put before us is in fact practical, appropriate and necessary if we want to improve our remittance so far as crime and criminality in Trinidad and Tobago.

The true purpose of the Bill, Mr. Deputy Speaker, is in fact:

> "…to enable a Prosecutor and an accused person, which includes a person suspected of committing a criminal offence and a defendant in proceedings before the court for criminal proceedings…to engage in plea discussions"—leading towards—"a plea agreement."

Who are the actors there, Mr. Deputy Speaker? The actors are in fact the accused and if I can refer to the Bill. The accused, Mr. Deputy Speaker:

> "means a person suspected of committing a criminal offence or a defendant in proceedings before the Court for criminal proceedings;"

The other actor, Mr. Deputy Speaker, is the prosecutor. A "prosecutor", on page 4 of the Bill, reads:

> "…means the Director of Public Prosecutions or an Attorney-at-law authorized, in writing, by the Director of Public Prosecutions to engage in a plea discussion or conclude a plea agreement;"

The other actor in that, Mr. Deputy Speaker, is the victim. And the explanation says:

"'victim' means—

(a) a person against whom an offence is committed;

(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; or

(c) a business that suffers economic loss as a direct result of the commission of an offence;"

It also refers to the:

"'victim impact statement'"—which—"means a written statement made by a victim which is provided to a prosecutor…"

So those are the three actors involved, Mr. Deputy Speaker, and when you look at those actors that are involved, it speaks to a conversation taking place and one would understand right now the whole justice system is looking at alternative dispute resolution which is something that has been looked at in terms of rather than going to court, you use mediation to treat with matters before the court and so far it has been successful in some regards. To my mind, when you look at the plea bargaining it is just a step beyond alternative dispute resolution. And all these are measures to treat with the overcrowding of the courts. The courts' ability to treat with issues before them in a timely manner.

So the alternative dispute resolution, together with plea bargaining, will assist a great deal in treating with issues before the court. And I know that the Member for Barataria/San Juan has practised alternative dispute resolution, he is one such person, I am sure, who would agree with me when I say that alternative dispute resolution has worked in bringing matters before they even get to the court, in terms of mediation and arbitration as the case may be. So what is the objective of this Bill? The objective of this Bill is really, to a large extent, to save time and

the old cliché, justice delayed is justice denied. How do we save time? And when you look at the clauses in the Bill you would see to a large extent you are going to be saving time. There may be cuts in public expenditure, clearing backlogs of cases, sparing witnesses, especially with respect to sexual offences and so on.

In essence, the Bill will certainly create an avenue where deterioration of evidence—the Member for Princes Town talked about the rats eating cocaine and that is because of the length of time that the evidence has to remain in custody; the length of time that the evidence has to remain before the matter is called before the court. And so if you look at plea bargaining, it allows for speedier use of evidence and so that the point that the Member for Princes Town raised with respect to rats eating cocaine could be something of the past because evidence would be brought as quickly and as speedily as possible and the matter will be treated expeditiously.

There would also be the question of prolonged stress on victims in terms of the time that matters appear before the court. The unnecessary stress on the accused themselves, the overcrowding of the remand facilities as I mentioned a while ago and, of course, reduction and deteriorating effect of the justice system. Those are some of the objectives of the Bill and one can only say that these, if taken to its end, would certainly assist in reducing the sort of delays in our court system.

Mr. Deputy Speaker, in any particular criminal matter presented before the courts for determination, it may serve the public interest better if of course there is a certainty of conviction for slightly less or sometime varied charge as compared to a much more uncertain aspect of conviction. So that the plea bargaining will allow a greater degree of certainty because you would understand and have an appreciation of the evidence even before you get to the courts.

5.30p.m.

So it is a greater level of certainty as opposed to—without plea negotiations. This process has several benefits: early indication of a plea; greater likelihood of a guilty plea; avoidance of some jury cost, and of course, definite conviction versus likely, or acquittal. So that there are a great deal of benefits. And, again, it goes to doing something different, a change in culture, as the Attorney General mentioned, where law shapes the culture. So that we do business differently to treat with the criminal justice system in Trinidad and Tobago. Mr. Deputy Speaker, this practice would also need to be controlled, but it also takes the form for negotiations with regard to charge reduction, for instance, alternate charges being made based on evidence being brought forward; deletion of some charges, or amendment of charges, et cetera.

So that there are a number of benefits to be derived if we adopt the whole aspect of plea bargaining as per this Bill, but the success of this rests heavily on the degree of cooperation between the parties—the actors, as mentioned before—the prosecution, the prosecutor, the accused and the victim, because it is all based on a conversation, a discussion, that leads to an agreement. And nothing is to be lost even at that stage because at the end of the day the accused still has the right to go to court. So even in that preliminary stage where the three actors come together, the accused still has the right to go to the judge and jury. So at the end of the day what is lost, Mr. Deputy Speaker? Nothing is lost, but I think there is a gain because there is an attempt to treat with issues in the criminal justice system.

I recall, in terms of the rights of the accused, former Attorney General, Ramesh Maharaj, as recorded in *Hansard* in June 29, 1999, he said:

> It is important to note that this Bill—that is the Bill at that time—"does not alter that constitutional principle, in that an accused person is still entitled to plead guilty even without the plea agreement. Plea negotiations and plea

> agreements can be justified on the basis that it is a sort of expediency measure which will enable states to cope with an overburdened criminal justice system."

He further stated that:

> "With respect to the principle…there is nothing inherently wrong with plea negotiation, because if practised properly it could have beneficial effects on saving a lot of time and expediting the criminal justice system."

This holds true then as it holds true now. It holds true in 1999; it holds true now. And I repeat it.

> "…if practised properly it could have beneficial effects on saving a lot of time and expediting the criminal justice system."

This is the former Attorney General in 1999. It holds true now, Mr. Deputy Speaker. And the Bill before us provides the same kind of measures to treat with delays in the court system.

Mr. Deputy Speaker, when we look at the menu of legislation that the Attorney General brought to us, I use the analogy of the conveyor belt. And Henry Ford developed the conveyor belt system where he says that making the vehicle, there are certain kinds of interventions from start to finish. When we look at the justice system now, what we are seeing here, what the Attorney General is doing, is bringing a number of different interventions. So we have the legislative approach and also the operational approach. So we are dealing today with the legislative approach, and the Attorney General has brought several interventions to treat with that, as I mentioned a while ago, a menu of legislation, a menu of Bills to deal with the criminal justice system which, again, there is a nexus between those Bills and crime in Trinidad and Tobago.

On the operational level, Mr. Deputy Speaker, to work simultaneously with

the Attorney General's legislative agenda, the Ministry of National Security has, in fact, looked at increasing the detection rate with respect to the Trinidad and Tobago Police Service through an increase in crime scene investigators. We have even the commission of a manpower audit in the Trinidad and Tobago Police Service, something that had been talked about for years.

Hon. Member: That is right. [*Desk thumping*]

Hon. Maj. Gen. E. Dillon: For years it had been talked about.

Mr. Hinds: And so necessary.

Hon. Maj. Gen. E. Dillon: And it is very necessary if we are to understand the true remit of the Trinidad and Tobago Police Service, to understand what the members of the Trinidad and Tobago Police Service do and how do they effectively treat, based on the human resource, based on equipment and so on, with crime and criminality in Trinidad and Tobago. We have the manpower audit taking place right now. So I am talking about the operational approach that complements the legislative approach. Again, we have talked about the whole question of the DNA custodian and the databank. We have now on board a DNA custodian, Mr. Deputy Speaker, [*Desk thumping*] and within the next month or so we will see the DNA databank being established and set up in Trinidad and Tobago, Mr. Deputy Speaker. Again, all those are different kinds of measures, so you cannot look at this Bill in isolation. You cannot look at the plea bargaining Bill in isolation; you look at the number of different initiatives that are taking place to treat with crime and criminality—to treat with the justice system.

We have also now have in place the management structure for the electronic monitoring bracelet, again, something that has been talked of for some time. And as the Member for Chaguanas West mentioned, the continuing of government. It has started before our time but we did not throw it out. We know that it is

something that is good and is useful. There is utility in it, and therefore, we continue. We continue now with the implementation stage. So we now have on board the management system and the framework for the electronic monitoring mechanism and we are about to look at the service provider and establish that. Again, you would see that taking fruit in the nearest possible time. So we continue to treat with both the legislative agendas and the operational agenda side by side to treat with the issues of criminality.

Mr. Deputy Speaker, let us go back to the Bill and see what, again, does the Bill really target? And I would say again, it deals with the whole question of overcrowding in our court system. What is the state of nature in our prison system right now? Mr. Deputy Speaker, permit me to just quote some statistics for you in terms of, one, I will give you an idea of the amount of arrests the police service did in 2016. I will give you them for the whole of 2016, Mr. Deputy Speaker: for serious crimes in 2016, number of persons arrested for 2016, from January 01st to 31st of December,2016, 3,361 persons were arrested.

Hon. Member: For what period?

Hon. Maj. Gen. E. Dillon: For January 01st to December31st, 2016: 3,361. That is serious crimes alone. And serious crimes really touch on murders, wounding and shootings, sexual offences, serious indecency, kidnapping, break-ins, robberies, fraud offences, general larceny, larceny of motor vehicles, larceny of dwelling houses, possession of narcotics. That is the breakdown, Mr. Deputy Speaker. So you see the amount of people being arrested, and that is just serious crimes. If you look at minor crimes for the same period. Minor crimes is 6,738 persons were arrested for 2016. But what is important, Mr. Deputy Speaker, out of that 6,738 persons who were arrested in 2016, the highest figures were, in fact, possessions of firearms and ammunition, 2,159; possession of narcotics, 3,582. Those were

arrested in 2016.

Now, if you look at those persons who were arrested and have to go before the courts, let us look at the nexus between those numbers and putting in place the whole question of plea bargaining that this Bill proposes to do. You will understand that the reduction in terms of court times and court delays, this Bill would have a serious effect on that. If we go down to minor offences again, another 1,573. So that the amount of people being arrested per year roughly ranges from about sometimes as much as 10,000 people—roughly about that—when you add up serious crimes and minor crimes together—roughly about that.

So if you look at the quantum of people being arrested by the Trinidad and Tobago Police Service and they all have to appear before the courts, then this Bill before us would, in fact, bring some kind of relief to the court system in terms of plea bargaining, a plea conversation, a plea discussion, leading to a plea agreement where a number of persons were convicted. Especially I touch on the high percentage of people involved in crimes with respect to guns and ammunitions and narcotics, which are the two main areas, Mr. Deputy Speaker.

When we look at the prison system right now, when we look at what is happening in remand, for instance, as of the 10th of April,2017 there were 3,673 inmates in the prison system. Out of that, 1,388 were convicted. But more importantly, with respect to this Bill, Mr. Deputy Speaker, remanded prisoners numbered 2,285. That is at the 10th of April, 2017—2,285—representing almost 62 per cent of the prison population. Out of that, Mr. Deputy Speaker, 906 persons were awaiting trial. One thousand, three hundred and eight persons' cases were adjourned. Those were adjourned cases before the courts of Trinidad and Tobago. I repeat that, Mr. Deputy Speaker, because it touches on the very Bill that we are trying to treat with today.

Two thousand, two hundred and eighty-five persons in remand prison as of the 10th of April, 906 persons awaiting trials, 1,308 adjourned cases and 71 appellants, as the case may be. When you look at the numbers we are talking about, Mr. Deputy Speaker, I suggest to you that the criminal justice system is not working as it ought to be and, therefore, one such measure to treat with this is the Bill before us, to treat with delays in the system, to give the opportunity to create an avenue for those accused to do something alternate than waiting on their case to be called before judge and jury.

This is what this Bill, in essence, is doing for us. I also want to mention, Mr. Deputy Speaker, we know of what happens in the Remand Yard; we know what happens in remand prisons. Someone goes in for, whether a minor offence, as the case may be, and end up with as much as 10 or 14 years, and I will give you some breakdown in a while. And what happens? Remand Yard becomes like a production line, as a school of learning. So you develop, to a large extent, criminals coming out of that system because of the time they spend and waiting for their trials to take place.

And let me give you some statistics, Mr. Deputy Speaker: Awaiting trials, I mentioned 906. One to five years, persons awaiting trial, 322 persons; six to 10 years, 447 persons; 11 years and over, there are almost about 13 persons waiting there—11 years and over. So you see what I am talking about, Mr. Deputy Speaker. The amount of time the people have spent awaiting trials—and this is just awaiting trials, eh. There are those with adjourned cases, another set of numbers. Those are people who are still in the system who have not had their matters tried before the courts as yet, and they are there five years, 10 years, 11 years.

Some of these matters, if dealt with, with the Bill we are trying to produce today in terms of plea bargaining, would not have seen the light of Remand Yard,

Mr. Deputy Speaker, and therefore, we would have been saving some of them from themselves in forming part of that production line that produces criminals who will go in there as innocent—not innocent, but would have committed some minor offence—but because of what happens in the environment in the Remand Yard, return to us as criminals because they have to be part and parcel of that population.

When you look at those adjourned cases, 1,308 in custody as of the 10th of April,2017—you look at adjourned cases—I will just give you a quick idea: one to four, abduction, 14; robbery, 180; assault, 41; attempted murder, 10; perverting justice, 1; arsons; in breach of the Children Act, 20; gangs and drugs, 6. There are different numbers coming all the way down. But, again, we are dealing with almost 1,308 persons, adjourned cases, and adjourned cases, as you know, Mr. Deputy Speaker, it can go on and on and on. As much as seven years in the system cases are being adjourned.

So when you put a combination of cases adjourned and awaiting trials, and you look at the figure that we have in remand yard, I am suggesting, and I am saying that the Bill before us would, in fact, bring some relief to that situation. And, of course, at the end of the day, would prevent those people who have committed minor offences from becoming hardened criminals in our system. So there is a plus and there is a great benefit in this Bill, and there is a nexus there between that and crime and criminality. Because what happens at the end of the day, the increase in crime and the repeat offenders, to a large extent is based on what they have become, or what we have allowed them to become by going into the prison system, going in the remand system and waiting for so many years without their cases being tried.

So, Mr. Deputy Speaker, this Bill before us—and, again, I want to compliment the Attorney General—is a direct link between the Bill before us

together with—and I do not want us to view the Bill in isolation. We have done the Indictable Offences (Pre-Trial Procedure) Act and a number of other legislative Bills that the Attorney General is bringing to us, which must be viewed collectively and holistically, together again, with our operational intent. We must be viewing in all because at the end of the day what we are attempting to do is to reduce crime in Trinidad and Tobago, and if anyone can say to me today that these measures will not do that, then I would view them with suspicion, Mr. Deputy Speaker. Because the measures are there, and I am saying that we have had some suggestions. The Member for Princes Town mentioned some suggestions a while ago. I am sure the AG took note of it. We have to be able to work together because at the end of the day we have to be able to treat with the crime and criminality in Trinidad and Tobago. It must be done in a collaborative manner. And I go back to the whole question of the national interest. I go back to the whole question of patriotism because crime affects each and every one of us and there must be a multiple approach. There must be—

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

Hon. Maj. Gen. E. Dillon: For a shorter time, Mr. Deputy Speaker.

Mr. Deputy Speaker: Kindly proceed.

Hon. Maj. Gen. E. Dillon: Thank you. Yes, Mr. Deputy Speaker, so I am saying that the Bill before us must not be viewed in isolation. It must be viewed as a menu of legislation that must be brought to bear because we cannot continue operating based on archaic laws. The society is evolving. It is evolving daily, weekly, almost before our very eyes. We are seeing a different kind of security environment changing before us and therefore legislation must keep up with the environment. [*Desk thumping*] It must be able to keep up with the environment. So we have to be

able to bring new measures. We have to be able to bring new Bills to the House to treat with what is before us. Other than that, we would be stagnated.

So I am saying that it affects each and every one of us in Trinidad and Tobago, and we, as part of the Legislature here, we make the laws and it is not for us—I hear from the other side sometimes that there are good laws and bad laws. That is not for us. We make the laws. Let the judge determine whether the laws are good or not.

Hon. Member: What?

Hon. Maj. Gen. E. Dillon: We make the laws, Mr. Deputy Speaker, and we look at the necessity for the laws. Is it appropriate? Is it necessary? And once it passes those litmus tests, I think we must understand the end result that we are trying to get, and that is, to treat with crime and criminality in Trinidad and Tobago. So I want, as the Minister of National Security, to compliment the Attorney General once again for his legislative agenda, [*Desk thumping*] because it works together with operational agenda to treat with the issues of crime and criminality in Trinidad and Tobago.

Mr. Deputy Speaker, I close by saying, treating with these matters has nothing to do with politics, but an understanding that crime affects each and every one of us and we must do so in an atmosphere of collaboration and cooperation to bring measures that are purposeful, that are appropriate and relevant to reduce crime in Trinidad and Tobago.

I thank you very much. [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Member for Barataria/San Juan. [*Desk thumping*]

Dr. Fuad Khan (*Barataria/San Juan*): Thank you, Mr. Deputy Speaker. I want to indicate to the Member for Point Fortin, he gave me some food for thought based

on the contribution I am about to make, and seeing that we were both mediating instructors together—and the Member for Arouca/Maloney does not believe that, but it is so true.

First, let me start by saying: What is this Bill about? And what are we trying to do with the Bill? I have been hearing from the various quarters, this is a Bill designed to fight crime. And in all ways that I am looking at, how is it going to auger well to fight the crime utilizing this Bill? Now, mind you, Mr. Deputy Speaker, I am not against plea bargaining, but the job of the—unfortunately termed—Opposition, rather than alternative government, is to basically poke holes in legislation so we could end up with proper legislation—not proper, better legislation—if there is a problem.

The Attorney General started off by assumptions for the plea bargaining process such as, one: that Trinidad and Tobago, Mr. Deputy Speaker, is an ideal world where all innocent people would be freed without actions or penalties in plea bargaining processes; all guilty people—[*Crosstalk*]

Mr. Deputy Speaker: Member for Barataria/San Juan—two Members, the one on the Government side and the one on the Opposition side, please, you all are free to have your discussion on the outside but I would like to hear the discourse of the Member, please. Proceed.

Dr. F. Khan: Thank you, Mr. Deputy Speaker. I will go back to it. The assumptions that have been done for plea bargaining would be, one: that all innocent people who are in the process of plea bargaining will be freed without penalty and they will not be judged guilty, which is not so in this case; then all guilty people will be charged and given the appropriate penalty for the crime that they committed. That is not going to be so. It also assumes that the DPP's Office has all resources available to it. It also assumes that all witnesses brought forward

by prosecutors will be truthful and unbiased. It also assumes that all prosecutors will be fair and unbiased. It also assumes that all lawyers, both for the accused and the prosecution—all lawyers—have the same degrees of competency and similar competencies, which is not so. It also assumes that prosecutors will not push very hard at overcharging—of pushing the fear of overcharging onto the accused in order to extract a guilty plea. It also assumes that people who are being accused of a crime, of criminal action, are not risk averse because the majority of people are risk averse to the point that they will admit to being guilty in order not to go through a trial, or not having this overcharge threat made against them by a prosecutor.

Now, Mr. Deputy Speaker, by saying that, I have conjured up the ideal world that we are supposed to be dealing with, with this plea bargaining process, and when you look at it, it does not occur like that. And the hon. Member for Point Fortin, I just want to say something. I am glad you gave me the statistics. You gave the statistics that 3,000 people, approximately, are in prison. Of that 3,000, 1,300 are already convicted. In remand, there is about 2,200 which is 62 per cent. Of that in remand, 906 people, approximately, are awaiting trial; 1,300 are having cases adjourned and keep adjourning. Of the 906 awaiting trial, some 322 have served in the Remand Yard for one to five years; 447 have served six to 10 years waiting and about 30 of them are there for 11 years onwards.

These are figures that are frightening, and I understand what the Member of Parliament for Point Fortin and the Attorney General are trying to do, decrease the backlog of cases so these people would not go into the Remand Yard to become hardened criminals. But when you look at this, should we not look at another approach also, as well as, hopefully, plea bargaining? Will these prisoners be allowed plea bargaining, Mr. Attorney General? They will be allowed it, right?

Now, some of them have already served time; one to five years; six to 10 years; 11 onwards, so they have done sentences without being sentenced.

And when the retired Archbishop Harris indicated to have an amnesty based on humanitarian feelings for these members in Remand Yard, I could understand what he meant, because I had to go to remand yard one day to look for a sick patient who was a constituent of mine, and the horrible state of affairs in Remand Yard, I could understand why the Member for Point Fortin is really saying that it brings—you go in as somebody who has committed a minimal crime and then you come out as somebody who is being versed in all sorts of criminal actions. But you have been debased as a human being at the same time.

And I will tell you something, Mr. Deputy Speaker, and I will say it again. The Attorney General has said that they are now going to put toilets in the prison system. When you have to stay in a remand cell with more than 10 to 15 people locked away, waiting for trial, on a daily basis, Mr. Deputy Speaker, at night-time there are no toilet facilities. You have to use a slop pail. Ten people using a slop pail of—10/15 people passing human waste, faeces, urine, everything into that one pail, and I am becoming graphic because it is very serious. And when you have this small 10 by 10, with 15 people, sweating, heat, slop pail, no lights, and then the level of whatever goes on inside of there, attacks, et cetera, on people who are vulnerable, I mean, it is a system that is so debasing to a human being that we have to really look at the system. [*Desk thumping*] Unfortunately, I cannot understand why it was never done as before with the plea bargaining system. And in 1999, I could understand that is why the Attorney General might have brought it—in 1999—looking at the squalid conditions.

It has rolled over until now, and I am indicating to the Attorney General, it is a good idea but there are certain systems and certain parameters I think we should

look at before we jump into it. I would like to recommend, as the Archbishop had said, to look at certain cases of petty crimes who are there for long times for small offences and give them amnesty, and if you want, to give them community service to paint a hospital, clean a hospital or do something like fix a health centre, do some agriculture, or do something significant with these prisoners.

I also want to say, Mr. Deputy Speaker, Remand Yard and all these figures are part of it, yes. There is another system that we could decide on plea bargaining, or a different approach to decrease the court backlog is the immigration detention centre. I mean, we are attacking the United States because of Trump winning, looking and attacking illegal immigrants, et cetera, and coming down hard on the Trump administration and saying, "Why they do x, y, and z", but yet in our own country we are just as bad, or even worse, putting illegal immigrants who have come into the country and the only crime they have committed is entering the country illegally to look for a better life—refugees from somewhere else. And they are now put in a detention centre with the same squalid conditions. I mean, so many people to a system, et cetera.

There should be an easier way to deal with such a system, because from what I understood from previous—I think the Attorney General had said it and the Minister of National Security. It costs the Government and the State $25,000 a month to house one prisoner. Would it not be better if you just hand the people $5,000 and say, go home? You will save $20,000 per month. I mean, that is ludicrous, but it is a very, very hard cost on the public purse, on the taxpayers to house prisoners. Illegal immigrants, some of them come here with certain levels of education efficiencies, training and whatever. It could be utilized, if necessary, to get rid of the court backlog.

So I understand what this Bill is trying to do. This Bill is trying to say, hear

what. We have all these people in front the court, bad ones, medium ones and indifferent. We are going to take the small crimes, the petty crimes, so we could spend more time on the bad crimes. That is the basis of this plea bargaining. And make sure that we cannot allow many people to enter the court system who do not need to be there. Now, I just want to read something about—I took it off the Comparative Law and Economics of Plea Bargaining from, I think it was Harvard Business School, or somewhere there—yes, Harvard. It is just the introduction:

> "A plea bargain is an agreement between prosecution and defense whereby the defendant pleads guilty in exchange for a more lenient sentence, and a full trial is avoided. Although plea bargaining is commonly employed in some countries, its use is heavily restricted in some others."

And I just want to read something:

> "To illustrate the different policies with regard to plea bargaining, while the United States does not restrict the use of plea bargaining, France, until recently, had not permitted defendants to plead guilty to indictments…In a reform of March 9, 2004 France introduced a version of guilty pleas and bargaining, but this new procedure is limited to crimes punishable with no more than five years in prison…"

So it has a schedule and a systematic definition.

> "and allows the prosecutor to propose a sentence not exceeding one year in prison."

This reflects the different restrictions on the use of plea bargaining. In 2005, only 4 per cent of French decisions by correctional courts were made using the new guilty plea procedure. In contrast, the same year, the United States, 86 per cent of criminal cases were closed as the result of the guilty plea. So you are looking at the United States saying in 90 per cent of cases they use the plea bargaining process,

and in France you are looking at five.

6.00 p.m.

Now, Mr. Deputy Speaker, the United States has the most amount of plea bargaining and from the statistics that has been presented over the course of time, the United States has 20 per cent of the world's population, they say, but it has 80 per cent of the world's jail population if you understand what I am saying. Of the prisoners in the world, the United States has 80 per cent of the total. So in other words, the plea bargain really helps. You have correctional centres and jail centres in the United States of America, with the plea bargaining approach that has increased the volume of people incarcerated. So really and truly, had there been no plea bargaining in the United States of America, everybody would be in jail according to the statistics. So I am just asking: where are we going from here?

Another thing, Mr. Attorney General, before we lose points, clause 25:

"(1) …the court may reject a plea agreement entered into between the prosecutor and the accused person if the Court considers…in the interest of justice to do so."

And furthermore:

"(2) Where a Judge or Magistrate rejects a plea agreement"—it goes on in open court, et cetera, and the DPP could re-appeal the appeal and it goes on.

I would like to recommend something hon. Attorney General. Since you are going to go through the whole process of accused, prosecutor, plea bargainer and open court, and there is an agreement somewhere in between there, and they have come to a decision that the plea agreement stands on a basic amount of penalties and whatever—maybe, whether it be good, bad or indifferent—that you should think about amending the law that the court shall not reject a plea agreement

because you have gone through all the processes already. As Dr. Tewarie has indicated, it may be dangerous, but you should look at it because at the end of the day you are going through the whole process that you are trying to not do to free up a court system, but you are telling the individual you could still not have your plea agreement if the court so desires.

Now, I understand why you are doing it and it all depends on—if you look at the France model where it says that crimes not punishable by more than five years could go into plea bargaining, other crimes may not so to do. If you allow anyone with no schedule of criminal activity deal with plea bargaining, you are going to get people who are guilty, and know that they are guilty, and have committed a heinous crime—let us suppose armed robbery, et cetera, with violence—plea to a lesser crime of petty theft—you may get that—and he get menial sentences. Whereas you may have somebody who is an innocent person, because they have been browbeaten by a prosecutor who wants to go home early, instils the fear of overcharging and all these other things onto that risk averse person, he says I am guilty and ends up with a—

So what I am saying here, you have to define who will be allowed the plea bargaining, who will not be allowed plea bargaining—not everybody will do it—and what kind of prosecutors are we looking for. So in other words, if you come to the decision that there is a plea agreement and the plea agreement will be given this, it shall not be overturned by a judge or by a magistrate, or maybe on the advice of the DPP or something like that.

Now, Mr. Deputy Speaker, sometimes we ask ourselves, why are we doing this? We are doing this not because of terrorism, not because of, as you say, drugs or incarceration. We are doing this to clear the backlog in courts. This is the whole idea behind this Bill, clear the backlogs in courts, hoping that the courts will spend

more time on, as you say, harder criminal activities.

But as the Member of Point Fortin said, this whole thing is a conveyor belt system. When you try to reduce the backlog at this end you are having an increase at the other end. So the necessity of plea bargaining can be combined with other factors, and I would say the factor that we have deliberated about is proper amnesty of people who have been there for times longer than their sentences that would have been.

Also, the Attorney General should start looking at—the world is doing it—the decriminalization of marijuana. If you decriminalize marijuana to the extent that one or two joints—so people have medical marijuana, et cetera—and the quantum is such that it is not necessary to charge a whole car, a whole house, carry everyone down and put them on trial, et cetera, you would be able to decrease a lot of the so-called drug crimes. At the same time, Mr. Deputy Speaker, do not condemn a young person to a life of a charge over their heads for drugs.

A couple of my constituents have come to me, as well I have heard others mention it, somebody in their teenage years have been caught with, let us say, a joint, in their certificate of good character is written "charged for two grams or less than two grams of marijuana"—this was about 20 years ago or more. As a result of that, Mr. Deputy Speaker, they cannot get a visa to go to the States, England, Canada, or anywhere. We heard about a seasonal worker who could not go ahead after 20 years of being convicted to get a visa to go to see about his family, and he is looking for a presidential pardon. Now, the law is made for not just today, for the future, and if we are looking at changing the way we do business and we do things, we have to look at the process of decriminalizing marijuana to a certain quantum—medical marijuana. And a lot of states in the United States have done it and it is being there.

What other methods can we do to decrease the court backlog? There was a Department of Justice in South Africa and they found that certain specific developments such as becoming more trial-ready for cases; focusing on efficiencies in the trial phase under consideration; protocol for legal aid cases must be approved rapidly; mental observation protocol being finalized; protocol on service requirements and procedures for forensic chemistry lab be developed; protocol to deal with bail conditions under consideration be developed; monthly monitoring of overcrowding in correctional facilities should be looked at; protocol on foreign national remand detainees; and persons detained for deportation under consideration to justice/crime prevention system.

They have found that the contributory factors to backlogs were capacity constraints such as the insufficient number of skilled detectives; insufficient number of court clerks, court managers, interpreters, prosecutors, et cetera; poor police investigators; capacity constraints within the National Prosecuting Authority; slow turnaround time in filling vacant magistrate posts; high workloads for civil courts, family courts and high courts; inadequate coordination around caseload management.

It also goes to say that certain judges, magistrates, police, prosecutors, et cetera, they do not work the length of time because they are public servants and they do not work as a normal private system might work. So in other words, they adjourn cases accordingly and increase the backlog. It also says that the court backlog is done because of the different legal personnel increasing the amount of time to get their witnesses available, et cetera, to decrease the efficacy of the court.

Now, there is an article by a guy called Tim Lynch in the July 2011 issue of *Reason*. Basically, he is the Director of Cato Institute's Project on Criminal Justice. What he indicated, and the Attorney General should think about this, that there is

an indirect unconstitutional action of plea bargaining. They say the:

> "…image of American justice is widely off the mark. Criminal cases rarely goes to trial, because as 95 percent are resolved by plea bargains. In a plea bargain, the prosecutor usually offers a reduced prison sentence if the defendant agrees to waive his right to a jury trial and admit guilt in summary proceeding before a"—court.

Now, plea bargaining was not discussed at the Constitutional Convention during the ratification debate. This is in fact in the Declaration of Independence. They go on to say:

> "'There is an astonishing discrepancy between what the constitutional texts promise and what the criminal justice system delivers.'
>
> No one ever proposed a radical restructuring of the criminal justice system"—where plea bargaining became the criminal justice system and not an addendum to the criminal justice system. It—"slowly crept into and…dominated the system."

It may happen here. They said:

> "…plea bargaining has two advantages…less expensive and time-consuming than jury trials, which means"—to say that—"prosecutors can haul more people to court and legislators can add more offenses to the criminal code."

Just like politicians.

> Secondly—"by cutting the jury out of the picture, prosecutors and judges acquire more influence over the case outcome.
>
> From a defendant's perspective, plea bargaining extorts guilty pleas. People who have never been prosecuted may think that there is no way that they would plead guilty to a crime they did not commit. But when the government"—or the prosecutor—"has a 'witness' who is willing to lie, and

> your own attorney urges you to accept one year in prison rather than risk a ten-year sentence, the decision"—not to plead guilty—"becomes harder. As William Young, then chief justice of the U.S. District Court in Massachusetts"—in2004 opined—"'The focus of our entire criminal justice system has shifted away from trials and juries and adjudication to a massive system of sentence bargaining that is heavily rigged against the accused.'" [*Desk thumping*]

That is what is happening.

So at the end of the day, Mr. Deputy Speaker, are we going that route that the Americans have gone to where 90 per cent of the cases are now plea bargain cases; where innocent people would normally take the guilty route so they would not have to go through a trial; where prosecutors will push very, very hard so-called evidence against innocent people and make them say they are guilty? And it may reach a stage where also, Mr. Deputy Speaker, they said that:

> "…trials bring scrutiny to police conduct. But when deals are struck in courthouse hallways, judges never hear about illegal searches or detentions. This only"—further—"encourages…misconduct"—on the part of the protective services because they are not subjected to that exposure.
>
> "Conservatives, meanwhile, are right to wonder whether overburdened prosecutors give the guilty too many lenient deals. Why should an armed robber get to plead guilty to a lesser crime such as a petty theft?
>
> It is remarkable how few people…openly defend the primary method by which our courts handle criminal cases. …Courthouses are so busy that they will grind to a halt if every case"—this is the argument, that courthouses will grind to a halt if there is no plea bargaining.
>
> But what it does, Mr. Deputy Speaker, is indicated that because of that

action of decreasing the court backlogs and indicating by word that you are going to move the overcrowding so we can attack the real, heavy criminal cases, I would suggest we start looking at the model by France and marry it together with the model by what we are doing here so we have a schedule of what cases will be allowed to plea bargain. Look at the amnesty part of it, et cetera. You see, Mr Deputy Speaker, there is a law of diminishing marginal returns where the more you put of one thing in a factor of production without increasing the others you are not going to get efficiency, you are not going to get efficacy. In fact, you get decreasing returns.

In the health sector, you could increase the amount of doctors, or the amount of nurses, or the amount of health centres—"or", eh, not "and"—but it still will not give you better service if you do not have the system working in tandem. So if you have to make a system work, you have to increase the amount of doctors, nurses, lab technicians, health centres, CT scanners, MRIs, et cetera, and a whole for a whole system to work. So if we are saying to this thing that the plea bargaining system, as they say, is one part of the armamentarium—is correct—but you are talking about electronic monitoring—which I said the other day—together with community service, and these are things that we have to look at in a whole manner to, as they say, determine exactly where do we go from here.

We know our detection rate is low and I ask myself, there was a bombing in St. Petersburg—Russia is a bigger place than we are—and in one week's time they can catch the perpetrators. You also have the Boston Marathon bombers; they were apprehended in record time. There must be something that they are doing right, Mr. Deputy Speaker, and we need to follow suit to determine exactly how do we detect what and where.

Mr. Deputy Speaker, I just want to touch a little bit about prison. The

Minister of National Security, Member for Point Fortin, has indicated that—and we gave the figures—the amount of people in Remand Yard, which is 2,000-plus, who are awaiting trial—some of them long—between 0 to 11 years who have not yet been convicted, these people who are in prison and those who are awaiting trial, they have children started off when they were snatched and grabbed and moved—they were moved into prisons—and the children were under the age of 18. A lot of them. They have now become the children of incarcerated parents. These children—if it is a one-parent family or two—are subjected to the whims and fancies of a lot of negativity around, and you have these prisoners, as they say, not yet convicted, waiting in the Remand Yard and continue now this way with children outside there who cannot see them, they cannot interact except once or twice a year, sometimes not at all—unless they are 18 years or above during visiting times—I would like to make an appeal, and I have done it before, that since these prisoners are not yet convicted and they are still awaiting trial and they are stuck in Remand Yard, that they should be given some sort of a humane system with their children and bonding, and in doing that, Mr. Deputy Speaker, the children of incarcerated parents would not be criminals of tomorrow.

I remember when we were in office prior to this, we started a process, which I think Minister Hinds at the time in his incarnation as the junior Minister—we started giving the children of incarcerated parents, under the age of 18, access to their parents at certain times of the year. But there is a San Francisco study that has shown that if you allow children to be with their parents who are incarcerated on a regular basis in a fixed area that is designed for same, you will get the parents, the children and the society moving in a forward direction of non-criminalities because a lot of these children of incarcerated parents are subjected to a lot of abuse and it makes both sides change their ways.

So I am calling on the Minister of National Security, my friend the Member for Point Fortin, could you kindly look into that and make sure those visits are weekly, or in an area that they could meet their parents and as bonding will take place rather that negativity? Also, Attorney General, just take on the point that I asked about once a plea bargain has been reached whether we should not reverse that decision because as the Member for Caroni Central said last day, you could have somebody pleading guilty today, going through all the arrangements, end up—

Maj. Gen. Dillon: Member, you want to give way for two minutes?

Dr. F. Khan: Sure.

Maj. Gen. Dillon: Thank you. Just want to assure you that in terms of family visit, it still continues in prison that started before. So there are certain times of the year that the Prison Commissioner allows the family members to visit those who are inside, to keep that bonding going ahead. So it continues.

Mr. Deputy Speaker: Member, your initial 30 minutes has expired. You have an additional 15, you care for it?

Dr. F. Khan: Please.

Mr. Deputy Speaker: Proceed.

Dr. F. Khan: Thank you very much. What I am calling for is not just the holiday times and the special times. I want to see something like every week they will have some time to spend with their children and bond in a specific area which will be made available for such a thing under supervision, and in other words I think we will augur better benefit by that way.

As I was saying, Mr. Deputy Speaker, the Member for Caroni Central made a salient point when he said that, "today you could plead guilty in a plea agreement and the court will throw it out tomorrow and say they no longer going to accept the

plea agreement". You have already pleaded guilty. Do you have to now come back and unplead guilty, or if the court rejects it the legislation has said that the DPP could now go to the Appeal Court? Now, hon. AG, DPP going to the Appeal Court to appeal a court decision to disallow a plea agreement—you understand what I am saying?—and then the other person could also go to the Appeal Court, if you could answer: would that really and truly allow for rapid movement if it goes on like that? It could go back and forth like a tennis ball on a tennis racket. So, Mr. Deputy Speaker, that is one point I would like clarified, children and incarcerated parents.

I would like also the Attorney General to look at the Immigration Detention Centre and try your best because what I have found in my little workings on it, there are many people who come to this country as illegal immigrants, who have very good skills, excellent skills and they would like to make a life here. We are here condemning the United States and Trump for throwing people out, et cetera. We would like, Mr. Attorney General, to look and see how we could basically use the skills to benefit our country moving forward, rather than just locking up, locking them away and throwing away the key, and spending $25,000 a month to house people there.

You see, Mr. Deputy Speaker, the Prime Minister in his statement talked about economics of the country, and the Minister of Finance always indicates that we need to look on a different direction, rather than spending money in that way we could actually save money and give community service. We have health offices that need fixing—and by the way, Mr. Minister of Finance, those people who fixed the health offices would like to get their money. These CEPEP contractors. As I am at it, the contractors. [*Laughter*]

Mr. Deputy Speaker: No contract, please.

Dr. F. Khan: I had to get that in.

Mr. Deyalsingh: 48(1).

Dr. F. Khan: I had to get that one in. That will benefit every single one of us, Members, Mr. Deputy Speaker. Anybody who has been elected and runs a constituency such as yourself, myself, and everyone here—I do not know if the Member for Diego Martin North/East has any of the contractors there who did any work, but he obviously has not because they are not asking him for the money that the Government owes. But at the end of the day—Mr. Deputy Speaker, thanks for that intervention. I would like to just end by thanking you, and thanking the Attorney General for continuing—thanking Johnny the Baptist [*Laughter*] for bringing the legislation that was started off and understand the continuity, and as—[*Interruption*]

Mrs. Robinson-Regis: Sorry, John the Baptist saved, eh.

Dr. F. Khan: Sorry, sorry. I apologize to the Christian community.

Mrs. Robinson-Regis: Thank you.

Dr. F. Khan: Thomas Paine did not apologize, eh.

Mrs. Robinson-Regis: Thomas Paine is not a saint.

Dr. F. Khan: I did apologize to the Christian community. I say John—[*Interruption*]

Mr. Deputy Speaker: Member, you are going good. Address the Chair and you are coming to your conclusion?

Dr. F. Khan: The Member for Arouca/Maloney, she has that effect on me. [*Laughter*] Ask her husband.

Mr. Deputy Speaker, thank you very much. And the Attorney General, just continuity as we move forward. Thank you. [*Desk thumping*]

Dr. Surujrattan Rambachan (*Tabaquite*): Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, I am also very happy to join this debate and contribute to this

debate, but in doing so I would like to make the initial point that what we are dealing with here is after the fact, after the crime has been committed, and we need in this country to seriously deal with the prevention of crime, and that is something that is of concern to the general population in a way that I believe it has never been of concern.

The criminal activity is at its peak as far as my living memory would take me back, and while I am all for plea bargaining I also want to impress, not just upon the Government, but about the agencies that are responsible for fighting crime in this country, for preventing crime in this country, that we need to step up to the plate and we need to do a lot more than we are doing in order to bring peace in the country, hope in the hearts of people and, more than not, the feeling in people that they can move around the country without fear, and that their personal and family safety will be secured.

Mr. Deputy Speaker, criminal activity is outpacing the growth in our ability to prosecute efficiently. That is what is happening. Criminal activity is outpacing the growth in our ability to prosecute efficiently, and this is one of the good reasons I think, the compelling reasons, why we need the plea bargaining system to create speedier justice. Plea bargaining in our country, I would describe, as one of the innovations to speed up the delivery of justice. But the reason that we need to improve our ability to prosecute efficiently has to do also with the loss of confidence by the population in the criminal justice system, and when a population and people begin to lose faith and lose confidence in the criminal justice system, then I think it portrays some dangerous signs in the country.

It arises from the fact that people are feeling that there is no one and no institution to really defend them as a citizen of this country, when in fact they pay taxes, they contribute to the society and they support institutions in other ways

which the country supports by way of its own finances to protect the citizens. But when people also lose confidence in the system they grow to disrespect the system, and that to me is even more dangerous. Justice is delayed in this country and will continue to be delayed for a long time because of the crowded justice system, Mr. Deputy Speaker. So we must deal with the fact that criminal activity is outpacing the growth in our ability to prosecute efficiently, but I want to remind and allow me, Mr. Deputy Speaker, that all of the legislation that we are seeing here recently is post the committing of the crime, first as preventing the crime.

Mr. Deputy Speaker, there is general consensus. I think no one in this House disagrees with the fact, and I think the population also agrees with the fact, that plea bargaining can assist with the reduction in the vast backlog of cases, but the problem of the criminal justice system, or the problems of the criminal system, is far more deep-rooted and far more complex.

Mr. Deputy Speaker: Excuse Member. Leader of Government Business, could you turn down your little meeting there, please?

Dr. S. Rambachan: Thank you, Mr. Deputy Speaker. In fact, there are many impediments that delayed the administration of justice in Trinidad and Tobago, and one recalls at the start of the 2017 law term that lawyers and judges gave their opinions as to the cause of the delay in the criminal justice system. I remember one legal expert talking about the delay by judges in delivering timely rulings and if I recall, Mr. Deputy Speaker—maybe I am subject to correction Mr. AG—the reason given was that was some judges do extensive research before giving a decision on preliminary points in fear of the decisions being overruled in the Appeal Court. It was also observed that some judges were reluctant to rule immediately on relatively simple points of law and allow defence attorneys free rein to cross-examine witnesses for days on matters unrelated to the prosecution's

case, and that legal expert also talked about the culture of adjournments, not only frustrating witnesses, but sometimes deterring them from cooperating because of possible job loss and loss of financial earnings.

So when we talk about impediments to the delivery of justice, we have to also talk about all of these other factors that surround the delivery of justice.

6.30 p.m.

I also recall a retired judge indicating that the deferred production of evidence at a criminal trial contributed to the significant delay in the criminal justice system. For example, there are people who will tell you that you need to tighten up notes of evidence at preliminary hearings which often take a long period of time. One particular member of the Criminal Bar Association, Mr. Rajiv Persad, who is an attorney-at-law and a former temporary High Court judge, noted that many times forensic reports are not ready in time, so it takes sometimes two to three years to get exhibits. Why can we not get it right? Why can we not partner with foreign governments who have done right in order to get our forensics right in the country? If so many of our cases fall through the cracks because of the delay in forensics and every delay is not only justice denied you know, it sometimes weakens your case. It is also said that eventually justice will get to you because there are some cases where after 15 years, people are being sent to jail.

But the point is that when it takes long, people lose respect for the system, they lose confidence in the system and you cannot have a country functioning at its highest level of efficiency where people are willing to contribute to the development of the country, where people are giving their best to the country, if they lose faith and lose confidence in the criminal justice system. That which should be there to protect them, to strengthen them, to embolden them, to empower them, to be better citizens in Trinidad and Tobago.

Mr. Deputy Speaker, the other matter Mr. Persad spoke about related to the lengthy trials being exacerbated by the fact that there are only 12 criminal courts in Trinidad and Tobago. Six in Port of Spain and I believe four in San Fernando and two in Tobago. What is so difficult in establishing more criminal courts in the country? What is so difficult in freeing up the court system of all the traffic matters? What about night courts? Look, I am going to say something here that people are going to find funny but I do not find it funny. But can we not have courts where people can go and solve simple matters like the Judge Judy courts? Right. [*Crosstalk*] Lay magistrates. Why can that not be done?

Mr. Deputy Speaker, there was a time, I remember and recall in my own life where you had the panchayat system, where five elders in the village will sit down and they will determine what would happen in a village where there were simple cases and disputes with people. Now all of that goes to the court and clogs up the system. Panchayat, you know, "panch" means five in Hindi; five persons who would get together to do that. I remember, you know, there was a case in my village where it was not right for a Hindu to sell a cow to a butcher and this Hindu sold a cow to a butcher, and his penalty was to wear the rope of the cow around his neck for 30 days in the village. Now, as odd as that case might be, but the point that I am making is that they found ways to settle it at the community level and a lot of things that now go to court would—[*Interruption*] Alternative dispute resolution, alternative sentencing and what have you.

Now, what about retrial cases? Why are so many retrial cases—cases being sent back and persons on remand for 10 and 12 years have to be given priority? Why? You see, when we talk about plea bargaining, we are talking about expenditure and the delays in Trinidad and Tobago's justice system results in a gross amount of expenditure. I think the Attorney General, in April 2016, quoted

that to maintain 2,235 remand prisoners in Trinidad and Tobago cost $50 million of state funds per month and remand prisoners were about 60 per cent of all the prisoners so that was about $25,000 on the average per month to maintain a prisoner.

Mr. Deputy Speaker, one wonders the extent to which these delays are not causing all of these rumours and actual attempts at jail breaks like the one happened in Port of Spain which could have cost many more lives, in which Allan "Scanny" Martin, accused in the Naipaul kidnapping case, was eventually shot. But you know, all of this has to be spoken about as we speak this afternoon about the justice system.

Mr. Deputy Speaker, I notice every day, almost, in the area between Golconda and C3, or Gasparillo if you wish, there are about at least eight to 10 police vehicles, right—four up, four down, one on the flyover—trying to raise money for the Government, $1,000 a case by trapping you even speeding four miles an hour more than you are supposed to drive. No problem in that. But would it not be nice if the Minister of Works and Transport could live up to the expectations he created when he said that they are going to revise the speed limits in Trinidad and Tobago, and we have heard nothing more about it? Would that not also reduce the number of these traffic cases that going to court? Mind you, I am against speeding. I am against speeding in a very, very serious way. Right. But when I see how much resources of the police service is being used on an evening—[*Crosstalk*] Go and see it, I am not fooling you.

Last night, on my way from work, coming up Golconda, lower down on the south bound lane, there were three police vehicles and higher up, another three police vehicles—six police vehicles. Rather than catching real criminals, catching a few people. All right, the Government needs money so you are finding a way to

raise a little $50,000 a day from people's pockets like that. But then do not create expectations and do not lie to the population, do not be untruthful to the population that you are going to do something because you want to take something off your back and then you do not do it. And I call upon the Minister of Works and the Attorney General to make amends in that regard.

Mr. Hinds: So policing the roads is not important?

Dr. S. Rambachan: It is very important and I hope that they also catch people—when they do that on the road also, they must have—[*Interruption*]

Mr. Deputy Speaker: Members, excuse. The Member for Tabaquite is quite capable in the debate so please, he does not need any assistance. Proceed.

Dr. S. Rambachan: You know, Mr. Deputy Speaker, they should have a system also when you catch people speeding, sometimes these people are under the influence of drugs, to see whether they were smoking marijuana or they were, in fact, using cocaine. [*Desk thumping*] They should also do that. On the spot there, they should have a test for that also.

Mr. Hinds: And to see who have bogus degrees.

Dr. S. Rambachan: Mr. Deputy Speaker, when something falls in your garden, you react. [*Crosstalk*] Night courts. Even weekend sitting of the courts. Why can these things not be introduced in order to reduce the backlog? Why can it not be done? Is it expensive? Is it cumbersome? Is it that we lack—[*Interruption*]

Mr Deputy Speaker: Hon. Member. Members, I am hearing the various comments. All right. I am not going to tolerate it again for the rest of the afternoon. Member for Tabaquite, proceed.

Dr. S. Rambachan: Sure. Thank you, Mr. Deputy Speaker. Is it the expense? What is it? What is it that is preventing us from getting into these kinds of innovations in order to deal with this?

I am told that the 1996, a night court under the tenure of retired Chief Justice Michael de la Bastide was utilized successfully in Arima, and the then proposal to have more night courts was put on hold by the then Prime Minister Patrick Manning Cabinet, and the reason given for that, according to the research I have before me, is that they had a delay in deciding what legislative amendments were needed to allow for the appointment of part-time magistrates to staff the courts and in determining the terms of service of magistrates. Okay. So I am bringing back all of this because I believe that when we talk about plea bargaining, we have to talk about alternatives also in the system because plea bargaining, by itself, would not solve our problem.

Mr. Deputy Speaker, in this House, we have already heard about the case for plea bargaining. The quotations were made of Chief Justice Ivor Archie at the opening of the 2013/2014 Law Term and he did make an important statement then and it was this. He said:

"We have plea bargaining legislation…"

And we have had it since 1999.

"but it has not so far been employed with any regularity."

So I have to ask the question: what will cause a change with this new Bill? What will cause a change with this new Bill in terms of what will motivate—inspire might be a nicer word. What will inspire the use of plea bargaining? Do we know, having we researched, why it was not used with the regularity which is the norm in other jurisdictions where we know in the US, for example, I am told 95 per cent of the cases are determined by plea bargaining? And many reasons can be advanced. Is it—and I think this has been proffered here in the House. Is it that with our abysmally low detection rate for crime that offenders feel that they will not be convicted and are therefore willing to take their chances before the courts? That

might be one of the reasons. Well, we have to do something about the detection rate.

One of the ways that we will improve the detection rate in this country is to cut out the corruption in the police service. That is one way. The second way we will do it is: how do we generate a better relationship, trusting relationship, between the police and the citizens? Why is it, more people are not reporting what they know about crime to—what is it? [*Interruption*] Crime Stoppers. Why is it people are not reporting more to Crime Stoppers? Is it that they do not trust that the information they give will be secured? Is it that they feel that their telephone number is being seen and they do not want to give it? These are serious questions because at the end of the day, somebody somewhere knows who did what. Somebody knows, somewhere.

Mr. Deputy Speaker, it is sometimes sad to read on the newspapers that people are arrested and then they are let free simply because we do not have the facilities to do the DNA testing as quick as we should so we probably have criminals walking on the streets while we wait for the DNA test to come after three, four months from somewhere else. And I would not refer to a specific case but it is on the papers today. Or, is it that criminals know that they can get bail rather easily and they know that it will take a long time for their cases to be brought before the court so they take their chances with that? And they prefer to go and pay $50,000 to get a $500,000 bail bond. I think that is what it costs: $10,000, 10 per cent. Ten per cent, Mr. Deputy Speaker, that is big business. I wonder if these people are taxed. I wonder if they declare their earnings. These people who put up bonds and so on. Good question. So is it that people know that they can get bail so easily and they take their chances?

Mr. Deputy Speaker, during the time, you know, witnesses may die also.

Overnight before a case is sometimes called in court, someone is shot. It is happening in this country. And then the next day you read, he was a state witness or he was a witness for a case that is coming up in the court. Is it because it is so easy to kill somebody that people say, "Say wah, to hell was plea bargaining, they cannot catch me, I will take care of you". That is where we have reached. We have reached to that level. So plea bargaining, for it to be successful, we have to deal with a range of other issues surrounding this particular matter.

And then comes the question of the prosecutor. The prosecutor's ability to plea bargaining will depend on the quality of evidence and the quality of evidence itself is a matter of detection rate and not on the quality of the evidence you know, but the amount of the evidence also. How many times are we reading in the newspapers that suspects are being let off and the DPP is saying, you know, you have to let him go because of a lack of sufficient evidence? They do not say that you do not have evidence you know, lack of sufficiency, the sufficiency of the evidence. So a defendant or someone who is accused, that person's acceptance of a plea depends on his own perception of the probability of being convicted at the trial based evidence, and so much can happen between when a person is charged and when a trial takes place, and sometimes people say, "Let me take my chance, I eh really care about plea bargaining". So I asked the question, you know, why has it not worked and will it work with this new law.

The next issue I want to say about why it will work or not work has to do with this question. Are defence attorneys giving the option of plea bargaining to their clients or are pecuniary motives outweighing this alternative? Are defence attorneys giving the option or do defence attorneys work in such a way that they see that they will make more money out of a trial while their client suffers in the Remand Yard, like my colleague, the Member for Barataria/San Juan said, and

they look at the pecuniary benefits of it rather than the improvement in the criminal justice system? To what ethics are these defence attorneys committed?

Mr. Deputy Speaker, the other question is: Are the incentives offered by prosecutors powerful enough to encourage a defendant to forego his right to trial? And that raises an issue. Who is going to determine what the prosecutor offers? "Is the DPP." The judge has the right to accept or not accept but somebody has to make the offer. And then who makes the offer? How is the offer made? Is there, for example, set rules that will be given to the prosecutors that for offence a, b, c, d, e and so on—guidance rules? Is that going to be made available? [*Crosstalk*] It already exists but it is not being used and therefore, that is why I am raising, hon. Attorney General, the issues that I am raising. The next question about the use of plea bargaining is that I think that we have failed to do an adequate job of public education in terms of plea bargaining, to ensure that accused persons and the public in general, understand what plea bargaining is all about.

You know, there is a point I want to make, Mr. Deputy Speaker, because I do not want to forget about innocent defenders. In some jurisdictions, they now have a whole discussion and debate taking place about innocent defenders, that is people who may decide to enter into a plea bargaining because they believe that the evidence against them is insurmountable and we need to discuss this. Because as I said, in many jurisdictions, it is being found that persons believing that there is insurmountable evidence, enter into plea bargaining though they are innocent and because they feel that the evidence is insurmountable and sometimes one has to be careful that prosecutors do not take advantage of it. [*Interruption*] Yeah. How you call it?

Mr. Singh: Coercion.

Dr. S. Rambachan: Coercion. By presenting evidence that is probably fabricated.

Mr. Imbert: Insurmount—"it not insurmountable then".

Dr. S. Rambachan: They think—no, the victim thinks it is insurmountable.

Mr. Al-Rawi: The defendant.

Dr. S. Rambachan: Sorry, the defendant thinks it is insurmountable and he thinks "My God, I am going to go down" although he is innocent. So he say, "You know what, let me take a three years boy, because I doh know, they out fuh me". The innocent victim's argument is a very serious argument taking place. Mr. Deputy Speaker, why has there been, therefore, such a low rate of utilization of plea bargaining? And I gave you some of the reasons I think that there has been a low rate of utilization. And I think it is important that the Attorney General takes note of what I have said.

Then, we come to the matter of the rate and use of success of court proposed mediation, alternative dispute resolution as it is called. How successful has it been? How many cases, since it has been introduced, have been sent to mediation and how have these things been resolved? You see, we need to tell the people about that. I am for alternative dispute resolution. In fact, I trained myself in ADR hoping to get some cases to do at one time or other but I remained a politician so I cannot get involved. But seriously I did because I used it in my constituency. I have alternative dispute resolution in my office.

In fact, I have a pastor. Pastor Winston Mansingh who very often comes to my office where there are community disputes between neighbours and so on and we sit down and we conduct our ADR and we solve the problems. We have taken matters where families had them in court and brought them to the office and solved it. To the point I remember once when they walked out of my office, one 72-year-old who had not spoken to his sister for 39 years, he started to cry. These are things Members of Parliament should do.

Mr. Singh: Hinds create the dispute and then solve it. [*Laughter*]

Dr. S. Rambachan: Mr. Deputy Speaker, whose role? Whose role? From where does the initiative for plea bargaining come from? Where should it come from? Should it come from the judge, the magistrate, the lawyer, the accused? Who should it come from? The prosecutor? Where should the initiative come from? Because I think you have to answer that question. Because if you do not answer that question and if the initiative does not come, then nothing will happen. Because there are great reasons, I can present, why prosecutors may not wish to get into plea bargaining as well great reasons why they want plea bargaining, and that brings me to the role and power of the prosecutor.

You know, clause 6 of this Bill is a very important clause. It provides for the written permission of the Director of Public Prosecutions to be obtained prior to a prosecutor entering into a plea discussion with an accused or the accused attorney-at-law. It is a clause that speaks about the permission of the DPP for a prosecutor to enter into a plea discussion or conclude a plea agreement. You know what you are doing here? You have an already overburdened Director of Public Prosecutions, I want to know how is this going to work. Is this Director of Public Prosecutions, he is going to sit down with all of these files and case by case, he is then going to determine what to tell the people who are going before the court in terms of the prosecutor to do? Is that going to delay the process further? Or are you going to have delegated functions? Or are you going to have, again, I ask, that list that will say crime A, solution B; crime B, solution X or Y? How are you going do it?

Mr. Deputy Speaker: Member, your initial 30 minutes have expired, you have an additional 15. Care to use it?

Dr. S. Rambachan: Yeah.

Mr. Deputy Speaker: Proceed.

Dr. S. Rambachan: Mr. Deputy Speaker, I was really enjoying this. [*Crosstalk*] I will also enjoy when we come to debate the mid-term review and then I will hear the voice of the Minister of Finance.

Mrs. Persad-Bissessar SC: He is very quiet today. [*Crosstalk*]

Dr. S. Rambachan: He is a good Minister. I am happy for this section but I am also happy—I cannot go into it—for clauses 7, 8, 9, 10, 11 and 12. But plea bargaining—this is my point I want to make for the benefit of the Attorney General in particular here. Plea bargaining almost leaves the prosecutor/DPP as in sole command of enforcing laws, and that is what bothers me. One has to be careful how prosecutors use this facility of plea bargaining. You see, when you consider it carefully, plea bargaining gives a prosecutor the opportunity to advance his own career through a higher conviction rate, and you could have a distortion of the system. While plea bargaining has advantages, it is possible that prosecutors can enter into a plea bargaining or plea bargains to show that they have achieved more convictions.

Mr. Singh: Yeah, entrepreneurship.

Dr. S. Rambachan: Entrepreneurship. And the question is this: are these penalties, as a result of plea bargaining, consistent with the gravity of the crime? You see, we got to be careful you know that prosecutors do not use this to say, "Hey, look how many convictions I have gotten" and what they do is enter willy nilly into plea bargains, and that is why I say is the plea bargain—we have to be sure that the gravity of the crime matches the penalty. So again, guidelines and who is going to establish the guidelines and who is going to monitor the guidelines. One has to be careful that in the quest to demonstrate the higher level of efficiency in the justice system, that compromises are not made to the disquiet of the citizenry. [*Desk*

thumping] Clause 34.

And then, there is an aspect that I have not heard spoken of in this Parliament and I want to speak about it. Political considerations. As a result of plea bargaining, convictions will increase. If it works, convictions will increase. More criminals will be taken off the streets including perhaps those on bail. But this is why I asked for the urge of the current administration to push for this plea bargaining. For a floundering administration whose back is to the wall in whom the public is daily losing confidence, we must be careful that plea bargaining must not be compromised because the Government wants to increase public confidence in the Government, [*Desk thumping*] and that is the political aspect of this.

And therefore, I am saying tonight that the Judiciary, the Magistracy, will have to hold itself to a very high ethical standard. They must be apolitical. One hopes that the watchdogs of public justice will keep a watchful eye on the process and that the Parliament will be able to scrutinize the kinds of plea bargains reached. We must guard against political interference and the urge to improve your political image through plea bargaining. It is a very serious thing. The integrity of the justice system must be protected and we hope that prosecutors will consider the adequacy of punishment when deciding whether to enter into a plea agreement. In other words, the prosecutor must not bargain away punishment of a criminal in order to ensure conviction through plea bargaining. That must not happen, must not happen. Of course, when you read the Bill, the law appears to make some provision for this in certain clauses of the Bill.

Now, earlier on in this Parliament, we started to talk about preliminary enquiries and I want to refer to preliminary enquiries in the context of what might be called overzealous prosecutors, which is another term that you see very often in research articles and plea bargaining, and one may ask what does preliminary

enquiries have to do with plea bargaining? And the research and articles written by legal scholars argue that preliminary enquiries serve as a check against overzealous prosecutors. And essentially, it is expected that in a preliminary enquiry, an independent magistrate will determine whether there is a probable cause that the defendant committed the crime and the opposing side will see some of the evidence in the case. The defendant can call witnesses and he can display his evidence, et cetera. Is all of this possible just for plea bargaining? Would this happen with plea bargaining? Would evidence be withheld from the defendant? Would evidence be contrived? All of this has to be asked and I can only raise it. There is not enough time to debate this in fully.

And in the case of the defence attorneys, in the plea bargaining process, the role of a defence attorney in providing the best professional advice to a defendant is extremely important. In fact, I may be correct in saying that the criminal justice system places an onus of responsibility on the defence counsel to provide effective assistance to the defendant and the role of the defence counsel in the plea bargaining process deserves scrutiny.

7.00p.m.

Mr. Deputy Speaker, why would defence attorneys want to enter plea bargaining? You know, there is a very interesting article entitled *The Defense Attorney's Role in Plea Bargaining* by Albert Alschuler A-L-S-C-H-U-L-E-R and he makes an interesting point in his article in which he talks about two routes to financial success for a private criminal defence attorney.

> "One"—he says—"is to develop, over an extended period of time, a reputation as an outstanding…lawyer."

—and I quote him:

> "In that way, one can attract as clients the occasional wealthy people who

become enmeshed in the criminal law. If, however, one lacks the ability or the energy to succeed in the way or if one is in a greater hurry, there is a second path to personal wealth—handling a large volume of cases for less-than-spectacular fees. The way to handle a large volume of cases is, of course, not to try them but to plead them."

So for private attorneys then, plea bargaining is an "unexpendable" process allowing private defence counsel to quickly dispose of cases and keep their practices moving and profitable.

These are some of the things we have to ask. He also talks about fee structure and the way fees are set, and so on, in this particular article that he speaks about.

But the essential point he makes, he says whether an attorney charges as though the case would plead or whether he charges as though it will go to trial, the attorney has an incentive to plead his client guilty, guilty. I wish I had enough time to go through more of this.

But I want to say also is that in his article, he made the point that prosecutors exert pressure also on defence attorneys to accept plea offers as well. And he says this acts as a significant motivating factor because the relationship between the prosecutor and the defence attorney is a unique one. And just to quote, he says:

"The public defender and the prosecutor are trying cases against each other every day. They begin to look at their work like two wrestlers who wrestle with each other in a different city every night and in time get to be good friends. The biggest concern of the wrestlers is to be sure they don't hurt each other too much. Apply that to the public defender and prosecutor situation, and it is not a good thing in a system of justice that is based on the adversary system."

Because defence attorneys and prosecutors get to know each other and the pressures of each other's job quite well over time, each often feels pressured to accept offers made by the other.

Mr. Deputy Speaker, therefore, these are some of the points I wanted to raise in this particular debate. I would have liked to deal with whether judges can put pressure on prosecutors. It is something I think that, you know, the public should, we should examine. We should have some public symposium to examine this. Examine what I am talking about: the role of the prosecutor, the role of defence attorneys, the role of the judges, the role of the court system itself in this whole plea bargaining process. In other words, the role of the DPP. It must not become corrupt. It must not be allowed to become corrupt, as well as a floundering government must not be allowed to use plea bargaining to improve its image.

Mr. Deputy Speaker, I am very happy that you gave me the chance to contribute to this debate and for this I thank you most sincerely.

Mr. Deputy Speaker: I recognize the Attorney General.

The Attorney General (Hon. Faris Al-Rawi): Thank you. Mr. Deputy Speaker, I thank you for the opportunity to give reply to—[*Interruption*]

Dr. Gopeesingh: You should give way you know. Give way for 20 minutes.

Hon. F. Al-Rawi: I was not aware that you were going to speak.

Dr. Gopeesingh: Yes. [*Interruption*]

Mr. Deputy Speaker: Members, please, please. In the debate, as the Speaker, I recognize the Attorney General. The Standing Order is clear. I recognize the Attorney General.

Hon. F. Al-Rawi: Thank you Mr. Deputy Speaker. I apologize to my learned friend, the Member for Caroni East. We are on our third day, respectfully, Mr. Deputy Speaker. I certainly do apologize if I had not been looking to my right. I

was looking to my left.

Dr. Gopeesingh: The Speaker has to recognize me. I had my hand up.

Hon. F. Al-Rawi: Mr. Deputy Speaker, I can only be guided by your ruling.

Mr. Deputy Speaker: Member, I have already ruled. I recognize the Attorney General. He was first on his feet and I recognize the Attorney General.

Dr. Gopeesingh: It does not work like that, Mr. Deputy Speaker.

Hon. F. Al-Rawi: Mr. Deputy Speaker, perhaps we could just settle down.

Dr. Gopeesingh: I am here for almost 15 years in Parliament and it never works like that.

Hon. F. Al-Rawi: Thank you, Mr. Deputy Speaker. It gives me great pleasure on this third day of debate to wrap up the many submissions that have been made.

Dr. Gopeesingh: I am not supporting this Bill.

Hon. F. Al-Rawi: I know my friend from Caroni East does not mean what he says.

Dr. Gopeesingh: These Bills are designed for one thing.

Mr. Deputy Speaker: Member for Caroni East, right. You know the procedure. You know the decorum of the House. Attorney General.

Hon. F. Al-Rawi: Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, I take no offence from my learned friend, the Member for Caroni East outbursts and I will focus instead on the task at hand.

Mr. Deputy Speaker, this Bill before us is one which has been long in the making. We have, as a country, experimented with plea bargaining, certainly from 1999 being the origins of the first attempt of plea bargaining.

We have had many useful contributions. I thank the Members opposite for some good research and some good reflection on a number of the points raised. Indeed, the Leader of the Opposition certainly gave very good perspective which I certainly went off and had double reflection on. The Member for Princes Town

today also caused some very good food for thought, particularly in respect of the research done in Jamaica, which was a very good and useful jurisdiction for comparison.

The Member for Chaguanas West also gave good reflection on some of the limitations before us. And, of course, the Member for Tabaquite today really raised a number of issues that have been plaguing us as a country for quite some time.

It is a lot to respond to, Mr. Deputy Speaker, but perhaps I should seek the response by starting off this way. It is accepted that this Bill is not intended to be the one magic bullet to kill crime.

You have heard many of my colleagues mention the fact that there is a co-ordinated attempt at legislative relief, that there is a specific thought process in how we have approached this burdensome beast that is the criminal justice system.

The criminal justice system did not become broken today. The criminal justice system did not labour under crime in a floundering way from one Government only. Government to Government, back to back has wrestled with this issue of crime. It does not know politics.

The Member for Caroni Central found himself, as reported in the papers, a victim of crime. The Member for Diego Martin North/East similarly in two separate occasions, both as hon. Members of this House. Crime has no distinction from where we come from or where we are. But the fact is that the Government has embarked upon a very dedicated attempt at putting together pieces to make a difference. But we did not do that in a vacuum, most respectfully. We started this discussion properly on the back of an analysis as to where we are in what we are doing. And we did so by starting with an inspection of the prison system.

When we started the inspection of the prison system, we went in. We counted case by case, individual by individual, to see what the taxpayers of this

country are called upon to pay on a monthly basis, what the victims of crime are exposed to, what the cost of witness protection is, what the cost of treating with each and every individual in the prison systems look like, because that is an adequate litmus test to see where we are as a society.

When we did that, we went next into the criminal justice system itself. We looked at the caseload statistics. What is there in the courts, in the Magistrates' Court, in the High Court, in the Appellate Court, in the Privy Council? How fast do these cases move? And then we said, what are the solutions to these problems? And in looking at the proposed solutions, we said one Bill, one piece of law will not cure it all. And so we came with what is now unfortunately the subject of scorn, in terms of some of the approach that some Members opposite have put, and that is an architectural approach to dealing with the criminal justice system. We say the problem that we face, with respect to crime, is because the gap between the alleged commission of a crime and the conviction for that alleged commission of a crime is way too long.

[MADAM SPEAKER *in the Chair*]

And let me give a very graphic example of what I am speaking about, Madam Speaker. In my constituency, in San Fernando West, a young man came into my office with his cousin. He came to speak about what had happened to his uncle. His uncle was a taxi driver. Washing his car one evening outside his home, a gentleman who had committed, as he called it, I do not use the word "gentleman", young men who had committed a theft down the road, at Cross Crossing ran up the road, looking for the quickest escape, grabbed this fellow, threw him into the car, grabbed his car, beat him, knocked out his teeth, laid him unconscious.

That man did as all people are encouraged to do, he said he would stand as a witness to the people who committed the theft, who kidnapped him. And then what

happened? The court system started. The trial was put off and put off and put off and delay and delay and delay. And it is alleged that on the day of going to court to give evidence many years later, he did not turn up. Why? Because the night before, for a robbery, he was lying in bed with his 11-year-old daughter hugging him as my daughter will hug me. These bandits broke into his house, put a gun to his head and blew his brains out over his 11-year-old daughter. Why? Because the length of time taken for that robbery case to get to court, soon became a murder case. And that 11-year-old daughter has to live with the imagery of her father's brains being blown out across her face.

I am quite upset about what I am saying. Because while we stand up here and make joke after joke about what the Government is doing and about where crime is, the people of this country are watching us. And you think they care whether the Member for Oropouche East is jovial and jocular in his comments about what we are doing and the insulting language that comes across debate after debate on where we are?

The fact is—[*Interruption*]

Dr. Rambachan: Laventille West.

Hon. F. Al-Rawi: Forgive me, I am drawing my perspective. The fact is when the population watches a crime, when this thing rips to the heart of our homes, when we as parents are mortified, afraid of watching our children cross the road at night to go to the neighbour's house, where are we as a society? Hon. Members, I tell you where we are as a society. We are being told by some people, continue to do the same thing the same way. Leave it so. Let us talk some more. Jury-less trials? No, no, let us talk some more. Preliminary enquiries, abolition? Yes it takes 20/30 years, let us talk some more. Plea bargaining? Let us look at it some more.

I am just saying, Madam Speaker, let us talk to the facts now. You have

heard me say, and let me put into the context again. Where are we? We have spent, in terms of allocations, into the Trinidad and Tobago Police Service, over a five-year period, close to $15billion. We have spent as a Government of Trinidad and Tobago, in a five-year period, across five ministries, close to $27billion. But at the end of the day, Minister of National Security after Minister of National Security, Prime Minister after Prime Minister, "Wha allyuh doing 'bout crime?" Well what we did do as a country is to spend a whole lot of money.

But the people who are responsible for implementing the laws of this country are nameless and faceless and unmeasured because there has not been a systematic approach to common sense. And what is the common sense of this situation? The common sense of this situation is to be found in the statistics of what judges actually do. Here is where we are, Madam Speaker. We have 11 Court of Appeal Judges, 30 High Court Judges, nine judges in the Criminal Assizes, 48 Magistrates; Criminal Magistrates, those of the 48, 38 sitting.

In terms of courts in the Magistrates' Courts, there are 14 courts and three out-courts. In the criminal matters, we watch a disposition rate of indictments filed, 49 per cent are dealt with. Of 226 indictments to get to the High Court, 111 of them only make it through for listing. There is a 51 per cent dumping in arrears year on year. When we translate that into persons, and we look at the number of matters per year disposed of, we are at 6 per cent of people, the numbers of people who are on indictments being dealt with. That is 118 matters, peopling matters, out of 2,010.

Where are we further? We are watching a criminal caseload for the motor vehicle and road traffic of 68,000 matters, basically run-of-the-mill matters. That excludes San Fernando and Tobago numbers. You are close to probably about 100,000 matters clogging up the system, motor vehicles. [*Interruption*] The Bill is

laid.

But when we look further and we watch where we are dealing with the actual improvements, et cetera, what we see is that our criminal justice matters are just not moving. When we look to the number of criminal matters filed, the total number of criminal matters filed in the period 2012 to 2015, a three-year period, in the Magistrates' Courts alone, hear the number, 371,574 matters. When we look to the number of matters filed in the High Court, criminal matters alone, 20,872 matters per year. Take 10 judges dealing with 21,000 matters, the average number of criminal matters per judge, per year, is 2,087 matters.

How we could continue doing the same thing the same way? How are we going to say no to abolition of preliminary enquiries? No to fast-tracking because you have a judge-only issue? No to plea bargaining? No to improvements in bail? No to motor vehicles? You see they are all connected.

Now, hon. Members, raised some very good points. The hon. Member for Tabaquite raised some very honest thought-provoking points. What are we going to do about our court utilization? You see we have not brought legislation without operationalization and let me explain how. We have passed, and we have heard Members asked before: Tell us how many Bills you have proclaimed. Well I can tell you this. The proclamation for the Bills which we have dealt with are all imminent in large form because we have been developing regulations. We have been putting in place court houses. We have been doing the staffing.

Take the Children and Family Division Court alone. Three courts. All the bodies for the positions. The amendment and proclamation to 18 laws in that one Bill alone, you cannot proclaim unless you ready the system. But we are pleased to say two out of the three courts secured buildings already. A third one is on the cusp. The rules are already prepared. The regulations are prepared. The

proclamation Schedule, we have gone through clause by clause, Bill by Bill for the 18 laws that we have amended: the interception of communications, the SSA laid without regulations for five years. We had to do the regulations. The regulations have to be organized so you know who is guarding the guard, how you deal with destruction, how you deal with proclamation.

But what we have done is to say do not do it in series. Do not pass a law, then think about the body, then think about the office, then think about the regulations. We have done them all at the same time. So it is true, hon. Member for Siparia, you did pass the DNA law and the electronic monitoring law, and the electronic transactions law, but none of them proclaimed because nobody hired, none of the rules gone through, none of the subsidiary legislation dealt with, none of the buildings procured. So instead what we did was to hire a regulator, find the additional services, co-opt the University of the West Indies to give us certain shared service arrangements, bring in government-to-government sources so we could map out the prison population in a six-week period, operationalize electronic monitoring, all at the same time.

But this Bill is not intended to act by itself. This Bill works. Hon. Member for Tabaquite, you asked about night court and lay magistrates and alternate dispute resolution. All of that relates to adequate usage of court time. But our court time was not being used because the rise time and the sit time, when the magistrate gets to court or when the magistrate leaves, when we checked it, was only a couple hours a day spent adjourning the motor vehicle list, spent adjourning lists that are not ready. So what do we do? We busied ourselves on getting the Criminal Procedure Rules done to come into effect on the 18th of April this year, this month, so that we can actually have the courts operating all day long, by pre-fixed appointment.

Now, the painful thing that we are experiencing in Trinidad and Tobago is not uncommon. In the United Kingdom, prior to the 1984 pace reforms to their criminal justice system, there was a heavy amount of resistance by the Criminal Bar in particular and the Criminal Bar said no to preliminary enquiry committal proceedings abolition, no to jury-less positions, no to advances, much of the type that we are doing.

But, what happened was exactly what happened in Trinidad and Tobago with the Civil Proceedings Rules. There was a lot of opposition when the Civil Proceedings Rules came into effect, but it reduced the backlog from 18 years down to one. So what we did at the same time was to go into the Judiciary and track every single file that was in arrears, every single file that was outstanding and reduce the backlog down, so we know where we are standing.

The Member for San Juan/Barataria asked about pardons and mercy and whether we could actually get people who had served time out of jail, but we have done that exercise. We did the entire prison population. We have found eight people alone who had passed maximum sentence, because they were in there, the vast majority, not for one matter which they had passed maximum sentence. A man is brought in for 10 charges, one of which had a sentence of let us say 10 years, the rest of them for 20 years. He may have passed 10 years on one only and not the rest. So what we had to do and what we did was to analyze the number of cases that they have side by side so that we could then take the approach to marry them together. And guess what popped out? Plea bargaining. Plea bargaining popped out as an appropriate remedy to deal with this because the Member for St. Augustine, the Member for Oropouche East, I think the Leader of the Opposition, raised the issue about whether, well I think, perhaps put most graphically the Member for St. Augustine said that criminals were salivating and awaiting the opportunity to come

out of jail because they could then ask for the application of time served already on sentences.

But the hon. Member did not reflect upon the fact that the Judiciary has published a sentencing manual and that there is adequate case law already in effect. It is *Lauren Aguillera, Shawn Ballai, Evans Ballai and Richard Ayow v The State*, Criminal Appeal No. 5678 of 2015. And the State has, by way of appeal decision, the fact that you must account for time spent in custody for all matters. And, therefore, every single person who is in custody, who has been there for 10 years or 11 years or 12 years, has the ability to have time served factored into their sentencing.

So, permit me to jump into a few of the direct issues raised, and I thank the hon. Leader of the Opposition for putting forward some of the reflections on to the Bill in the manner that she did. In particular, she went through a number of aspects into the Bill, which I propose to answer now in series. The hon. Member raised the issue of whether a proclamation clause should be included and I would say quite simply that we are including a proclamation clause to deal with the aspect of operationalization readiness.

In particular, we want to ensure that the Office of the DPP has in its fold the adequate resources that are required, and permit me to put on to the record this. I have looked at the Office of the DPP's situation and as far as I am aware, from the information I have, in the last year, in having provided, by way of direct agitation to the Judicial and Legal Service Commission, we have provided as a Government three office locations for the DPP: north office, south office, Tobago office. The south office has been confirmed. The north office is awaiting the DPP's confirmation as to certain specifications that he wishes. The Tobago office is already there waiting on specifications as well. That is three brand new offices.

We have agitated further for positions to be filled. The hon. DPP has told us in specific form, and this is confirmed by my Permanent Secretary at the Ministry of the Attorney General, promotions are awaiting the DPP's say-so. That is in his court. The expanded office arrangements are awaiting, as I have said, in two instances the DPP's direct input. The case management system improvements have been put into effect.

But I also want to state that as a Government and by way of example, we have supported the expenditure of the DPP. And I put on the record again, in the period January2015 to June2016, our Government had to pay, by way of payment of fees coming in, the sum of $88 million-odd in legal fees. That is external legal fees alone. So we have given to the Office of the DPP brand new buildings, three of them, agitation with the Judicial and Legal Service Commission, which is the only entity that can appoint bodies, agitation to encourage the promotion in the Office of the DPP; legal fees, manpower and case power. And that is how we are ready for the arguments put forward as to whether the DPP can actually carry out all of the functions that are required.

The hon. Member asked that we consider, that is the Member for Siparia, an adjustment to the definition of an "accused person", asking if we could put in the word "includes" and have some adjustment of it. In fact, we have proposed and we have circulated right now for hon. Members' consideration, an amendment to the definition of "accused person". We propose that it reads instead that it "includes a person who is not charged with an offence but who is under investigation for commission of an offence".

The hon. Member asked that we look at giving an expressed definition for "court" and we reflected upon the Interpretation Act, in particular section 78 and noted that there was an already expressed definition there, so we did not

necessarily take on that recommendation.

The hon. Member asked that we reconsider having a definition for an "offence", proposing that, perhaps, we did not need to have it. When we factored, again, the Interpretation Act at section 78, insofar as an offence, by way of definition in that Act, can include even administrative fines, et cetera, we prefer to maintain the definition of "offence" because it allows us to exclude administrative fines and other procedures like that.

Specifically, the hon. Member for Siparia raised with me, not on the floor but otherwise, and so too echoed by several speakers after, the Member for St. Augustine and, I cannot remember who else, the concept of retrospectivity, whether the Bill should clawback to plea arrangements prior to the Bill.

We considered that position and saw merit in making an adjustment, so that we would amend clause 3(1) to allow for the Bill to apply simply to indictable and summary offences. Those matters begun under the former Act will continue under that. They, of course, have the option to be ended by way of voluntary choice and restarted. But matters for indictable and summary procedures can proceed as it is under the new Act.

We looked further at the recommendations and observations in respect of the DPP's power to redact, raised in relation to clauses 14, 18(2) and 24(6) of the Bill. And, in general, Members had suggested that the DPP ought not to have the power to do the redaction of the victim impact statement and Members asked us to consider allowing the Judiciary alone to be the entity that causes redaction.

We went back to the source material for the laws. We noticed in particular several jurisdictions. Canada stood out. New South Wales Australia, Northern Ireland. In all of these positions we noted, in particular in Canada, that the authority to redact a victim impact statement resides with the prosecutorial

function.

7.30 p.m.

That is to be found by way of support from the Canadian case of *R. v. Gabriel*, in particular, the dicta of Mr. Justice Hill; the British Columbia Court of Appeal in the case of *R. v. Burner*. It is a 2013 case BCCA 188 CanLII, and both of those cases reflected upon the prosecutorial function in weeding out victim impact statements in the manner that we have set out statutorily in clause 14 of the Bill, where you prescribe what matter should be included or not. In those circumstances, we feel confident that it is properly the function of the DPP.

The hon. Member for Tabaquite asked: How does this DPP manage to do everything? Well, the fact is, when you look to clause 6 of the Bill, which is the one which requires the DPP's expressed consent for the commencement of plea negotiations leading to plea agreements, and you look to the fact that all charges have the ability to pass through the DPP, it would make sense, therefore, to allow the DPP's Office to do this. That is why we focused upon the DPP's Office.

Remember, the DPP has the lawful authority to delegate indictment referrals or conclusions or matters to his deputy DPPs. It is only a matter of the DPP's choice. Once the staffing is done, we having attended to offices, buildings, case management, advocacy on behalf of the Government's insistence to the JLSC to provide bodies; that is the best that we can do to ready this. And dare I say that that was just simply not done prior to my tenure as Attorney General, but we are very pleased to have seen the JLSC's cooperation for the Government's support and the Cabinet's support for the provision of the offices and equipment for the offices of the DPP.

Madam Speaker, when we look to the proposed timelines in clause 22, the hon. Member for Siparia raised the issue as to whether the timelines were realistic,

in particular, the prescription that the timelines for the filing of the documents at the High Court were unduly short in the hon. Member's opinion. I had a look at that, in particular, and I took comfort in the construction of process provided in clause 22 itself. You see, clause 22 provides for the filing within a certain time frame, that is, the time frame for the setting of the of plea hearing is done 14 days after you file the documents. When you look at how you got there, that is the important answer to this. You get to plea discussion then to plea agreement—when you get a plea agreement and you file it, you are asking for judicial consent, the judge is then meant to set it down for 14 days later.

But there is no requirement for transcripts, for further documents. The prosecutor and the accused already know where they are. The documents are agreed. They go before a judge and the judge realistically has, therefore, a smaller amount of information than one could possibly think should be there. The judge, of course, also has the discretion to call for more information and, in any event, the judge will always have the opportunity to extend the time in circumstances where you could not meet a particular deadline.

We saw very important examination of the victim impact statement, in particular, clause 24(5). The hon. Member for Siparia, the hon. Member for St. Augustine and a few other Members raised the issue as to whether the victim impact statement should be subject to cross-examination. It was a good consideration—[*Interruption*]

Madam Speaker: Hon. Attorney General, your original 30 minutes have expired, you are entitlement to 15 more minutes. You may proceed.

Hon. F. Al-Rawi: It was a good suggestion. We did a tour of the jurisdictions that lent us support for consideration: New South Wales in Australia, Victoria in Australia, Canada, the United Kingdom and Northern Island, all permit cross-

examination. I would explain, I am to explain, that the recommendation in the form of the Bill that is here, that is without cross-examination, actually came from the Judiciary.

The Judiciary was concerned in its commentary back to the Attorney General's Office that we will be putting the victims through some unnecessary stress and trauma and, therefore, the right to cross-examination may dissuade them from participating by providing their statements. However, we have crafted some language in the amendments circulated, which would allow the court a bit of a balancing exercise to allow for the right for cross-examination, but also to do so on the terms and conditions and the extent permitted by the Court. In other words then, not to allow too vigorous an approach such as to cause dissuasion.

Madam Speaker, some of the Members raised—the hon. Member for St. Augustine—I have dealt with the issue of time spent and being calculated—raised the issue as to whether penalty should be prescribed for people we had committed perjury in court. We looked at that position. We noted, in particular, the provisions of the Perjury Act itself, Chap. 11:14, in particular, section 4(1) and section 10 of the Act, which allow for the application in any proceedings for persons to be brought forward for perjury. It really is a matter of willingness to try the system and that, I dare say, is a matter for prosecution or judge to invoke.

Madam Speaker, we looked at the question coming as to whether the DPP was consulted. I am very pleased to say, yes the DPP was consulted. In fact, the documentation that we looked at from 2014 shows consultation then with Mrs. Elder SC who is the real creator of this backbone of legislation. We specifically, in our tenure, wrote to the DPP, September 26, 2016; December 12, 2016; January 05, 2017; January 13, 2017 and met with the DPP on several occasions in the judicial sector roundtable where we sit and discuss the legislation, and I received

no negative feedback from the Office of the DPP. The DPP's one concern has been resources, and I have already spoken to that.

Many Members have raised the issue of the sealing of proceedings in clause 34 of the Bill. Some have sought to raise alarm that this thing is going to be a draconian step. The hon. Member for St. Augustine said you could not adduce evidence of bad character. Let me deal with the bad character.

Section 15 N of the Evidence Act sets out the specific circumstances where you can use evidence of bad character. There are seven grounds set out in that section 15 end, but I want to remind that the sealing formula contained in clause 34 of the Bill is very, very carefully drafted. It is within the court's discretion upon application that there be sealing. You could always move to unseal a record. You can, by virtue of applying section 15 end of the Evidence Act also have the position where the accused would have giving his own evidence in one of those seven circumstances and, therefore, open the door on bad character.

But the fact is, the judicial discretion so provided in clause 34, provides for the balancing position particularly—hon. Member for Chaguanas West, you raised it. The Jamaican days, witness dead. In a society where witnesses are killed, we have got to be careful if you are arranging plea discussions, plea arrangements and plea agreements. As the hon. Member for Port of Spain North/St. Ann's West put, if you really want to catch white-collar or big fish and you are giving immunity within the concept of a plea agreement as defined within the legislation, you may very well want to seal to give that level of comfort to a participating or cooperating witness. Because, Madam Speaker, is it not true in Trinidad and Tobago everybody is a good boy, nobody knows who committed a crime? "The minute dey dead, bandit." Everybody knew that. All of a sudden people crawl out of their hole and everybody knows who is a criminal in this country.

You see, criminality in a court of law, requires a witness and a witness requires the certainty of a narrow time frame for a case. We have witnesses in witness protection, Madam Speaker, where the State has paid over $40 million in witness protection for matters that are over 14 years old, $40 million to look after two people alone of the tax paying dollars.

I want to remind, it was this Government that went into the prisons and calculated the cost per prisoner. Do you know why? So we could start the conversation of what the cost of not changing the system looks like. How much the backlog really looks like? What the impossibility of the task looks like if we continue to do the same thing the same way?

Madam Speaker, when we looked, in particular, to the sealing of records, we were very comfortable in the many jurisdictions that we traversed: Zambia, the United States, et cetera, that the sealing of records is quite normal. Of course, Jamaica stood out as a sealing of record.

The hon. Member for Princes Town in some very good research reflected upon the Jamaican experience. The Jamaican experience provides a penalty if there is a breach or disclosure. But if we were to go along that route, we would be intruding upon the very arguments put forward in the 2014 discussions as to why we needed to change the 1999 or current law. It was to be found in section 5 of the law where the offence of improper inducement caused many a prosecutor to be afraid of the system.

Right now, the court has the ability to impose sanctions by way of contempt of court, by way of other mechanisms and, therefore, we chose to take the recommendation of the policy coming out of the 2014 discussions, to move away from that section 5 offence for improper inducement or disclosure, and to rely upon the inherit jurisdiction of the court that orders of the court can be met with

sanction of penalty, particularly where a judge puts a gag order and puts a contempt provision if you were to breach the provision.

We looked, specifically, Madam Speaker, at whether we should schedule offences. A couple persons well raised that issue—hon. Members—whether we should not provide plea bargaining for every type of offence. Certainly some jurisdictions—and, again, the Member for Princes Town brought forward quite a few jurisdictions where that is actually done. Some jurisdictions say, not beyond a certain number of years for an offence. But when we looked to the progression of law in China, in India, in New Zealand, in the Unites States, Australia, Canada and England, we saw that China and India which started in a lukewarm or tepid way than lukewarm then to warm, progressed themselves to having all offences. But when you look to Australia, Canada, England, New Zealand and the United States, there is no limitation. All matters are open for plea discussion and plea agreement.

Madam Speaker, we looked to the issue of several of the questions raised by my learned friend, the Member for Caroni Central, the provisions as to improper inducement and how that is to be decided, et cetera. Quite a few of the observations by the hon. Member was: Who decides and what is the balancing act inside of there? What if it is an improper inducement? What if there is a "cook up" or a deal? The fact is that I found comfort in comparing the clauses raised with two clauses, in particular, clause 24 of the Bill and clause 30 of the Bill, where the safeguards are provided for judicial oversight of the arrangements between the accused—by his representative or by himself, and also the prosecution, all under judicial scrutiny.

The hon. Member for Barataria/San Juan raised the question as to whether we should allow no form of appeal, saying this thing should be certain. With the greatest of respect, I do not agree with that position simply because what if there is

"cook up"? There ought to be the right of appeal to the accused, to the prosecution and, certainly, to the judge to view these things and to say this is not appropriate in the interest of justice.

Madam Speaker, there were quite a few observations generally about crime. I heard the hon. Member for Tabaquite talk about a floundering Government using this Bill as some form of prop to recover its position. Let me just be very charitable. We have taken a very academic, but yet practical approach to how we seek to persuade the population to deal with this. We have gone on decriminalization of traffic matters. We have added for greater complement of judges—look to the Children and Family Division Bill you will see the complement goes up to 40-something. We have gone for more courts. We have gone into statistical analysis of where we are but, very, very importantly 95 per cent of prosecutions are dealt with by the Trinidad and Tobago Police Service; 5 per cent by the DPP.

That is why the hon. Minister of National Security is to be complimented, because Madam Speaker, you are hearing us speak now to what is happening in the police service. [*Crosstalk*] Yes, corruption is an issue in the police service. It has been alleged for a very long time. But, Madam Speaker, what we are talking about right now is how much the Trinidad and Tobago Police Service actually deals with in terms of its positions.

We have heard Members say this is the worst time ever; things are more serious now than ever. It is not really so you know. In 2013, total reported crimes, serious crimes, et cetera, was 13,147. In 2016, it was 11,393. Now, what do we say to that? What I do say is that because we have taken an approach that says, let us expose it all; let us see what Trinidad and Tobago really is; let us measure and test and hold those accountable who have the job to do; there is a sense of openness

now. We are not covering up any position. I could easily stand up here and say 2013 was 13 per cent higher than 2016 in total crimes, but where would that really take us?

The opening approach that we have done, is to say—I am sorry, Procedural Motion.

PROCEDURAL MOTION

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you, Madam Speaker. Madam Speaker, in accordance with Standing Order 15(5), I beg to move that this House continue to sit until the conclusion of the matters before it.

Question put and agreed to.

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

Hon. F. Al-Rawi: Thank you, Madam Speaker. The Member for Princes Town asked a few matters which relate to the simply point I am talking about with the TTPS. Let me put some facts on the record. So between 2011 and 2017, six years, we have spent $15 billion in the police. There are 36 specialist sections of the police: nine police divisions; 87 police stations. Sanctioned strength, 7,884; actual strength as of March, 2017, 5,400. Trinidad and Tobago Police Service is currently operating at 68 per cent of its sanctioned strength; Homicide is operating at 78 per cent of strength; Fraud Squad, 54 per cent of strength; Court and Process Branch, 37 per cent; Rapid Response, 30 per cent; and the Child Protection Unit is actually operating at 63 per cent. We have got 106 persons appointed out of a total of 169. We only passed that Cabinet Note, March 10, 2016. So we have gone hard at work on that.

The prosecutorial arm of the police, there are 53 court prosecutors; eight of

them are qualified attorneys. Total number of qualified attorneys in the whole of the TTPS is 24 in number. That is 0.4 per cent of the TTPS' actual strength. Do you want to know why the system is not working? Because of this. Because no other Government has taken a statistical milestone approach to telling the population what really—how can we justify $15 billion in six years to take matters to court with 24 prosecutors, 24 lawyers, in a number of 5,400? Is it not common sensical that a manpower audit is required and you provide the resources where they are needed but you identify it? Because for six years, including our Government, the country has spent $15 billion.

You see, Madam Speaker, we do not need to wait for an audit, hon. Member. You notice I have these figures now, because the AG's office is inside of the structuring of the TTPS from an Executive arm's length distance, reorganizing their prosecutorial management for the first time ever to create a national prosecution agency where we marry the case management system. Because I am not waiting until the 18th of April for the proclamation of the Criminal Proceeding Rules where I know 95 per cent is done by the police. I am organizing them right now. Right now.

At the same time, we are building out a public defender system, so you have more than 20 defence attorneys available, because it is juries, it is defence attorneys, it is prosecutors, it is judges, it is courtrooms, it is rise and sit time analysis, it is transmission between the court and the jail and it is making sure that you do not need bush matters in the court—take out the motor vehicle 100,000 cases and judicial time and police time and victim time. That is the suite of architecture we are talking about. I said it because, I would say it again, architecture is the opposite of "voops, vaps" and vaille-que-vaille, and no amount of scorn in particular that Oropouche East brings, could ever deal with the fact of a

systematic dealing with the issues. This Bill is a good Bill. This Bill is part of an operational drive.

In the prisons, I cannot wait to tell you what we are doing, the amount of work we have done. In the Judiciary, in the children's arena. But, Madam Speaker, this is good law. We have taken heed of a number of the observations of colleagues opposite, some of them find themselves with proposed amendments. And with that, Madam Speaker, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1.

Question proposed: That clause 1 stand part of the Bill.

Madam Chairman: Member of Siparia.

Mrs. Persad-Bissessar SC: Thank you, Madam Speaker. I beg to move that we amend clause 1(2) as circulated.

Insert after the word "Proclamation" the words, "on or before 1st August 2017".

My reason for proposing this amendment is I see this as another example where we are being given a deferred date for making this law coming into effect.I have seen all the Bills which contained proclamation clauses with a deferred date, not one has been proclaimed. The hon. Attorney General, just now in his winding up, did indicate that matters would be put into place. So I am proposing—in the 18 months there has been not a single proclamation of any Bill we passed where there was this deferred proclamation. My proposal is that we amend clause 1(2) to insert the words "on or before 1st August, 2017" as circulated. So we put a fixed date.

That gives the Government three plus months within which to put this into place. Should the Government not believe that August is sufficient, then we could put September.

But this Bill, every speaker on the Government side has been singing the praises of how important it is in helping to fix the criminal justice system and we therefore believe instead of leaving it with an open proclamation date, that a fixed date, an on or before fixed date should be inserted. So I beg to move that clause 1(2) be amended as proposed.

Mr. Al-Rawi: Madam Speaker, I thank the hon. Member for the contribution. I accept that there is an anxiety to see an improvement of the system. Regrettably, it is not the case and that an "on or before date" is usual in this type of matter, and if could explain why in this case it would be unusual.

Firstly, the Criminal Proceedings Rules are coming into effect on the 18th of April, 2017. Secondly, it is actually common that you do some degree of training prior to the proclamation of an event such as this, which could require the Law Association and also the Criminal Bar and the Judiciary to conduct some training exercises. The training usually is done in midterm. The court goes on vacation in July and August is usually out. So whilst I accept that we are all anxious to have this into effect, it would be impractical.

The last reason is that certainly in the five years that I had the pleasureto serve in the Senate and participated in many Bills brought by the last Government, the vast majority of which in the criminal justice sector remain unproclaimed. I certainly did not notice anything along this line. So, I would not recommend that this particular clause be amended as such.

Mr. Charles: Thank you, Madam Chair. Would the hon. Attorney General, having regard to all the problems and challenges that you have raised, give us and the

nation comfort by putting a date that takes into consideration all the concerns that you have expressed?

Mr. Al-Rawi: Is the Member asking for an undertaking in respect of an estimated proclamation?

Mr. Charles: In law, saying on or before. We have in the Bill "on or before 1st of August" well then let us give it—

Mr. Al-Rawi: Regrettably, we would certainly not be in a position to do that. It is for the reasons already advanced.

Mr. Charles: Right. So you will understand that our concern is that this in the line of Bills that are not proclaimed and, therefore, no Act is operationalized. That is a concern that we have as indicated by the hon. Leader of the Opposition.

Mr. Al-Rawi: If I could just state, first of all, it is not accurate that no Bill has been proclaimed, and that is not the case. I have certainly already stated the reasons that we are undergoing.

Mr. Charles: Given the fact that none of the three——the SSA Act, the Family and Children Division Act and FATCA legislation, all we are asking is for comfort. You have impressed on us the urgency of this thing, and we agree it is important, but yet we do not have comfort that anything will happen. It will just be another thing that we agree and nothing happens subsequently. So give us the comfort.

8.00p.m.

Mr. Al-Rawi: Madam Chairman, I would just end, having made the contribution that I made already, by saying that one could not be more anxious than this particular Government to put things into effect, and we are very conscious that we will be judged by the people of Trinidad and Tobago, and we do not intend to be putting ourselves in that position.

Mrs. Persad-Bissessar SC: Through you, Madam, would the hon. Attorney General then give a time frame within which you hope to have this operationalized? I mean, we have Bills passed that are not here.

Mr. Al-Rawi: I am scheduled to meet with the Law Association, which has just received its gazetting just yesterday. I am meeting with them tomorrow to discuss operationalization of a number of these aspects and that is one of the matters I intend to raise. As I said, it is traditional to have training in respect of these matters and I would want to do so with the profession being consulted on that.

Mrs. Persad-Bissessar SC: And you have no indication of how long these matters that you have to do will take?

Mr. Al-Rawi: Hon.Member for Siparia, I am trying my very best to communicate to you that I am equally anxious, and we shall be making our best endeavours to put this into effect, and we will certainly be moving with alacrity.

Question put and agreed to.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Madam Chairman: I would take the Attorney General.

Mr. Al-Rawi: Much obliged, Madam Chairman. Madam Chairman, the observations of the hon. Leader of the Opposition found good reflection, certainly we have proposed an amendment to the definition for an "accused person". We have also proposed a modification of the definition of "particular course of action", and we have also sought to clarify the issue of "relative"—

Mrs. Persad-Bissessar SC: Hon. AG, since there are proposed amendments to more than one of the definitions in this section, can we do them one at a time?

Mr. Al-Rawi: Yes, Ma'am.

Mrs. Persad-Bissessar SC: Thank you very much.

Mr. Al-Rawi: Madam Chairman, relative to the first one—let me just pull my Bill here—we have sought specifically to move away from the definition as stated. As stated, we had used the words "'accused person' means a person suspected of committing a criminal offence or a defendant in proceedings before the court for criminal proceedings", and we have proposed now that the:

> "'accused person' includes"—taking avail of the observations of the Leader of the Opposition—"a person who is not charged with an offence but who is under investigation for the commission of an offence;".

If I could explain that, "accused" would find itself defined already in law as a person who is before the court as a defendant. So the expanded version that we had became otiose if you factored that; however, insofar as this Bill contemplates someone moving into a plea discussion and eventually a plea agreement prior to even a charge being offered, we needed to except ourselves away from the definitions in the Interpretation Act by specifically including that the accused would include someone who is not charged with an offence but who is under investigation for an offence. So we have sought to simplify built on the back of the Interpretation Act, or the common definition of what a defendant actually is. I do know, Madam Chairman, that the hon. Leader of the Opposition has proposed something which is tied to the definition of "accused person". Perhaps it may be, with your guidance, convenient for us to speak about that at the same time; that is, to treat with the observations of the Opposition.

Mrs. Persad-Bissessar SC: Okay, Madam, I have circulated an amendment:

> In the definition of "accused person", delete the words, "means a person suspected of committing a criminal offence or";

And I welcome the opportunity to discuss this, because I can see the benefit of

including suspects for plea discussions. However, it seems to me that there are inconsistencies with having a suspect being a person who could enter into plea discussions, but even more important into plea agreements, because the entire tenor of the Bill makes provisions for certain things to be done with certain courts, and I can point you to them. Clauses 18, 19—and I will come back to the specific parts—18, 19, 20, 21, 22, 23, 24, 25, 27, and there are some others, they provide for steps to be followed, and, most important, for judicial oversight for plea agreements; for the plea agreements especially. So 18(3) starts off:

> "A victim impact statement shall be filed with the Court at the time of filing of the plea agreement."

So a suspect is not before the court; that is what I am saying. If you want to have the suspect we would have to do something else. 19(2) provides, in essence, that:

> "A plea agreement…concluded while the person is before a Magistrate shall be filed with the Clerk of the Peace…"

19(3) makes provision where:

> "…the accused is before the High Court"—to—"be filed with the Registrar of the"—High—"Court"…

20(2), the plea agreement concluded whilst an accused is before the Magistrate shall be filed with the Clerk of the Peace. The plea agreement concluded while before the High Court filed with the Registrar of the Court. So what happens with a suspect because the suspect is not before the court?

And I am asking you—this is why there are options which we can consider, one is that we may want to delete "suspect" from the definition of a person who could enter into plea agreements because he is not before the court, or you may have to put a provision in now that once you have—you could have plea discussions, pre-charge, because once you are charged you are brought before the

court; you can have discussions but once there is an agreement that person must be under charges before the court. How else are you going to file any agreement before any court, whether magistrate or not? And then you go—

Mr. Al-Rawi: Yes, please, continue.

Mrs. Persad-Bissessar SC: So I am asking you to clarify that. We continue with 21: within 28 days of filing plea agreement the matter is listed for a plea agreement, and the clauses I mentioned continue in the same vein. So it appears that in the body of the Bill the provisions are all in the majority related to what happens if you are before the court. I am asking you to share with us what happens where a suspect is not before the court?

Mr. Al-Rawi: Sure. Very good observation, first of all, it is something that tickled my mind as well. So let us start at clause 6 and then move to clause 10. All of the clauses that you have referred to, I understand the logic behind your position. Clause 6 starts with:

> "A prosecutor shall not enter into a plea discussion or conclude a plea agreement unless the prosecutor first obtains the written permission of the"—DPP.

Just mark that. When we get to clause 10, and then we jump to 11, 10 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 in fact invites that the court identify a third party to be present. Clause 11 is the first place we talk about:

> "If plea discussions are initiated before charges are laid, the prosecutor shall inform the accused person…"—et cetera.

So your legitimate concern, if I understand it, is how does one get without a charge before a judicial officer, for a judicial officer to do something, which if you start

from clauses 18 move forward, as you have observed, is to go into a process of the judge confirming the discussion and then entering the agreement, and then the appeal, et cetera, follows from there.

Mrs. Persad-Bissessar SC: Accepting or rejecting when they make a plea agreement, and so on.

Mr. Al-Rawi: Correct. So the question is, how does someone who is not charged get before the court?—and it is to be found really by the fact that the DPP must give consent to the initiation of a plea discussion, because it is only the DPP who would be deciding whether you have a charge to answer or not. The discussion which happens at this point before the police move to charge, the discussion moves this way, accused is in a police station under investigation, or under investigation and not at the station, assisting the police, as they would say. The police approach the DPP, say, would you please have a look at this matter, we are contemplating charging this person. The discussion can commence with the accused who is not yet charged, with the DPP having given an indication, in very guarded terms because under the Bill we do not have to actually give all of the evidence away just yet, you can reserve that, it is specified in the Bill. The DPP considers whether a charge would be capable of being offered or not. The DPP then indicates that to the accused, and the discussion happens. He authorizes the accused to commence going before the court not charged, and how that is done is in two routes, one at the High Court, one at the Magistracy. To approach the High Court the rules of the court will have to pick up now the manner in which one approaches the court to have the plea discussion start—

Mrs. Persad-Bissessar SC: Converted in a plea agreement.

Mr. Al-Rawi: Well, the discussions start, because the first part deals with discussion, then victim impact statements, then we go to plea agreements. When

we are at plea discussion point it is the court that would have to authorize for an unrepresented accused how the plea discussion starts. In the High Court that could easily be done by way of an application to the court for the appointment of the third party under the provisions of clause 10, and in the case where you are not yet before the court the plea discussion, which is in Part II of the Bill where you are represented, is between the prosecutor and the attorney for the accused. It is only when you are at the point of an agreement going to the court that you then file, by way of application to the court, that this agreement be concluded. It does not therefore mean that you have to have charge, they can be mutually exclusive.

Mrs. Persad-Bissessar SC: Hon. Attorney General, the clauses you have mentioned, including 10 and 11, they are all fine at the stage for discussions. I have not seen the quantum leap of taking the discussions and taking that accused before a court where you can file a plea agreement. It is my respectful view that you may want to fine-tune it to make it very clear that if the plea discussions may reach to the stage of having some kind of agreement then that person has to be charged before you can bring them before a court. I understand all you have pointed me to—6, 10, 11—all these have to do with plea discussions, and that can happen without charges. In fact, sometimes you may want it to happen because a suspect may have evidence or information about a crime that has been committed, who could provide valuable evidence for something else. So I could see the value of the suspect, but it is my respectful view that the leap from discussion to having the judicial oversight for the filing of a plea agreement and everything that takes place thereafter, it does not include suspects.

Mr. Al-Rawi: Could I perhaps assist this way?

Mrs. Persad-Bissessar SC: Sure.

Mr. Al-Rawi: If we look at clause 19:

> "A plea agreement concluded between a prosecutor and the Attorney-at-law for an accused person shall be in the form set out in Form 3 of the Schedule."

You are correct, hon. Leader of the Opposition, that a charge has to be offered, it is actually in Form 3. You see, the concept of the plea agreement is not that you are going to court for anything other than an admission of guilt, the question is what you have negotiated your way out of. So you are correct, the discussion can jump to an agreement because you would have to admit in Form 3 the particulars of a charge which would be offered. It is only when you get to the charge, which you may have negotiated, that you get to that particular position.

Mrs. Persad-Bissessar SC: Okay, again, with due respect, Sir, on a reading of Form 3, which is on page 23 of this Bill, it is very clear, it says:

> "WHEREAS the accused/defendant was on the"—X—"day of"—X year—"charged…"—charged—

So, again, the accused has to be charged, and, therefore, the forms in the Schedule cannot constitute the laying of a charge, per se.

Mr. Al-Rawi: You see, hon. Leader, the charge is a prerequisite of the plea bargaining—

Mrs. Persad-Bissessar SC: Of course.

Mr. Al-Rawi:—but you can move as a suspect into a plea discussion and then accept the charge reduced into the plea agreement stage, which you offer to the court in the body of Form 3, pursuant to clause 19 of the Bill.

Mrs. Persad-Bissessar SC: With due respect, it cannot be filed in the court given the provisions I have outlined for you from 18, 19, 20, 21, 22, 23, 24, 25, unless the provision is made. If you are before the magistrate you file there, if you are before the High Court you file there, you file with the Registrar, or with the Clerk

of the Peace in the Magistrates' Court. Look, the intention is good, it will assist in this whole process. There must be a linking clause, and perhaps you could ask your technocrats to look at it, to convert, at some point, that the person will be charged, because basically what is a plea agreement, your definition of a plea agreement in this Bill is that where the accused pleads guilty, but if there is no charge what is he going to plead guilty to? That is what in exchange for your definition of plea agreement is where the accused agrees to plead guilty—here it is in clause 4(1), the accused person agrees to plead guilty to an offence disclosed on the facts, and to fulfil any other which the charged against the accused is based, to fulfil other obligations. There must be a connection. Look, I do not want us to pass it and then it gets into trouble.

Mr. Al-Rawi: Hon. Leader, I understand what you are saying, as I have said, we have actually thought about this process. In fact, that is why we went for three successive days. We took every opportunity to speak with Mrs. Elder, in particular. We had the commentary from the Judiciary, from senior members of the bar. We have had all of these comments from the Criminal Justice Advisory team, from the British High Commission and Canadian Government. I follow your position, what I am trying to point you to is that in clause 19 itself, yes, you do have to have a charge come in, it is contained in, but it is very much like a mortgage would be, where you lodge a conveyance first and the mortgage is registered immediately after; you do the two at the same time. In this type of scenario you would be going before the court, you will have the charges dealt with on the same day, and the plea agreement approach dealt with on the same day. It can all be done in one day.

Mr. Hinds: As I understand it AG—am I correct?—I think, yes. I agree with the Leader of the Opposition, there must be a charge, and in the circumstances there will be a charge. After the plea agreement, for example, they may have been

investigating murder, they enter into the discussion and he agrees that he should be charged for manslaughter on the basis of the facts. At that point he will be charged for manslaughter and that is what goes, and that is what goes. [*Interruption*] No, it is here. And that is what goes before the court, because it is the charge that goes before the court, but the plea discussion will be for murder, for an example, or grievous bodily harm to actual, or, you know, bodily harm, some lesser offence, but the charge will be preferred along with the plea agreement.

Mrs. Persad-Bissessar SC: May I just—

Mr. Hinds: Please.

Mrs. Persad-Bissessar SC: I really thank the hon.Member for Laventille West, who is very, very eloquent in his words today, and I thank him for his efforts to clarify, but again, hon. Attorney General, you referred to Form 3, and Form 3 is clearly stating in the first part, whereas the accused was on such a day charged, and then on a different day the plea agreement, so it cannot be that this is the charge, it is two different things. [*Interruption*] And in any event, sorry, Sir, I am not the greatest of criminal lawyers but from my understanding of it a charge is laid under different statutes. A charge is laid not by a form in a schedule of a Bill for plea bargaining, a charge is laid under the Summary Offences Act, under the, whatever, whatever, Indictable Offences, et cetera, et cetera.

Mr. Hinds: So Form 3 is not the charge, Form 3 is the agreement.

Mrs. Persad-Bissessar SC: Well, the hon. Attorney General said it is.

Mr. Al-Rawi: No, hold on, hold on, hold on—

Mr. Hinds: No, he did not say that.

Mr. Al-Rawi:—hold on, I did not say that—

Mrs. Persad-Bissessar SC: I am sorry, I misunderstood you.

Mr. Al-Rawi:—I was referring you, hon. Leader, to the fact that you are correct

that a charge is a prerequisite of a plea agreement and therefore you have the locus, if I could use that, to be in court. What I am saying is by facilitating the discussions prior to charge the steps to get to before the court for the plea agreement to be entered, in the manners that you have pointed out, the routes available, indictable or summary, is that you will have to be charged but you have negotiated what that charge will be. There is nothing to say that it could not be done on the same day, or that you go for an arraignment the day before and the plea agreement the day after, because it is all subject to agreement.

Mrs. Persad-Bissessar SC: But an arraignment, you are already charged. With an arraignment you are already charged. I think that is my understanding of the law.

Mr. Al-Rawi: So you can agree to what you are going to be arraigned to.

Mrs. Persad-Bissessar SC: Agreed, but you have to be charged before an arraignment.

Mr. Al-Rawi: I am saying that you will be charged. The ability from the United States, come back, to cop the plea, as they call it, is that you negotiate the position that you are in prior to being charged.

Mrs. Persad-Bissessar SC: Hon. Attorney General, I agree with everything you have said; I am saying that ambiguity can be easily erased with one clause being inserted, which says that prior to filing, because you cannot file in a court unless you are charged with something before the court.

Mr. Al-Rawi: But you are, there is nothing to stop that.

Mrs. Persad-Bissessar SC: But there is nothing to say that that must happen.

Mr. Al-Rawi: But it is axiomatic that you have to be met with a charge, it is evidenced in the form.

Mrs. Persad-Bissessar SC: You have set out what happens to an accused who is before the Magistrates' Court, you have set out what happens to a person who is

before the High Court, for the indictable matters, you have not set out what happens to a person who is not before any court.

Mr. Al-Rawi: The person arrives at the court, the process of charging and plea arrangement are done side by side.

Mrs. Persad-Bissessar SC: With due respect, I do not agree but you are the Government of the day.

Dr. Rowley: When a man convince that he is guilty—of the same opinion—

Mrs. Persad-Bissessar SC: Yes, well that is what I am saying, that it is your choice. Let the Opposition have a say and the Government will have its way, I mean, go ahead, but I am saying, respectfully, I do not agree, and we move on. [*Crosstalk*]

Madam Chairman: Attorney General, may I suggest that there are other amendments proposed to clause 2 so that maybe you can give your final say, and if we can deal with the other amendments proposed under clause 2.

Mr. Al-Rawi: Sure. The second matter proposed under clause 2 was to treat with the definition of "particular course of action". We proposed in that section that we delete "agrees" so that there does not have to be an actual agreement. The clause originally read, "particular course of action means a course of action referred to in section 4(1)(b) that a prosecutor agrees may take under a plea agreement"; we have proposed delete the word "agrees" so that it would be, "a particular course of action means a course of action referred to in section 4(1)(b) that a prosecutor may take under a plea agreement".

In respect of the definition of "relative" we have sought to add into (c) of the definition of "relative", which originally read as a person responsible for the care and support, the word "victim" was missing there so we have put it in to now read, "a person responsible for the victim's care and support". Those are the three

amendments that we proposed to clause 2. I noted, if it is convenient, that we could deal with the Leader of the Opposition, do you want to take us through court and DPP?—Magistrate, Minister, offence.

Mrs. Persad-Bissessar SC: It is at your wish, Sir.

Mr. Al-Rawi: As you please, through Madam Speaker.

Madam Chairman: I would call upon the Member for Siparia to deal with her proposed amendments.

Mrs. Persad-Bissessar SC: Thank you, Madam. The hon. Attorney General said there was no need to insert a definition of "court", I thought out an abundance of caution I saw it in the Bahamas Act, for example, section 2. I saw it in the original plea bargaining statute that we have, Chap. 13:07, out of an abundance of caution because we do have courts that are not the High Court and the Magistrates' Court, so it is not like court must mean High Court and Magistrates'. So out of an abundance of caution, but if the AG is satisfied that we leave it out, well then, so be it.

Mr. Al-Rawi: That was the advice offered by Chief Parliamentary Counsel to me. I saw merit in their reflection on the Interpretation Act, so if it pleases you I would prefer to leave it the way it is.

Mrs. Persad-Bissessar SC: But can I just ask what does the Interpretation Act say with respect to court?

Mr. Al-Rawi: Sure. The Interpretation Act says, that is 78 of Chap. 3:01, court means any court of Trinidad and Tobago of competent jurisdiction.

Mrs. Persad-Bissessar SC: So does that mean, for example, the Industrial Court? Is it a court of competent jurisdiction? It is not a superior court of record.

Mr. Al-Rawi: No, I follow your point. So the Industrial Court, the Industrial Court is a court of competent jurisdiction, yes, but there are also offences that can come

before that court.

Mrs. Persad-Bissessar SC: So I am saying, out of the abundance of caution, we exclude and we say we are dealing with High Court, Court of Appeal—High Court and the Supreme Court and the Magistrates' Court.

Mr. Al-Rawi: Sure, just give me a moment.

Mrs. Persad-Bissessar SC: If you think it is superfluous, so be it. [*Crosstalk*]

Mr. Al-Rawi: Hon.Member, through you, Madam Chair, it can go one way or the other, insofar as you have pointed out the need to be certain about it, one could argue that we should not go on the implied route, that we could be express, and in those circumstances we can accept the limitation to High Court and Magistrates' Court.

Mrs. Persad-Bissessar SC: Thank you, hon. Attorney General. Shall we move to the—

Madam Chairman: Continue—all under 2.

Mrs. Persad-Bissessar SC: Yes, Ma'am. Clause 2, using your previous argument with respect to court and the Interpretation Act, the definition of Director of Public Prosecutions, again, no harm really but there is no need to say his responsibilities under the Constitution because he has no other responsibilities. All his powers are given under section 90, the DPP, under section 90, so it is superfluous to say the Director of Public Prosecutions exercising his powers under the Constitution.

Mr. Al-Rawi: I catch what you are saying, hon.Member, I am just told by the CPC's team that this is the formula that they use whenever they refer to section 90 of the Constitution.

Mrs. Persad-Bissessar SC: Well, I have seen it—anyway, look, there is no harm in it; of course, it is superfluous but there is no harm so I will not press for that. The other one is magistrate, similar to your argument about court, a magistrate is

only a magistrate under the Summary Courts Act, you cannot find a magistrate in any other way. Now in Jamaica, if you were looking at the Jamaican model, they have like Resident Magistrates' and different kinds, we only have magistrates who subsist under the provisions of the Summary Courts Act. The present definition says the meaning assigned Summary Courts Act, do we need it?

Mr. Al-Rawi: I am advised that we do.

Mrs. Persad-Bissessar SC: Can we understand why?

Mr. Al-Rawi: It may be superfluous, I mean insofar as one could argue that in our jurisdiction it may be clear that a Magistrate could only be that entity under both the Supreme Court of Judicature Act and the Summary Courts Act, but I am told that because it can be in both the Supreme Court of Judicature Act and the Summary Courts Act that they have specified the functions as contained under the Summary Courts Act.

Mrs. Persad-Bissessar SC: It is not the matter that is one to push you on AG. The other one is—this is not, Madam Chair, in the existing definition, the next one that I have, but it becomes necessary because of some clauses I have proposed, so I do not know if we do it at the end or if we do it here in clause 2? I am asking.

Mr. Al-Rawi: Madam Chair, the hon.Member is referring to the proposed inclusion of a definition of "Minister" which comes about on account of a reference to Minister in proposed amendments which would refer to that. How do you propose we treat with that?

Madam Chairman: I could say let us take it in its turn here.

Mrs. Persad-Bissessar SC: Alphabetically.

Madam Chairman: Yes.

Mrs. Persad-Bissessar SC: I am guided and I thank you.

Mr. Al-Rawi: Would you want to refer to it then?

Mrs. Persad-Bissessar SC: I am asking that we insert a definition of Minister, meaning the Minister means the Attorney General. This is necessary because I have proposed later down two new clauses; one of them, at the moment, there is no person who has been assigned any function for varying the schedule, and the entire schedule is made up of forms, and, you know, as you work it you may find that the form needs to be amended which means you would have to come back to Parliament. So, therefore, I feel the hon. Attorney General should be given—well, the Minister, meaning the hon. Attorney General, should be given that power by order, subject to resolution of Parliament, negative, to have that power to amend forms without having to coming back to Parliament. So this is where the—AG, one reason why I am inserting—

Madam Chairman: Attorney General.

8.30p.m.

Mr. Al-Rawi: Permit me to just break the rubric that we are in, hon. Leader. Unfortunately—this is not to be uncomplimentary in any way—but some of the amendments that you are pointing to are quite significant and refer to some very good observations which were not addressed in the course of the debate. I have just had a little whisper to our team and I asked whether we would be minded to allow us to continue this on the next sitting, so that I could specifically get the views of some of the contributors to the Bill on some of the amendments. For instance, what you have just pointed to on "Minister" and the need to treat with the forms, et cetera, is very, very useful. So I am wondering if you would mind what the Opposition's view would be for us to press pause at committee stage now, we can go off and have a view of some of these amendments, because I would want to get the input of some of the drafters of the Bill.

Mrs. Persad-Bissessar SC: When would you propose we come back?

Mr. Al-Rawi: On the next session.

Mrs. Persad-Bissessar SC: I do not know when that is, Sir.

Mr. Al-Rawi: That would be the next Friday.

Mrs. Persad-Bissessar SC: I will not be here, Sir. I will not be here next Friday, but I cannot govern your parliamentary business. We have agreed to sit until we complete this, if you want to change it—you might be very happy to do it in my absence.

Mr. Al-Rawi: Do you know when you would be back next? Would you be back for the sitting after?

Mrs. Persad-Bissessar SC: Yes.

Mr. Al-Rawi: Should we do it then, if that is okay with you?

Mrs. Persad-Bissessar SC: It is your agenda, Sir.

Mr. Al-Rawi: No, but I value your input and your contributions are very useful on the Bill, so I would prefer that you were actually here. It would give us some room. I will, of course, share with you whatever the views are that I have obtained off of your reflections. We want to come up with good law.

Dr. Rowley: We can wait until you come back.

Mr. Al-Rawi: We can wait until you come back.

Mrs. Persad-Bissessar SC: So we can probably do something else. I do not want the Parliament to stop.

Mr. Al-Rawi: No, we have other business.

Mrs. Persad-Bissessar SC: So we can come back in the committee stage. Can we talk it through?

Mr. Al-Rawi: Yes, please.

Mrs. Persad-Bissessar SC: We can, Leader of Government Business. So what, we want to adjourn now, is that what is happening? You want to suspend the

committee stage? [Crosstalk] Do we want to do that?

Mr. Imbert: Would you not want to share your views verbally and then he comes back, rather than—

Mrs. Persad-Bissessar SC: You see, what you have, hon. Attorney General, if it is you really want to give serious consideration—and I do appreciate that; this is an important Bill—I have placed in the thing my amendments. You do not have my reasons why. For that one I am sure you see the benefit right away. You cannot have forms in a Schedule and then have to come back to Parliament to change forms.

Mr. Al-Rawi: I actually thought a lot seven years later of some of the logic behind it, but I am proposing that we can get some advice on it and to come back. [*Crosstalk*]

Insofar as the next day goes to a Private Members' Day, would you be opposed to, after Private Members' Day, doing the tail end of the committee stage?

Mrs. Persad-Bissessar SC: Not at all, but would you want to put it so far ahead?

Mr. Al-Rawi: It is only to be sure that you are back.

Mrs. Persad-Bissessar SC: The following Wednesday? What is the date today?

Mr. Al-Rawi: Today is the 12th.

Mrs. Persad-Bissessar SC: So Friday would be the 14th. Fourteen and seven is 21, so we can come on the Wednesday if you wish. The Wednesday is the 25th and then the Private Day is the Friday. I really would not want my colleagues to get interfered with their Private Day. We get one a month.

Mr. Al-Rawi: No, we will not do that. At 6.30 when it ends, we could just carry on with the Bill.

Mrs. Persad-Bissessar SC: We can come on Wednesday.

Mr. Al-Rawi: So that week.

Mrs. Persad-Bissessar SC: If you see it, Sir, which you now have, the amendments are quite extensive.

Mrs. Robinson-Regis: So after Private Members' Day.

Mrs. Persad-Bissessar SC: So you want to do it after Private Members' Day. [*Crosstalk*]

Mr. Imbert: Next week Friday is the 21st.

Mr. Al-Rawi: Which the hon. Leader would be out on and then back on the 28th. What I am proposing, because we have a few things to sort out, is that we have the Private Members' Day, it ends at 6.00 and then we can easily just pick up the tail end.

Mrs. Persad-Bissessar SC: Whilst you are doing that then and you are going further, my colleague here, the Member for Chaguanas West, raised issues about what was recommended by Pamela Elder SC about custodial sentencing. I did not get the opportunity to put that in here. It was in the draft Bill that we had drafted when we were there. I do not see it here, and perhaps you can explain why you have left them out, or whether we should not consider them.

Mr. Al-Rawi: I undertake to look at it. I have the material from prior, and actually the rationale for adjournment is specifically to speak with Mrs. Elder, insofar as she is not part of the CPC team, to get some of the reflections on that. So I will raise that issue with her. Were there any other issues that you wanted some reports on?

Mrs. Persad-Bissessar SC: They are in the amendments.

Mr. Al-Rawi: Of course, I am open to receiving any other enquiries that hon. Members may have. Perhaps through the Members for Chaguanas West and Arouca/Maloney, we could pick up anything else that perhaps you may have missed at this point.

Mrs. Persad-Bissessar SC: The Members for Chaguanas West and Pointe-a-Pierre, because one is out and one might be going out.

Mr. Al-Rawi: Understood; okay. Thank you for your cooperation.

Mrs. Robinson-Regis: May I just confirm that Friday 28th at 6.00 that we will resume this debate, please? Just confirming.

Mrs. Persad-Bissessar SC: On that day, Madam, we will have Private Members' Day.

Mrs. Robinson-Regis: Private Members' Day and then after that we will return to this.

Mrs. Persad-Bissessar SC: Yes, I think we have an agreement.

Mrs. Robinson-Regis: Thank you.

Madam Chairman: Hon. Members, the question is that progress on the Bill be now reported to the House.

Question put and agreed to.

House resumed.

Madam Speaker: Attorney General.

Mr. Al-Rawi: Thank you, Madam Speaker. I wish to report that progress has been made on the Criminal Procedure (Plea Discussion and Plea Agreement) Bill, 2017. Clause 1 has been considered so far, and further consideration of the work of the committee in whole is proposed to resume on Friday, April 28, 2017 after the conclusion of Private Members' Business at six o'clock, or whenever that is concluded on that day, so that the committee could then make further report to the honourable House.

Madam Speaker: Hon. Members, leave is granted for further consideration of this Bill by the committee of the whole on Friday, the 28th of April.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, I beg to move that this House do now adjourn to Friday, the 21st day of April, 2017 at 1.30 p.m., at which time we will do Motion No. 2 which is the appointment of the nominee for the Police Service Commission, and we will also debate the Bill on the Fire Services Act, which is the amendment to the Fire Services Act, Chap. 35:50, not necessarily in that order. Thank you.

Madam Speaker: Hon. Members, there is one matter that qualifies to be raised on the Motion for the Adjournment of the House filed by the Member for Tabaquite. I now call upon the Member for Tabaquite.

Tobago Sea Bridge (Cargo/Passenger Difficulties)

Dr. Surujrattan Rambachan (*Tabaquite*): Thank you very much, Madam Speaker. The matter has to do with the situation that currently exists in relation to the difficulties being experienced as a result of the lack of, what might be described at this stage, as confirmed arrangements for the transport of cargo in particular and also passengers to and from Tobago.

Madam Speaker, in the tradition of the current administration, the PNM, one would expect in their reply to hear them blaming the past administration and accusing the past administration about all kinds of things relevant to this particular issue. But I want to say to them this evening that the people are tired of this blaming culture. The people are tired of these accusations and they want to see a government who claims to be in charge fix the problem that they are supposed to fix. [*Desk thumping*]

Madam Speaker, the issue is simple. The *Galicia* which was brought to Trinidad and Tobago by the People's Partnership Administration when the *Warrior Spirit*, I believe it broke down. It was brought on a 12-month contract. It was extended for another 12-month period, and it was supposed to be extended to

October 2017, the end of October, and we understand that the Cabinet of Trinidad and Tobago rejected the recommendation of the Port Authority management. In rejecting the recommendation of the Port Authority management, it has thrown things into a tailspin, and the people of Tobago are now not assured that they are going to have a reliable transportation system in terms of Tobago.

Madam Speaker, when you listen to the people of Tobago on this matter, you realize that there are four things they are saying about this Government in this matter. One, that there is gross incompetence with this matter. Two, there has been a gross dereliction of duty in this matter and care for the people of Tobago. Thirdly, there has been gross mismanagement of this whole process and, fourthly, there is the perception of corruption that has brought about this particular issue.

Madam Speaker, this matter is not only about the matter of transport of cargo and people, but it is also about the impact on the image of Trinidad and Tobago as a tourism destination, one which was recently described by the hon. Minister for Tourism as a country not being ready for tourists. These are the words of the Minister of Tourism, who is perpetually absent from the House. She is never in her seat.

This matter of the termination of the contract of the *Galicia* has attracted global interest. When a matter like this attracts global interest what is happening here is that you are affecting the reputation of Trinidad and Tobago and what we really describe as reputational damage. It is difficult when your reputation as a tourism destination has been affected to repair that, especially when you see what is also happening in Tobago. For the first time you have five murders taking place in Tobago.

Not only reputational damage has been done, but the people of Tobago are actually saying that there has been gross disrespect for them, gross disrespect for

their well-being, for their food security and for the economy of Tobago, because so much of the economy of Tobago and its prosperity and the lives of people and their ability to earn money for them and their families, depend on the efficient running of these boats to and from Tobago. Therefore, no amount of blaming, no amount of excuses, no amount of accusations, no amount of talk about whose self-interest and no self-interest will absolve the current administration from what is a management and leadership disaster on their part. No doubt, the *Trinidad Guardian* in an editorial of this week was moved to write an entire editorial asking where is the leadership in the Government, and this is another one of that.

Today, the *TT Express* was five hours late to Tobago, because even the ferries continue to break down very regularly now since a contract was handed to someone to run the ferry service and what have you. So I have some questions for the hon. Minister of Minister of Works and Transport. Of course he inherited this problem, because if the former Minister had done his job, rather than be concerned about whether he sits on the 10th level or whether he sits in the Ministry, maybe he would have done his job and this problem would not be where it is.

But I want to ask the hon. Minister, did the current and former Minister of Works and Transport know that the contract was coming to an end, and if he knew the contract was coming to an end, did he do anything or put anything in place to ensure that this situation would not be brought to the point where it is today?

Second question, why did the Cabinet refuse the recommendations of the management of the port for an extension to October 2017? Why did the Cabinet refuse it? Was that the reason, Member for Port of Spain North/St. Ann's West, why you fired the former Chairman of the board? Are you alluding that there was corruption that caused the firing? [*Desk thumping and crosstalk*] "Then it drop out of yuh mouth."

Madam Speaker: Members, I know it is late, but I would like the decorum to be maintained. I also would not want the Member for Tabaquite to have to strain his vocal cords to speak above the level of the din. Please continue, Member for Tabaquite.

Dr. S. Rambachan: Thank you, Madam Speaker. I will not strain my vocal cords; I just happen to speak very loudly.

The third question, why did the former Port Authority Chairman, Ms. Christine Sahadeo, commission an evaluation of the suitability of the *Super Fast Galicia* without the knowledge of the board? Why? Those are not my words. Those are the words of one of the members of the board, Mr. Ferdi Ferreira.

Mr. Singh: Founding member of the PNM.

Hon. Member: True PNM; real PNM.

Dr. S. Rambachan: Yes. He said here in the *Guardian*:

> We were not aware that someone else was doing something without our knowledge. The board recommended an 18-month contract for the Galicia which would have ended October this year.

He said:

> Had that contract been signed that would have given us the time we needed to examine all options and we would not be in the situation we are in here today.

This is a member of the board who is saying that things were being done without the knowledge of members of the board.

I would like to ask the Member, the Minister also: On what basis was this report commissioned by the Chairman, without the knowledge of the board, and whether the Minister is aware that a Chinese vessel was to be brought, at a rate of US $22,000 per day, as compared to the *Super Fast Galicia* which was of course

the 14,750 euros? That vessel that was supposed to be brought—the name of the vessel *Bohai Jinsu*, which can carry 1,300 passengers and some cargo—would not have been a vessel that could not have served the interest of Trinidad and Tobago as the *Galicia* was serving, and which pleased the people of Tobago.

Why was the recommendation of the management of the Port Authority scorned by the Cabinet, on the basis of what was a report done by Mr. Macmillan I believe? Why did the Cabinet not extend the contract for 18 months? At the same time, in extending the contract for 18 months, why did they not extend it and then use that time to do what they are suggesting, which was to spec a boat, a vessel that is suitable for the run between Trinidad and Tobago, and you would have had 18 months to do that? It normally takes about three years to build a new vessel. You probably would have been able to acquire one, and therefore you would not have disrupted the lives of the people of Tobago as they have been disrupted right now.

The other matter is that the then Port Authority Chairman wrote a letter stating that they would support—and I have a copy of the letter—the decision for the *Galicia* for 18 months, or what have you, provided that the Government agrees to a $49 million dredging. The letter is dated April 27, 2016, signed by Ms. Christine Sahadeo to the Chairman. She says:

> As you are aware, the dredging of the Queen's Wharf with attendant works is at a cost of $49.2 million which is required for the operational efficiency and effectiveness of the *MV Super Fast Galicia*. The board is willing to—[*Interruption*]

Madam Speaker: Hon. Member for Tabaquite, your speaking time has expired.

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. This matter of the ferry service is one which concerns all of us, especially the people of Tobago. In answering to this Motion, brought by the

Member of Parliament for Tabaquite, let me assure the nation that I will not be playing political football with this situation that calls for immediate action and a resolve.

In order to answer the Motion, I will state all the facts dealing with the leasing of the vessel and the facts that led to the debacle that we face today. Most important, I will indicate the immediate short-term and long-term solutions that the Ministry of Works and Transport has put in place to ensure that we never have to face this kind of problem again.

Madam Speaker, the time is so short so I will have to hustle this a little bit, because I want to bring to the population the true facts in this matter, so that when the commentators are speaking about this issue, they will actually have the real facts starting from 2014.

Madam Speaker, let me just start on January 17, 2014. Let me go back to December 2013, where a certain company was hired by the port for legal advice. This company was N. D. Alphonso and Company Limited. In 2017, tenders went out for a roll on/roll off cargo vessel for six months, with a closing date of January 31st. The closing date for this tender was extended by seven days on the request of one of the tenderers. However, the tender closed on the 7th and was cancelled. So there is a history since 2014 of tenders being awarded and being cancelled, and if my interpretation is correct, I think it is five since this boat came on the scene.

The tenders were again invited on February 26th, and a few days were given. However, invited through a selective tender process the following firms were invited. I just want you to remember that I said in December a local company, a legal firm was hired to advise the port, N. D. Alphonso and Company. The companies selective tenderers for this invitation were Maritime Workers Offshore Contractors, Winford Ferreira Limited, DN Alphonso and Company Limited,

Auckland Shipping Brokers, East Coast Marine Brokers Limited, Atlantic Marine Equipment LLC—[*Interruption*]

Hon. Member: A law firm.

Sen. The Hon. R. Sinanan: Yes, the law firm was invited to submit tenders.

Hon. Members: What?

Sen. The Hon. R. Sinanan: However, so the tenders were opened and within about eight days the tenders were closed. Three tenders were received, one from Intercontinental Shipping, Ferrando & Massone S.r.l and Windward Ferries Limited. What is astonishing here is that Intercontinental was not invited for the initial tender; however, they indicated that they had a broker in ND Alphonso and Company Limited.

Hon. Member: Ahhh!

Miss Cudjoe: Who was the Minister then?

Hon. Member: The plot thickens!

Sen. The Hon. R. Sinanan: Now, remember this tender came out on the 27th and it was evaluated on the 6th. On the 6th, Intercontinental was awarded the contract. However, on a meeting on March 11th between Intercontinental and the Port Authority of Trinidad and Tobago, it was recommended by one, the preferred charter, Mr. John Powell, that, "Rather than you give us a contract for six months, why not give us it for 12 months? We already win." Madam Speaker, the contract was extended for 12 months without the price actually being reduced. So they tendered at one price for a six-month contract, they eventually got a 12-month contract at the same price. This to me was a disadvantage to the other tenderers.

Hon. Member: You have to answer the question.

Sen. The Hon. R. Sinanan: No, I am giving you. "Doh worry", I will come down to the exact thing here. Madam Speaker, I can continue to go on to show you exactly where we are. [*Interruption*]

Madam Speaker: Order!

Sen. The Hon. R. Sinanan: However, in November of 2016, I was appointed Minister of Works and Transport. I immediately recognized there was a challenge with this vessel. I went to Tobago, met with the stakeholders and then I came back to Trinidad calling the charter, Mr. Powell of Intercontinental Shipping. He informed me in December that he had legitimate agreement; however, it was not signed and he would prefer to have this contract signed off in December. I told him in January that I would get back to him and try to have this matter sorted out. Early January I called him in, he indicated to me immediately that he was no longer interested in an 18-month contract, what he wanted was a new contract for five years—three years, plus two years—or they would pull the boat. Madam Speaker, I considered that to be economic blackmail. That is how I considered that.

Hon. Member: Bullying!

Mr. Hinds: Anticipatory breach.

Sen. The Hon. R. Sinanan: Madam Speaker, immediately after listening to him, I informed the board that what they need to do now is go out and spec a vessel immediately, because understanding the challenges of this boat where, one, the boat cannot berth at the Queen's Wharf. The boat has to berth in front the Hyatt at the expense of cruise ships coming in. Two, we have to spend extra funding to hire a barge and tug. Three, the Hyatt is complaining about infrastructural damage that the boat is costing them.

This morning, coming into the Hyatt to the Parliament you could not enter. Why? Because all the trucks had to go down in front the Hyatt to load on the

barge. We cannot continue like that. Then there is the major problem where if we have to keep this boat, it is a $50 million dredging plus an average of about $20 million every two years because of the depth of the draft. Madam Speaker, just to remember in 2013—[*Crosstalk*]

Madam Speaker: Order!

Sen. The Hon. R. Sinanan:—this boat came in for six months. It stayed for 12 months and they keep extending, but they did nothing to improve the infrastructure for the boat—nothing they did.

Madam Speaker, I know my time is running out. What I want to talk about now are the solutions, because this Government is not only about talking about the other guys, it is about finding solutions. The Cabinet has already given approval for the tendering process for the purchase of a brand-new cargo vessel for Trinidad and Tobago. [*Desk thumping*] They have also approved the tendering process for the hiring of a cargo vessel for three years. I just want to inform the people of Tobago that I will be taking a Note to Cabinet for the purchase of two new fast ferries for passenger transportation to Tobago. Madam President, I wish I had about an hour again to tell you all the things that went on between 2013 and 2015 with the *Super Fast*, but I guess I do not have that time now.

Thank you.

9.00p.m.

Easter Greetings

Madam Speaker: Hon. Members, this week known as Holy Week in the Christian faith is considered the most sacred week in the Christian calendar. Holy Week commenced on Palm Sunday marking the triumphant re-entry of Jesus into Jerusalem. Today, the Wednesday of Holy Week is considered the end of Lent and ushers in the three holiest days of the liturgical year, the Triduum, which comprises

Maundy Thursday, Good Friday and Glorious Saturday. On Maundy Thursday, Christians commemorate the last supper at which Jesus washed the feet of his 12 apostles. Jesus' act of the washing of the feet is considered as the hallmark of leadership which is defined by service and humility.

On Good Friday, the Christian world reflects on the very human feelings of rejection, abandonment, doubt, pain and grief, all of which Jesus experienced as a consequence of his betrayal and crucifixion and the ultimate expression of love which is sacrifice, in Jesus' case the sacrifice was of his own life.

Glorious Saturday, the last of day the Triduum, celebrates Jesus' conquest of pain, suffering, doubt and loss, while Christians await the joyous anticipation, the resurrection of Jesus the redeemer on Easter Sunday.

I now invite Members to bring greetings to the Christian community on the event of Easter 2017. The Member for St. Ann's East. [*Desk thumping*]

The Minister of Community Development, Culture and the Arts (Hon. Dr. Nyan Gadsby-Dolly): [*Desk thumping*] Thank you, Madam Speaker. It is my honour to bring Easter greetings to you and to the Members of this honourable House during this Holy Week 2017.

The Easter season marks one of the most significant times for Christians the world over. Here in Trinidad and Tobago, more than 50 per cent of our population identifies as Christian. This annual celebration is a call for us all to reflect on Christ's death, burial and resurrection and to be called by his name.

Easter is a time when we are reminded of sacrifice, selflessness and commitment. During this season whether Christian or not, I am inviting us all to recommit to our nation of Trinidad and Tobago. Easter reminds us of the sacrifices we are all called to make in the service of our country, the selflessness we should all aspire to in service to our fellow men and the commitment we must all display

in our service to God and our faith. May we internalize the message of triumph through sacrifice and keep before us the potential we have to create a resilient nation together.

On behalf of the Government of Trinidad and Tobago, I wish us all especially those Roman Catholics among us a holy Easter, may God continue to bless us always. [*Desk thumping*]

Mrs. Christine Newallo-Hosein (*Cumuto/Manzanilla*): It is indeed a humbling experience to bring greetings on behalf of the [*Crosstalk*] Opposition to the Christian community on this auspicious—[*Interruption*]

Madam Speaker: Members, I would like to hear the contribution by the Member for Cumuto/Manzanilla, please. Please, continue.

Mrs. C. Newallo-Hosein:—on this most auspicious week in the Christian calendar. Many events took place in this week over 2,000 years ago. And on the night that Jesus was betrayed he broke bread, he gave thanks and he gave it to his disciples and said, "Take this my body that is given to you, do this in remembrance of me". And in the same like manner he took the cup and he gave thanks and he gave it to his disciples and said "Drink ye, this is my blood which was shed for many". And it is the only thing throughout the scriptures, old and new, that God mandated that we do in remembrance. And as Christians, for many of us whether it is once a month or weekly, we celebrate the Eucharist, we celebrate the body of Christ. And why did that happen? It happened because when man, Adam and Eve, came into this world, we fell and we became sinful and God made a way of escape for us.

Throughout history, the Jews would sacrifice a lamb every Passover and that lamb would represent the blood, a covenant between God and man that allowed them, allowed our sins to be atoned, but it was not enough. It was not enough for

an animal and so God sent his only son to die, to suffer and die and to be resurrected. [*Crosstalk*] But Matthew tells us in 27 that the scribes and elders— [*Interruption*]

Madam Speaker: I would certainly expect, at least, the Christians among to be a little more respectful to the tributes.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker.

Dr. Moonilal: I am Hindu.

Mrs. C. Newallo-Hosein: Matthew 27 tells us in verse 1 that the chief priests and the elders planned to execute Jesus, and what they did not realize is that Zachariah had indicated that he would have been crucified, he would have been pierced and therefore prophesy, it was necessary for prophesy to be fulfilled. And even after that Pontius Pilate felt, maybe if I can make intervention and maybe if I bruised him and I laid upon him whips upon his back perhaps, perhaps it will appease the chief priests and the elders. But little did Pilate know that in order to fulfil the word that was spoken in Isaiah 53, he had to flog Jesus, because Isaiah 53:5 says, but he was wounded for our transgressions, he was bruised for our iniquities, the chastisement of our peace was upon him and by his stripes we are healed.

And so it was necessary for blood to be spilt. It was necessary for Jesus to be crucified, to die, to be buried and to be resurrected. And for Christians it is very important because, you know, when he was risen and the disciples went into his grave they found an empty tomb. But what they found was a napkin folded very neatly and that napkin is very significant, because for the Jews, for anyone who understands history, Jewish history, when a master is at his table and he is not finished eating, he folds his napkin and his servant would know that he is not finished, we will come back to his meal. And so went the disciples entered and saw a folded napkin, they understood that he will come again.

And so this time for Christians is a very significant time. We understand that by his blood we can enter boldly into the holy of holies. For that very moment that Jesus died and he gave up his spirit, something significant happened that never happened ever. In the temple the curtain was torn into two. That curtain was 60 feet high. I am six feet something, so that is six times me, 60 feet high, 30 feet wide, four inches thick, and there was no human possible way for that curtain to ripped top down and it happened so that we could enter boldly into the holy of holies and receive forgiveness for our sins, because the blood of the lamb was shed. And so we thank God that he so loved the world that he gave his only begotten son that whosoever believeth in him should not perish, but have everlasting life.

And on this day, on behalf of the Opposition, I would like to wish every member of the Christian community in Trinidad and Tobago and throughout the world a happy and holy resurrection week. Thank you. [*Desk thumping*]

Madam Speaker: Hon. Members, I join with the previous Members in their Easter greetings to the Christian community of our twin island republic on the celebration of Easter on Sunday 16th of April, 2017.

As our nation shares with the Christian community in the commemoration of the Triduum with a national holiday on Good Friday and marks the victorious triumph of Easter with a holiday on Easter Monday, it may be an opportune time for all of us as citizens to draw on the applicability of the lessons of this sacred time to our duties and responsibilities as citizens in our humility and service to each other and to our nation, in our discharge of the requirement of individual sacrifice in promoting the common good in the interest of the advancement of our nation, and in our eager anticipation of the attainment of the common good and the realization of our national watchwords of discipline, production and tolerance. I

wish all nationals and in particular the Christian community a holy, reflective Triduum and a joyous Easter. [*Desk thumping*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.11 p.m.