HOUSE OF REPRESENTATIVES

Wednesday, June 28, 2017

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, Mr. Adrian Leonce, MP, Member for Laventille East/Morvant and hon. Randall Mitchell, MP, Member for San Fernando East, have requested leave of absence from today's sitting of the House. The leave which the Members seek is granted.

STANDING ORDERS (BEHAVIOUR OF MEMBERS)

Madam Speaker: Hon. Members, Members of Parliament are expected to observe certain standards of conduct as set out in the Standing Orders and as dictated by well-established parliamentary practice and conventions. The behaviour of Members should, and is expected, to enhance the dignity of the Parliament. As arbiter of the proceedings of this House, it is my role and duty as Speaker to maintain these standards by ensuring order and decorum. It is a role for which I require no assistance.

Hon. Members, it is an established parliamentary rule that every Member should resume his or her seat as soon as the Speaker rises to speak or calls the order to the House. It is also well recognized that Members are enjoined to hear the Speaker in silence. In that regard, when I intervene directly to call an individual Member to order, to respond to a point of order raised by a Member, or to address this House in general, no Member is to speak.

Additionally, hon. Members, when I stand, I am to be allowed to deliver directions or rulings and bring the House back to order in silence without comment, intervention, or protest. In instances when I am not allowed to be heard in silence, consequential disorder, such as occurred during the last sitting of this House, is inevitable. I wish to stress that such disorder will not be tolerated by this Speaker. Further, if loud and disruptive behaviour occur and persist, the Speaker is denied the opportunity to rule on any point of order which any Member is seeking to raise.

Hon. Members, while lively and passionate debate and crosstalk are features of parliamentary proceedings, there are occasions when passions become inflamed, excessive interjection occurs and the House becomes noisy and unruly. These flaring tensions must not degenerate into shouting, disruptive behaviour, or disrespect to the Chair. It is trite parliamentary law that interjectors do not have, by right, the floor, save and except, in accordance with Standing Order 47.

Hon. Members, this is all the more so in the case of interjectors who persist in speaking while the Speaker is on her legs. Remarks and outbursts made by any Member while I am on my legs will not be and are not considered part of the official proceedings of this House, and, as such, will not be recorded in the official historical *Hansard*. Any Member who is of the opinion that shouting at the Chair while the Speaker is standing will result in his or her offensive and disrespectful words being included in the *Hansard* record is seriously misguided, or has allowed himself or herself to be misdirected. This principle also extends to Members who shout across the floor at each other while the Chair is standing. Members who are called to order but persist in disorderly behaviour, including interjecting in a

disorderly manner and disregarding the authority of the Speaker, will be called upon to apologize to this Chair.

If also called upon to withdraw a remark, the Member must withdraw and apologize immediately in a respectful manner and unreservedly, that is to say without conditions or qualifications. If any Member refuses to follow a direction from this Chair, is repeatedly called to order, disregards warnings, or otherwise acts in defiance of a ruling or direction, I will not hesitate to exercise the prerogative of the Chair in relation to such offending Member until the offending Member accepts the authority of this Chair. I wish to remind experienced hon. Members and inform inexperienced Members that it is the duty of the Speaker to uphold the authority of the Chair. That authority is not the authority of the individual who happens to occupy it, but it is the authority of the House itself. Thank you.

PAPERS LAID

1. Audited Financial Statements of the National Commission for Self Help Limited for the financial year ended September 30, 2015. [*The Minister of Finance* (*Hon. Colm Imbert*)]

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

2. Errata to the Report of the Auditor General of the Republic of Trinidad and Tobago on the Statement of Receipts and Disbursement of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 2009. [*Hon. C. Imbert*]

3. Errata to the Report of the Auditor General of the Republic of Trinidad and Tobago on the Statement of Receipts and Disbursement of the Chairman's

4. Fund of the Mayaro/Rio Claro Regional Corporation for the year ended September 30, 2012. [*Hon. C. Imbert*]

5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Penal/Debe Regional Corporation for the year ended September 30, 2014. [*Hon. C. Imbert*]

6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayor's Fund of the San Fernando City Corporation for the year ended September 30, 2011. [*Hon. C. Imbert*]

6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayor's Fund of the San Fernando City Corporation for the year ended September 30, 2012. [*Hon. C. Imbert*]

7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayor's Fund of the San Fernando City Corporation for the year ended September 30, 2013. [*Hon. C. Imbert*]

8. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayor's Fund of the San Fernando City Corporation for the year ended September 30, 2014. [*Hon. C. Imbert*]

Papers 2 to 8 to be referred to the Public Accounts Committee.

9. Ministerial Response of the Ministry of Finance to the 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 CEPEP Company Limited for the financial years 2009 to 2014. [*Hon. C. Imbert*]

10. Ministerial Response of the Ministry of Tourism to the Third Report of the Public Administration and Appropriations Committee for the Second Session, Eleventh Parliament on the Examination of the System of Inventory

Control within the Public Service. [*The Minister of Tourism* (*Hon. Shamfa Cudjoe*)]

URGENT QUESTIONS

Bank Card Skimming (Details of)

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker. To the Minister of National Security: In light of the recent upsurge of bank card skimming in Trinidad and Tobago involving police officers and foreigners, could the Minister indicate the measures that have been implemented to address this matter?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam Speaker. Madam Speaker, it pleases me today to commend the citizens of Trinidad and Tobago, who I believe have answered our clarion call to be part and parcel of the fight against crime. So it pleases me to commend the citizens who in fact alerted the Trinidad and Tobago Police Service with respect to an incident that appeared recently, in fact on today's papers, with two Bulgarians who were charged with bank card skimming at the Piarco Plaza. So, I want to commend the citizens and encourage [*Desk thumping*] other citizens to so participate and assist the police.

Madam Speaker, the Trinidad and Tobago Police Service, through the Fraud Squad and the Cyber Security Unit, continues to deal with issues pertinent to skimming and cyber security crimes. In fact, the Trinidad and Tobago Police Service continues to pass on a sense of awareness to the citizens of Trinidad and Tobago through the *Beyond the Tape* programme, and through the media conferences on Wednesdays, with respect to issues pertinent to bank card skimming and other related issues. The Trinidad and Tobago Police Service continues to monitor these situations, and, as I mentioned, through the Fraud Squad

and the Cyber Security Unit, have a watchful eye, and, again, continue to issue a sense of awareness and alertness to the Trinidad and Tobago public to be conscious of these types of activities. And, again, I urge the citizens to report what you see. When you see someone commit an offence, report it, and the Trinidad and Tobago Police Service will respond accordingly, Madam Speaker.

Closure of Four Outpatient Clinics
(Details of)

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker. To the Minister of Health: In light of recent reports that the Medical Records Department of the Port of Spain General Hospital is currently closed due to infrastructural damages, which led to the closure of four outpatient clinics, could the Minister indicate the expected completion date for repairs?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam Speaker, and good afternoon to all, and I thank the Member for the question. Due to the heavy rains that fell on the night of hurricane Bret and subsequent heavy rainfall there was—[*Interruption*]

Hon. Member: Tropical storm.

Hon. T. Deyalsingh:—Sorry. Tropical storm, sorry. Tropical Storm Bret—some rainwater seeped into the roof of the Medical Records Department that caused some damage to the roof. The Medical Records Department was therefore closed due to that. The repairs have been done. The final cleaning is being done today, and the Medical Records Department will be open for business from tomorrow, and clinics will resume as early as Friday.

In closing, Madam Speaker, I want to thank all health-care workers who went above and beyond the call of duty to man their stations during Tropical Storm Bret. I think the response by the health-care system was excellent and it exemplifies the best of Trinidad and Tobago. I thank you, Madam Speaker. [*Desk*

thumping]

St. Michael's Home for Boys
(Update on Escaped Boys)

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker. To the Minister of National Security: Given that nine boys that had escaped from the St. Michael's Home for Boys two weeks ago are yet to be located, could the Minister give an update on effort to retrieve them?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam Speaker. Madam Speaker, the Trinidad and Tobago Police Service continues to search for the nine boys who escaped from the St. Michael's Home, and to date they have in fact retrieved five of them, two in the area of Santa Cruz and three in the Sea Lots area. They continue to search for the remainder, and they have been given names, descriptions and photographs of the young boys, which in fact had been circulated to the officers on patrols. We continue to reach out to the parents and relatives of these boys to, again, if they are aware of where they are to at least pass the information to the Trinidad and Tobago Police Service in the interest of all concerned, Madam Speaker.

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. Madam Speaker, there are 11 questions on the Order Paper, we will be answering all 11 for Oral Answer. There is one for Written Answer and we would be answering that one also, Madam Speaker. [*Desk thumping*]

WRITTEN ANSWER TO QUESTION

University of Trinidad and Tobago
(Details of)

167. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Education:

Could the Minister provide the list of persons, their positions and remuneration, of persons hired at the University of Trinidad and Tobago as academic staff and consultants from October 2015 to date?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

Fitch Credit Rating Agency (Details of)

155. Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Finance:

Could the Minister state if the Government has engaged the Fitch Credit Rating Agency to perform an assessment of this nation's credit rating and if yes, the assessment cost?

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. Moody's Investors Service visited Trinidad and Tobago in March 2017, and conducted their annual assessment of elements critical to the sovereign credit rating of Trinidad and Tobago. Moody's subsequently downgraded Trinidad and Tobago issuer and senior unsecured debt ratings to Ba1 from Baa3 and assigned a stable outlook up from the negative outlook in 2016. Standard & Poor's Global Ratings limited, also known as S&P, visited Trinidad and Tobago in April 2017, and conducted their annual review of Trinidad and Tobago sovereign credit ratings. S&P lowered its long-term sovereign credit ratings on the Republic of Trinidad and Tobago to "BBB+" from "A-", and revised the country's outlook to stable from negative in 2016.

Trinidad and Tobago's transfer and convertibility assessment was also downgraded to "A" from "AA-", while the short-term sovereign rating was affirmed at "A-2". Moody's downgrade of the country to Ba1 means that Government's obligations are to be considered speculative securities. S&P, however, downgraded the country to "BBB+", which is well within their band for

investment grade security. According to S&P, an obligation rated BBB exhibits adequate protection parameters. Given the above the Government of Trinidad and Tobago was faced with an incongruous situation of being rated investment grade by one rating agency and non-prime by another.

The Ministry of Finance wishes to highlight that in many of our investment dealings that require a rating the lower of the two is often considered. In the case of the Ba1 rating by Moody's, the Ministry of Finance is of the view that the downgrade was unjustified, given Trinidad and Tobago's significant buffers which even Moody's acknowledged infer moderate external risk to the country. It is difficult to understand how a country like Trinidad and Tobago with the following characteristics can be deemed a moderate credit risk. Firstly, net official reserves of US $9 billion or 10 months of import cover, a Heritage and Stabilisation Fund of US $5.6 billion—actually, I checked today, Madam Speaker, it was 5.64—the equivalent of 25 per cent of GDP, and deposits in sinking funds for the express purpose of repaying debt totalling $6.5 billion. Given the ample buffers just highlighted the Government has the ability to repay the country's external debt several times over.

Given this discrepancy, it was considered prudent for the Government to seek a third credit rating in an attempt to eliminate the discrepancy that currently exists. Accordingly the Ministry of Finance approached Fitch Ratings, the third of the three largest international credit rating agencies, for an indicative costing for the conduct of a private rating. Fitch advised that their fee for the conduct of the private rating would be of the order of US $80,000 which is within the normal range of charges for a service of this nature. Fitch is scheduled to visit Trinidad and Tobago for its first rating assignment in October of 2017.

Mr. Lee: Thank you, Madam President. Supplement to the Minister of Finance,

based on his preamble, could the Minister of Finance state whether he is not in agreement with the Standard & Poor's rating that they gave the country previously, and Moody's?

Madam Speaker: I am not going to allow that as a supplemental question.

Rice Milling Plant
(Status Update of Sale)

156. Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Trade and Industry:

Based on reports in February 2017 that National Flour Mills had offered its Rice Milling Plant, Carlsen Field for sale, could the Minister provide a status update of this sale and the name of the buyers and sale price in the instance that the Plant was already sold?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. Madam Speaker, the divestment of the rice mill operations of the National Flour Mills Limited is being conducted in accordance with proper procurement procedure. Proposals were invited through public tender. NFM is currently evaluating bids from four interested parties, and would subsequently inform the Ministry of Finance of the selected bidder. Following this, the approval of Cabinet for NFM to enter into a sale agreement with the successful bidder will be sought. Thank you very kindly.

Pointe-a-Pierre Constituency
(Cleaning the Waterways)

157. Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Rural Development and Local Government:

Given the official media release by the Meteorological Office of Trinidad and Tobago that the rainy season for 2017 has started, could the Minister state if adequate work has been done by the Ministry to clear and clean the

various waterways within the Pointe-a-Pierre Constituency to prevent flooding, discomfort and displacement to citizens?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you, Madam Speaker. Madam Speaker, the Ministry of Works and Transport, Drainage Division, has the mandate to develop and maintain main watercourses throughout Trinidad, however, the role of the municipal corporations is very important because they are responsible for maintaining smaller drains which will impact the main watercourses. The corporations sometimes clean and clear some main watercourses when the need arises, even though this is the mandate of the Drainage Division of the Ministry of Works and Transport. The corporations will periodically remove silt and debris, brush cut and cutlass road verges, and sweep streets with the aim of reducing and preventing flooding and stagnation of drains. The Pointe-a-Pierre constituency falls mainly under the jurisdiction of the Couva/Tabaquite/Talparo Regional Corporation, and partly under—[*Interruption*] Sorry?

Madam Speaker: Member, could you please direct your contribution and do not allow yourself to be distracted.

Hon. C. Robinson-Regis: Certainly, Ma'am—and partly under the San Fernando City Corporation. The Chief Executive Officers of both municipal corporations indicated that they continue to maintain and monitor drainage and waterways in their areas, including the Pointe-a-Pierre constituency, to prevent and reduce flooding, discomfort and displacement to citizens.

During the period January 2017, to April 2017, the Couva/Tabaquite/Talparo Regional Corporation conducted approximately 8,893 metres of drainage works. In addition, the Corporation has been requested to make the necessary arrangements as a priority for the cleaning, clearing and desilting of the following

waterways, Bull Bull River, which borders the Pointe-a-Pierre constituency; Guaracara River, Charles Street North. Plans are also being made to clean, clear and desilt the Beddoe Street River, School Road River and Light Bourne River.

The City of San Fernando has three main waterways which traverse through the city, namely the Cipero, Vistabella and Marabella Rivers. The San Fernando City Corporation assisted in cleaning and clearing the Marabella River and the Vistabella River during the clean-up campaign exercise on March 4th to 5th, 2017. The corporation continues to periodically monitor the condition of these rivers, including the Cipero River, which was cleaned by the Ministry of Works and Transport in early February, 2017. Thank you very kindly, Madam Speaker. [*Desk thumping*]

National Governing Bodies (Subvention Received)

168. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Sport and Youth Affairs:

Could the Minister provide a list of the National Governing Bodies (NGB) registered with the Ministry and the subvention received by each such NGB for fiscal 2017?

The Minister of Sport and Youth Affairs (Hon. Darryl Smith): Thank you, Madam Speaker. With respect to the Ministry of Sport and Youth Affairs, the details of subventions allocated and/or given to each national governing body registered with the Ministry for fiscal 2017 are as follows. Please note, Madam Speaker, there are 35 governing bodies under the Ministry of Sport and Youth Affairs and there are 17 under the Sports Company of Trinidad and Tobago, comprising of 52 bodies total, and 53 per cent have received payment, of which 25 are currently processing or pending.

I will go through the list of sports from the Ministry of Sport and Youth

Affairs:

Automobile Sports Association is currently pending;

Badminton Association have received $150,000;

Ballroom Dance Association has received $150,000;

Blind Cricket Association has received $150,000;

Body Building Federation is currently processing;

Canoe/Kayak/Rowing Federation, processing;

Chess Association has received $150,000;

Contract Bridge Association is currently pending;

Darts Association has received $150,000;

Cue Sports Association is currently pending;

Draughts and Checkers Association has currently received $150,000;

Equestrian has received—sorry—is pending;

Game Fishing has received $150,000;

Judo Association is processing;

Jump Rope Federation is processing;

Karate Union is processing;

Model Car Association has received $65,000 so far;

National Kickboxing Council is pending;

Paralympic Committee is processing;

Point Kickboxing Association is processing;

Powerboats Association, processing;

Powerlifting Federation, pending;

Rally Club Association has received $150,000;

Sambo and Combat Sambo is pending;

Scrabble Association is processing;

Special Olympics is pending;

Squash Association, processing;

Surfing Association, $150,000;

Table Tennis Association, processing;

Taekwondo, processing;

Target Archery received $150,000;

Triathlon Federation received $150,000;

Trinidad and Tobago Rifle Association received $150,000;

Wind ball cricket is processing; and

Wushu is processing.

With regard to Sports Company of Trinidad and Tobago, Madam Speaker, with regard to the above data, it is noteworthy that the number of payments have been delayed by the result of late submission or non-submission, by various governing bodies, of audited financial statements.

I will go through now the Sports Company:

National Amateur Athletic Association has received $1.986 million;

Trinidad and Tobago Cricket Board, processing;

Trinidad and Tobago Football Federation, $1.231 million;

Pro League, $2,050,000;

National Amateur Boxing Association, $222,000;

National Basketball Association, $11,408;

Trinidad and Tobago Volley Ball Federation, $133,039;

Trinidad and Tobago Hockey Board, $1,037,000;

Trinidad and Tobago Gymnastic Association, processing;

Trinidad and Tobago Sailing Association, $106,800;

Trinidad and Tobago Cycling Federation, $262,901;

Trinidad and Tobago Netball Association, pending;

Amateur Swimming Association of Trinidad and Tobago, $1.234 million;

Trinidad and Tobago Tennis Association, $189,000—[*Interruption*]

Madam Speaker: Minister of Sport and Youth Affairs, your time is up.

Hon. D. Smith: Thank you, Madam Speaker.

2.00 p.m.

Mr. Karim: Could the Minister indicate, for those that are pending/processing and for whatever reasons, by when you expect they would receive their subvention?

Hon. D. Smith: That is a very good question. Madam Speaker, I myself as Minister of Sport checked that last year, my first year, and last year as well a number of associations for some reason did not have their paperwork or documentation and did not send in, but we are working very closely this time, this year, to ensure that they get their audited accounts, externally the audited accounts, and we are working very closely—our sports officers are working very closely with all the governing bodies to get that in before the end of the fiscal year.

Mr. Padarath: Madam Speaker, to the hon. Minister. In light of the information you just provided, can you shed a little bit of light with respect to the Taekwondo Association because I know you have indicated that it is being processed, but I am advised they would miss the world championship in those circumstances.

Madam Speaker: Member, could you please ask a question.

Mr. Padarath: Could you let us know what contingency is in place with respect to the Taekwondo Association not having to miss the world championships in light of it still being processed, if there is any?

Hon. D. Smith: Madam President, each sport has an officer that works with these various governing bodies, and you have to send in your audited accounts from the

year before with your bills. Once that is not submitted, you cannot get any allocation for this new fiscal year. So I am assuming that they are working to process that documentation, and if is not accurate or is not fully 100 per cent, they will not get any funds.

Secondary School Students
(Social Media Videos)

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

In light of three videos currently circulating on social media involving secondary school students fighting, could the Minister state the action(s) that will be taken to treat with this reoccurring issue?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, schools are guided by the National School Code of Conduct which promotes responsible and ethical use of social media and requires that all interactions on the social media be respectful, age appropriate, non-abusive and free from ignominious content.

It further states that the transmission of any material in violation of national laws and the Ministry of Education's policy is prohibited. The school discipline matrix which is guided by the National School Code of Conduct determines the consequences for breaches of the code. Consequences for such acts of indiscipline range from students and the parents conferencing to extended suspension and referrals to the learning enhancement centres.

While the Ministry of Education continues to exercise its policy of zero tolerance to student fighting, it has developed national guidelines for promoting discipline. Schools have been mandated to develop and implement an individual school discipline plan following national guidelines to treat with all issues of indiscipline including students fighting. Thank you.

Accidental Shooting of Elderly Civilian

(Details of)

174. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Rural Development and Local Government:

As it relates to the accidental shooting of a sixty-eight year old civilian Mr. Samuel George who was shot twice by San Fernando City Police who were in pursuit of two bandits, could the Minister indicate:

a) the disciplinary action that will be taken against the officer;

b) whether the bandits were detained; and

c) whether the Ministry intends to pay for Mr. Samuel's medical bills?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, with regard to part (a), I am grateful on behalf of the Minister of Rural Development and Local Government for this question, and wish to inform that there is an ongoing investigation and all the information has not yet been presented, therefore we cannot at this time make any determination on actions that will or will not be taken regarding this matter.

Part (b): the investigations into the robbery, which appear to have precipitated this unfortunate event, are still ongoing. As at the current sitting of this honourable House, no arrests have been made in connection with that incident. However, both the TTPS and the TTMPS are working diligently to bring efficient resolution to the matter.

Part (c): given that this matter is still under investigation to determine the fault of the officer involved, and that no request for payment has been received by or from Mr. George, the Ministry of Rural Development and Local Government cannot make a determination at this time regarding compensation. Should a request for such be received, then through the San Fernando City Corporation and its insurers, every effort will be made to resolve this issue in an appropriate

manner.

Thank you very much, Madam Speaker.

Fifth Company Baptist Primary School
(Details of Repairs to)

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

With regard to the Fifth Company Baptist Primary School, could the Minister indicate:

a) whether any consultation occurred between the school and the Ministry regarding repairs;

b) the repairs undertaken by the Ministry during the July/August vacation in 2016; and

c) the list of repairs that are outstanding?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. Through the district education offices and other departments, the Ministry of Education is in constant touch with all schools, providing the necessary consultation, guidance and direction on repairs and on all matters of school life.

No work was required at the Fifth Company Baptist Primary School during the July/August vacation period in 2016. In February of 2017, the Ministry implemented a partial replacement of electrical lighting fixtures in the school. In March 2017, the front and the rear entrance gates to the school were replaced. Then, in April 2017, repairs and improvements to the electrical system at the school were carried out under the direction of the Government Electrical Inspectorate.

As a consequence, continuing engagement with the school and the stakeholders, the Ministry proposes to carry out further rehabilitation work at this school during the upcoming July/August vacation period 2017. This time the focus

will be on repairs to toilets, replacement of windows and burglar proofing and improvement and strengthening of hand rails and the protective metal enclosures on stairwells. Thank you. [*Desk thumping*]

Manzanilla-Mayaro Road
(Signage and Road Markings)

177. Mr. David Lee (*Pointe-a-Pierre*) on behalf of Mr. Rushton Paray (*Mayaro*) asked the hon. Minister of Works and Transport:

Could the Minister advise the expected date for the implementation of signage and road markings along the Manzanilla/Mayaro Road?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Madam Speaker, based on the work programme of the Traffic Management Branch, the Manzanilla-Mayaro Road is scheduled to be painted before the June/August vacation period. The Traffic Management Branch is mindful at this time of the year that the area experiences traffic during the vacation time. As such, the custom at the Traffic Management Branch ensures that the road marking is in a good condition for this period. Painting of the road marking commenced on June 07, 2017. Signage on the roadway is in a good condition. Thank you.

Manzanilla-Mayaro Road
(Tree Pruning)

178. Mr. David Lee (*Pointe-a-Pierre*) on behalf of Mr. Rushton Paray (*Mayaro*) asked the hon. Minister of Works and Transport:

Could the Minister advise whether tree pruning would be done along the Manzanilla-Mayaro Road, and if so, the expected implementation date?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Madam Speaker, the Nariva/Mayaro district maintains the Manzanilla-Mayaro Road from 73 kilometres to 87 kilometres. The Ministry of Works and Transport conducted a tree-cutting exercise a few years ago, in which trees located in close

proximity to the roadway were cut down and removed in an effort to improve safety along the roadway. As an ongoing exercise, the Ministry continues to monitor the situation and where necessary and permissible, initiate measures to remove the trees that pose a safety and concern to motorists. Thank you.

Trebenny Road Junction Landslip (Repair Works)

179. Mr. David Lee (*Pointe-a-Pierre*) on behalf of Mr. Rushton Paray (*Mayaro*) asked the hon. Minister of Works and Transport:

Could the Minister provide a status update of the repair works on the landslip at the Trebenny Road Junction, Agostini Village, Rio Claro?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you again, Madam Speaker. The landslip at the Trebenny Road Junction is located in the Naparima/Mayaro Road at the 46.5 kilometre, lamp post 972 Agostini Village, Rio Claro. The Ministry of Works and Transports has already prepared designs and estimates for the construction of a reinforced-concrete retaining wall. In preparation for this work, bore holes were completed. The Ministry is in the process of finalizing designs and tendering documents, and it is anticipated that the tenders will be invited within the next month. However, in the interim, patching work is being carried out on a regular basis to have this section of the roadway accessible to vehicular traffic. Thank you.

Mr. Singh: Hon. Minister, in the aftermath of the flood, is there patching work taking place in the areas affected by the flood, including the east Manzanilla Road?

Madam Speaker: I will only limit it to the Manzanilla Road.

Sen. The Hon. R. Sinanan: Madam Speaker, in the aftermath of the flood, the Ministry is concentrating on bringing relief to the affected residents in the areas.

Thank you.

Debe to Mon Desir Segment of Highway
(Government's Non-Completion)

183. Dr. Roodal Moonilal (*Oropouche East*) asked the hon. Minister of Works and Transport:

Could the Minister confirm whether the non-completion of the Debe to Mon Desir segment of the San Fernando to Point Fortin Highway is the official policy of the Government?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Madam Speaker, the Government has taken no decision to discontinue the completion of the Debe to Mon Desir segment of the San Fernando to Point Fortin Highway. At a recent meeting with representatives from the Highway Reroute Movement, a decision was taken that a new study will be conducted taking into consideration all the hydraulic issues. Before continuing this aspect of the project, further discussions will be held with the relevant stakeholders.

I am pleased to also announce that the restarting of the San Fernando to Point Fortin has resumed, and already there are three packages that have been awarded and another six packages will be advertised next week with a start from Point Fortin coming back to San Fernando.

Thank you. [*Desk thumping*]

Dr. Moonilal: Thank you very much, Minister. Would the Minister be prepared to tell us the time frame for undertaking this new study on the Debe to Mon Desir segment and when you expect the results of that study to be available?

Madam Speaker: One question please, Member.

Sen. The Hon. R. Sinanan: Madam Speaker, before we restart that segment of

the highway that study will be done. As of now, I cannot give you a time frame for it.

Dr. Moonilal: In light of the Minister volunteering information to us, would you be prepared to tell us the name of the contractors that have been awarded contracts for the extension of the highway?

Sen. The Hon. R. Sinanan: Madam Speaker, this Government promised the local contractors that whatever development is taking place we will afford them the opportunity to participate in it. We took a decision to put the highway into smaller packages where all local contractors were invited in a public procurement method. [*Desk thumping*] So far two local contractors have won the three packages. One is Jusamco Limited, the other one is Lutchmeesingh Transportation.

Madam Speaker: Member for Chaguanas West.

Mr. Singh: The question has been answered, Madam Speaker.

Miscellaneous Provisions (Trial by Judge Alone) Bill, 2017

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, I beg to move:

> That a Bill to amend the Supreme Court of Judicature Act, Chap. 4:01, the Summary Courts Act, Chap. 4:02, the Offences Against the Person Act, Chap. 11:08 and the Criminal Procedure Act, Chap. 12:02, and for related matters, be now read a second time.

Madam Speaker, it gives me great pleasure to stand, yet again in the House of Representatives, to move a little bit closer to the goal of closing the gap between allegations of criminality and conviction for criminality. It is a matter of record now that the Government has spent a considerable amount of effort and coordinated measure and time in this honourable House, and in the other place, in introducing legislation which is designed to tackle the movement of the criminal

justice system in the right direction.

Statistically, we have opened up the doors to Trinidad and Tobago as to what the system looks like for the first time. We started our mission in the prisons. We identified the number of persons in convicted condition and in remand condition. I remind that there are some 2,200 persons in remand awaiting trial whilst incarcerated. I remind that of that 2,200, nearly 980 of those persons are there for murder and therefore cannot receive bail. But of the 1,300-plus, nearly 80 per cent of those persons are, in fact, entitled to bail, anywhere between 60 to 80 depending upon the movement over time, and still remain incarcerated because of the difficulties in accessing bail.

I remind hon. Speaker that the Magistracy and the High Court both pull at the two ends of the criminal justice caseload. In the Magistracy we have roughly 142,000 cases per year being dealt with. On average in the Magistrates' Court, we deal on a three-year gap of some 371,574 cases; that is for the period 2012 to 2015 on average alone. In the High Court, the number of criminal matters listed is approximately 20,872. And when one takes that as an average across the judicial caseload per judge, we are looking at some 2,087 cases in the High Court which are criminal in nature being dealt with by one judge only each year.

When we deal with the figure in the Magistracy, we are looking at, again, an absurd number of matters to be dealt with per magistrate, bearing in mind that in the criminal Assizes we have only nine judges sitting in the High Court, and in the Magistrates' Court there are 48 sitting magistrates, with 38 of them dealing with criminal matters.

So let me restate that. Each judge has to deal, in the High Court, with 2,087 matters per year on the criminal division alone. The average in the Magistracy is,

in criminal matters, 372,000-odd. That is to put it into context.

The Government has come forward, said that the disposition rate in the High Court division is roughly 49 per cent, meaning that 51 per cent of matters go into arrears every year, so the backlog continues to build and build and build. And we have said, that of the indictable matters, the time frame for the disposition of indictable matters can be as long as 17 to 20 years.

With that in mind, we have brought forward a Bill to abolish the preliminary enquires in Trinidad and Tobago, a Bill to introduce a renovated system of plea bargaining in Trinidad and Tobago, a Bill to improve the access of bail for persons in remand conditions. We have dealt with a Bill to decriminalize approximately 100,000 cases standing in the traffic arena, and today in this House we deal with a Bill to introduce, for the first time in our country, a method by which an accused person can elect for a judge-only trial.

Now, this concept of judge only is something which has occupied Trinidad and Tobago's attention for quite some time. It is a matter of record that by Ordinance No. 11 of 1844, Trinidad and Tobago, 173 years ago, received into law the fact that a jury is to be used whenever someone is to be put upon trial in Trinidad and Tobago for an indictable offence—173 years ago.

In 1889, we had the unification of Trinidad and Tobago, and so Tobago, in fact, received it then, and then we came to the introduction of the Jury Act some 95 years ago by Chap. 6:53 of the laws of Trinidad and Tobago. That is Act No. 12 of 1922.

I deal with the antiquity because I intend to deal with an allegation as to constitutionality, and therefore I am recognizing that, in fact, both the Jury Act and also the other laws which we seek to amend today, which is the Offences Against

The Person Act, Chap. 11:08 and the Criminal Procedure Act, Chap. 12:02, the Supreme Court of Judicature Act, Chap. 4:01 and the Summary Courts Act, Chap. 4:20. All of these laws are, in fact, pre-1962 laws. I accept that. Criminal Offences Against the Person Act, Chap. 11:08 is Act No. 10 of 1925. Criminal Procedure Act, Chap. 12:02 is Act No. 22 of 1925. That is a fact.

In our jurisdiction it is, in fact, the Criminal Procedure Act and the Offences Against the Person Act that really deal with the bulk of the law which says, until now—as we propose ought to be changed—the law says that once you enter a plea of not guilty, you are to be put upon trial in Trinidad and Tobago before a judge and jury. That is the law.

We seek now to recognize that there has been a very long debate over the years as to whether a trial by jury is, in fact, an encumbrance to the criminal justice system. That has been the debate. There is a very strong argument for the retention of trials by jury and a very strong argument against the retention of trials by jury.

We have had, as a nation, very careful sight of experiences in other jurisdictions. In fact, trial by jury in other jurisdictions has been dealt with, depending upon the depth and position of the laws as they stay stand there. It is a fact that in several common law jurisdictions there has been a move away from trial by jury. Western Australia, Canada, the United States of America, the United Kingdom, Jamaica, the Cayman Islands, Turks and Caicos, Belize, New South Wales, Netherlands and Suriname. All of these are jurisdictions where trial by jury has been moved into the domain of trial by judge alone.

In fact, as a jurisdiction we looked to the courts in Northern Ireland. The Diplock Courts in the creation of the early 1970s in Northern Ireland, what was the

predecessor of terrorism, the conflict with the IRA appeared, and Lord Diplock in fact dealt with judge-only sittings to deal with that. Those courts went on for nearly 25 years plus in the United Kingdom. We have seen jurisdictions experiment with trial by jury. Some of them, as Canada, went so far as to incorporate it into their Constitution. The United States recognizes that there should be trial by jury in their Constitution.

There are only two jurisdictions in the Commonwealth Caribbean, Belize—if I can call them part of us—and Bermuda, stand as jurisdictions where there is an expressed mention of trial by jury in the written Constitutions of those countries. But the rest of the Commonwealth Caribbean, and Trinidad and Tobago in particular, does not have an expressed statement that there is a right to a trial by jury. That is not the position in our jurisdiction.

In our jurisdiction, there is no expressed mention. In our jurisdiction we look to the entrenched rights in section 4 and 5 of the Constitution. We know that the Constitution is the supreme law of Trinidad and Tobago from section 2 of the Constitution. We know that we make, by the Constitution, laws for the good governance essentially of Trinidad and Tobago, and the good support for the people of our country to the various rights entrenched in section 4— these not being absolute rights.

But when we get to section 5 of the Constitution, in particular section 5(2)(e), we see that there is a prescription in our Constitution that, subject to section 54 of the Constitution, the Parliament may not:

> "deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;

Nor shall the Parliament:

"deprive a person charged with a criminal offence of the right—

(i) To be presumed innocent until proved guilty according to law,"

But this shall not essentially invalidate any law which reverses a burden. Nor shall there be a deprivation of a right:

"to a fair and public hearing by an independent and impartial tribunal;"

Nor shall there be a deprivation of the right:

"to reasonable bail without just cause;"

Section 5(2)(h) of the Constitution says that the Parliament shall not:

"deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms."

Those are the expressed constitutional prescriptions.

But very interestingly, Madam Speaker, our Constitution is silent, not only on any expressed right, as some call it, to a trial by jury, but our Constitution does not have written in it—in the right to fair hearing, et cetera—a right that it should be done within a reasonable period of time. And this concept of a reasonable period of time is very germane to the issues that we now debate in this Bill, but in particular to the subject matter that we are treating with, which is the pace of the movement of the criminal justice system, or lack thereof.

Madam Speaker, when we look deeper into the constitutionality argument offered by Members of the Opposition, in the other place a few made the observation, whilst others did not, but insofar as it is something which has been expressed in our views I can start by indicating that under the separation of powers principle, which is expressed in the body and blood of our Constitution, one ought

not to look lightly upon the recommendations of the independent Judiciary.

When the Judiciary, through its chief officer, the Chief Justice, for many years, year on year, and in particular at the opening of the law term speeches on the 17th of September, 2015 and on the 16th of September, 2016, when one sees the observations of the hon. Chief Justice and the independence of the Judiciary making the observation that trial by jury is not working and that there needs to be common sense in the approach of providing a prescription against it, on account of the millions of dollars spent in the sequestration of juries and also on account of the 15 to 20 per cent estimated loss in time for the impanelling and movement of juries, whether they are moved out for voir dires or otherwise, one ought to take careful note that there is merit in further exploration.

Coming back then to the arguments put forward under the constitutional rubric, it is important to note that the Privy Council, right here in the Commonwealth Caribbean, in case of *R v Stone*—that is Trevor Stone—which is a 1973/1974 case reported in the Privy Council, coming out of the Jamaican experience of the experimentation and implementation of the gun courts in Jamaica, that there was a similar argument.

The argument put forward was that the saved law in Jamaica of a procedure route—[*Interruption*]—Madam Speaker, there is so much chatter around me that I am finding it a little disturbing.

Madam Speaker: Members, please be reminded of Standing Order 53 with respect to listening in silence.

Hon. F. Al-Rawi: Thank you, Madam Speaker. The Privy Council, in considering the arguments coming out of the Jamaican case of Trevor Stone, considered the position that the right to a fair hearing in Jamaica in the context of

saved law—much like the argument in Trinidad and Tobago has been posited—was such that the right to jury should be upheld as a constitutionally entrenched right, even though it is not expressly stated in the Jamaican Constitution.

I am very pleased to note that in the Trevor Stone case, the Privy Council declared as a matter of certainty that there is no right to jury in those circumstances of a lack of an expressed right, and also discounted the argument that it was for some reason saved by the provisions of independent savings clause similar to Trinidad and Tobago. But secondly, that we have in fact gone further in this dynamic and looked deeper in successive cases.

When we look to the observations in Canada in *Regina v Brian*, a 1994 case, we recognize again a similar understanding. When we looked as well to the cases coming out of Gibraltar and coming also out of other cases considered in the sub-African continents where Mr. Justice Telesford Georges had some positions, and we look further to the case of *Rojas v Berllaque*, that being the specific case in the right of Gibraltar, we again find where there is similar wording to that in Jamaica, like Trinidad and Tobago, that there can be no upholding of an argument that our Constitution guarantees a right—a constitutional right—to a trial by jury.

2.30 p.m.

All of the courts, the European Court in considering human rights, in particular I believe it was in the year 2004 and that is in the case of Shuker, that case also gave further consideration to the fact that there is the procedural route to the fairness of justice, but that that procedural route is not to be confused with a constitutional right. Perhaps one can say much like the Hilroy Humphrey case that you may have a procedural route which is not determinative or conclusive of a constitutional right. All that you are obliged to have is a fair hearing within the

prescriptions of section 5 our Constitution.

Madam Speaker, when we cross next to the arguments for and against, permit me to just refer to some very interesting considerations that came about in the eminent jurist lectures, because I think that there was a fairly good analysis on that occasion of arguments for and against put in a very terse fashion. I refer specifically to the Distinguished Jurist Lecture on panel discussions on "The Continuing Relevance of the Jury System in the English Speaking Caribbean" held on June 11 and June 12, 2013. I in fact was very pleased to attend that conference.

We heard from Sir Marston Gibson, the Chief Justice of Barbados who spoke to the high economic cost of jury trials; the fact that misconduct could happen; who spoke to jury misconduct when there could have been research, et cetera, which could prejudice the fair-mindedness of a jury. We in particular heard, and I would like to spend a little bit of time on this, from Mr. Justice Jacob Wit who, coming from the Netherlands, serving in Suriname, was then speaking as a member of the Caribbean Court of Justice. And Mr. Justice Jacob Wit traversed a number of arguments offered against trial by judge only.

The allegations are that judges live in ivory towers and are divorced from certain realities; that judges may have difficulty in applying the reasonable man test; that judges may hear incriminating evidence and may take their findings; that juries enhance public trust and confidence in the system. Those are the arguments which the hon. Justice of the Court of Appeal considered and he went through each and every one of these arguments to demonstrate that, in fact, in the civil law context in particular from the Netherlands where he said no Dutchman would want a system such as this.

He reflected upon the fact that the vast majority of statistical evidence

coming out of the courts were that judges were capable of distancing themselves quite capably from the arguments put against them. That most judges are, in fact, regular people, not born with golden spoons as one may say; that judges invented the reasonable man test and therefore, ought not to have difficulties in applying it. That whilst juries enhance public trust and confidence, he gave some reflections similar to that made in 1937 by Oppenheimer when he spoke about providing 12 persons who were thoroughly unschooled and unprepared to hear evidence and sequestered away, not remembering what they may have heard or applying the relevant principles, that there was a danger in that sort of approach. Of course, we know Oppenheimer later went on to create the deadly toy as it is referred to in unleashing atomic potential in the world and reality.

But what I found very interesting was that coming out of Mr. Justice Wit's observations, we can look to our own laws in Trinidad and Tobago and in particular the Summary Courts Act, Chap. 4:20. And if we look to section 94 and section 100 of the Summary Courts Act where the Summary Courts provide that hybrid offences or offences which can be tried either way, either indictably or summarily, can be dealt with circumstances of consent coming from the accused on the summary route because, number one, they are scheduled offences, second scheduled offences to that legislation as per the prescription in the Summary Courts Act, Chap, 4:20 in section 100. But also where you have the ability to have a similarly listed matter, if it appears to a magistrate under the provisions of sections 94 of Chap. 4:20, that an indictable matter has a similar charge offered or capable of being offered under section—as a summary charge under section 94 that you can, with the consent of the accused, proceed summarily. That is to be added by the fact that juveniles are treated with under the summary route.

So in our jurisdiction we have the ability to look to the evidence in the Magistracy to demonstrate whether a judge only, in this case a puisne judge which is a magistrate can come up with justice. That is why I referred to the statistics in the Magistracy at the beginning. When you are dealing with 142,000 cases per annum, 324,000-odd cases, criminal matters alone over a three-year average, when you look to section 94 and section 100 of Chap. 4:20, our magistrates have been dispensing justice for very serious matters because not every indictable offence is necessarily treated indictably. That is what the Summary Courts says.

Now permit to put this into context by looking at other laws in our land. The Financial Institutions Act, Chap. 79:09; the Securities Act, Chap. 83:02; and the Copyright Act, Chap. 82:80. I took the opportunity to look at these three pieces of law to look at the issue as to whether magistrates were to be separated out as good judge-only experiments simply because they were dealing with small matters, because summary matters are viewed to be smaller matters. However, under section 100 of Chap. 4:20, it says that the maximum offence if you are going to treat with a triable either way offence is to be prescribed downward. But when we look to the Financial Institutions Act in particular, what struck me was, for instance, the provision in section 16, Licensing of Financial Institutions. Listen to the fine we are dealing with, $5 million, continuing offence $500,000 for every day, imprisonment for five years; unincorporated body, five years, $500,000, continuing every day, $5 million. When we look to subsection (12) of that same provision, $5 million, five years, $500,000 every day. We go further in that same section, again, we are seeing $5 million and five years.

It is to be found as well in the Securities Act amended by the last Parliament, the Tenth Republican Parliament, where we have, again, summary matters with

millions of dollars of fines and years of imprisonment, and it is to found in the Copyright Act, in this case, two and five years with lesser sums of 500 and $250,000 which is under review right now.

So my point is magistrates deal with serious matters under the rubric of summary offences and do so quite successfully and therefore, one finds comfort in the observations of eminent jurists such as Mr. Justice Jacob Wit.

Madam Speaker, permit me now having dealt with some of the statistics, the constitutionality argument which I will now summarize by saying, respectfully there can be no argument that this Bill requires any special majority, there is no right in the constitutional context to a trial by jury. In any event, the legitimacy of the aim of this Bill is so proportionate in a democracy such as Trinidad and Tobago that section 13 of the Constitution in its reflection would apply to save this law.

We can discount immediately the generous interpretation argument from a constitutional perspective, and discount as well any allegation that there is a save law argument which prevails.

Madam Speaker, when we come further now to the content of the Bill, it is interesting to note this Bill is actually a very short Bill. We are dealing with five sections of the Bill. In these five sections of the Bill we are seeking to amend Chap. 4:01, the Supreme Court of Judicature Act. We are just making sure that wherever we have the word "jury" that we insert the ability to have a judge only as well, that is in section 2A, clause 2A of the Bill. Of course, clause 1 is the short title, clause 2 is the proclamation date. So we are 2A now, we amend the Supreme Court of Judicature Act and the Court of Appeal Rules.

Clause 2B, we seek to amend the Summary Courts Act, Chap. 4:20. We are treating with the hybrid offences, scheduled offences in section 100 and we add in

the concept of having a judge-only route there.

The clauses which find significant advancement for us come about in the Offences Against the Person Act recommendations which is in clause 3 and in the Criminal Procedure Act which is in clause 4 of the Bill.

Permit me to stick a pin now. This Bill came up in the Senate and in the Senate we had the advantage of having several members of the Bar who serve as Senators sitting on both the Opposition Bench and the Independent Bench and, of course, we had the attorneys-at-law serving in capacity on the Government side. And I wish to state that in the Senate we had a very useful opportunity which was properly explored by all Members of the Senate to improve the Bill which came before us.

You would recall, Madam Speaker, that the last Parliament, the Tenth Republican Parliament had consideration, at least, in terms of conversation on the abolition of jury trials in part. In 2013, in particular then Attorney General Anand Ramlogan had made several announcements that there was proper consideration of this, but it never quite materialized.

In 2014, we had an omnibus piece of law that did go into amending the Jury Act, we eliminated male juror panels alone, we dealt with certain aspects of witness tampering, et cetera, but we did not quite treat with this creature for which there has been no proper experimentation, at least, at the High Court level in Trinidad and Tobago.

And in the Senate in bringing forward this Bill, I am very pleased and I wish to put on public record that the Senators all, including the Opposition, their very positive contribution and meaningful contribution which I think has definitely resulted in a much improved Bill which the Government was pleased to promote.

In particular, we have added into clause 3 and clause 4 of the Bill in our fulminations and deliberations arising out of the Special Select Committee route which we used in the Senate, we have added improvements, one, to the concept of reasonable time and two, to the nebulous circumstance which persons who were of abnormal mind found themselves under the Offences Against the Person Act. Let me elaborate.

When we looked to clause 3 of the Bill, the Offences Against the Person Act, we are seeking firstly to amend section 4A not in any draconian way, but rather by simply making sure that we add in the route of judge only and judge and jury.

When we look to 4A, subsection (6) as it is proposed to be amended, we are specifically taking care of an omission on the part of the Law Reform Commission when in 2014 it failed to take account of a first instance unreported judgment which it has publicly apologized for in a written statement by the Law Reform Commission. We changed the concept of awaiting "the President's pleasure" where someone is determined to be of abnormal mind. We have removed "the President's pleasure" and we have inserted "the Court's pleasure", that is in the Evelyn case as it came about. Sen. Ramdeen pointed us to that, he having participated in that particular case himself.

When we looked to subsection (7) which the High Court had held to be offensive to the separation of powers principle, we took avail of an excellent opportunity now before this House, and that is to dictate and specify what the court should consider, how it should consider and when it should consider matters of review relative to the court's pleasure when one is detaining persons of an abnormal mind. In particular we have provided in the new subsection (7) that

where there is a detention order, a judge shall within 14 days provide his written reasons.

Secondly, we are now providing the matter and matters of general prescription which the court should consider in determining minimum periods of detention where you are of abnormal mind, and we set that out in a new subsection (8).

We then looked to the consequences of aggravation and mitigation, aggravation in a new subsection (9) and mitigation in a new subsection (10), and in dealing with the aggravating circumstances we have added in the realities of Trinidad and Tobago. Now, I should that this derives out of observations made by Sen. Ramdeen in particular in relation to the Chuck Attin number one and number two fulminations of the Court of Appeal of Trinidad and Tobago as has been improved by a reflection on practice directions coming out of the United Kingdom.

We have added in to the Trinidad and Tobago reflection onto things which we find abhorrent by way of aggravation, killing of a child; a senior citizen; a person who are differently abled; the killing of witnesses; maltreatment; sexual misconduct; the aggravation of dismembering people; killing persons in public duty; members of the police force, the Trinidad and Tobago Defence Force, the protective services. We have added in terrorism or politically motivated killings after Dana Seetahal, in recognition of the scourge of terrorism globally.

In the mitigating factors we have looked to the lack of spontaneity, we have looked to the age of the person, the issues of provocation and very importantly we are now prescribing, thanks to the intervention of Sen. Chote and in particular the intervention of Prof. Hutchinson coming out of the University of the West Indies

as a forensic psychiatrist, we have added in the reflections of requiring the court to receive, on a yearly basis, factors of report to the court. So the head of the prisons or the head of the institution where the person is detained, for instance, the St. Ann's medical clinic, must on a yearly basis provide updated information on psychiatry, state of mind, state of rehabilitation, because a state of mind is a fluid concept in this type of detention which may either deteriorate or improve.

And what we have done is to say that every three years, the court must convene itself after receiving reports, including an independent psychiatric analysis and convene itself, the registrar of the court receiving information from the head of the prisons or the head of the institution, conveying it to the Chief Justice who then assigns it to a High Court judge, and then the High Court judge considers whether the Court's pleasure should be further exercised.

We have added in a right of appeal in respect to that where Chuck Attin No. 2 did not so specifically provide and, in fact, dissuaded, and we have gone further to make sure that the court delivers its reasons in writing.

We have also, Madam Speaker, provided the DPP and the attorneys-at-law representing the accused persons the ability to receive the information and documents being submitted to the court, and we have allowed for a general right of approach in subsection (18) which you will find at page 11 of the Bill, where if it is not listed that someone can have that.

Now, this is to deal with the mischief that persons were detained in the court's pleasure ad infinitum and there was no clear and precise mechanism to treat with it. Madam Speaker, may I ask what time I precisely end?

Madam Speaker: At 2:58:25.

Hon. F. Al-Rawi: Thank you, Madam Speaker. Madam Speaker, we go further

into the Bill by adding a new section 4B, again, to tidy up the concepts of judge, and judge and jury. We add a new section 19 by repealing section 19 which is to take care of all of the consequential amendments that can arise if you have omitted to consider where you should have inserted "judge only" in circumstances where you had "judge and jury". And that is taken care in the new omnibus provisions which you will see at page 11 of the Bill.

We come next, Madam Speaker, to the Criminal Procedure Act, and I wish to commend this to hon. Members sincerely. And again, I wish to expressly put onto the record my sincere thanks on behalf of the Government, to Members of the Senate including the Opposition Members and the Independent Bench for making good discussion, and for us really deliberating on this in the Special Select Committee which we convened on June 13, 2017, and which we completed by way of report and debate on June 20, 2017.

What we have done in section 6 of the Criminal Procedure Act, Chap. 12:02, is that we have ensured that we brought to life one of the main benefits of having a judge-only trial. And that is the fact that we will no longer be faced with a jury which is determinative of the facts of a case and a determination of guilt or not guilt. We are now moving forward from that domain where the sequestered jury does not have to produce written reasons, into the realm where if one elects to have a judge-only trial, that the judge must produce written reasons as to conviction. And that allows for the experimentation for the first time in our jurisdiction as to whether statistically we should consider ourselves as one of those jurisdictions which should move entirely to judge only. This Bill does not provide for an entire abolition of judge and jury only, it merely allows for an election of judge-only route.

In this new subsection, in this new section and its subsections we say that we provide for the procedure, the timing, and then the election routes where you can change your mind, putting it in simple terms.

At page 12 of the Bill you will notice that we prescriptively provide for when you must indicate that you want have a judge-only trial, that is at your first hearing. We then provide where you have missed your first hearing or because of transitional provisions your first hearing has past already and where you can indicate you could move the court and indicate that you wish to have an election for judge only.

We have provided that the court must be satisfied that the accused person has either received legal advice, and there is a particular course, or not received legal advice and there is a particular course where the court must be satisfied that the person has understood that there is an option for judge only. That the person must have advice in both of the routes. We have provided for written certification by amending the schedules, by inserting and creating a new Form 30, and a new form—sorry, new Form 31 and a new Form 32, where if you elect to have a judge-only trial you must go through the prescription and certification if you are represented by attorney-at-law where the accused and the attorney-at-law for the accused both certify that there was no threat, intimidation, et cetera. And if you are unrepresented where you are certified to the court satisfaction in writing in the new Form 32, again, that there was no threat, intimidation, et cetera.

But what we have done is we have provided that the court must not only be satisfied that you sought and received advice and that you did not want it, if necessary, on the election of judge only, but that you are competent and that is in the new subsection (5) again, speaking to the conditionality of mind, whether an

abnormal mind prevails or not in the circumstances.

And we have also provided that there are certain statutory prescriptions which must be met. If there are co-accused, they all agree to the same route. If there are multiple offences which can be tried in different mechanisms, that they are all to be dealt with in the particular way, and you will see that at page 14 of the Bill in the new subsection (6) as we have elected to express it.

We have very importantly allowed for the option in new subsection (7) beginning at page 14 and moving over to page 15 of the Bill where a person who elects judge only or a person who elects judge and jury only can reverse positions up to 60 days before trial, and that is in the new subsection (8).

We have allowed for a cut-off period of 60 days before trial because the work of empanelling a jury, setting the matter down, et cetera, has to factored and we did not want to cause an embarrassment to the administration of justice, but we have allowed for this moment between judge only or judge and jury by way of election under the Criminal Procedure Act as we now prescribe putting a time frame limit to cut off.

Very importantly we treat with the general jurisdiction of the court by inserting a new subsection 6A, sorry, section 6A into the Criminal Procedure Act. In section 6B, again, we provide for the manner in which the law is to be interpreted by treating with the omnibus provisions for interpretation. But the crux of the advancement of excellent work is to be found at page 18 of the Bill in the new section 42B as it is amended.

And what we are providing for is that a judge must give his reasons in writing 14 days after the verdict. We have provided for a caveat that the judge can actually ask for greater time in subsection (6) if judge is unable to give to the

written reasons. But here we have the balance and proportionality where you have written reasons and we are, for the first time, advancing the country to the state where there is a concept of reasonable time. And I wish to thank the hon. Chief Justice for agreeing in the further consultations that the Government had with the Judiciary, that where matters of life and liberty were at stake, that it was appropriate to put time frames and to move ourselves there, because it is exactly in keeping with the work which the Government prescribes.

We have dealt with improvements to sections 62, 63, 64, 65, and 66, of the Criminal Procedure Act, in particular we are removing the archaic, and if one is bold enough to say, otiose conditions that pregnancy or insanity or abnormality of mind resulting in infanticide should be dealt with by way of a jury guessing whether that is the case or not. We are introducing the prescriptions of medical practitioners, two of them to certify to the judge and the prescriptions of the judge actually puts those reasons in writing as well.

We have, Madam Speaker, as well, sought to better the provisions in the clause 5 of the Bill; clause 5, lest hon. Members are confused, comes just after the schedule of forms which appear not as schedules, but by way of amendments to the Criminal Procedure Act, and we have improved the language relative to the transitional nature of this law so that persons who are already committed to trial, but whose trial has not begun, or whose trials have not begun can, in fact, elect for this judge-only approach.

Madam Speaker, permit me to summarize by saying, this Bill fits squarely within the significant amount of work that the Government has done on the criminal justice system. As you know we would have birth by July 10th the children and family division courts, the rules and regulations; we would have deal

with the Criminal Procedure Rules; we are dealing with the decriminalization of traffic offences; we are dealing with the marching productivity in the DPP's office by provision of greater services, and equipment and bodies and resources; we are dealing with it in the Trinidad and Tobago Police Service, there is a coordinated measure of effort, designed to result in relief to improve the faith of our citizens which tackles one of the most serious issues in our country if not the most serious issue which is criminality which is not being aggressively managed and brought to its knees.

I commend the Members of the Senate for providing able support and assistance. I can only hope that hon. Members of this House find merit in the work of the Special Select Committee and the committee of the whole of the Senate and of the Government in its stated intention, and I beg to move. [*Desk thumping*]

Question proposed.

3.00 p.m.

Mrs. Kamla Persad-Bissessar SC (*Siparia*): Thank you very much, Madam Speaker. I observed that the hon. Attorney General asked for the protection of the House because there was too much chatter around, so the House became very silent, and thereafter he put the hon. Prime Minister to sleep. [*Laughter*] He woke up only just before you were finished speaking.

Now, Madam Speaker, there is a trite statement amongst lawyers, and would-be lawyers, and so on, where it is said that if the law is in your favour you argue law, if the facts—I see my colleague smiling because they— If the facts are in your favour you add the facts, but if you do not have the facts nor the law in your favour, you argue the Constitution. And, Madam Speaker, today the hon. Attorney General used all three. [*Desk thumping*] All three. And I would like to

join with him in congratulating the Members of the Senate, and in particular those from the Criminal Bar, and our own Senator, Sen. Ramdeen and of course Sen. Chote, and others [*Desk thumping*] who really have made tremendous improvements with respect to the Bill that is now before us, being a Bill that was amended in the Senate. So from what it was originally a five-page Bill, I think it was five pages—eight pages, it mushroomed into now 24 pages—that is the Bill today we are to debate—because of the very solid amendments made in the Senate. However, Madam Speaker, I had planned—in fact in our caucus yesterday I said look, our Senators have spoken on this, they have put in all of these amendments, there was a special select committee and so on, so you know what, tomorrow this Bill should get easy passage. But after the caucus, when I finished my caucus and I got down to actually reading the Bill, I cannot believe after the rigorous process that this Bill went through to reach us here, the amendments, that the level of incompetence being demonstrated and this Bill has some fundamentally flawed positions that we cannot do it. And, Madam Speaker, I will get to that specific point, and there are others which I would like to raise, but first we would take it clause by clause.

The first one I want to take a look at is what is known as the commencement clause, and this is where it says in clause 2, that this Act will come into effect on a date to be proclaimed. In other words, we are passing this here, and it was passed in the other place, or we seek to pass this here now, and thereafter there will be some future date for proclamation. Now, we have spent so much time in this House, hours and hours and hours of work on very important pieces of legislation where we were bullied and, and pushed, and shoved, and I speak in particular of the FATCA legislation, and up to today it is not proclaimed. [*Desk thumping*] Not

proclaimed. There are others, the SSA and so on, but I raised that, because the hon. Attorney General tells us about the suite of legislation to assist the criminal justice system, to assist with helping to find the criminals, and locking up the criminals, and so on. And that suite, in my respectful view, has turned very sour over the period of time. [*Desk thumping*] That suite of architecture, and legislation, and so on.

Now, let us look at what the Attorney General tells us—the hon. AG—that we want to lock up the criminals, and we have done so much, and so much work has been done, the whole architecture of the criminal justice system, and yet today I am reading from the *Financial Times* 28th June:

> "Trinidad and Tobago left as the last blacklisted tax haven—Financial Times"—28th June, 2017:
>
> "Trinidad and Tobago left as the last blacklisted tax haven…"

—and this year.

> "The Paris-based Organisation for Economic Co-operation and Development said
>
> 'massive progress' had been made over the past year as it revealed there would be no significant offshore centres on the blacklist…
>
> It reported that only one country—Trinidad and Tobago—"—as having—
>
> "failed to comply with international transparency standards."

We are the last blacklisted haven, and that is why I referred back to FATCA, and here we want to help the criminal justice system with this Bill too, and we have a proclamation date. I remember for many of these where the commencement clause tells us, future proclamation, I had asked in this House to give a date, a proposed date. So, we have FATCA being passed, but we are being

blacklisted as not having done what we should have done. When we went through that rigidly, we made numerous amendments, thanks to our very hard-working Joint Select Committee, and we went forward. Today, as we are fighting crime, we are bringing a Bill here to deal with the criminal justice system, we are being talked about as the country that is the last blacklisted—"Trinidad and Tobago left as the last blacklisted tax haven". And that could never be good, and I hope the hon. Attorney General would give us a little feedback as to why it is—what it is holding back this FATCA legislation. Because that would help you to get out of this blacklisting. That is why it was pushed and so on.

Madam Speaker: Hon. Member, please! In terms of—this was something done in this present session, the debate I would not allow you to open back that. Could you please continue.

Mrs. K. Persad-Bissessar SC: Sure. So, I would look forward now for the commencement clause here in this Bill. Clause 2, a date to be proclaimed, this Bill, can the AG give us an indication as to when it is that this could be proclaimed. And we will note then that there are several pieces of legislation with similar, or with the identical commencement clause, but not commenced, not proclaimed.

I turn now to the specific clause that I have great problems with, in this Bill. And it is to be found on page 21 of the Bill that is before us. And as I say, I went through all the others. The AG went through all of them, but you know he stopped just before reaching amendments to be made to sections 67 and 68 of the Criminal Procedure Act, and this is where the problem is. So, the AG mentioned up to the amendment to section 66 of the Criminal Procedure Act, but today I did not hear it. Maybe he did, but I did not hear him go on to the change to be made to 67 and 68.

Now, it is mind-boggling that so much time was spent in the Senate on this matter. So much time was spent in a select committee. When we see the hours, the man-hours spent on this Bill, and the very thing that was pointed out in the Senate when it came to the Offences Against the Person Act, when it was pointed out that the case, I think it was, Mukesh—somebody, and they have the reference there—against the Attorney General, when it was pointed out that the provisions that the Attorney General was seeking to have amended in the Offences Against the Person Act, that they had been struck down by the Supreme Court, then, fair enough, the amendments were made and you moved away from that. But the same fundamental error after all that time is being made with section 67 and section 68 of the Criminal Procedure Act.

So, what does that say? What does 67 and 68—what it is we are being asked to do in this Bill with respect to sections 67 and 68 of the Criminal Procedure Act. First, we would want to note that the provisions in the substantive law, the existing law, are almost identical to the provisions that were struck down from the Offences Against the Person Act, and which the Senate amended accordingly to deal with that issue. That is the first thing. The question then remains the question now. So, let us look at it. Offences Against the Person Act, the existing law was where on a trial for murder, evidence is given that the accused was at the time of the alleged offence:

> "…suffering from such abnormality of mind as is specified in subsection (1)…"

And:

> "the accused is convicted of manslaughter,

> the Court shall require the jury to declare whether the accused was so convicted by them on the ground of"—that same mind not being normal—"and, if the jury declare that the conviction was on that ground, the Court may, instead of passing such sentence…direct the finding of the jury to be recorded, and thereupon the Court may order such person to be detained in safe custody, in such place and manner as the Court thinks fit…"

The High Court had struck down those last words about being:

> "detained…in such place and manner as the Court thinks fit until the President's pleasure is known."

That was struck down, and it was now dealt with, brought to the Senate to be amended by simply just adding the words "judge alone".

So, what has happened, the movement, as the AG speaks, the movement of this concept of trial by judge alone, the movement in the Bill being presented, was a movement to just add judge alone, without looking at the several consequential things that needed to be amended. Some of that took place in the Senate, which gave you now the 28 pages and 12 substantial subsections being put. But applying the same principle did not come now when we go to clause 21—page 21 of this Bill. And, again, the clauses are so confusing, because you have the main clause, like about eight pages away, and then go (a), (b), (c), (d), (e), (f), (g), one, two, three, four, five six, and refer please, Madam, with your leave, to page 21 of the Bill that is before this honourable Chamber.

And on page 21, and I am looking at (i) as in ink—sorry, I am looking at (j) and (k). This Bill is asking us in section 67 of the Criminal Procedure Act to insert after the word "jury" the words "or Judge, as the case may be". So, first in 67 we are being asked to insert. All we have to do, go in there, and after the word "jury"

we must insert "judge" "or Judge". Then (k) tells us on page 21—[*Interruption*] "as the case may be", yes. "Oh", let me read it again, I did not mean to leave that out. So:

> "in section 67, by inserting after the word 'jury' the words 'or Judge, as the case may be,';"

So, giving you the option, which is basically what this Bill is about, to give an accused the option at the High Court level to either go for jury trial, or to go for judge alone. Section 68 now, which is at (k) on page 21.

> "in section 68 by deleting the word 'jury' and substituting the word 'Judge';"

Okay? So, in one we are inserting and in the other we are deleting and inserting "Judge".

Now, on the face of it nothing is wrong with that, because what we were trying to do—I think the hon. AG said, the omnibus provisions was wherever you had jury to now bring in judge alone. But, Madam Speaker, that is assuming that those sections in the present law or in the existing law in the substantive law, the Criminal Procedure Act, sections 67 and 68, you are assuming that they violate the law, and therefore I have to refer to the judgment on Madam Justice Pemberton, as she then was, now elevated to the Court of Appeal, in a case of *Jason Bissessar*—no relative, please—*v the Attorney General of Trinidad and Tobago*, in which [*Interruption*] it is a very big deal, because you have brought sections that have been struck down by the courts asking us to insert judge or delete judge and add jury. That is a serious matter, and therefore—[*Interruption*]—I will give it to you in a second. In fact, I want to read for the judgment. It is Civil Appeal 2009/04/10, judgment by the hon. Justice Pemberton, between *Jason Bissessar*

and—who is the defendant?—*the Attorney General*. And this was delivered on the 11th day of June, 2010.

In this judgment the court made it very clear with respect to sections 67 and 68. And, you see, it is not simply a question of now removing these sections, because you would have to put other provisions in place. But you did it, because it was brought to your attention with the Offences Against the Person Act, and the Attorney General at the time tried to blame the Law Revision Commission, say that they did not do their homework after the court had struck those things down, by striking them. The Law Revision Commission cannot change the law. There is only one place, and it must be changed in, the Parliament. [*Desk thumping*] And in this judgment, Justice Pemberton does say that the Parliament would have to act. So, now you have an opportunity, you are bringing the thing to the Parliament, why did you not act in accordance with the judgment of Justice Pemberton with respect to sections 67 and 68 of the Criminal Procedure Act which are unconstitutional, null and void. So, here we go, the judge at page 3 of the judgment says:

> These questions—paragraph 4—have been answered accordingly.

This is the question:

> Do sections 67 and 68 of the Criminal Procedure Act offend the doctrine of the separation of powers recognized and provided for in our Constitution and are therefore unconstitutional, null, and invalid?

That is one question. The judgment continues:

> Section 67 offends the doctrine of the separation of powers since it gives the power to determine the length of detention, a judicial function, to the Executive, The President.

Section 67 offends the doctrine of the separation of powers.

> Further, section 68 also offends the doctrine of the separation of powers since it gives to the Executive the power to determine the manner of the detention or how the detention is to be effected. Also part of the sentencing function entrusted to the judicial branch.
>
> For these reasons which addresses at page 3, both 67 and 68 of the Criminal Procedure Act are unconstitutional, null and invalid.

Now, we are coming here after the Senate spent—I have a copy of the Bill progression, the days, hours and man-hours spent, and you know, thumping on the chest about their hard work, and yes, they did tremendous work. It was much worse than what it is now. But, this is a major flaw in the Bill. Look at the Bill progression. [*Desk thumping*] Look at it. First reading 07 March 2017, first read in the Senate; 14 March 2017, —and this is from the Parliament website—*Hansard*, second reading. Speakers: At least about 20-something persons spoke: The Attorney General, Sen. Ramdeen, Sen. Chote, Sen. Clarence Rambharat, Sen. Sean Sobers, Sen. Roach, Sen. Coppin, Sen. Khadijah, Sen. Heath. On the 21st of March, second reading continues; Sen. Cummings, Sen. Sturge, Sen. Ramkissoon, Sen. Dookie, Sen. Rodger Samuel.

Twenty-three persons spoke on this Bill. And then what happened? It went to the committee stage. So imagine how many man-hours we are talking, and parliamentary time. And no one—the Attorney General is responsible for this. That is within his remit as Attorney General that after the comments had been made to go in and make the appropriate amendments. His staff would assist him, but at the end of the day, the responsibility rests with the hon. Attorney General and his office. [*Interruption*] And therefore, I know—well you have to, no one

else will. No one else will, and that is why, I have to really agree that this is the most incompetent Government ever. [*Desk thumping*] After days, another day, 8th of June now, continuing the committee stage and in the middle of the committee stage said, you know what, it is too much, let us go to a special select committee, which did, and deliberated, looked at the report and made the amendments to the Bill that we are here today.

But, let us continue with the judgment from Madam Justice Pemberton. So first, the judge of the Supreme Court says these two sections are unconstitutional, null and void. But it does not stop there. What does the judge say? So how can we today amend that section to add jury, or add judge, or take out the word judge, or take away the jury. We cannot. It is fundamentally flawed in law [*Desk thumping*] and therefore this House—you know, I will be accused that I want to mash up the place. I will be accused that we do not want to pass no Bill, and "doh" pass no law. But if the thing is flawed, we cannot pass it. We cannot do it. [*Desk thumping*] The judge continues then, on the same page 3 of the judgment:

> Even if the provisions…

—and these are the provisions of sections 67 and 68 of the CPA.

> Even if the provisions are found to offend the doctrine of the separation of powers, does that mean they cannot stand in their present forms or can they be modified by the court to bring them into conformity with the Constitution.

The judge continues:

> Both sections 67 and 68 cannot stand.
>
> So one, they are in breach of the separation of powers and they cannot stand.
>
> Section 67 can be modified to the extent that the duration of the detention

> imposed by the Court shall be at the Court's pleasure in place and instead of until President's pleasure is known.

So, some words are given to amend, how it should be amended to bring it into conformity with the Constitution, but it continues:

> With respect to section 68, it is clear that the detention, that is the manner, the duration and processes must be court driven. This section must be modified by Parliament…
>
> This section must be modified by Parliament to reflect that both the Executive and the Court have a role to play in administering the detention. Until this is done I have no recourse but to strike down the provision altogether.

And we are being asked by the Attorney General of this country to come here and add a word "Judge" or "jury" when the entire section has been struck down by the Supreme Court. Struck down.

It continues, Madam Speaker, in the judgment and declarations are made in the judgment. So, those were the questions asked by the judge, inter alia, there were others that were asked. And the judge then made the following declarations, Section 66 at page 42 of the judgement:

Section 67 of the Criminal Procedure Act, Chap. 12:02, is unconstitutional, is not in conformity with the Constitution of Trinidad and Tobago as being inconsistent with the doctrine of the separation of powers, and is thereby invalid. Two, second declaration, that:

> Section 68 of the Criminal Procedure Act is unconstitutional, and not in conformity with the Constitution of Trinidad and Tobago, as being inconsistent with the doctrine of the separation of powers, and is thereby

invalid.

So, Madam Speaker, this experience is a very important one. In every case in which the court is moved, as in this case, to declare a provision in the law unconstitutional, the defendant by law has to be, or amongst defendants must be included the Attorney General. And if I may make a suggestion, it may well be that the Government give consideration to setting up a unit to go back and check every case that was ever done against the Attorney General as he constitutionally chose. [*Desk thumping*] So that this would not happen again. Now, the last time when they raised it, it was with respect to the Offences Against the Person Act. There were things in this Bill, and the amendments were accordingly made in the Senate for the same reason, because the High Court in another case had in fact struck down those provisions and changes had been made there. But then we did not learn from that. We did not learn.

So, in the same Bill where that same point was made on another statute, because remember it is three—I think it is three statutes or more, four we are seeking to amend: The Supreme Court of Judicature Act, the Summary Courts Act, the Offences Against the Person Act, and the Criminal Procedure Act, four statutes Act to be amended here. Initially, the Bill really dealt only with Offences Against the Person Act and the Criminal Procedure Act, that was the original Bill. So, we have included again, because of the great work done in the Senate, several other statutes have now fallen into play.

So, we must prevent this from happening, now it is just over vigilance I guess that allowed us to get a copy of this case. This Parliament would have gone through the—what is the word, boy? I do not know if it is a frolic of its own, but this Parliament would have gone through something that is nonsensical in

amending a section that has been struck down by the court. Who then? Is it that I am unpatriotic, I am holding back the passage of this law and so on? Or is that we say bring good law and we would help you with it? [*Desk thumping*] And when we do not agree to it we are buried as being unpatriotic and not wanting to do the work. So, I want to make it clear, when we talk about the doctrine of the separation of powers, and I am going off on a tangent here, because it is relevant. The State is comprised of the three arms of the State, the Judiciary, the Executive which is the Government, and the Legislature, which is us here. We as elected representatives really have no say in what goes on in the Executive, the Government, or what goes on in the Judiciary, but we do have a say here, and as long as we are here we will take care [*Desk thumping*] to the best of our ability of that parliamentary process to take place so that we do not end up—really, we would have been laughing stocks that we were amending something that they struck down.

So let me move on to another point, that is my major point on this Bill. I said originally, we had taken a position, we were told to let it ride the course and given all the hard work done in the Senate, and I am not dissing the work done in the Senate. It was a tremendous amount of work done, and we have had sight of the select committee and the suggestions that were made there. There is another aspect to this, Madam Speaker. And that has to do with points raised by the hon. Attorney General. The AG gave us the statistics, which we have been getting from time to time, and I think people are most interested in seeing or hearing the large number of these cases in the Magistrates' Court, in the High Court. Let us make it clear that this Bill will not help the backlog in the Magistrates' Court. This Bill, from the AG's point of view, may help or is designed to help backlogging, time

wasting, and costs in the High Court. So we got the statistics, we were told about time and costs, and so on, but I want us to remember whilst we look at the numbers of cases and so on, there is a very interesting comment made about the number—that the courts will not be able to handle if there is a better detection rate.

In other words, these numbers only would have been detected, and far more criminals are walking around without being detected to even come to court. I think a Minister of the Government said that. The courts will not be able to handle a better detection rate. Now, it is a weird kind of comment, but maybe that is true, because this is where we go to with this Bill now. Are the courts ready and the Judiciary, are they ready for implementation of this type of legislation? We had spoken about others. For the last 21 months we have seen—you just cannot pass the legislation and accidently leave it there. The legislation alone will not make the difference, and so the criminal justice system must be prepared at the manpower level, and in the infrastructure, and in the IT in order to take on more work that will be going. So, the criminal justice system, in my respectful view, must be adequately resourced if we are to give these judges more work.

What happens now when there is a criminal trial, the thousands that the hon. AG spoke about. When a matter goes to trial what happens? The judge in the existing system is an arbiter of law. The jury in the existing system is the arbiter of fact. So, if we remove the jury, the judge now, alone, is now going to be responsible for both determinations on law and on fact. Nothing is wrong with that, the magistrates do it every day. They do both law and fact.

But I was shocked to discover that the judges do not have proper recording systems. Not all the courts. The criminal courts, they do not have a CAT system that as you speak things are taken down. It goes even worse than that, Madam

Speaker, I do not know when last maybe you found yourself into one of the courtrooms there, one of the criminal courtrooms, or even the civil courtrooms at the Hall of Justice. But, the judges who sit and exercise the criminal jurisdiction now, okay, they do not have the transcripts, they do not have the report. I think they have something called FTR, which is For the Record, which is just voice recordings of everything that is said. That is what happens when the matter goes to trial, you have the FTR, but only again in some of the courts. And some of them do not have the CAT, the transcription of—like what our *Hansard* people do here. A very highly skilled job. [*Desk thumping*] A very, very highly skilled job, and that is why we notice our CAT Reporters here they get up every so often. They cannot sit through an hour, because it is very—

Hon. Member: The do not get the crosstalk.

Mrs. K. Persad-Bissessar SC: Of course, they get the crosstalk, a lot of the times, interferes with their work. But, it is a very highly skilled job.

Now, when this happens, if the judge is known to be an arbiter of the facts, the judge has to be able to see that witness, hear that witness. The judge cannot bend down the judge's head and be writing and taking notes. The judge cannot be a note taker. I was told by someone that a judge of the criminal court has said we are like glorified note takers, because all we do here, we really just take the notes, handwriting, whereas it is the jury who makes the decision. The judge will direct on the law, but it is the jury. At the end of the trial you will not say a man is guilty or not guilty, or whatever the case may be. It is left to—now, with this, when this change comes from this Bill it is the judge has to do both now, direct himself or herself on the law, but also to assess a witness.

Madam Speaker, I do not know if you are aware, but you know from where

the witnesses even stand in the dock in the witness box in the criminal courts the judge cannot even get a proper sight of them. But to judge facts, you have to judge witness demeanour, body language as they say, all these things go into determining whether you accept the facts for one witness or another. So, we need, when I say infrastructural work for the courts will have to be done, because now the judges have become arbiters of facts as well as law.

So, another issue which arises is, have our judges undergone any training? Or is there any plan through the Government, through the speakers, for training and retraining of our criminal court judges who will now be called upon?

Madam Speaker: Hon. Member for Siparia, your original half an hour is now expired. You are entitled to 15 more minutes, if you intend to avail yourself of it, you may proceed.

Mrs. K. Persad-Bissessar SC: I thank you very much, Madam Speaker. Thank you. Yes, so, is there a plan therefore to train and retrain our judges, because now all their lives they have been engaged in law, being arbiters of law. You are now asking them, as we said numerous times, on assessing fact, assessing the veracity of witnesses and so on, and therefore in my respectful view some training and retraining will be necessary for the judges. Then we have experiences, not infrequently, where judges have not delivered judgments for more than five years. Have any steps been taken—[*Interruption*]

Madam Speaker: Members, please, I would like to hear the contribution of the Member for Siparia, some of the talk is starting to disturb me. Member for Siparia.

Mrs. K. Persad-Bissessar SC: I thank you very much. We have had the experience where judges sometimes do not deliver judgments for five years. Any steps are being taken to resolve issues like that? So, all that the passage of the

legislation could do, or may do, if the system is not equipped to implement it, is to move the bottleneck further down the system, but it will not provide the kinds of solutions.

3.30 p.m.

And you see this is why, Madam Speaker, in addition to being the poster boy and the suite of legislation and we are cleaning it up and we are clearing it up, you really have to come out from in front of the camera and go behind and find out what are the root causes [*Desk thumping*] of the delay in the system. What are the root causes? Would it really be that juries are the ones who are—it is because of a jury that you are getting delays and so on? Is it that you talk about, well juries can be intimidated and bribed and influenced? Well, at least with a jury you have 12 seats filled, 12 jurymen in capital cases, nine jurymen in non-capital cases, but you have nine people. So if you have to go and bribe, you have to go and intimidate, you have to go and frighten, it is plenty more people, plenty, plenty, more people than a judge alone. So that issue of, you know, juries can be swayed and convinced and intimidated and so on, really on its own does not cut and hold water.

So for the judges now, the issue of safety and security becomes vital when this Bill is passed, where a judge alone—if you were worried about witnesses and killing off witnesses and witness protection, what protection, if any? What plans for giving security to judges in the criminal courts, or generally, who would have to adjudicate as judge alone in some really complex and violent kinds of matters, criminal matters in the court. What about the safety and security? And we saw recently of a particular judge giving certain judgments and he was abused, he was abused. When you see you come to do these criminal trials, Madam Speaker, what plans does the Government have to resource the Judiciary for greater safety and

security of their person, and not themselves alone, but their families? So the issue of safety and security arises.

And then, do we have enough judges? I think we were told there were nine, if I am not mistaken. The hon. Attorney General said that there were nine judges in the criminal court, and how many thousands of cases, that is another area. You now want judges to do judge alone and then all the other, the suite of legislation, all of those you need more judges. Any plans to increase the number of judges and now magistrates?

The hon. Attorney General gave us the number, 38 or 48 magistrates sitting in the criminal jurisdiction; 372,000 cases and so on; and then with the judge in the High Court, 2,000-and-something per judge. In addition to bringing all this law, would you not think that hearing the average caseload of one magistrate or one judge that that is a clear pointer, a clear indication you need to increase the number of judges and magistrates? But no, we have no Bill coming before us to amend the law to allow for an increase of judges or magistrate.

So, and then we come to the issue, not only is there a shortage of judges and magistrates, there is a shortage of courts as well, Madam Speaker. And therefore, what plans does the Government have with respect to that as the suite of legislation really front-loads the matters up at the trial court. There are things to do which we have passed with the preliminary enquiry, and all of that really front-loads the system up at the trial court level.

Then now, are the courts sufficiently equipped to implement the legislation? This legislation—I spoke a bit about it really, about the CAT Reporters and so on. I am being told that some judges now are personally—and maybe as parliamentarians we may want to think of what—some kind of software that is

known as Dragon, and they say you talk into it and as you talk, it goes straight into text.

Hon. Member: Dragon Naturally Speaking.

Mrs. K. Persad-Bissessar SC: So it goes into text, because the FTR that is in some of our courts—For The Record—is just the voice recorded. Somebody still has to go and sit down and type it up, transcribe it. And that will bring us then to the situation we now have, where these 53 cases, if you look at the *Guardian* front page today, and I will try not lift it too high, the:

Accused make more ruction over Marcia's cases—respect scum

They are calling themselves "scum". They say people must give them some respect. These 53 cases, they were asked to get the transcripts. You know, not one. Not one transcript has been provided for these 53 cases, the last time when sittings were held. The lawyers had requested the transcript and so on—not one, Madam Speaker—again, because of the shortage of the recorders and the people who have to do it.

Now, I recall our Minister of Tertiary Education, then Minister, Fazal Karim that we had started a programme at the COSTAATT for the training of CAT persons. We have a shortage of those too and we are going to need more and more.

Mr. Karim: Computer-Aided Transcriptionist.

Mrs. K. Persad-Bissessar SC: Computer-Aided Transcriptionist, the CAT reporting. So that is another thing in terms of the resourcing of the courts. There is a third issue in terms of implementation if we want the Bill, of course, as properly amended to succeed. Safety, security, I have spoken of and the courts themselves, the existing courts. Then we come to the criminal justice system, the

Judiciary, the magistracy as well. They can only be as fast and as efficient as the services on which they depend, Madam Speaker. And so when a judge has to do a matter, first of all you go to court the matter keeps getting adjourned. Why?—because the accused wants legal aid and they have not got it. So that is another—when I say go behind the cameras and look for root causes of delay that is one cause of delay, that is an administrative matter that will be dealt with without just legislation. So the accused, they want legal aid, they cannot get the legal.

Then you have ballistics and so on. You have a firearms matter, you have to wait on the report from ballistics and then with other matters, you have to wait on forensics reports. That is another major stop, delaying. These are the things for the Judiciary that cause long delays of things. But then now when you come to the—you finish the trial in the High Court, you come to sentencing. How long does the court have to wait to get a probation report?—because they cannot sentence without that report.

So at every step of the trial we have where delays are caused, not because it takes time to impanel a jury—look, let us face it, I am told in the last 15 years only five juries were sequestered, if I could say it properly, only five in 15 years. So when we were told about this huge cost for sequestering a jury and so on, yes, in certain exceptional circumstances you will have that happening and therefore it is not the jury at fault in these matters, but there are other matters, first of all you cannot even get the virtual complainants, the complainants—police now—you know, to come forward to bring out whatever evidence; that delays.

So at every step we need to—if we want to implement this and have it work we need to have proper resourcing of all the services there that will hasten and make it faster. So that is in terms of the implementation. And I just have one more

point, Madam Speaker, with your leave in the few minutes left, which is really to look at the administration of justice.

You know, we would think that there could not have been a more inopportune time [*Desk thumping*] than now to bring a Bill for people to say they want to go to a judge alone. When the administration of justice in the public perception is at an all-time low and therefore at the end of all this parliamentary talk and passage and so on, there may not be one single person who will choose to take judge alone, because they have the option, judge alone or jury, because of where we are at this time in terms of the administration of justice. And so we introduce this piece of legislation here at the time when I can say, without fear or favour of contradiction, that the Judiciary and the image and perception is at an all-time low. And again, you only have to look at the headline in this newspaper today:

Accused make more ruction over Marcia's cases—respect scum

Madam Speaker: And while I know you are quoting the newspaper, anything that you say is really your words. So that it must constitute parliamentary if you are going to use it, regardless if it is something that you are quoting, okay? You have really adopted the language. So I think maybe some part of that quotation you can leave out.

Mrs. K. Persad-Bissessar SC: But then, Madam—I will be guided, and see how I can bob and weave through that. But these are the accused whose matters were—What is the word?—have been delayed because of what was happening in the Judiciary and so on, and they came to court yesterday and they are very angry as the matters drag on. Now, they are quoted with the words as put in the headline, I will not quote them anymore, but they are there quoted and they are saying,

describing himself and the other accused as—that word that I am not allowed to use at this moment. He said that their charge and so on, they have been waiting since September 2012, et cetera, et cetera, because of this impasse with respect to the magistrate, the Judiciary, to deal with a criminal matter.

Madam Speaker, we have seen since April of this year the controversy with the Judiciary. We are now wanting to place these matters before a judge alone.

Hon. Member: Three minutes.

Mrs. K. Persad-Bissessar SC: Three minutes, yes. And the manner in which the judges are appointed is now before the courts. One matter is actually before the Privy Council and so on, and today I want to—the Government has said that they will build the Great Wall of China when it comes to the Judiciary and rightfully so. But where we reach with respect to these persons who have chosen to describe themselves in this manner, I respectfully suggest that the Government should engage with all stakeholders, because these people, the 53 we have suffering, [*Desk thumping*] they are suffering and it is not because they are not the 1 per cent that we will leave them alone. That is not the issue.

So I suggest, finally, for rebuilding confidence in administration of justice which is vital for us and our survival in this country. As a nation, that the Government rethink its position about the Great Wall of China and they convene in some way, discussions with all stakeholders to find a way through this impasse. So, Madam Speaker, I say again, this Bill cannot be passed unless we deal with page 21, (j) and (k), sections 67 and 68 of the Criminal Procedure Act. It will make a mockery of our work in this Parliament were we to be so reckless as to pass this Bill as is. I thank you very much, Madam Speaker. [*Desk thumping*]

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam

Speaker, and good afternoon again as I join the debate into:

> "An Act to amend the Supreme Court of Judicature Act, Chap. 4:01, the Summary Courts Act, Chap. 4:20, the Offences Against the Person Act, Chap. 11:08 and the Criminal Procedure Act, Chap. 12:02 and for related matters."

Madam Speaker, I do crave your indulgence for today only to ask for some laxity in the Standing Orders as it refers to referring to notes. I just ask for a little bit of latitude, just for today only. [*Crosstalk*]

Madam Speaker, our legal system has the common law tradition similar to that of the United Kingdom. So therefore, it is incumbent upon us to look at what happens in the UK to see where we are going with this particular amendment. The dispensation of justice over the years and over the centuries has luckily evolved from the old medieval times of trials by ordeal, whether it was trial by fire or trial by water, where God was supposed to have saved you to prove your innocence, and if he did not save you, to prove your guilt. Where much store was put in faith of God. So we are not in that mode again.

The hon. Member for Siparia, in her last 10 minutes said this is not the right time to bring this type of amendment, given the state of the Judiciary and the public perception. And this is typical UNC fear. Leave it alone, not now. But let me put on the record, it is always the right time to do the right thing and that is what we are here about, the right time to do the right thing. There was an election which said, leaving it alone is not the way to go. We want change, but every piece of legislation being brought here to bring about significant change to the criminal justice system is always met with opposition.

Madam Speaker, what is a jury? A jury has been romanticized over the

centuries but there has been a lot criticism as to the role of a jury. Twelve good men fair and true, the core of the UK justice system. Jury is supposed to determine matters of fact and the Member for Siparia says you are now asking a judge to determine not only fact, but law. But the opposite to that, when you look at the criticisms and the investigations into juries and jury behaviour, is that juries are often asked to determine not only fact but law. That is what they do. That is what these 12 laypeople are asked to do, to look at both fact and law. So, we have a case here now where the Opposition Leader is saying that a judge cannot determine both fact and law but all the research will tell you juries have to determine not only fact, but law.

The Member of Parliament for Siparia made heavy weather of the Jason Bissessar case, a 2010 case, and called the judge's name, I think Pemberton, Justice Pemberton. That case has actually been appealed and even if amendments had to be brought, why did not the then Attorney General Anand Ramlogan, from 2010 to now, bring it? And even so, even so, it is the responsibility of the Law Revision Act to look at amendments and recommend the amendments. So the Attorney General will deal with that.

Madam Speaker, in the other place, and in this place too, we are hearing about constitutional issues, that this Bill may be unconstitutional. It was the same argument used in the motor vehicles Bill last week where I had to read into the *Hansard* what the Constitution says:

"Rights Enshrined"—section 4:

"(b) the right of the individual to equality before the law and the protection of the law;"

That is not being infringed.

"5(2)(c) To—"deprive a person who has been arrested or detained—

"(i)…the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention;"

That is not being infringed.

"(ii) …the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him;"

That is not being infringed.

"(iii) …the right to be brought promptly before an appropriate judicial authority;"

That is not being infringed.

"(e) deprive a person of the right to a fair hearing…"

The Constitution does not say a jury. Our Constitution says:

"…a fair hearing in accordance with the principles of fundamental justice for the determination of his rights…"

And what are these principles of fundamental justice. They are:

1. Procedure must be followed.
2. The hearing must be unbiased.

Makes no mention of a jury.

3. They must be heard.

No mention of a jury.

4. Right to notice.

No mention of a jury.

5. Right to know the evidence before them.

No mention of a jury.

6. Right to present a case, either to a jury or not.
7. Right to be heard.
8. Right to cross-examine.
9. Right to counsel and equality of parties.

So under our Constitution which talks to fairness, natural justice, nothing is being taken against the Constitution by the option of the accused to choose either a judge or a judge and jury. It is not that this Bill seeks to abolish a trial by jury. It is to give the defendant the option based on the advice of his advocate or lawyer to choose a judge-alone trial or a trial by judge and jury. Let us put that squarely on the table. The Constitution and the constitutional right of the accused are not being infringed in any form or fashion.

Madam Speaker, there was a very detailed explanation put out in the public domain by a Member of the UNC that the Magna Carta talks about trial by jury.

Dr. Moonilal: Which Member is that?

Hon. T. Deyalsingh: Sen. Ramdeen spoke about the Magna Carta and trying to bring the Magna Carta into the debate to show that trial by jury is somehow to be found in the Magna Carta.

Madam Speaker: Member for St. Joseph, are you talking about something that is in the public domain or what took place in the other place?

Hon. T. Deyalsingh: Something in the public domain, Madam Speaker. It was carried in the *Newsday*—[*Crosstalk*]

Madam Speaker: I just want to guide Members that in terms of what took place in the other place, one can maybe just make passing reference, but I do not want anybody going into any detail with respect to what took place.

Hon. T. Deyalsingh: Thank you.

Madam Speaker: Continue.

Hon. T. Deyalsingh: Thank you, Madam Speaker. It is actually in the *Newsday*. So what I want to do, Madam Speaker, even if I am not referring to that, trial by jury is not to be to found in the Magna Carta. And with your leave, I would like to read the English translation of clause 39 of the Magna Carta with your leave, Madam Speaker. It says, the English translation says:

> "No freeman shall be taken or (and) imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or (and) by the law of the land."

And this has been misconstrued over the centuries to mean trial by jury. Legal historians, it goes on to point that clause 39 has nothing to do with trial by jury. It has always been an error. So I just want to put on the public record because I know Members opposite will come with this story that the Magna Carta somehow protects this right of trial by jury.

Madam Speaker, if one has to be objective—

Mrs. Persad-Bissessar SC: Would the hon. Member give way?

Hon. T. Deyalsingh: Sure.

Mrs. Persad-Bissessar SC: Let me make it very clear that no Member here is going to raise the constitutionality of this because it is not a constitutional right so you can save some time. Thank you very much.

Hon. T. Deyalsingh: Therefore, Madam Speaker, with your leave and with the Member for Siparia's leave, it was my intention now to go on a tour of some jurisdictions near and far to enable people to understand how much work, how much discussion and how much research has gone into this issue of trial by jury, the pros and cons and how countries have vaccilated for decades into this issue.

Madam Speaker, the Runciman Report of 1991 was one of the first in the modern times to deal with the issue of trial by jury. That commission was commissioned to bring about increases in efficiency in the English legal system. Then you had the Sir Robin Auld review. But our own experience here tells us that the jury system does not work to the first satisfaction of all. Penny—[*Crosstalk*]—I will come to that. Penny Darbyshire in the *Criminal Law Review* of 1991 was severely critical of juries, but it is not the intention, my intention now, to go into a critical analysis of the juries because some even chided her for being overly critical. What I would like to do is to put on the record how many people have tried to grapple with the issue of trial by judge or trial by judge and jury. Joshua Rozenberg, Queen's Counsel, writing in *The Guardian* says:

"Defendants should be allowed to waive their right to trial by jury"

—which is what we are doing here.

We are giving defendants, asking defendants to make a choice, make a choice based on the advice of your lawyer. Do you want to have trial by judge alone or trial by jury? And he goes on to say and I want to quote briefly:

> "Removing the right to trial by jury from those who are currently entitled to it is, politically, a non-starter. But allowing a legally represented defendant…"—to make that choice is desirable.

That is what we are asking people to do.

"Given that we must find ways of delivering justice more cheaply…"

—and trial by jury is not only lengthy, as the AG said; you have to impanel a jury; it is lengthy; it is complicated; it is expensive.

> "Given that we must find ways of delivering justice more cheaply, allowing defendants in the crown court to opt for non-jury trial must surely merit

further consideration."

So what the AG is doing here today is not taking away anybody's right to a jury trial. Far from it. It is an attempt to speed up justice because the Member for Siparia spoke about the current state of the Judiciary but one of the issues is the inordinate delay in dispensation of justice. So anything that we can do to speed up the administration and delivery of justice should be lauded. But we are hearing here today from the main responder that they are not going to support this measure here now. Why is that? Why is that? After considerable work was done.

Madam Speaker, it is always the mantra of the Member for Chaguanas East and the Member for Naparima to speak about how this country should aspire and learn from the Singaporean experience. They always quote the book by Lee Kuan Yew—the Member for Naparima and the Member for Chaguanas East. Do you know in Singapore they do not have trial by jury? It was abolished in 1969. Abolished, yes. You look surprised. Abolished in 19—do you know Holland, the home of The Hague**,** I think the International Criminal Court, they do not have trial by jury. And the Dutch system of justice does not collapse, it does not. So when I am saying I am taking you on a tour of jurisdictions and learnings, is that we could learn from jurisdictions that do not have trial by jury and that offer the option.

Madam Speaker, in the tour I had promised and in response to some crosstalk there, what about local? What about the Caribbean experience? Madam Speaker, I want to draw your attention, and those who did not think that there was some Caribbean experience, to a speech delivered at the third annual distinguished jurist lecture of the Trinidad and Tobago Judicial Education Institute, delivered by Sir Marston Gibson K.A., Chief Justice of the Supreme Court of Barbados. You know what the theme was? The Continuing Relevance of the Jury System in the

English-Speaking Caribbean.

So there is not only learning from overseas that I had referred to from the Runciman Report, Sir Robin Auld, we also have local experts, Sir Marston Gibson from Barbados speaking about it. He did an excellent analysis of jury trials in the English-speaking Caribbean and he gave both the pros and the cons. And I think this report and this speech, delivered in Port of Spain on 11 July, 2013, is instructive. It traces the evolution of the jury system, it traces the pros and cons.

Madam Speaker, one of the major features of this Bill which I like, which I will come to, has to do with what some people called miscarriages of justice when a jury does not have to give reasons for a verdict. We, as Ministers, have to come here and account and give reasons for what we do. All the time. But a jury passing a death sentence sending someone to jail for 20 years, depriving somebody of their liberty of their property does not have to give a reason for that decision. I find that scary in this day and age as societies evolve. We all speak about accountability, there should be accountability, but as far as juries' decisions are concerned, there is absolutely no accountability.

4.00 p.m.

In that Distinguished Lecture Series by Sir Marston Gibson, he speaks about the fact that—and Attorney General touched on it—trials by jury have virtually disappeared from civil trials—have virtually disappeared. In the Magistrates' Court you hear 142,000 cases a year, no jury. So what is the objection? It is now reserved for criminal matters and a few criminal matters at that. However, the Attorney General, in piloting, also spoke about the critique of Oppenheimer, but other people have spoken out against trial by jury and I want to refer you to Sir Burton Hall, former Chief Justice of the Bahamas, who now sits on the United

Nations International Tribunal for Yugoslavia, has been highly critical of trial by jury.

Mr. Singh: What did he say?

Hon. T. Deyalsingh: What did he say?

> "No less a judicial personage than Sir Burton Hall, former Chief Justice of The Bahamas and now judge at the UN International Criminal Tribunal for Yugoslavia, has been highly critical of trial by jury, urging for its removal. He has urged...not only in trying cases in this manner inefficient 'both in…time…of money' but, he contends, it is not right that the most serious criminal charges are being determined by a body which"—is—"not required to give…reasons for its decisions."

And that is what this law, this Bill, is now seeking to do.

When juries meet in this place, called a jury room, to make a decision on guilt or innocence, to send someone to jail, to take away someone's life and no reasons are given, absolutely none, in this procedure now, the judge—because if we look at both sides of the equation, there are pros and cons to judge alone, pros and cons to judge and jury. One of the disadvantages people point out is that the judge may be coerced in some way, he may be threatened in some way, similarly a jury could be threatened. However, the judge now has to give reasons for his judgment, which will form the basis for appeal going forward, or give the defendant some measure that the reasons for his being incarcerated, or getting a death sentence are valid. As societies change, so must the dispensation of justice, and the ability under this law where a judge has to give reasons is something that I think we should laud, something that we should support.

There was a case in Australia, Madam Speaker, 2006, where six people—

teenagers—were mowed down by a driver, all killed. The jury returned a verdict of not guilty on six counts of culpable driving, whatever that means in Australian law. Do you know how the families of those six people felt because they got no reasons? They felt as if their children's lives were meaningless, that no one was seeking their interest. No reasons were given. So one of the features of this piece of legislation is, if you choose to go before a judge, the judge must give reasons.

Madam Speaker, in that same distinguished lecture by Sir Gibson from Barbados, and when you look at the literature from Runciman, to Darbyshire, to everyone, they speak about the romanticization we have with juries. Should we be keeping juries because we have romanticized them over the years, is it that we have this emotional tie to a jury, and is it logical that we should be insisting upon trial by jury because of sentiment or nostalgia? At the end of the day, when one reads Sir Gibson's speech, we can come to the conclusion that this Bill is trying to walk a very good ground in giving defendants the choice. You want to go before a judge and jury because you like the concept of a jury, you like the concept of being judged by your peers—you like that—or do you want to go before a judge alone to get swifter justice, to get reasons as to why your verdict is the way it is?

Madam Speaker, in supporting this piece of legislation, the Member of Parliament for Siparia—and the Attorney General will deal with it. The issue of the Jason Bissessar case, that will be dealt with. This piece of legislation does not offend the Constitution in any form, any way, because that is a point that is being made in the public domain. This piece of law has no basis in the Magna Carta—I want to put that on the public record—and the Attorney General should be congratulated in his whole suite of legislation.

Mrs. Gayadeen-Gopeesingh: Madam Speaker, 55(1)(b).

Hon. T. Deyalsingh: For the first time—

Mrs. Gayadeen-Gopeesingh: 55(1)(b).

Madam Speaker: Member for Oropouche West, have you stood on a point of order?

Mrs. Gayadeen-Gopeesingh: Yes, 55(1)(b), Madam Speaker.

Madam Speaker: Member for St. Joseph, I will allow you to continue.

Hon. T. Deyalsingh: Thank you, Madam Speaker. So, as I was saying, this Attorney General is the only Attorney General I know of in the past seven years to have come bravely before a Parliament and to put a legislative agenda on the table to speed up justice, to make sure that justice is dispensed fairly and equitably, and to deal with crime. The Attorney General should be warmly congratulated for that. [*Desk thumping*] And as far as this piece of legislation is concerned, I want to support it wholeheartedly and recommend it to my colleagues opposite.

With those few words, Madam Speaker, I thank you. [*Desk thumping*]

Mr. Prakash Ramadhar (*St. Augustine*): Thank you very much, Madam Speaker. Let me upfront tell this learned House that I cannot in good conscience support the death of fair trial in this country. [*Desk thumping*] This is nothing short of the sharp edge of a spear that is long and is painful. It is without doubt, the intention of this Government, ultimately, to remove trial by jury in all matters. [*Desk thumping*] I will ask my learned friend, the Attorney General, to tell this honourable House when he winds up, whether indeed he is wont to bring legislation to remove jury trial in all cases. The tenor of the legislation at first blush appears to be laudable, but when you truly consider what this is, it is nothing short of the progress on that proverbial road of going to hell with good intentions. [*Interruption*] Madam Speaker, I am sorry, but I think "meh" friends need a

moment to settle down on that side.

The learned Leader of the Opposition was absolutely correct, and I endorse the arguments put forward as to why this legislation is not fit and not proper. It is trite that a section that has been struck down by a court cannot be amended. It has to be brought in its entirety and repaired, not by subtle amendments to make it fit and proper. [*Desk thumping*]

But there is a bigger issue at hand, Milady, and the issue at hand is this, that it appears that as we proceed there is an arrogance besetting us all in the society that suggests that the common man is a lesser human being in the society, [*Desk thumping*] that the only interaction that the common man in Trinidad and Tobago will have in the judicial process is either as a victim, a witness, or an accused. He will have no involvement in the judicial process other than that, and that to me is undemocratic, it is not right, and one does not have to return to the Magna Carta, or anywhere else, to know that in a growing democracy that the people must always be involved unless better cannot be done and especially in the judicial system.

Madam Speaker, a judge. Who in the world is a judge? We call them My Lord, or My Lady. They reside and do their business in the Supreme Court of our land. Does that make that person clothed in judicial robes superior to anybody in terms of the assessment of what is true and what is not true? In fact, I want to suggest that it is just the opposite that when you are accustomed doing something and there is a familiarity not just with the process, but with the personage—because as we know, in criminal trials a lot of the evidence comes from police officers, and that they very often will repeat their presence before particular judges, and over time there is a familiarity that will develop, but the accused person, however, sometimes the first and only involvement before a court of law is at his

trial. He is inexperienced, he is unfamiliar with the surroundings and circumstances. One would expect the normal human being to be very stressed, very worried, very concerned, sometimes fidgeting, not because he is lying when he gives his evidence, but because of the very enormity of the circumstance that he is there standing before a judge, and sometimes a jury—if they would have their way—and this judge he is to give evidence before, he is to be cross-examined, he had to give evidence in chief even before then, and this judge will determine whether he is speaking the truth or not. By this great supremacy given to that individual to determine who is lying and who is not, to take away that balance of our peers who from many different walks of life will bring their cumulative experience, some may be rich, some may be poor, some may be from different regions and their life experiences come together in that jury room, and out of that cumulative wisdom we get a verdict, and I will delve into that a little bit further as I proceed.

Nobody says we live in a perfect world. The judicial system and the issue of justice is a messy one. There is no pristine belief that every case is rightly decided, or that every case is wrongly decided, but it is the best system that we now have, and to interfere with it for no good reason, I will tell you why for no good reason. The reasons put forward by the Attorney General is one of delay, one of expense, but let me ask this question: How long does it really take to pool a jury?

Hon. Member: One hour.

Mr. P. Ramadhar: Less. Twenty minutes to pool the jury. That is a fact. There will be objections, of course. Every accused person has a right to object peremptorily to three persons on the jury, so too would the prosecution. So even if we give them an hour to do that, what is the process then that delays the case? Of

course, in human conditions you would have adjournments. For instance, a juror might be ill, they might have a death in the family, as would lawyers, as would the judge, and these are the things that we have grown accustomed with, but there is no terrible pull to say that the delay is as a result of the jury.

Has the Attorney General, or anyone examined the longest murder trial in the history of this nation, the Vindra Naipaul-Coolman case? Two years it took for 11 accused persons, I believe it was, with evidence that was nowhere near as voluminous as you would want to believe that a two-year case will take. There were many things in that that we need to examine because, to me, it was an abomination to the judicial process to have a case last for two years. The longest case before then was the Dole Chadee matter, where there were 10 accused, with senior counsel aplenty from both sides, with all sorts of legal arguments taken, including one of longest polling of a jury that took at least a month, where for those who will remember the jury pool had been exhausted because we were allowed in that case to cross-examine jurors as to whether they can give a fair verdict having regard to the pre-trial publicity in that matter.

Some might recall there was a photograph, a front page photograph, where persons who were on the beach in Chaguaramas and the judge had ordered then, the "praying of tales", meaning that the jury pool having ended, you are entitled then to go into the public—and remember, it sounds funny now but it was a very serious occasion where a Marshal of the Court went out onto the main road—this really happened—stopped a maxi-taxi and the maxi-taxi driver must have felt, "Oh yes, I have another passenger". What he had, was that all of his passengers were taken into court as potential jurors; and a front page of persons who were on the beach brought to the court in their bikinis, and in their trunks, with their towels,

into the court and taken as jurors. That case went ahead, and that case exemplified all of the fear factors that are now being brought forward, about intimidation and whatever. But guess what?

In the face of all of those things, after three months—just three months—the jury turned a verdict of guilty, the matter was appealed, it went to the Privy Council and the convictions were confirmed, and they paid the price of that verdict. They were all sentenced to death and they hanged. So the system can work but it takes effort. It takes a sense of purpose and a commitment to work within the guidelines and the time frames given to us by the Privy Council. To do otherwise now, would really be to loosen that which we have held dear. Whether from Magna Carta, or whatever, the average Trinidadian will tell you they do not trust our courts. And notwithstanding that the magistrates sit alone to hear matters—of course, they get it wrong sometimes and they do it right sometimes—they write reasons upon conviction, and the Court of Appeal with grave regularity overturns many of those convictions.

So that is nothing new. But now to move it to the point where a judge alone sits and to be comforted that he will write his reasons, let me tell you what the real world is. All the judge will have to do is having heard the evidence, having looked at the witnesses, having assessed the demeanour, having looked at the logic and the sequence of evidence and some circumstantial evidence, I was moved to believe beyond a reasonable doubt on the guilt of the accused person. That is the reasons you hold comfort in?—and then to suggest that a jury does not give reasons. Of course, the jury does not give reasons for their verdict because their verdict is based on the evidence presented and, in a murder trial, in particular, where there are 12, and every other case, nine, the prosecution will lead the evidence from its

witnesses one by one and they will be duly cross-examined by defence counsel. At the end of which, if there is a no-case submission to be made it would be made, if it is overruled then you go to the defence, the accused may or may not give evidence and/or call witnesses, then there is an address to the jury by both defence counsel and by the prosecutor, at the end of which, the judge sums up the case and gives directions in law.

The jury do not determine law. They are given directions in law, and what they find as facts apply to those directions and arrive at a verdict. So if you are found guilty the reason is clear that the jury believed the prosecution's case and did not believe your case, or they believed the prosecution's case beyond the reasonable doubt. What is significant, however, is that it is the judge's summation, that is the directions to the jury, and how sometimes they collate the facts and corral the facts to the jury that is sent to the Appeal Court for its determination. The court then dissects the reasoning of the judge's interpretation or the facts to the jury, because he is entitled to give some directions on the facts, but tell them always it is a matter for them. And it is important for me to tell you some of the personal experiences.

Many years ago there was a very powerful judge—when I say powerful, he had an ability with words—and when he summed up a case you knew full well that he wanted a conviction from beginning to end because of the attitude he had towards the accused and sometimes the accused's lawyer, and he will say these things to the jury, "This is what the accused has told you. It is a matter for you if you believe that." So it was not—and on the record then it becomes neutral if you believe that, but the language was so potent that it sometimes influenced jurors as to their finding of facts.

So let us not for a moment believe that because they are called "Their Lordship", or whatever, that they are perfect, or that they are unbiased—let me pause and repeat that. Every human being grows up in an environment and they have beliefs, and they have understanding of things and, therefore, they have preconditioned approach to matters—every single one of us—and, therefore, whatever comes before us it is through that filter of your life's experience you will interpret it, and therefore you will have two persons hearing one story and one completely believing it and the other completely disbelieving it, and the truth really is nowhere near in the story, because as I rise to ask, I always tell this: witness do you know there is the truth, the evidence, and what you believe? And the answer, of course, is obvious.

Sometimes there is no correlation between the truth and what you believe, and there is no correlation sometimes between what you believe and the evidence. That is a messy world of criminal trials, and to leave it to one single person to assume that their superiority will cleanse all of that, really is to be looking in the wrong direction. [*Desk thumping*] It is through the filter of the life experiences of not one person, but of lesser offences than murder, of nine, [*Desk thumping*] and for murder, of 12, and that is a very significant number. Twelve persons coming together, most oftentimes complete strangers with each other, listening to the evidence and then retiring to determine their verdict. Of course, this is Trinidad and Tobago. There will be insinuations if not allegations, and if not at all truth that some may be persuaded by bribery, but I know of no case in this country where a juror has been prosecuted for obtaining a bribe to give a verdict in a—I know of none. But it is easy to throw that suspicion out there that jurors are susceptible to bribery. But if it is as the Leader of the Opposition quite rightly pointed out, if 12

or nine are susceptible to bribery, or one, or two, or how many of them, tell me about that single person sitting in direct judgment. Tell me about that.

In the Magistracy, we do have a conviction of a sitting magistrate for having taken a bribe to do certain things. That is a matter of fact in Trinidad and Tobago. That is not for a moment to suggest that there is widespread corruption in the Judiciary, but I am making the point that there is evidence absolutely of a conviction for corruption in our Judiciary in the magistracy. I remember one particular case, Madam, and this is very personal, but when I was a very young lawyer, I had been called to the Bar for one month. My father had loaned a relative money and the matter had come up for trial. It was set to go forward in the San Fernando High Court.

As the matter was to be tried that morning, being a very young counsel my senior had not yet arrived, but having regard to what I had been taught as a young lawyer, it would be inappropriate to appear before a judge unless you are properly introduced. So I asked the Clerk, "Look, can I be introduced to this judge. I have never appeared before him and I would like to pay him the respect to be introduced before". He say, "Come with me." Knocked on the door and opened, the judge said, "Come on in", having heard his Clerk's voice. So I walked in behind the Clerk and there I was met with such a toxic response from the judge, "Who brought you here? What are you doing here?" I say, "My Lord, I was brought in by your Clerk", and guess who was sitting in his Chamber, Madam? Guess who was sitting in the Chamber with that judge who was to hear my father's case that morning? The defendant. Had I not walked in that day—the matter actually—when the judge came out, without reason or explanation, adjourned the matter. Had I not walked in that day, that case would have gone forward I imagine and we

would have had a judgment that would not have been fair because you could not be in conference with the defendant just before a trial.

That matter ended 26 years after because we withdrew it, because it had gone to the Court of Appeal and came back. Twenty-six years after. So, do not tell me about the purity of the system. I ask one question also of the Attorney General, having regard to the statement I made about each and every one of us having biases, do we recall one of our finest magistrates, a woman I have the greatest respect, admiration for, was seen at a political event waving a flag—[*Interruption*]

Mr. Indarsingh: Oh, yes.

Hon. Member: Yeah, "doh" call her name.

Mr. P. Ramadhar: I will not call her name.

Madam Speaker: Member, you know you are going down a certain course and I just want to remind you of as regards to what you are saying, the point before and so on. Just be mindful of Standing Order 48(8), please.

Mr. P. Ramadhar: Thank you—and the point was made then, in objection to that good lady achieving the issue of higher office in the Judiciary, that there was a political possibility there and, therefore, she was denied that opportunity.

Now, I think that was wrong in the sense that we all have our political biases, we all have associations, but the danger with our present system is that one morning we get up and we see on the front page, or the fourth page, or whatever it is, persons who are appointed judges. We had no clue in the practice, or in the wider population, that these persons were even being considered. How is that possible in a modern—and we speak about in the modern era about accountability and so, that the people we give the right to give judgment in our lives whether in a

civil—and now, what we are hearing now in the High Court for even murder, that right, that we have no idea, no vetting like we see in America where you are questioned about your history, past judgments, whether you have been a judge before, so you will have a sense of who they are.

So we have mysterious appointments, and I do not wish to add to the burden on the Judiciary of the obscenities we have seen in the last couple of months, where a chief justice and a chief magistrate—no one knows which to believe—

Madam Speaker: Member, again.

Mr. P. Ramadhar: So that is why it is—now, I agree. Unfortunately, I have to agree with the learned Opposition Leader that no time could be worse than now. [*Desk thumping*] There are things fundamental and foundational we need to repair before we come to the issue of whether we are going to give more power, more rights to these people—

Hon. Member: To a judge

Mr. P. Ramadhar:—to a judge. It is fixable. I grieve when I see the judicial system because it is of all of our institutions I think the most important of them. Even when we pass law with representative majorities here, it is still in our Constitution the right of the Judiciary to interpret and to see whether those laws are appropriate to our circumstances.

So therefore, we need to protect this thing, but there has been so much attack, so much undermining, so much abuse, so much suspicion, that unless we fix this, the society will not respect it and, therefore, you will see the consequence on the streets where people would not even consider recourse to our courts, and when judgments are passed, convictions are given, nobody will believe it. They will believe that it was given either by corruption, by association, or some

underhandedness, and if we want evidence that it does exist in the country, again—unfortunately we have the issue of Panday's conviction in the Magistracy, and that is why we must move very carefully—

Madam Speaker: Hon. Member for St. Augustine. Members, it is now 4.30 p.m. and this House now stands suspended till five o'clock.

4.31 p.m.: *Sitting suspended*.

5.00 p.m.: *Sitting resumed*.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker: Yes, as we resume, the Member for St Augustine, you have an additional seven minutes, 37 seconds of your initial 30 minutes and then you have an additional 15. Do you care to avail yourself one time?

Mr. P. Ramadhar: I will be most grateful.

Mr. Deputy Speaker: So kindly proceed.

Mr. P. Ramadhar: Thank you so much. [*Desk thumping*]

Before we took the break, Mr. Deputy Speaker, we had dealt with the issue of the submissions of the learned Leader of the Opposition where section 67 and so had been struck down by Madam Justice Pemberton, and we were making the point and I think it needs to be remade that it is wrong at this time for the Attorney General to attempt amendments of a section that has been struck down. The Court of Appeal, of course, having ruled on the matter, the matter is now to be entertained before the Privy Council, and it would be wise and the right thing to do for the Attorney General to hold his hand until I believe the Privy Council makes its final determination of this matter. [*Desk thumping*]

Now, Mr. Deputy Speaker, we are dealing here, to put us back in the perspective, of a person's right to choose whether they wished to be tried by jury

or by judge alone. On that basis alone, I wanted upfront to say that as a practitioner and having spoken to many of my colleagues in the profession, I believe that this law will take us nowhere. [*Desk thumping*] Who will choose a judge to make a final determination, both on facts and on law, as to the innocence or guilt? On what basis do you do these things? What confidence now resides in the Judiciary as a whole to make one believe that you would be the beneficiary of a fair trial by a single person? I pause. What gives us the confidence in our Judiciary to make one believe that they would be the beneficiary of a fair trial by a single judge?

When one looks at the composition—thank you very much, Mr. Deputy Speaker—of the Supreme Court and in particular, the criminal branch, I ask the Attorney General to tell this nation how many of our judges came from the DPP's department. I pause again. How many of our judges in the criminal division came from the DPP's department? My understanding and from what I have been told, it is the largest percentage of persons who came from the DPP's department who have been ultimately elevated to judicial high office of being a judge of our Supreme Court. I congratulate them because it is a career path that they had chosen. Many straight out of law school into the DPP's department serving the nation as best as they could and then ultimately, either becoming a magistrate, congratulations, or a judge, congratulations again.

But remember where I had started earlier about the biases to which we are all victim because we are creatures of our circumstances from our birth onwards, and I want to say that a person who has a choice to make between having his matter heard before a judge, whose only professional experience has been as a prosecutor and then as a judge, which one would you make? Would you put it in

the hands of that person whose entire professional experience, practice, instincts developed over, sometimes, years because they have to be at least 10 years at the Bar to be a judge? Would you choose that person over members of our community with their collective wisdom and judgment? And therefore, the optimism that my friends have, it is good to have hope but it must be grounded in reality and rationality [*Desk thumping*] and I dare say proportionality. It lacks in all of those marks and therefore, I do not share the optimism that this will take our workload and the judicial pace any much faster.

While I am on the topic, Mr. Deputy Speaker, it is very important to also note that historically, as I have given one example in the civil courts, I have given another example in the criminal court, where the judge spoke with his body language so much louder than any written word could convey, there is another example I wish to bring to your attention. There was a particular judge who had a penchant for wanting to pass rope as we say. [*Crosstalk*] Penchant, I did not want to mispronounce it. And he took almost a perverse pleasure in guilty verdicts when they were rendered and there was a case—I was still a student—when five young gentlemen—who had never had any previous convictions, no problem with the law—had been charged for and convicted of a murder. Five brothers and there I was, with an innocent eye and a warm heart, feeling the anguish that there it was, five young lives now being put to a death sentence, the judge had tears in his eyes and I thought he was actually weeping out of sadness. Only later to learn, it was really tears of some perverse satisfaction. It really happened.

And this very judge, as I say, never liked lawyers who would really put up a fight for their clients and I give you not just an opinion but I will give you facts upon which you will form your own. In the old days, legal aid was what? Eleven

hundred dollars. Marlene, you would remember.

Miss Mc Donald: Yeah.

Mr. P. Ramadhar: You will do a case for six weeks which is an extensive case with sometimes four and five accused persons and at the most you will get—that was the judge's limit, they had to sign off how much you would get—$1,100. I am not boasting but I will do every case whether I got a million dollars for it or one as if it was the most important case of my life. [*Desk thumping*] And I did a trial before this judge who was being extremely difficult for the defence, at the end of which, I think it was about three weeks, the jury acquitted and the judge certified, fees fit for counsel for three weeks, $480. Insultive. "Ah put ah 20" and deposit it, I could not deposit less than $500.

Two weeks after, there was a client, of course, legal aid, who had previous convictions and had been serving time and the opportunity arose for a guilty plea. It was a case that we could have fought, could have won but the accused said, "Look, I am serving time in any event, take the plea". Half hour's work in the morning, certification, $960. What was the message? Fight for three weeks, $480; plead guilty, $960, clear and that is one example I also will remember. There are judges who were in the habit of threatening contempt of court. Whenever you were about to really open up a prosecution's case, something or the other, they will make an objection and when you respond in a way, you will be threatened. The book will come out, contempt of court and will be flashed before you.

You heard the Leader of the Opposition speak about note-taking, and the Attorney General, as an experienced, very good civil lawyer, will tell you, in his cross-examination, there would be moments when you build up to that one moment where the answer will come and your case will be won, properly timed. And guess

what? As you are about to pull, as we say the trigger, the judge will say, "Hold, hold, I did not get that, repeat your question". Pause. Time it and the moment, sometimes, would be lost. These are the experiences of the court.

Coming back to modern day. How could we have any comfort whatsoever that a judge alone trial is fairer than that with a jury? When one from the DPP's office, a man who I had known and respected when he first joined but my respect for him grew immensely when he put a complaint in a case that the trial judge—he is a prosecutor. "Leh we underline that." That the trial judge will call in the prosecutors in the case upon which she sat, My Lady, a high almost sacred office and tell the prosecutors what to do next. This happened. I am not talking 10 years, 20 years ago, I am talking in the last—within the last five. A most senior of our criminal judges calling in the prosecution and telling them what to do next, how to deal with issues. Orchestrating how the case proceeds.

Mr. Deputy Speaker: Hon. Member, I am trying to understand your point. You are not calling names but you are insinuating certain references as you go along, so please. You know, let us stay away from that angle. Proceed but let us not go into the angle of where you are actually saying what the judges did even though you are not calling names. Proceed.

Mr. P. Ramadhar: Well, I will call a name.

Mr. Imbert: You are not allowed to do that.

Mr. P. Ramadhar: Not the judge's name, the prosecutor's name as a matter of public record, Brent Winter.

Mr. Deputy Speaker: Member, again, I know you have that prerogative to do but please, let us do not go down that road.

Mr. P. Ramadhar: With all due respect, Mr. Deputy Speaker, this is where we

must go down the road. [*Desk thumping*]

Mr. Imbert: Which road?

Mr. P. Ramadhar: I am not one to walk my client down death row, "yuh" know. I am not one—and I came up with a statement over the years that courtesy kills clients. There are lawyers who will, in satisfaction to a judge's smile and supposed pleasure, not fight for their clients as they will. This is the people's Parliament and I understand the sensitivity but if these things are not spoken, then we have an artificial world out there. [*Desk thumping*]

And you know, while we are on that topic, some months ago, the Member for Naparima was speaking and he spoke of his age, having arrived at a ripe age, [*Interruption*] a landmark, and he said why he had to speak that way because his time, now, he knows is a countdown and therefore, every moment matters and every word in the sacred place must carry value and others denigrated. They did not quite understand that when you reach a point in your life, you realize what is really important is a change you could make of a positive nature to benefit your country and that when you speak these things, sometimes you have to put aside—I have to go back to court, I do, but I am unafraid. I am unafraid because if we do not speak these things here, then the wrongs that occur out there will continue undercover. [*Desk thumping*]

When we had a meeting in high public glare of the Chief Justice recently calling a meeting to try and sort out this sordid affair with the resignation of a High Court judge who was Chief Magistrate, it is reported that one of the judges say, "Send me down here, I will deal with it in half hour". Deal with what in half hour? You know this thing about speedy trial is important, yes, but when "yuh rush—[*Interruption*]

Mr. Young: "When yuh rush the brush."

Mr. P. Ramadhar: "When yuh rush the brush." Right. Less speed, more haste. I do not know. What is the statement?

Miss Mc Donald: "Hurry dog eat raw meat."

Mr. P. Ramadhar: "Hurry dog eat raw meat." I am hearing that, thank you. These are fundamental issues that we cannot sacrifice at the altar of expediency, the very justice system that we need to protect. And having heard what is coming down the barrel of this gun because "lemme tell yuh, this is ah lil"—what they call, "yuh know, it testing the water a bit, ah lil slip". Give you a right to choice to get rid of jury trial. We will get acclimatized and as the Member for Chaguanas West has told us about the boiling "crappo" which I use all the time. Our "crappo" will be cooked very soon if we "doh" watch what is happening.

Hon. Member: "We doh eat crappo."

Mr. P. Ramadhar: If we do not watch what is happening because the very tenure of the contributions thus far tells us that they want to get rid of jury trials. We have been regaled by professor this, Chief Justice that, well "yuh" know who the largest majority of those who call for the removable of jury trials are? Judges and former judges. Power has this capacity to seduce you to have more power and power despises other power. The balance in our system of justice, where I had said before, is where the jury—our peers, our fellow brothers and sisters who have life experiences—balances off each other's biases sometimes, they may not always get it right. But if we remove that possibility, then you will be left with the bias of one. And in our present circumstances, not knowing how they are chosen, who they are, what their history has been, what are we doing? Where no one trusts anything in the society.

Some of the very good works attempted by my learned friends in their ministerial positions sometimes are attacked from those who do not know exactly the truth, but we do not have anymore, in this country, a presumption of innocence. Those are just words. In this country, everyone is presumed guilty until you prove that you are not. Yes, even in our courts when you see the contempt that accused persons are held to by prosecutors, sometimes the very judicial officers, and unless you are very good or you have—what shall I say?—the facts that are properly harnessed on your behalf, it is very easy for the innocent in an environment of increased crime, for many of us to believe that we have almost a sacred duty to convict those who are before us and we have to be really, really careful about that.

I did a trial last year, two policemen charged and this judge—I shall not call her name—when finished summoning up the case, not a mention of the cross-examination or the damage that was done to the prosecution's evidence, and I had to rise and say what are you doing. Where is the case on behalf of the defence?

Mrs. Robinson-Regis: Mr. Deputy Speaker, Standing Order 48(1), please.

Mr. Deputy Speaker: Member for St. Augustine, I have given you twice, on two occasions, I would have mentioned it to you, this is the third time. Please desist and move on. Please desist and move on.

Mr. P. Ramadhar: Yes, the jury acquitted—[*Interruption*]

Mr. Imbert: Mr. Deputy Speaker, I also rise on Standing Order 48(8). Even though he is not calling the name of the judge, he is breaching 48(8).

Mr. Deputy Speaker: Again, Member, move on.

Mr. P. Ramadhar: So I would like for the Attorney General because I have grown to admire his approach in terms of a scientific—

Mr. Deputy Speaker: Silence.

Mr. P. Ramadhar: Yes. In terms of statistics and so. If we are to, in a way, blame jury for delays, how many convictions in our criminal courts by jury trial where a judge summons up a case have been overturned on appeal? Let us fix those things because let me tell you, it has nothing to do with the jury's finding by itself. It has everything to do with the judge's summation of the evidence in the case and the law applicable. Member for Laventille West, you know this, you were a practitioner. There were many, many, many of the convictions that are overturned and sometimes very basic errors of judges. It is a complaint not to denigrate, but is a complaint that these are the things that we can fix.

So that when you have a conviction, Member for Port of Spain South, really, a guilty person, properly convicted, it should not be overturned on the error on law of a judge. The jury's function is to hear the evidence and determine if they believe, beyond a reasonable doubt, the prosecution's case. If there is a doubt, they will acquit. If there is no doubt, beyond a reasonable doubt at least, the evidence is satisfactory to them, they will convict. So that there is their reasoning. But the judge's summations are sometimes very subject to fatal errors and we need to fix those. Those are fixable things and I know a lot of progress has been made under our present Chief Justice to fix those things and we must congratulate him for those efforts. So to suggest that the panacea—

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

Mr. P. Ramadhar: Thank you very much. The panacea is to be rid of the problems, and "paint ah dog" as guilty and hang him and now we do so with the jury and suggest that they are the reason for the delays, not all. We really do need more judges who are more focused and to ensure that when they sum up a case, there is no error in law, on application of law, so that we do not have repeat

matters. There are many of the cases that were sent back for retrials and retrials are even longer than the first trials, Member for Port of Spain North/St Ann's West, you know this, because you have much more volume of documents to go through. You have your preliminary enquiry, evidence of the first trial and then you have the evidence again. So they are much longer and more cumbersome and we must fix those things. And rightly, the issue of recording in courts, that is a must do because very often, the judges really miss out on most of the evidence in terms of the facial expressions, the body language of the witness when they give it because they are duty-bound to have proper notes and these are the things we really should provide.

So, Mr. Deputy Speaker, I want to thank you for this great opportunity and to warn this nation, all of us, that we must not be seduced with what appears to be patches and quick fixes to matters when the fundamental problems are not fixed, and the fundamental problem to me in relation to all of this is rebuilding the confidence in our Judiciary which is at an all-time low. Do not now put on it the possibility of further attacks because when a person chooses, "I say I want to go by judge alone", this is a country that is riveted by rumour, suspicion and a host of other unsavoury things, that you choose to go by judge alone because "yuh fix it", money pass. Why would you choose a judge as against a jury? So that—

Mr. Deputy Speaker: Member, your time has expired.

Mr. P. Ramadhar: Thank you very much, Mr. Deputy Speaker. [*Desk thumping*]

The Minister of Public Utilities (Hon. Fitzgerald Hinds): Thank you very much, Mr. Deputy Speaker. In all earnest, in all sincerity, I have listened to the presentation of my friend, the Member for St. Augustine and of course, had the opportunity—that is the most neutral term I could use—to listen painstakingly to

the Member for Siparia, and in this House so far, I have come to the conclusion in all earnest that they really have no issue with the measures that the Attorney General put before us here today, [*Desk thumping*] really.

The Member for St. Augustine spent considerable time and had to be upbraided in some ways and cautioned about his personal professional experiences. I want to say two things. I practised for 20 years at the Criminal Bar and in the civil courts as well and a lot of what you heard from the Member has not been my experience.

Mr. P. Ramadhar: Magistrates' Court lawyer.

Hon. F. Hinds: Yes, so he says. [*Crosstalk*] So he says, but I practised in the High Court.

Mr. Deputy Speaker: Members, again, we are going pretty fine, let us not have the necessary interruptions. Proceed, Member for Laventille West.

Hon. F. Hinds: I practised in the Magistrates' Court, extensively in the High Court and extensively in the Court of Appeal as well with a tremendous record, but that has not been my experience. Not that magistrates cannot be a little quirky sometimes and judges too, we are all humans and yes, I have experienced that, but the extent to which my friend has gone, I will tell you this.

The other thing I want to say, the Member said categorically that judges are not necessarily unbiased. Well, of course, they are human beings and they would have. But you see, Mr. Deputy Speaker, confidence, my friend ended on the issue of confidence in judges and confidence in the Judiciary. Only very recently, there was an uproar in the society when persons formed the view that some of my friends in opposition to us in this Parliament, who are practising attorneys outside, must have—listen to me carefully. It appeared to members of the public that they

wrongly or—well that they thought that they had friends in the Judiciary to the point where they were judge shopping and that caused consternation in the society and affected confidence.

Dr. Moonilal: Mr. Deputy Speaker, 48(8), imputing improper motives to the judges.

Mr. Deputy Speaker: Again, Member for Laventille West, let us tread carefully along the path where we are mentioning the judges and so on. I know you all are not calling names but let us be careful based on Standing Order 48. Proceed.

Hon. F. Hinds: Let the record read I cast no aspersion on any judge. I said the public felt that my friends who were taking certain matters to court all hours "ah de" night that they believe—

Mr. Deputy Speaker: Member, Member, you do not need to repeat what you said. Kindly move on.

Hon. F. Hinds: Thank you. [*Continuous interruption*]

Mr. Deputy Speaker: And Members on the other side, again, the supportive suggestions, not today, please. Proceed.

Hon. F. Hinds: Thank you. And I want to say one more thing. In light of the fact that the Member for St. Augustine gave us a whole panoply of his personal experiences, there are two sides to the story, "yuh" know. We have to wonder how the judges were looking at him. What they were thinking about him? They have their story too but that is another matter.

Mr. Indarsingh: Mr. Deputy Speaker, Standing Order 48(6).

Dr. Moonilal: What are you saying about my colleague?

Hon. F. Hinds: "I aint say nothing."

Mr. Deputy Speaker: Again, Member, let us move on.

Hon. F. Hinds: Thank you very much. Mr. Deputy Speaker, the Ireland experience was as follows and I lived in England and studied there at the time of the IRA bombings of London, Manchester—all over England. I lived with that myself. Felt uncomfortable standing next to waste-paper bins in the train station and so on because it happened regularly. They were bombing train stations and wherever they could. And the issue with the so-called Diplock court—it was Lord Diplock who had adumbrated, if you like, the whole idea of a judge-alone court in Ireland, because the facts, from scientific analysis of those facts, revealed that when cases against IRA suspects came before the courts of Ireland, the people in Ireland who were largely supporting this activity insofar as the politics of it was concerned, they would listen to the evidence and there were many occasions when the evidence was clear and straightforward and there were what we call perverse verdicts. The jury found not guilty against the grain of the evidence and that was the problem that Britain faced, and that is what led them to come into a position where they will remove the jury and it will be heard by a judge alone. It was a response to a certain set of circumstances.

So when my friend from St. Augustine spoke about jury would find this and that, the Diplock courts in Ireland was testimony to the fact that juries—much as he lauds the jury—could hear evidence and give verdicts completely and diametrically opposed to the grain and the trend of the evidence and so it is, systems of justice are never perfect. Never perfect. So let me press on.

The Member for St. Augustine defended and supported the Member for Siparia in her position, in her submission here, that section 67 and section 68 of the Offences Against the Person Act, 1925, were found to be unconstitutional. He supported it. When the facts must have come to him during the break, he wound

back a bit—well, I was about to say wind back but that might have been—he turned around a little bit and say we have to be careful. What are the facts?

Hon. Member: He got it wrong.

Hon. F. Hinds: They got it wrong. And when I heard the Member for Siparia making her submission, I asked myself: Is this Senior Counsel? [*Interruption*] I was embarrassed because the Member for Siparia, supported by another attorney-at-law—[*Interruption*]

Mr. Young: "She say is trite law."

Hon. F. Hinds:—said it was trite and told us that a judge and then told us—called the judge's name and at that time, a puisne judge.

5.30 p.m.

So I recognized immediately this was a first instance judgment and one would have thought that Senior Counsel would have done some scintilla of research to recognize that there were possibilities of an appeal after that. It turns out on the facts that there was an appeal. "Ah want back meh silk." [*Desk thumping*] The empress has no clothes.

Mr. Charles: Standing Order 48(4).

Hon. F. Hinds: Sorry about that.

Mr. Deputy Speaker: Member, again, just retract and move on

Hon. F. Hinds: I was about to correct it and say the empress has no silk, but I withdraw that. I withdraw that. I withdraw that.

I was absolutely, as a Member of Parliament in this august Chamber in the month of June, very embarrassed. And I will tell you why, Mr. Deputy Speaker. I would tell you why. In the other place, and I followed in preparation for this debate, I followed what transpired in the other place. And one Sen. Gerald

Ramdeen made the exact submission and that was made on the 14th of March, 2017. Let me quote him very briefly. I am quoting:

> "—and I want to put this slowly, so the people of Trinidad and Tobago can understand where we are—that the Attorney General of Trinidad and Tobago is asking this Senate to amend a piece of legislation that has been struck down as unconstitutional by the High Court."

And there was desk thumping. This matter was advanced in the Senate, and that, as I told you, was on the 14th of March, 2017.

Subsequent to that, Mr. Deputy Speaker, a Special Select Committee of the Senate was organized to give the Senate, including, of course, and led by the Opposition in the Senate, "de six ah dem", an opportunity to bring to bear their concerns about this Bill, and that select committee met. And they reported to the Parliament, through the lips of the said Sen. Gerald Ramdeen, on the 22nd of June, 2017, after his submission of that in the Senate, when he spoke in the debate. And I want to quote from what he was saying in the Senate:

> "Madam President, in speaking to the report that is now before the Senate…"

That is the report that of the special select committee.

> "it is important that we acknowledge that this committee was set up pursuant to the recommendations that were made by the Opposition for the purposes of bettering the piece of legislation that was currently before the Senate in the form presented by the hon. Attorney General. And it was because of the forward-thinking way in which this legislation was presented that we are able today to sit here to debate this report, which I think, Madam President, after the work of the committee, we can all on each Bench, on each side of

this Senate, say that we have a better piece of legislation, if this report is adopted.

He went on to say—

Dr. Moonilal: Mr. Deputy Speaker, Standing Order, please. We were asked before not to use the material from the Senate.

Mr. Deputy Speaker: The Standing Order?

Dr. Moonilal: Mr. Deputy Speaker, the Speaker, the substantive Speaker, prevented us from using—

Mr. Deputy Speaker: Member, have your seat, please. Have your seat.**Hon. F. Hinds:** Out of courtesy to my friend, I must say when the substantive Speaker was in the Chair, I sought her leave to quote from this. It is important for the public record. Do not cry. Deal with the facts.

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

Hon. F. Hinds: Thank you.

Mr. Deputy Speaker: Address the Chair.

Hon. F. Hinds: Thank you. Mr. Deputy Speaker, and I just want to quote:

> As I indicated before, Madam President, we have been able to fix the unconstitutionality, with respect to the detention of a person who is suffering from abnormality of mind. The length of that…"

And it goes on:

> "It will no longer be determined by the President, as it was before. It is now going to be determined by a court and that accords with the rights that are given to each and every citizen of this country…"

And so it was commended as being fixed by their deliberations in the special select committee. And that was in June, Mr. Deputy Speaker.

The Member for Siparia told us that they had a caucus yesterday evening and they dealt with this matter in caucus; a meeting of parliamentarians to resolve their issues in preparation for a debate like today. And, having done so, went home, and on a frolic of her own, decided that sections 67 and 68 of the Offences Against the Person Act were unconstitutional and came here today and advanced that. So she must have gone contrary to the caucus position or at very least, contrary to the position taken by her lead. Well, "ah doh know who is de" Leader of the Opposition, but by Sen. Gerald Ramdeen.

So she came here and advanced, and supported by my friend, the Member for St. Augustine. But what are the facts? What are the facts? The matter was appealed; Appeal No. P136 of 2010. Between Jason Bissessar and the Attorney General of Trinidad and Tobago. And the panel of judges was Mr. Justice of Appeal Mendonça; Mr. Justice of Appeal Nolan Bereaux and Mr. Justice of Appeal Mr. Ralph Narine.

Dr. Moonilal: When was that?

Mr. Al-Rawi: 31st of January, 2017.

Hon. F. Hinds: On the 31st of January, 2017. And the facts in this matter, and I have to deliberate with some of the elements so that the public who are listening to us, we televise these proceedings, so we must, for their sake. The appellant was charged with murder in December 1998, and on the 3rd of October, 2001, he was found guilty by a jury, 1998 eh. In 2001, he was found guilty by a jury to be insane and unfit to take his trial. And, trial judge Yorke-Soo Hon JA, as she then was, ordered, and I quote:

> "'that you, Jason Bissessar be detained in safe custody at the St. Ann's Mental Hospital; that you be treated for your mental illness, that is paranoid

> delusions and mental sub-normality until the President's pleasure is known.
>
> The order of Yorke-Soo Hon…was pronounced pursuant to section 67 of the Criminal Procedure Act Chap. 12:02…
>
> The appellant spent seven years and nine months at the criminally insane unit at St. Ann's…
>
> On 29th July 2010, he pleaded guilty before" Mr. Justice "Holdip to a lesser offence of manslaughter…"

Because remember, the first before Soo Hon was just to assess his mental capacity. And he pleaded guilty to a:

> "…lesser offence of manslaughter on the ground of diminished responsibility. The court took into account the period of time he spent at the hospital and on remand - approximately 12 years in"—jail—" He was placed on a bond and released into the care of his sister, Shanti Bissessar.
>
> The appellant filed proceedings"—these proceedings that are on appeal — "on 6th of February 2009 during the latter part of his detention at the hospital."

And he had his arguments, and so on. He argued, among other things, the infringements of:

> "…his rights under sections 4(a), (b) and (d) and sections 5(2) (a), (b), (e) and (h) of the Constitution…He also alleges that sections 67 and 68 of the Act are unconstitutional and not in conformity with the Constitution…inter alia, being inconsistent with the doctrine of the separation of powers."

The attorney in this matter was the said Gerald Ramdeen. Yes. So he was intimately familiar with this matter. So, even when he spoke in the Senate in March and said that it was unconstitutional, one would have thought that he knew

better. But he went to a special select committee. He corrected it, offered the correction to the Senate. And then today, in June, we have the Member for Siparia coming here to take the same position, wrong as it is, and supported by my friend from St. Augustine. This is ultra-ridiculous and embarrassing. "Ah want back meh silk." [*Desk thumping*]

And the reason why I am spending time on this is because I am satisfied, as I told you, Mr. Deputy Speaker, that they have nothing else to argue against this measure. That was the only matter she advocated here today.

Mr. Deputy Speaker: Member, "she"?

Hon. F. Hinds: The Member for Siparia.

Mr. Deputy Speaker: Please, correct it.

Hon. F. Hinds: I am sorry. And so, the Court of Appeal found itself having to deal with this. And in that challenge, the constitutional challenge, it is where Madam Justice Pemberton, as she then was, addressed this matter.

> The judge found,—among other things—that section 68 offended the doctrine of separation of powers because it gave the executive the power to determine the manner of the detention, or how it is to be effected, which is part of the sentencing function entrusted to the judicial branch…

That was the basis on which the court found it to be unconstitutional. The judge, and I am quoting:

> She held that section 68 required legislative modification to reflect that both executive and the Court had a role to play in administering the detention. It could not be saved, she said, and had to be struck down in its entirety.

That was the finding of the judge at first instance on which the Member for Siparia relied here today; pegged her whole argument. And this is what, in part, the Court

of Appeal had to say:

Summary of decision

And I am quoting in paragraph 15:

The appeal is allowed for the reasons given at paragraphs 31 to 41 below. The cross appeal…

Because the State cross-appealed that position:

…is also allowed for the reasons given at paragraphs 25 to 30 below.

Right? And I told you Gerald Ramdeen was involved in this, Mr. Deputy Speaker, very much involved.

And I go now to page 11, and the court is speaking, paragraph 25:

"Constitutionality of Sections 67 and 68 of the Act"

And I quote:

"In my judgment…"

And this would be Mr. Bereaux, Justice of Appeal Bereaux, who is issuing on behalf of the three Justices of Appeal panel.

In my judgment the decision of the trial judge on the constitutionality of sections 67 and 68 cannot stand. The judge, upholding the submissions of Mr. Seepersad, found…

"Ah wonder if dah is de same Seepersad? Dis is ah different one? Is this the same Mark Seepersad?"

Dr. Moonilal: Mr. Deputy Speaker, 48(8).

Hon. F. Hinds: Might I continue, Mr. Deputy Speaker? Might I continue?

Mr. Deputy Speaker: Member, again, reference to the judge that you are presently quoting, I would like you to desist and continue with your contribution.

Hon. F. Hinds: At the front of the judgment, you have as well the panel of the

judges who I named a while ago, and then you have appearances. And we have M. Seepersad for the appellant. [*Crosstalk*] "Is a lawyer." I am not talking about a judge. And P Elder SC, Senior Counsel, and L Lalla for the respondent. So I am going back to paragraph 25. [*Interruption*] Do not waste my time, man.

> In my judgment the decision of the trial judge on the constitutionality of sections 67 and 68 cannot stand. The judge, upholding the submissions of Mr. Seepersad—same one who found documents in his office—found that both sections 67 and 68 were unconstitutional, being inconsistent with the doctrine of separation of powers. She found that section 67 offended the doctrine of the separation of powers because it gave power to determine the length of detention, a judicial function, to the executive."

That is what the judge found. They are commenting on it.

Mr. Charles: Mr. Deputy Speaker, Standing Order 48(2). My understanding, subject to correction, is that it is appealed to the Privy Council and therefore— [*Crosstalk*]

Mr. Deputy Speaker: Member, overruled.

Hon. F. Hinds: Thank you. I continue to quote, Mr. Deputy Speaker.

> "This holding is consistent with the decision of the Privy Council in the Director of Public Prosecutions v. Mollison [2003]…"

Mr. Deputy Speaker: Silence, please.

Hon. F. Hinds: And the judge really quoted Lord Bingham in another judgment where, at paragraph 5 Lord Bingham—because the matter that went to the Privy Council was a Jamaican case and he is quoting Lord Bingham in the judgment at paragraph 27:

> "'The sentence of detention during her Majesty's pleasure originated in the

> United Kingdom for reasons which are not in doubt. In the course of time it came to be seen as inhumane to punish as if they were adults those who had when committing their crimes, been children or young persons not (in the eyes of the law) fully mature adults.'"

And he continues:

> "…'It was a sentence of this character which was transplanted from the United Kingdom to Jamaica, and there is nothing to suggest that the amendments made to s 29 as originally enacted on the effective substitution of the Governor-General…were intended to alter the character of sentence.
>
> It is also a key feature of this sentence in Jamaica (although no longer in the United Kingdom) that the decision on release is entrusted to the Governor-General as a member of the executive.'"

So Lord Bingham was saying nothing is wrong if this authority is vested in the Executive, the President. Well the Governor General replaced by the President in modern times. And he gave a number of authorities in support of this proposition.

He also pointed out:

> "What was critical to the decision in Mollison was the nature of the sentence pronounced on the accused…Because it was indeterminate regard had to be paid not only to retribution and punishment but also to the detainee's progress and development. Under the provisions of 29(1) those latter considerations fell to the executive rather than the judiciary, effectively allowing the executive to determine the extent of punishment the detainee would undergo."

So, Mr. Deputy Speaker, all the judge was saying here, Mr. Bereaux, quoting Lord Bingham in support, is that nothing was wrong from the Constitution and its

construction to allow this authority to determine how the patient and how long the prisoner should be remain in treatment. Nothing was wrong if the Executive would have done that. And so, the decision of the judge was wrong.

Paragraph 29: The facts of the Mollison were distinguishable. In any event, that guy was already sentenced. In this case it was different.

"The judge erred…"

And this is the comment of the Court of Appeal, in relation to the judicial findings that the Member for Siparia lauded here today and stood on; hung her hat on and her silk, her worn silk.

> "The facts of this case are distinguishable. The judge erred in not considering the nature of the appellant's detention. The key issue in this case (which the judge failed to consider) is, what was the nature of the appellant's detention having regard to the provisions of sections 64, 67 and 68."

And he went on to quote these sections. And he goes on:

> "It was for the executive to determine the measure of treatment the appellant was required to undergo. It is no part of the judicial function to care for and treat an accused person found by a jury to be insane and unfit to take his trial. Until he pleads to the charge and is found guilty he does not come within the court's sentencing jurisdiction."

And that is where it was distinguishable from the Mollison judgment. And on that basis, the judge went on to say, Mr. Justice of Appeal Nolan Bereaux:

> "The trial judge thus clearly fell into error."

And it is that erroneous position at first instance, which judges do, that the Member for Siparia, of Senior Counsel—how she got it, I make no comment. But a Senior

Counsel came here today and hung her hat on, supported by my friend as the only argument against this measure by our Attorney General, on behalf of the Government and the right-thinking people of Trinidad and Tobago to engender in these measures a small but significant movement towards tightening the platform, giving citizens or accused persons wider opportunity to choose whether you want a jury trial or you will take it with a judge; not unknown.

In complex fraud cases, even in England, they go for trial by judge alone. And I am not talking about Ireland. Once the case is complex, like in fraud matters, they opt for trial by judge alone. And a judge is superior, in the hierarchy of judicial things, to a magistrate. And 90 per cent of the cases we start here all go to the Magistrates' Court. And, of course, there is a procedure for appeal. And, of course, in the High Court there is a procedure for appeal.

I heard my friend, the Member for St. Augustine calling on me to support his erroneous position, which I rejected by my silence. But, I know this. A judge—I have appealed many judgments and went to the Court of Appeal, many. The judge may—and sometimes, quite honestly "you looking for thing to appeal on". That is your job. Sometimes you win. Sometimes you lose. Sometimes you win and you say: "Oh my God, you really get through here?" And sometimes, on the other hand you try your utmost, as happened to me when I did my first murder appeal and felt everything was nice and easy and I would have got past Mr. Justice of Appeal, President de la Bastide at the time, and he pointed out to me that, "Eh, eh, this murder conviction would stand". He admired, he put it on the record, he admired my advocacy. He admired the way I made my submissions, my written submissions too, but he told me, tongue-in-cheek, that this quality of advocacy deserved a better case and the conviction should stand. And so it was, just as the

Member for Siparia lost her case here today—[*Desk thumping*]

So I can spend a lot of time. I could spend more time on my legs here dealing with some of the petty and frivolous and trifling matters that my friends raised on the other side, and I will not waste precious parliamentary time. What I would do, as I conclude, having debunked, having dealt hopefully adequately with the misdirection that the Member for Siparia put on us here today in this House; having gone off on a frolic of her own and then not here now to listen to the law and learn and be educated: "Ah want back meh silk." [*Desk thumping*]

Rather than spend more time on my legs here dealing with the frivolous and trifling issues raised by my friends in this House and in the Senate, all irrelevant and unnecessary, as far as I am concerned, I will rely, in conclusion, on the report of the Special Select Committee, which was engendered, encouraged by, called for, by the Opposition in the Senate, led by Sen. Ramdeen on a matter that he was grossly familiar with, intimately familiar with. He was the attorney in the matter to which I have just referred, and he told us in this report, as I conclude—

Mr. Deputy Speaker: Member, again, your initial 30 minutes has expired. So you are concluding? Proceed.

Hon. F. Hinds: I am most obliged, most obliged. I do not propose to use all of it. I do not propose to use all of it. I simply want to say that the report of the Special Select Committee, which was laid and debated in the Senate, and I quoted from Sen. Gerald Ramdeen on that occasion on the 22nd of June, as recent as that, he is saying there for the benefit of all of us, especially them, my friends on the other side, that they were satisfied that this constitutionality issue was properly advocated and dealt with in this committee and we commended it to the House.

So the measure or measures that the Attorney General has before us today

would have taken those matters into account, sound and solid measures and I commend them to Members of this House for their strong support, as an effort on behalf of this Government, to put one more building block in place as we close the gap, as we make the fences taller so that the criminals cannot use weak, legal manoeuvres and systems in order to beat us.

All that is left after that, all that is left after that, whether trial by jury or trial by judge alone, it is for other elements of the State to get totally efficient, get cracking, go out there and do the business on behalf of the people of Trinidad and Tobago. Arrest wrongdoers. Prosecute wrongdoers. Put them before the judge. Jury alone, judge alone or with jury. Put them before the magistrate and send them to the place where the law says they should go for offending the rest of us in this country. Mr. Deputy Speaker, I thank you.

Dr. Tim Gopeesingh (*Caroni East*): Mr. Deputy Speaker, as I rise to contribute to this Bill before the House, which is to amend the Supreme Court of Judicature Act and the Summary Courts Act, the Offences Against the Person Act and the Criminal Procedure Act and for related matters, I would have been extremely disappointed if I did not hear the usual—[*Interruption*]

Hon. Member: Rubbish! [*Laughter*]

Dr. T. Gopeesingh:—verbiage from the Member for Laventille West.**Mr. Deputy Speaker:** Member, I heard the comment. Please, let us avoid that.

Dr. Khan: What comment?

Mr. Deputy Speaker: What you just made.

Dr. Khan: What did I say?

Mr. Deputy Speaker: Listen, Member for Barataria/San Juan, I heard the comment.

Dr. Khan: I was reading something here.

Mr. Deputy Speaker: Okay, kindly read it outside, please.

Dr. Khan: Okay.

Mr. Deputy Speaker: Kindly read it outside. Right? Because if that is the case, it is disturbing. Kindly read it outside the Chamber. Member.

Dr. Khan: Are you telling me I have to leave?

Mr. Deputy Speaker: Read it outside the Chamber, because it is disturbing, Member for Barataria/ San Juan. I heard the comment.

Dr. Khan: "Ah cyah go yet."

Mr. Deputy Speaker: Proceed, Member.

Dr. T. Gopeesingh: I would have been disappointed if we did not hear the usual derogatory type of language from the Member for Laventille West, which people have become accustomed to hearing his type of speech in Parliament, and he does not understand the way that the people think about him now, when he puts out that type of bile and vitriolic statements from time to time. And so, when he speaks, he leaves and his usual tone is to just attack and attack.

But our Leader of Opposition is someone who has faced the courts andworked for the poor person and has worked in the High Court, in the Appeal Court and in countries across the Caribbean. She has done a tremendous amount of legal cases and deserves fully her Senior Counsel title. [*Desk thumping*] She is undoubtedly a legal luminary. [*Desk thumping*] There is no question about that. [*Laughter*] "Yeah, yuh running now" because the facts are there before you. Yeah.

Mr. Deputy Speaker—

Mr. Deputy Speaker: Again, once the Member is on the floor, you listen in silence. Proceed, Member for Caroni East.

Dr. T. Gopeesingh: The Attorney General started his discourse on this Bill by stating, I want to quote him:

> The legislation here is to tackle the movement of criminal justice system in the right direction.

Now, why are we discussing this matter of a judge and jury or jury alone or jury and judge or judge alone? It is to deal with the criminal matters before us.

I want to draw an analogy, in terms of what is happening in this country at the moment. What we are trying to do here, Attorney General, is to treat the symptoms of the disease and not to treat the disease. We are looking at quick fixes to deal with the massive amount of cases coming before the Magistracy and the Judiciary. But are we in fact trying to reduce the amount of cases coming there by virtue of our work that we should be doing to reduce the amount of crime in Trinidad and Tobago? So, the disease process is the amount of crime that is being perpetrated on a daily basis, across the country. And if we are to get a hold on that and reduce the amount of criminality, we would see a reduction in the difficulties before the Magistracy and the Judiciary.

And when we examine the statistics, in terms of where we are in Trinidad and Tobago, and I quote the Caribbean Crime Statistics:

> According to the latest statistics Honduras with 92 murders per 100,000; Jamaica with 40.9 murders per year per 100,000 people are among the nations with the highest murder rates in the world. US Virgin Islands has 39 murders per 100,000; St. Kitts and Nevis, 38; Guatemala, 38; Colombia, 37 per 100,000; Trinidad and Tobago, 35 per 100,000.

6.00 p.m.

So Trinidad and Tobago ranks number seven out of the 10 countries which

have the highest amount of murders among the Caribbean and Latin American countries. So, this is the reason why the Attorney General could indicate today that the High Court has X amount of cases, 20,872—you have nine judges dealing with the criminal area and one judge to 2,087 High Court cases. Now, he also indicated that there are 980 people there for murders. If there are 980 people there for murders, should he not be thinking, and the Government should be thinking, what are we going to do to deal with the swift justice for these 980 people who are awaiting the judicial process? What other avenues? Is it just legislation alone? It cannot be.

We had the honourable Chief Justice speaking about that situation where, by the process of having jury, the criminal process is being delayed, but then we have no empirical data to substantiate those statements. We would have liked to hear at the opening of the law term on what basis that statement was made. Why is it have we gone on to decide that we want to get rid of the jurors in certain situations or the jury? Would that really make a difference in speeding up the cases before the criminal justice system? For today, we have not had any evidence-based or empirical evidence to substantiate the statement that if you remove the jurors or the jury, the legal process will be swifter. There is nothing there to substantiate that.

So we are basically moving with legislation. The Attorney General spoke about the preliminary enquiry which we supported; the plea bargaining which we supported; the access to bail which we supported and, of course, the traffic matters to decriminalize the traffic offenders which were about 100,000. So we are moving with legislation, but what are we doing with the process in the courts to help to speed up the criminal justice system?

Over a number of years, Mr. Deputy Speaker, I have been associated with

people in the legal profession. My wife has been an attorney from since 1975—the first graduate of the Hugh Wooding Law School in 1975—and out of their class, they had nine Attorneys General for the Caribbean. And my deceased brother, Justice Gopeesingh, was an Appeal Court judge and he acted as Chief Justice on two occasions.

I would remember when Justice Michael de la Bastide took over from Chief Justice Bernard there was a great amount of cases to be heard in the Appeal Court from the High Court in the criminal matters, and Justice de la Bastide got together with this team and made the decision that within a two-year period, there would be no matters lingering or pending from the High Court which the Appeal Court would not have been able to deal with. And in so doing, he did it. His team did it. That was a team of judges, Justices of Appeal of repute and great strength and fortitude led by Michael de la Bastide, Justice Ibrahim, Justice Satnarine Sharma, Justice Roger Hamel-Smith, Justice Gopeesingh and later Justice Jean Permanand and Justice Zainool Hosein. Why is it then now can the Judiciary not seek some methods of trying to reduce the amount of cases in a swift possible manner and just not to rely on legislation to remove the jurors or the jury?

I am positive that there are many, many things that they could implement, which the Member for Siparia spoke about earlier—the CAT reporting—judges do not have to write in long hand; and the judges could have research people to give them some help. They could have more accommodation given to them; more judges should be employed; more magistrates should be employed and the DPP's office should be strengthened. We gave a certain amount of strength to the Judiciary where you can have not only the High Courts in San Fernando and Port of Spain, but across the country.

If you have 11 judges doing criminal matters, and you have 2,087 matters on a yearly basis and you have 980 murders to be looked at, do you think the nine judges who are doing criminal matters could really deal with that? Is something not radically wrong? The facts are there before you. You are a Government in charge. You might say, well, we did not do it as well as we should have done it and that is why we are here and you are there. So what are you doing after two years? You cannot be looking for legislation to be the panacea for solving the criminal justice system. You have to think out of the box.

I personally feel: why the Judiciary has to be looking at construction of buildings across the country and going into infrastructure? Your work is to deal with the law and the judicial system, but you have the poor Judiciary looking after the construction of Magistrates' Courts and courts for hearing their matters and getting more place for them to work in. I will just give you one example.

While I was the Minister of Education, there was one area that they wanted to have a Magistrates' Court in Chaguanas. It was being built for a library. The Judiciary asked for it to be given as a Magistrates' Court. The Cabinet took a decision to hand it over to them, and two years they had it and absolutely nothing was done during that time, not because of any incompetence, but because they possibly did not have the manpower and so on to deal with that issue in making that Chaguanas Library a Magistrates' Court in reality. So we find ourselves doing some things there that could be avoided, and give more room for the judges to do their work and to be expeditious and to be quicker in their approach to dealing with the amount of cases they have before them.

Mr. Deputy Speaker, a number of speakers today spoke in terms of the pros and cons of the judge and jury versus the judge alone. I want to just give some

statements made by a very distinguished senior counsel in Trinidad and Tobago, one who has held the respect in the criminal arena as an attorney practising criminal law, and that is Mr. Israel Khan who, as a guest, lectured at the Hugh Wooding Law School on Tuesday 14 March, 2017, just about four months ago, three months ago: Trial by jury and other relevant issues in the administration of criminal Justice. And he started his discourse and I quote:

> Trial by jury for the people of the Republic of Trinidad and Tobago and the other Commonwealth Caribbean territories means more than a mere institution of justice in that it facilitates the opportunity for the ordinary God-fearing citizens of good character to participate in the administration of the criminal justice system in the delivery of justice.

And he goes on to say:

> Indeed, the jury as an institution is the cornerstone of the criminal justice system in the respective Commonwealth Caribbean jurisdictions, and thus under the doctrine of the separation of powers, it is indispensable to our participatory democracies because it embraces and supports the concept of government of the people, by the people, for the people.

And this—he continues to say:

> For the accused, a fair trial demands that both the prosecution's and defence's attorney must be evenly matched in competence and experience. In the final analysis, the jury will decide whether the accused is guilty or not guilty.

And he goes on to say:

> Trial by jury is now being used as a scapegoat for the inefficiency of the Judiciary and the criminal justice system in the delivery of justice in

Trinidad and Tobago.

And that is a quote from Israel Khan. He mentioned that:

> The honourable Chief Justice had called for the abolition of jury trials stating that it was a cause for delay in the criminal justice system.

He went on to give an example pointing out about the Vindra Naipaul-Coolman case.

There was a report on that matter by a reporter, Mr. Ramdass, who had quoted at that time from the Chief Justice speech and I quote:

> "If the current inefficient and ineffective system is what the country wants to have, then fine. But don't blame me for the consequences!
>
> I was appalled at the conclusion of a recent matter that occupied a court for over 2 years to hear the bleating about the vindication of the jury system. Of course for those who were acquitted one can well understand the sense of elation."

So that was the honourable Chief Justice making a statement on the opening of the law term 2016/2017.

Mr. Deputy Speaker: Hon. Member, again, all Members were given certain leeway with regard to the Standing Order that speaks about reference to the judges and the Supreme Court and so on. Again, please, move on accordingly. I have given you the leeway to make the point, but let us not harbour there much please.

Dr. T. Gopeesingh: Thank you, Mr. Deputy Speaker. I respect that at all times, and I will not go into the conduct of the judicial system. But let me quote what another Senior Counsel, Mrs. Pamela Elder said, President of the Criminal Bar Association. She told the media—these are two senior counsels with tremendous reputation in the arena of the practice of criminal law. She told the media she

would prefer to burn her robe than have to practise in a juryless system. Why would a senior attorney with those years of experience be saying such a thing? Why would another senior counsel with close to over 40 years' experience in the practice of criminal law be saying these things about removal of a jury system? And Senior Counsel Israel Khan continued to say not only what Pamela Elder Senior Counsel said, and I quote:

> Only a dictator or a fool would support the abolition of trials by jury in this country.

That is how deep they feel about the removal of the jurors and the jury system from the criminal justice system; two senior attorneys.

The hon. Attorney General indicated that sometime in the past that there are probably less than 15 lawyers of eminence—well, he did not say of eminence, but we recognize that 15 top lawyers practising in the Criminal Bar—there are only but 15—and if two of the senior ones can say that, I want to ask the Attorney General when he is responding: What has he got to say about that? And these two attorneys have led the Criminal Bar Association on many occasions and are well-respected, not only nationally but Caribbean wise in their proficiency and their skills and their knowledge. And Mr. Khan said:

This is a multiracial and multi-religious society and we cannot have a single judge determining whether an accused person should beconvicted and sentenced to death or a long term of imprisonment.

He goes on to say:

> "…trial by jury is the only opportunity that the ordinary, God-fearing citizen gets to participate in delivering justice."

Why are we seeking to remove it? Your excuse is that you want a speedier justice

system, but you cannot show scientifically and empirically how that is going to help to speed up the justice system.

My colleague, the Member for St. Augustine made the points—I do not have a clue about it in the courts—to get a jury is less than an hour. How many juries have been put aside and left for a while and preventing the delay and causing the delay in the courts? That has not caused the delay. It is the other issues the Attorney General and his department got to look at.

One of the most famous and celebrated jurists, Lord Devlin, stated some 61 years ago and I quote:

> "The first object of any tyrant in Whitehall"—he is speaking about the British Parliament—"would be to make parliament utterly subservient to his will; and the next to overthrow or diminish trial by jury, for no tyrant could afford to leave a subject's freedom in the hands of 12 of his countrymen."

This is what Lord Devlin said, and he created the removal of the jury as a tyrant wanting to have his own way. Is this what we might possibly see? The question has to be asked.

When the Member for Laventille West speaks in the summary about we want to have the magistrates to lock up everybody and put them before this and put them before that. Are we seeing before our eyes the tyrannical approach [*Desk thumping*] that we are seeing right in Parliament before our eyes? [*Crosstalk*] So that is what Lord Devlin stated 61 years ago.

So we submit, Mr. Deputy Speaker, that a legitimate expectation that a constitutional right exists to be tried by judge and jury for those serious criminal offences which were triable in the Commonwealth Caribbean jurisdictions before the commencement of the various Constitutions, and no law may abrogate, abridge

or infringe that right unless Parliament by a special majority enact legislation which demonstrates it is reasonably justifiable in a society that has the proper respect for the fundamental rights and freedoms of the individual.

We do not want to a tyrannical approach towards giving decisions by any particular judge. We live in a multi-religious, a multicultural society and, therefore, people have their biases. Is it not better to go through a matter to be heard before 12 people or nine people than to be judged by one person? What happens to that person if that person, as has been illustrated by the Member for St. Augustine on a number of occasions when he practised before the courts? Many of the attorneys will give similar examples.

We all know that from time immemorial the fundamental human right to be tried by judge and jury on a charge of murder existed many, many, years ago, centuries ago and that has been common law. Common law, when we got independence in 1962, we accepted the common law principles from the British system, and when we got independence in 1976—not independence, republicanism, we had to draft a Constitution. Sir Ellis Clarke was one of the persons who helped to draft this Constitution, our very distinguished President, and there was another Justice of Appeal—the people practising in the legal profession will tell you that he was another person who was very au courant with the whole Constitution, and he could have quoted the Constitution from beginning to end. His name slips me at the moment.

But what are we trying to do? Something that has been common law you are trying to remove it on the flimsy excuses without any scientific basis for making that decision. And then as has been indicated by our colleagues, the nibbling away at—[*Interruption*]

Mr. Deputy Speaker: Silence.

Dr. T. Gopeesingh:—our democracy bit by bit until all our democratic institutions will be eroded in Trinidad and Tobago [*Desk thumping*] slowly, but deliberately bit by bit. So what are we going to become? A banana republic? Are we going to go down the road of Zimbabwe or are we going to go down the road of Venezuela? We have to be careful about how we do things, and not because the honourable Chief Justice who I have a lot of respect for—and everybody must have respect for the people in high offices—but when he makes the statement that having a jury service is shortening—

Mr. Deputy Speaker: Member, again—[*Interruption*]

Dr. T. Gopeesingh: I hear you. All right, I will not go there.

Mr. Deputy Speaker: I gave you the leeway already, let us not go down that road again.

Dr. T. Gopeesingh: Okay. The point is made. You cannot use that as an excuse to say that you have to bring the abolition of the jury service, the juries. There is very great legal luminary, somebody by the name if Margaret Demerieux. In her book *Fundamental Rights in Commonwealth Caribbean Constitutions* at page 36 stated—and this is part of the paper that Israel Khan gave in his speech to the Huge Wooding Law School students, and I quote:

> The absence of a right to jury trial may well rob the West Indian states of a constitutional-based protection from possible attempts of Government to bring unfounded changes in order to eliminate political enemies from judicial personage too responsive to the voice of higher authority and from corrupt overzealous prosecution.

Mr. Deputy Speaker: Member, your time has expired. You have an additional

15. Do you care to avail yourself? Member? Member for Caroni East, do you care to avail yourself of the additional 15? [*Crosstalk*]

Dr. T. Gopeesingh: Yes.

Mr. Deputy Speaker: Proceed.

Dr. T. Gopeesingh: I am into the meat of my matter. [*Desk thumping*] Mr. Deputy Speaker, I like when you are in the Chair there. [*Desk thumping and crosstalk*] I never have a senior moment. The brain is as sharp as ever. [*Crosstalk*] This person, Margaret Demerieux, in her book *Fundamental Rights in Commonwealth Caribbean Constitutions* we need to repeat this:

> The absence of the right to jury trial may well rob the West Indian states of a constitutional-based protection from possible attempts of Government to bring unfounded changes in order to eliminate political enemies from judicial personage too responsive to the voice of higher authority and from corrupt or overzealous prosecution.

Mr. Deputy Speaker, this speaks volumes, Margaret Demerieux, a legal luminary would have been seeing the sands, when you are playing in the sands what happens. So this legal luminary says:

> Eliminate political enemies from judicial personage too responsive to the voice of higher authority and from corrupt overzealous prosecution.

Why do we want the elimination of the jury aspect in our criminal justice system? I am just asking. Is this going to be a means to an end? Is there a subliminal thinking behind all of this? I am just asking the question? Let me just quote:

> The jury system is described as the lamp that shows that freedom lives and a wheel of our Constitution.

Yet, our leaders in the Judiciary and our Attorney General seriously doubt this, and

the Attorney General is now proclaiming their desire to abolish trial by jury [*Crosstalk*] not altogether, but we said that you are nibbling away at it. Is there a need for a radical change? The same legal luminary, Margaret Demerieux stated:

> Law and legal systems are already so alienated from the common man and engenders so much distrust in the governed and governors that juries are powerful demonstrations of justice in progress.

Why do you want to eliminate it? Juries are powerful demonstrations of justice in progress.

In our classist and elitist legal—[*Interruption*]

Mr. Deyalsingh: Member, would you give way please?

Dr. T. Gopeesingh: Just a few minutes again, let me make the point.

—system it is perhaps the last bastion of grassroots democracy.

In our classist and elitist legal system it is perhaps the last bastion of grassroots democracy. [*Desk thumping*]

Why are we removing the last bastion of grassroots democracy? [*Crosstalk*]

6.30 p.m.

So, Mr. Deputy Speaker, the hon. Attorney General went on to say whether a trial by jury is an encumbrance; he asked the question. [*Crosstalk*]

Mr. Deputy Speaker: Members, silence.

Dr. T. Gopeesingh: I have quoted enough examples to show that the jury system is not an encumbrance. And, of course, he went on to indicate that in The Bahamas there is an expressed statement in the Constitution and the expressed statement has the right for a jury trial, and there are certain other jurisdictions do not have it within their Constitution but they have inherited by common law, so why are you removing it from common law? [*Crosstalk*] I would not answer. The

Attorney General began to make the statement of arguments for and against— [*Interruption*]

Dr. Moonilal: Deyalsingh wanted to make a point.

Dr. T. Gopeesingh: Minister Deyalsingh, and Member for St. Joseph—

Mr. Deyalsingh: Yes, would you give way?

Dr. T. Gopeesingh: Yes, certainly.

Mr. Deyalsingh: Thank you, Member. Member, could you kindly tell me what section, what clause speaks about the abolition of trial by jury, please?

Dr. T. Gopeesingh: All the clauses that indicate [*Desk thumping*] that you have a choice to make. The accused can discuss with his attorney and they have a choice to make, but I am saying that should not even be a consideration in this scenario now. [*Desk thumping*] There should not be that choice given at all, what it is that we are trying. The Member for St. Joseph said, now is the right time to do the right thing. [*Crosstalk*] I have my Executive MBA, and I have an MSc in International Relations with distinction, and I did two years of law.

Mr. Deputy Speaker: Member.

Mr. Hinds: You did?

Dr. T. Gopeesingh: Yes.

Mr. Hinds: It is not evident.

Mr. Deputy Speaker: Address the Chair.

Dr. T. Gopeesingh: Yes, very evident. Yes, Mr. Deputy Speaker—I do not need to practise that, I am surrounded by lawyers all the time, and good ones, very good ones. [*Crosstalk*] My best friend is one of the best attorneys in Trinidad, and I will not call his name.

Mr. Deputy Speaker: Member for Caroni East, address the Chair to avoid those

kinds of circumstances.

Dr. T. Gopeesingh: I will listen to you at all times and I will face you.

Mr. Deputy Speaker, I want to repeat, before my time ends, that all that the Member for Laventille West has been speaking about a lot of this afternoon is the fact that—the case that was related to sections 67 and 68 of the original Act, where the ruling of the High Court judge was struck down by the ruling of the Appeal Court, but that matter is now pending before the Privy Council.

Hon. Member: No, it is not.

Mr. Deputy Speaker: Silence.

Mr. Hinds: Not true.

Dr. T. Gopeesingh: It is being appealed to the Privy Council, and I understand that matter is going to be heard pretty shortly, whether the leave will be given to go to the Privy Council. So as it is at the moment we are in the middle of making amendments to laws which laws are questionable at this moment, because the matter is going to be heard before the Privy Council. So we want to make that abundantly clear, the matter has not been finally determined. So the original statement made by the Leader of the Opposition still holds because it is bad law at the moment. The matter is still being questioned.

The *Jamaica Gleaner*, Mr. Deputy Speaker, had an article, "Jury trials a thing of the past?", and it said:

> "The judge is supreme on the law, however, the coming together of 12 persons on life issues is richer, and hence, wiser than any single judge."

This is the *Jamaica Gleaner*, an article, a commentary, "Jury trials a thing of the Past?" January 30, 2016.

"There is a connection between the vote of each member of the electorate to

> decide on who will govern, and the verdict of a jury. They are both participants in the democratic process. They give flesh to the concept of the separation of powers. They secure the independence of the judiciary from the other all-powerful arms of Government. In short, they guarantee a vital check and balance between tyranny and good order.
>
> The random selection of jurors is void of the influence and/or control of the state. As regards the selection of judges, there is a Judicial Services Commission, but how our judges are appointed is not entirely void of the influence of the State;…"

That is the *Jamaica Gleaner* saying that.

> "…the commission is appointed by the State. The net result is that, regarding a defendant who is charged for a serious offence, trial by jury is our only guarantee of a verdict far removed from any political influence whatsoever."

The author laments the demise of the jury system.

I want the Attorney General and his team to hear that. The *Jamaica Gleaner*, Jamaica, where there is one of the highest crime rate in certain areas, and this is what is being on an editorial in the *Gleaner*. It concludes:

> "Jamaica, the boulders of the great protective wall guaranteed by our jury system are coming down."

That is serious:

> "…the boulders of the great protective wall guaranteed by our jury system are coming down."

This ought not to be taking place here. How much time again I have, Mr. Deputy Speaker?

Mr. Deputy Speaker: Four minutes.

Dr. T. Gopeesingh: Thank you, Mr. Deputy Speaker. If we want to speed up and increase the pace of the judicial process in our criminal justice system, we have to find alternative means which are there for us to use our brainpower, think out-of-the-box and do the things necessary to help in expediting the judicial system, not by removal of a jury system where you know it is not going to make a difference in terms of the speed of the administration of justice. It is not going to make any different whatsoever.

So, when we look at the figures of crime by offence, and over the number of years, from 1994 to 2017, it is quite clear we have to do something about the increased criminality. That is where we have to tackle the issue. If I am a practising medical person and I go to treat symptoms and do not treat the disease, I would be failing the patient. You have to treat what is causing the symptom, and, therefore, you have to find out what is going on in the country that is causing the increased criminality and therefore reduce that. And if you cannot do that, do not come to other areas to do a quick fix and a small patch up here and there, you will not succeed. You will not succeed at all. And why jury trials are important in a democratic society; I have a paper here, the National Judicial College, a paper prepared by the National Judicial College and www.judges.org. The National Judicial College is grateful for the support of the International Academy of Trial Lawyers.

And I end my contribution by saying why jury trials are important to a democratic society, the American jury trial is a constitutional right. The founding fathers believed that the right to be tried by a jury of your pairs was so important that it merited inclusion in the highest law of the land, amendments 6 and 7 of the Bill of Rights contained this right.

[MADAM SPEAKER *in the Chair*]

The jury trial is a vital part of America's systems of checks and balances. The founding fathers included jury trials in the Constitution because jury trials prevent tyranny. Trial by jury is a unique part of America's democracy. Jury trials provide an opportunity for citizens to participate in the process of governing. Jury trials educate jurors about the justice system. Jury trials provide a method of peaceful dispute resolution. Jury trials offer the voice of the people to the civil and criminal justice system.

Madam Speaker, I do not need to make any further points on this matter, but to close by saying, going down this pathway, Madam Speaker, is going down the wrong pathway, and we are seeing evidence of possibly a tyrannical approach to things in this country, the erosion of our institutions, the erosion of our democracy, the subversion of human rights, and, therefore, it is unacceptable for us at this moment, based on what we have said before and what is happening in this country, for us to even think that we are going to fully accept what you have been proposing. Find alternative routes and measures to deal with it and we will go along with that. Thank you. [*Desk thumping*]

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

Mr. Ganga Singh (*Chaguanas West*): Thank you, Madam Speaker. Madam Speaker, I think that this matter has struck certain emotional cords because it deals with this Bill, which is entitled:

> "An Act to amend the Supreme Court of Judicature Act, Chap. 4:01, the Summary Courts Act, Chap. 4:20, the Offences Against the Person Act, Chap. 11:08 and the Criminal Procedure Act, Chap. 12:02, and for related matters"

Madam Speaker, the Attorney General in piloting the Bill indicated that, look, that there are arguments for and against trial by jury, and that one option that the Government, as a policy position, has taken is trial by judge alone without a jury.

In our tradition, Madam Speaker, we have a composite tribunal, people have to be tried in the criminal legal system, beyond reasonable doubt, and you have a composite tribunal comprising of both the judge and the jury. The judge sums up the evidence and gives direction in law and the jury decides on fact; that is all well established. So this is another option, a choice that is being put before us, but when you listened to the utterances of the hon. Member for St. Joseph you would think that the intention of the Government is to get rid of trial by jury. [*Desk thumping*] The whole tenor and focus was in that direction. The hon. Member, he begins by telling an untruth, Madam Speaker. He first says that the Magna Carta does not speak about trial by jury. I would ask the Member to make reference to Article 39 of the Magna Carta and you would see that you were judged by your peers, in the context of the time that was the trial by jury. [*Desk thumping*]

So you begin your process with an untruth, and then the hon. Member goes on to speak about the romanticizing of the jury. Now, when you have men of the gravitas and calibre of John Adams—first, Abraham Lincoln, and I quote, Madam Speaker:

> "Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world?"

Then you have John Adams, John Adams referred to the jury as the heart and lungs of liberty. [*Desk thumping*] Thomas Jefferson:

> "'…consider Trial by Jury as the only anchor"—ever—"imagined by man,

by which a government can be held to the principles of its constitution.'"

Alexander Hamilton says, with respect to jury:

"…the latter represent it as the very palladium of free government." These are men who founded and grew the American Constitution. These are men of gravitas. These are no romantic Romeo and Juliet, as the Member of St. Joseph would like us to think.

Madam Speaker, it is in that context that we can look, and we get closer home, and we are going back to the fons et origo of our jurisprudential system, the British system, Madam Speaker, and you have Lord Devlin. Lord Devlin who observed, and I quote, Madam Speaker:

"Each jury is a little parliament."

He added that:

"'The first object of any tyrant…would be to make parliament utterly subservient to his will;…the next to overthrow or diminish trial by jury…"

He concluded with characteristic eloquence:

"'…that trial by jury is more than an instrument of justice and more than one wheel of the constitution: it is the lamp that shows that freedom lives…'" [*Desk thumping*]

So, Madam Speaker, this is no question of any kind of romanticism, this is a question of how now do you deal with this attempt through legislation to bring trial by judge alone.

Madam Speaker, in seeking to bring about anything that is new there are challenges, and that, therefore, the environmental challenge and the context of your society, which seeks to introduce this devise called trial by judge alone, in the context of the High Court—I know the Attorney General and other Members spoke

of the role of the Magistracy, but trial by judge alone has raised certain suspicions in the level of senior members of the criminal bar enunciated by my colleague, the hon. Member for Caroni East, and I will not repeat. But I want to indicate, Madam Speaker, that there is an empirical basis to show that trial by jury is not what the Members opposite make it out to be. They make it as if it is that the democratic system cannot fathom, cannot engage, and cannot continue to engage trial by jury because it is a delay and it is a costly exercise. [*Interruption*]

Hon. Member: Where is the evidence?

Mr. G. Singh: And that is my point, where is the empirical basis? The hon. Attorney General loves to regale us with data, unfortunately, in this instance, the data is absent as to the role and function of the jury in this country. [*Desk thumping*]

Madam Speaker, in an article entitled, "Trial by Jury: Has The Lamp Lost Its Glow?" by Tricia Harris, a Law Professor from the University College of London, Undergraduate Research Volume 3 Issue 2 (December 2010). This is a study, Madam Speaker, carried out with several thousands of cases over the period of the Ministry of the Crown, 2006 to 2008. I will quote from this article, Madam Speaker, subject to your permission:

> "The view reached by" Professor "Cheryl Thomas in her 'large-scale analysis of jury verdicts…suggests that juries are overall efficient and effective'. Her findings reveal that once sworn, juries are rarely discharged (less than 1%) and once they begin to deliberate they reach a verdict on virtually all charges, hung juries occurring on only 0.6% of charges. Her study concluded that, contrary to popular belief, there were no significant differences in jury verdicts for White, Black or Asian defendants; all-White

> juries did not discriminate in acquitting White defendants charged with racial offences more often than racially mixed juries; there were no courts with a higher acquittal than conviction rate dispelling the myth that there are courts where juries rarely convict, and juries are not primarily responsible for low conviction rate on rape allegations."

Madam Speaker, so what has emerged therefore is why are we at this stage if there is no empirical basis? This has been, this piece of legislation has been an initiative of the incumbent Chief Justice. It did not find fertile ground in the administration of the People's Partnership.

In fact, Madam Speaker, when the former Attorney General came with this draft legislation before the Cabinet he was given short shrift on it and that therefore it could not find fertile ground [*Desk thumping*] within the People's Partnership administration. Fortunately or unfortunately, it has now found fertile ground in this current administration, Madam Speaker. You see, Madam Speaker, what this is doing, and I think reference was made briefly by my colleague, the Member for Caroni East, if you begin to go this route then you will not democratize the rule of law in your country. Look, in this country the ordinary man who is randomly chosen from the electoral list, the only opportunity they get to influence and participate in the judicial process is as a juror. They participate and they decide the fate of members charged of the citizenry, larger citizenry, charged with various offences, and that is the way they participate. That is the way it brings legitimacy; legitimacy to the rule of law, and one cannot underestimate the role of legitimacy in a society, in any society, but more so in a society so diverse as ours.

Madam Speaker, what is the raison d'être, the reason why people have public confidence in the criminal justice system. People have confidence in the

criminal justice system because they are participating in the criminal justice system, [*Desk thumping*] and if you seek to isolate that, or if you seek to begin the process of eliminating that then you are going to corrode the very architecture of the society. [*Desk thumping*] Madam Speaker, you see, why this matter is so touchy and sensitive, it is because you are dealing with criminal trial, which give rise to imprisonment, whether it is hung—well, death, in terms of sentencing. So, therefore, what we want in our system is an independent and impartial court. We want fairness. We want fairness in the context that justice must not only be done but seem to be done, and that, therefore, when you have a situation where you have 12 members, or nine, as the case might be, you have a situation where in this small society it is hard to get an opinion, but you will have the pulling and tugging, and you will have the dynamic of the relationship within the closed doors of the deliberations of the jury.

I heard, I think, the Member for St. Joseph speak about that the deliberation, they do not provide reasons. That the jurors do not provide reasons, but the way the system has evolved they are the arbiters of fact, they are not the arbiters of the law. The judge sums up the evidence and the law, and the jury do the findings of fact, and on the basis of that, together with the law, as I indicated before, and the evidence summed up by the judge, you have this composite tribunal determining and providing legitimacy and confidence in the system. Madam Speaker, when you look at countries in which you do not have jury trial—I noticed Members stayed away from that system—in India you do not have trial by juries, and you have a serious compromising of the legal system.

Madam Speaker, in an article entitled, "Why Jury System is Superior than judge system" in India, and I will quote, Madam Speaker—and in this article they

indicate that, look, when you do not have the juries then the judges themselves become prone, become prone to be reached. There is a kind, what it is they call, nexusprone, nexusproness of the Judiciary through the criminal element. Nexusproness of the Judiciary, and they go on to indicate that if you are a criminal in an area, and the judge is sitting in that area there is the nexusproness that emerges. And then the second element that influences and, therefore, brings about a bias is the nexusproness of the criminal lawyers with the judge.

I think my friend, the Member for St. Augustine, made reference to that in a different context. And then they go on to talk about, Madam Speaker, in the article, about the reference of judges, because they are doing this all the time become case hardened, and that, therefore, they remove themselves from the day-to-day experience, and what the jury brings, and they are now arguing for the return of the jury in India. They are arguing that the day-to-day live experience that the ordinary citizen brings, brings about a different perspective, and, therefore, lends itself to the development of the law. Madam Speaker, so that the problem therefore now you have a jury system alone existing in India—no jury existing in India only judges alone, and you have that problem that is indicating that you have—how can I put it, Madam Speaker, you have a much more specific system that will allow much more people to be affected, but in a jury system it is so defused that the chances of that nexusproness, it is too hard to arrive at.

Madam Speaker, many years ago I read a book called *Judges on Trial* by Shimon Shetreet, edited by Gordon J. Borrie, and there has been a more recent edition, and in 2013, the more recent edition of this book, *Judges on Trial*, Cambridge University Press, and its subtitle, *The Independence and Accountability of the English Judiciary*. Authors Shimon Shetreet of the Hebrew University of

Jerusalem and Sophie Turenne of the University of Cambridge. Madam Speaker, in this book they talk about the whole area of the independence, how do you support the independence, the impartiality, and the legitimacy, and, therefore, show public confidence in the judicial system. Madam Speaker, so whilst that is the situation, and we will return to that text in a bit, I want to make reference to the Mt. Scopus International Standards of Judicial Independence, approved on March 19, 2008, and consolidated in 2013. I want to make reference to what is stated at 1.4, and it states, "Building and Maintaining Culture of Judicial Independence", and I quote, 1.4:

> "Every society and all international bodies, tribunals and courts shall endeavour to build and maintain a culture of judicial independence that is essential for democracy, liberty, rule of law and human rights in domestic system of government and is a necessary foundation for world peace, orderly world trade, globalised markets and beneficial international investments."

And they go on, Madam Speaker, at 1.4.6:

> "The ethical traditions and code of judicial conduct cover the judge's official and non-official spheres of activities, and shield the judge's substantive independence from dependencies, associations, and even less intensive involvements which might cast doubts on judicial neutrality."

So ethical considerations are important, and public confidence is important.

So, Madam Deputy Speaker, when you see today's newspaper, today's newspaper which was made reference, and I will not read the headline, but I want to read a part of it which says, in today's *Guardian*, at page A3—

> "'Respect us…'"

So the quest is for respect:

"With his voice cracking, Mayers said: 'How I could put my trust in allyuh. This is stupidness ma'am. I have kids at home. This is hurting me!'

Mayers said he is now feeling like a puppet on a string, since his matter…now have to restart although one witness was left…"

7.00 p.m.

So what do you have? You have in this very society, not by judge, not by jury, by judge alone, a situation which has emerged which has thrown questions over the legitimacy of our court system, of our judicial system, and that therefore what we have to do is to recognize the environment in which we are seeking to bring this piece of legislation, and this is the point made earlier on by the Member for Siparia, inopportune timing. The environmental factors therefore now cast doubt on the legitimacy and the efficacy of the rule of law, having regard to what is happening right now within the judicial system.

Madam Speaker, so that therefore, if our quest through this piece of legislation is to bring in another option for the accused by having a trial by judge alone in the current circumstances, then it is questionable whether it is an appropriate mechanism, because if you do not have the confidence and trust, as Mr. Myers indicated, the lack of respect by the system, then you are going to have a serious problem as to the legitimacy of the rule of law in this country.

Having regard to the nature of our society, and having regard to the culture of our society, we must tailor legislation that is appropriate. In his recent work, *The Underachieving Society: Development Strategy and Policy in Trinidad and Tobago, 1958-2008* by Terrence Farrell at page 250, and I quote:

The third cultural characteristic of Trinidad and Tobago and perhaps Caribbean society as a whole is the precedence of relationship over rules.

> The significance of personal relationships which may have an ethnic dimension was identified by the Uff Commission of Enquiry speaking on the apparent attempt to influence the placing of a contract in these terms.
>
> Rather than indicating corruption, we think this is more a reflection on local culture in a society where no one is anonymous and business at any level is made more complicated by the undoubted existence on many levels of personal relationships involving predispositions to favour one person over another. Such a culture cannot be changed, but the consequence in terms of potential corruption must be guarded against.

So, you understand, the cultural environment, Madam Speaker. What Terrence Farrell is saying is that relationships trump the rules, and in a situation like that, when you seek to bring a judge alone in the criminal arena, then relationships will trump the rules. This is a systemic issue. It is not an attack on the Judiciary. It is a systemic, cultural issue we have here.

When you look at the more recent newspaper headlines in which there is an apology and says that we are the most powerful ethnic group, although we constitute only 1 per cent of the population. And you tie that to the culture of where relationship trumps the rules—I mean, the law and the legislation, then you have a serious problem in your society.

So my thinking in this matter is that you would require to nurture the ground. You need to be much more databased than you have been, hon. Attorney General, and I think that this piece of legislation ought to be delayed because it will not impact upon the manner in which—and impact positively in getting the courts to deal with matters before it. It will not impact upon the backlog. What in fact it will do is to bring question marks about the legitimacy and public

confidence in the rule of law and the arm that provides that, the Judiciary. Madam Speaker, I thank you.

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much, Madam Speaker. I rise to make a brief contribution and to raise just a couple issues emanating from the contributions of colleagues. It is not my intention at all to be very long or for that matter to engage in any vitriolic contribution or any personal matters, but just to raise really two questions arising, to clarify one matter raised by the Member for Laventille West and a couple of issues raised by the Member for St. Joseph and the Minister of Health, at this time.

I address all my colleagues opposite in the capacities they rose and in the Ministries they have, because we are being told from a television announcement that a Cabinet reshuffle is imminent, so I address them as they are now and not what they may be within the next hour or so.

Madam Speaker, the Member for St. Joseph, my colleague from St. Joseph—let us forget the ministerial office and just say "colleague from St. Joseph"—gave the impression that his contribution hinged on the constitutionality issue. The Leader of the Opposition was very clear that at this time today we were not raising the matters of the constitutionality, and therefore my colleague from St. Joseph had to constrain himself to 20 minutes or so because he could not carry his full text prepared.

But, you know, Madam Speaker, this matter of jury versus judge is not a new debate. It is a very old debate. In preparation for today, in the event that I was called upon to speak, I had cause to go back into my notes and my computers and so on to look at the database I have. And I recall doing law, you would get exams, you would get papers and essays to write and so on. I want to assure my

colleague, the Member for Diego Martin North/East, I did complete that LLB degree. [*Desk thumping*] I would indicate that I did it in a record two years, while others may have taken eight.

At the Hugh Wooding Law School incidentally, where the matters of jury came up—I was looking through my file, because it is a big issue there and we debated that at length. But it is also an old issue, it is not new, and there is a temptation to get into the discussion and quote Prof. X and Dr. Y and legal scholar XA and legal luminary B and so on. But it is an emotional issue, and it is almost the same emotion in the jury discussion that we had in the marriage Bill, and you ask why. There is a similarity between the two. It is that they are both matters that people have deep personal views on, almost cultural views on. It is the same passion you heard on the marriage Bill you will hear on the discussion on jury, because there is a passion because this system has existed so long.

There are some people who believe that a jury is a buffer between an accused—Madam Speaker, I know my colleagues opposite will be jittery at this moment, but I challenge you all to relax and listen. I mean, nothing worse could happen to you. They are all glued on to their phones. I was saying that this jury business is a passionate business, because it is seen as a buffer between authority and an accused, a defendant.

Throughout the history of mankind we actually go full circle. Today, we are asked in this Bill to approve a position of judge alone, but there was a time in history when it was judge alone. It was the king, it was the maharaja, it was the personal court of the religious or spiritual leader. It was in some cases an elder. So it has happened before in human history, and the jury was meant to come in and step in between authority and an accused person that his or her peers become that

power that determines guilt or innocence and, effectively, your life. This is why this matter of jury is so passionate.

I did not hear the Attorney General, in moving the Bill, speak about consultations. I imagine they would have had many, I do not know. I personally did not see anything in the newspaper. I did not see any media release. I did not see any coverage of any consultation on this matter. I could be wrong, because I do not watch a lot of news and follow everything, but I would have thought on this matter that is so passionate, where people hold such deep views and deep-seated views that there was a need at this time in 2017 to go to the people through the City Hall, local government, civic organizations, human rights organizations and then get the view of the population that you want to make such fundamental change. Who knows, the people may have come out and say, "Look, do away with juries all together." You do not know. They may have come out and say, "No, no, no, do not touch that, do not touch that".

So I would like to ask whether consultations were held and if so, with who. It must be public. I see phones moving around. If you all have any information to share, do tell us [*Laughter*] because I myself am concerned with the career of my colleagues. But I will address the now-sitting Attorney General, and I will ask him whether consultations were held. I understand the Member for Laventille West gone already, so he is not even in the House, but with good reason. If consultations were held, with who, when, because I want to say even at this stage, notwithstanding this piecemeal approach, that it may not be too late to have wide-scale consultation on this critical, passionate matter involving the Judiciary, rights, persons' perceptions of their rights and so on. So I ask you all to consider that.

Now, the Member for Chaguanas West carried an argument which I do not

want to repeat, but I want to endorse, which is really: Do we have data to suggest that one of the problems with this backlog of 100,000 cases, one of the problems with the slowness of the system, one of the problems with money—we spend maybe too much money—that is related to the jury system. I suggest we do not have or I have not seen that bit of information. The Attorney General is one to tell us a lot about statistics and that type of thing, because I think he also has a numeric mind and likes to use statistics, but we would like to know what statistics we have to suggest to us that the jury system is responsible for slowness in the process, responsible for spending a lot of money. What do we have on that?

It cannot be that the jury system, and the jury system we utilize now is preventing the detection of crime, because we argue that whether you have a judge alone or you have a jury alone you first have to charge, arrest, detect and then go before the court. So that the jury system, you cannot be making this change today with the anticipation that you will increase the detection rate, because this has nothing to do with the detection rate, it may have to do if you bring the evidence with conviction and so on. So, Madam Speaker, I put that too on the board.

The information we have, in several Caricom Caribbean territories this matter arose, and from the evidence we have from the discussions that have taken place and so on, it is a matter that throughout the Caribbean we have been receiving information that it is occupying the minds of persons nearby who share a similar jurisprudence as we do. In Barbados, I am told that the Queen's Counsel DPP there, Mr. Charles Leacock, expressed the view that it was time that Barbados moved from jury to judge-alone trials. When he did this there was some public uproar, and one newspaper editorial there raised this matter that the Government ought not to proceed in this manner without consultation with the public. This was

Barbados, Madam Speaker, where the matter was raised.

In Jamaica, I understand the matter was also raised there, and again consultation was the way to go. Outside, but still within the Commonwealth, in parts of Australia we have had comments about this as well, and the general view was that we should not throw out the jury because we believe that the system is slow or expensive, as the case may be.

Now happily today, in a sense, the Government is not abolishing the jury—at least not today. The Member for St. Joseph was carrying that type of argument and speaking about the problems associated with jury trials, as if the Government was today asking us to abolish trial by jury, but they are not. What they are saying is, "Look, we have an election where a defendant or an accused person can opt one way or another". As to whether or not that would be a first step in the final abolition of the jury, we do not know. But we certainly are not in the position today where we are abolishing the jury. But some of us feel that it is even when you give this election and you are prepared to give persons the right, so to speak, that is problematic in the circumstances that we face.

The Leader of the Opposition was correct, that you have to be careful in the context of what is happening in the country today with the perception. You know, everybody wants to do perception studies on politicians and political parties whether it is election or not. Everybody wants to do, how do people perceive the Government, the Opposition, Minister of—"ah go to say Minister of Education"—how are you perceived? Everybody wants to do perception polls, but I do not know if people do perception polls on how do you perceive the Judiciary? How do you perceive your chances at the Magistrates' Court? What do you think of this? What do you think of that? So persons can give their views, and that might be

something useful.

My friend, the Member for Laventille West, made an interesting point. I think he confessed somewhat that he spent some time in Britain, and said that when the jury was removed it was done partly because, but not only, of the threat of the IRA and terrorism and so on, where there was a problem where persons who were going to be impanelled in a jury may have had some sensitivity towards issues. [*Interruption*] You are not in your seat, but I do not know if it is proper for you to reply from there. But why do you not get to your seat and I will give you the opportunity. [*Laughter*] I mean, we must conduct ourselves properly. [*Laughter*]

So the Member sought to advance this notion that it was done in Britain because of that IRA condition. Is the Member or the Government suggesting that we have a similar condition here? Because we have heard of cases, I have heard where members of the jury would report that they are conducting a matter in Port of Spain or wherever, they go to a gas station to fill their tank at some hour, a gentleman comes up to them and say, "How are you? Yuh doh recognize me? I know you, we have a matter on, X, Y and Z." There was a complaint once—I will not call any name of anybody—but there was a complaint once with the Trinidad and Tobago Police Service from someone as a sitting juror, and it came to my attention in another capacity for another reason, and it was terrifying, that matter.

The Government also came into office with a sort of promise that jury tampering was an issue. Unless I am mistaken, that issue of jury tampering found its way into policy documents of the party or the Government. I could be wrong, but I think they were concerned with that. We have not seen to my knowledge a Bill or legislative measures to deal with jury tampering. So is it there is a policy

change in the Government now? Is there a policy change where you come into office to say, "We want to deal with jury tampering, but we change we mind on that, let us just move the jury out. So we doh need to deal with tampering of jury, let us get rid of the jury." Is that a policy shift that we have seen in 20 months from the administration?—is a question I would ask.

Madam Speaker, a lot has been said and a lot of weather made on this judgment and this matter the Opposition Leader introduced in the debate. The Member for Laventille West did spend a considerable amount of time on it, and I do not want to spend so much time, but I just want to raise two matters related, that the Attorney General or anybody else—again, when I do these things I ask for clarification. I ask you to clarify, not to "bouff me up" but to clarify. Because sometimes my colleagues opposite, when they respond after me, they really seek to "bouff me up" for raising a matter, rather than clarifying a point that I innocently asked you for help.

The Member for Laventille West took the time, as we say in local language, "to gallery" that the Opposition Leader raised a matter of the case of Jason Bissessar, and it was at first instance and the matter was appealed and the Court of Appeal ruled on it and so on. I wanted to ask my friend, the Member for Laventille West, and others will speak after him I believe, equally well qualified as he is, on this matter. But I also had an opportunity to look at this Court of Appeal judgment. The matter incidentally is a Court of Appeal matter of 2010. It is very instructive—in the crosstalk during the Opposition Leader's contribution, when she said we ought not to be amending what is deemed unlawful, you should be amending that part of the Act, the Criminal Procedure Act, the Attorney General told her, "Why did you not do it in the five years you were there?"

Mr. Al-Rawi: I did not say that.

Dr. R. Moonilal: My friend, at this hour of the night and given the condition of the Government now, I will take your word. He did not say it. But I heard someone say that, "Why, when you were there, you did not amend the Bill?" But, Madam Speaker, I put it to you that not even Members of the Government knew that this matter was under appeal in the Court of Appeal, because in the other place this matter came, and we were not sure the Government was aware of it. But in any event it was 2010 appealed and it was determined—I think there is a date here—[*Interruption*]—What is it? The Attorney General, and I can say that you say so, says that it was determined the 31st of January, 2017.

But Ma'am, at paragraph 39, I just want to read very briefly from a couple matters, because the Member for Laventille West—I was waiting for him to read this, but time did not permit him to read this. [*Laughter*] Time did not permit him to read this. It says:

> "The state of the evidence has driven me to conclude that there was no effective system set up for the discharge of the appellant from the hospital, whether by way of review per se or by way of a procedure to facilitate any recommendation made by the tribunal for his discharge. No explanation was forthcoming from the…"—Executive—"I find as follows:
>
> > The appellant was entitled to a periodic review of his fitness to take his trial during the entire period of his detention... This entitlement arose…as a common-law right and"—secondly—"implicitly from the nature of the order…"—by the Judge.
> >
> > "Such a right of periodic review included the right to be told of the outcome of"—any such—"review... This is consistent with the

> requirement of section 5…of the Constitution.
>
> On the evidence, unsatisfactory though it is, the appellant's case was reviewed by the psychiatric hospital...The failure to conduct such reviews was a breach of the applicant's right to the protection of the law and to such procedural provisions necessary to give effect to his constitutional rights."

So the Court of Appeal held that the right of the appellant was breached. That is the point, the right was breached. The Court of Appeal said that the failure to inform the appellant of the results of review and so on was:

> "…a breach of the appellant's right to the protection of the law and to such procedural provisions necessary to give effect to his constitutional rights."

This is:

> "On the evidence, the appellant was fit to take his trial…"—in—"October... The absence of such a system"—and this is linked to the Criminal Procedure Act, section 67—"was a breach of the appellant's right to the protection of the law and to such procedural provisions necessary to give effect to his constitutional rights."

Madam Speaker, I find that to be extremely critical. What it suggests to us is that whereas the Court of Appeal may have ruled and ruled that there was no breach of the separation of power principle, they ruled that the appellant's rights were breached—constitutional rights which remained in the Act itself, which remained there. This is why—and I want to just put on the public record, because a lot has been said today—the Court of Appeal ruled that the appellant is entitled to compensation for the breach of section 4(b) and 5(2)(h)of the Constitution. And the court ruled:

"I assess those damages at one hundred thousand dollars ($100,000.00)."

So the appellant actually got damages.

So it was a case where the Court of Appeal said there was no breach of that principle of separation of powers, but that section of the Act breached the constitutional rights. [*Desk thumping*] That is the issue.

So when the Leader of the Opposition made this point, it was that you ought not to be amending by putting "judge-alone" tagged on to section 67, because the effect of that is to continue the breach of rights of citizens, not the separation of power issue, which the Court of Appeal ruled on. This is the point we are making.

Now the matter, I understand, they have already gotten what is called "conditional leave" to go to the Privy Council, the appellant. There is another process locally that is next. But they have conditional leave and there is another process coming up soon, I do not want to get into that. But the issue here is that the Court of Appeal also ruled that the constitutional rights of the appellant were breached and granted damages, and they were breached pursuant to section 67 of the Criminal Procedure Act, but they were not breached on a separation of powers. That is the point.

So we got the Member for Laventille West—the outgoing Minister of Public Utilities—telling us that, but he did not complete the story, because I really think that time ran out on him. He had already spent 40 minutes on this matter. Now, again, you can dance left, you can dance right and so on, and you can continue doing what you do, but the matter ought to be still—since a leave was sought and conditional leave was granted, that is a fact—within our legal system. It is the subject of litigation. Should we then be coming to the Parliament to amend a section of an Act that is currently being litigated? That is the issue. And the

Opposition Leader suggests no. We agree with that. [*Desk thumping*]

The Member for Laventille West clearly does not agree with the Member for Siparia. Incidentally, I want to remind the Member for Laventille West that prominent Senior Counsel Pamela Elder is on record as saying that if juries are abolished, she will burn her robes. I wanted to ask the Member for Laventille West whether he would want her silk as well—whether he would call for her silk as well or her robes. [*Interruption*] Madam Speaker, I do not want to engage the Member for Laventille West who is sitting in the Member for Diego Martin Central's seat and provoking me at this hour. Maybe he is the Minister of Sport, we do not know, and he got a sniff of that and went to the appropriate seat. [*Laughter*]

The speakers before spoke about countries where we have judge-only trials and so on, they spoke of that, judge-only trials. We agree that we must do all in our power to fast-forward the administration of justice to ensure that persons brought to trial quickly are either convicted or acquitted in a reasonable time. The Opposition is on record as supporting that. Madam Speaker, may I remind the population that when we met the Prime Minister for crime talks almost a year ago that matter was raised, and we discussed matters of the Forensic Science Centre, we discussed matters of legislation, we discussed matters of parliamentary oversight over national security. So we are interested in the administration of justice.

Madam Speaker, just today we learnt, I believe, of a mother and a 12-year-old boy brutally murdered in Malabar. We extend condolences to their loved ones, as we do to all victims, but this is the state of the country today, a 12-year-old boy and his mother, I believe, brutally murdered today. Your constituency, is it?

[*Interruption*] The babysitter and the 12-year-old boy brutally murdered today. Well, whether it is the babysitter or mother, I think you should still share the compassion. I do not think you would want to do that. So we are interested in this matter.

My colleagues then raised the issue of judge-only trials, and I think it was the Member for St. Joseph who did that. It happens all over the world; it happens in Singapore I heard; it happens in Holland I heard; it happens elsewhere, said the Member for St. Joseph. But there is a concern we have about this comparative advantage across the world. The Member for St. Augustine, I think, raised one matter following on the Member for Siparia. You see, we live in an environment now where it is very interesting what is happening here.

A backbencher in the Government and in the Opposition, and I imagine a non-executive office holder in the Government, and at this moment we have three—we may have more or different ones by nightfall, by midnight—but a backbencher in the Government or in the Opposition, all of us are under the Integrity in Public Life legislation.

7.30 p.m.

I know some colleagues opposite have a difficulty filling out and getting what is called a certificate of compliance. Madam Speaker, a Member of the Opposition as a backbencher has to declare all their assets, liability, this, that, everything to the Integrity Commission. They participate or we participate in no Executive decision-making; we monitor no state agency; we are involved in nothing involving public revenue except the expenditure on our parliamentary office and that is monitored by the Parliament, it has a unit to deal with that. So, we spend no money, we do not have to account for state money outside of our

parliamentary function. But a backbencher and a front Member too of the Opposition because we do not hold office here, any office, and the Member of the Government who is not a Minister of Government as well as Ministers have to account to the Integrity Commission.

But in our system how it is, how it is that members of the Judiciary do not? They do not fill out the forms; they do not declare assets; and do not declare all properties; do not declare anything, and the person—and I cast no aspersions on any member of the Judiciary. I am saying from the public perception, those persons sit in judgment are now given this law that the Government is intent on passing, and they may well do, it requires a simple majority, will now provide a situation where a defendant or an accused person can opt for a judge-only trial and that person from the perspective or perception of the public, sits now to determine matters that may involve, I mean, I can say matters involve drug lords, multimillion-dollar, billion-dollar matters involving narcotics. You still want to ask me something, but you promise to make sense?

Mr. Hinds: You are just rude.

Dr. R. Moonilal: Okay.

Madam Speaker: It is either you are giving way—[*Interruption*]

Mr. Hinds: You are out of order.

Madam Speaker:—or continue to direct your contribution this way.

Dr. R. Moonilal: It may not be his best day, I give him way. I give way.

Mr. Hinds: Thank you very much for giving way. You do not have to be rude in order to do that. Yes. Hon. Member, are you not aware that judges who sit in the Civil Court deal with the same categories of persons though not criminal

matters and therefore, this question of bribing judges which you are alluding to is really not new, it depends on the integrity of the judge. And so far, apart from a magistrate, we have not had that trouble here.

Dr. R. Moonilal: Okay. Thank you very much. And when I tell you apart from a magistrate that you found out, you do not have that trouble here. All right?

The point I am making, whether it is the civil or criminal branch, is that with this legislation now you are saying that there is an election by an accused person to say "I want a judge, no jury". Now, this will be a breakthrough. That person, and I cast no aspersions on the person. I do not like the Member telling us and in a—I am casting aspersions, I am not. I am saying that person will now sit and determine matters that involve properties and millions and maybe billions of dollars and so on and susceptible, susceptible or should we not be thinking—[*Interruption*]

Madam Speaker: I warned you about Standing Order 48(8). I think that point has made in several different ways. So I will ask you to move on, please.

Dr. R. Moonilal: Madam Speaker, I will not speak about the judges in Trinidad. Could I just put on record that in the United States, for example, in the United States judges do post order forms on the Internet, Federal judges. There are systems in place, Madam Speaker, in the United States for declaration of assets under the legislation. In the United States there are provisions that judges will declare. Yes. The ethics Act of the United States requires annual disclosure of financial information by the: President, Vice-President, Members of Congress, federal judges,

and others, and I do not want to quote the others. That is the situation of the United States.

So, we talk about countries where they use judge-only trial and, Madam Speaker, we have it for Ecuador, we have it for Bulgaria, we have, you know, in other countries we have as well I am looking here at the United States, I see also, you know, in fact far eastern countries in Europe and on the eastern European side, Lithuania and so on, persons are required to declare private interest including politicians, civil servants, judges, military professionals and so on. We have disclosure of assets made by judges, Argentina, the United States, South Africa, you know. And could I just say South Africa because I am looking at Commonwealth as well, not just across the world.

> "Until 2008 there was no law that required judges to submit declaration of their assets. In 2008 Parliament amended the Judicial Service Commission Act, 1994 to provide a mechanism for judges to disclose their 'registrable interests', as well as that of their spouses and dependents."

And this is South Africa, Madam Speaker. And we have as well, because I am just searching out Commonwealth areas as well.

Madam Speaker: Hon. Member for Oropouche East, your 30 minutes have now expired. You are entitled to 15 more minutes. Please proceed.

Dr. R. Moonilal: Yeah. Thank you, Madam Speaker. Kenya, you know, Kenya which share some similarities with us as well, they also have legislation where judges are required to disclose assets under the relevant Act in Kenya as well. So you have Kenya, South Africa, United States, elsewhere and if more

research is done, I am sure we will find many other countries.

So, Madam Speaker, the point really is that if you attempt to change our system in this way where you present a case for judge-only trial, should we also have a discussion on having members of the Judiciary under the Integrity in Public Life legislation or any other suitable body of law that one could have some confidence that they are, you know, suggest they are, you know, giving information as regards to that matter. [*Interruption*]

Dr. Gopeesingh: Good point.

Dr. R. Moonilal: Yeah. Madam Speaker, now of course in the Attorney General's opening presentation his argument took root among other areas by the statement of the Chief Justice. I think my friend, the Member for Caroni East quoted extensively from a presentation by Senior Counsel, Israel Khan, in which that matter of the Chief Justice arose. But I would like to remind the hon. Attorney General the Member for San Fernando West that he rooted his argument today on the call by the Chief Justice to make this type of change regarding jury system, but the Attorney General will not act on the judgment on a minority opinion of the Chief Justice and others on the Suratt matter to go to the Privy Council to clarify the state of the law as it regards that matter. So there is a point in which it is convenient to lean on the Chief Justice today for this argument.

Madam Speaker, I seem to have dealt with the few matters I wanted to raise. In really winding up, I have nothing else really but to say that I have asked for clarification, [*Laughter*] I have asked for clarification—[*Interruption*]

Madam Speaker: I am sure—[*Interruption*]

Dr. R. Moonilal: Sorry. Sorry.

Madam Speaker:—Member for Oropouche East, I am sure the *Hansard* has your contribution so no need to summarize. You have a few more minutes left, you can make it if you have other points to make.

Dr. R. Moonilal: So, Madam Speaker, I have nothing further to add to my well-structured contribution here, [*Desk thumping*] but to close—

Mr. Hinds: Nothing is still nothing.

Dr. R. Moonilal: The Member for Laventille West is still speaking even at this time when the Prime Minister has already used his ink on you. So, Madam Speaker, I will ask the Government to be cautious, but you know, I think he—

Madam Speaker: As we said earlier, you know, let us keep our passions within certain confines. Please continue, Member for Oropouche East.

Dr. R. Moonilal: Yeah. Thank you. So, Madam Speaker, the Attorney General is one to tell us that this is part of architecture of change. It is one piece of a puzzle that the Attorney General and the Government want to put together to deal with the administration of justice. As the Member for Point Fortin would say, it is part of the menu that they are putting forward, but it is something that we want to warn the Government today to be cautious.

It was a former Prime Minister and President, whether you liked him or not, who spoke about streams running into rivers and rivers running into the ocean, whether you liked that or not. But when you put all of these pieces of puzzle together, you might get picture that you do not like. And it is a picture of punitive measures; it is a picture of fines; it is a picture legislation that comes without proper consultation with the national community, but change occurs and

change will occur, it is that picture.

I heard my friend the Member for Caroni East speaking a little while ago and when he was speaking there I remembered it was in Stalin's time in Russia, Madam Speaker, where there were certain fines where if you were walking the street and your boots were not shined properly, if you did not have a shiny boots and you walked the streets in Moscow, there was penalty for that, there was fine, there could have been an imprisonment, you could have gotten your death warrant signed by standing up to the secret police. These are matters that we must take stock of and do not try push the envelope too far on the table, it will fall and in falling you may have repercussions that you will not appreciate. Madam Speaker, I thank you. [*Desk thumping*]

The Minister in the Ministry of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): [*Desk thumping*] Thank you very much, Madam Speaker. Madam Speaker, right-thinking citizens of Trinidad and Tobago once again we put things into proper perspective and into context. We have heard a lot today and a lot that could lead persons who are listening on to believe that this Bill and in this particular piece of legislation is something that should be feared. We have heard the suggestions starting from the Member for St. Augustine and we have just heard from the Member for Oropouche East that this is the start of something.

Madam Speaker, this as we have just heard the Member for Oropouche East say is one of the spokes of legislation being brought by this Government to improve the criminal justice system. And on behalf of Port of Spain North/St.

Ann's West, we would like to applaud the Attorney General and his team—[*Desk thumping*]

Mr. Hinds: What about Laventille West?

Hon. S. Young:—and my friends who have contributed on this side and even some on the other side, for supporting legislation that has one simple purpose, Madam Speaker. Forget all of the fear-mongering, forget all of the suggestions and the speculation as to what may come in the future, no truth to that whatsoever. Legislation has been brought to this House in this session to improve the criminal justice system. This is yet another piece of that legislation, that legislative agenda is another piece of the, as we hear from my colleague, the Member for Point Fortin, talk about the architecture. This is all geared towards improving the criminal justice system.

Another very, very important point that I would like citizens to understand is despite all that may have been said, this is elective. This is not a step being taken by the Government to abolish jury trials in Trinidad and Tobago. This is an elective process where a person on an indictable offence, which is an offence that is heard in the Criminal Assizes of the High Court, has a choice and it is important that persons understand that. The accused has a choice as to whether he or she wishes to have their matter heard by a jury and a judge or by a judge alone. So jury trials will continue. This is a step in the right direction. It is very important that everyone understands there is no abolition of the jury system. [*Desk thumping*]

Again, Madam Speaker, as was decided on 07 September, 2015, by the population, let the population take note once again as to what exactly is before

this House for vote in a short time, and let the population in looking on understand very clearly what this Bill seeks to do.

And having said that, Madam Speaker, I would like to just very briefly remind the population as to the origins of a jury system and what jury trials came from. And they were really developed as far back as the 8th and the 11th Centuries by the Maliki school of Islamic law which operated in North Africa and Sicily called the Lafif, a body of 12 men drawn from a neighbourhood who would get together, they swore to tell the truth and give an unanimous verdict about matters they have been asked to rule on.

Jury trials, Madam Speaker, were first introduced in Trinidad and Tobago by Ordinance 11 of 1844, the Jury Act, Chap. 6:53, provides the legislative framework for jury trials. Persons are very familiar with the mode and effect and how a jury trial is conducted. It is a matter where a judge is sitting, listening and guiding with respect to the areas of law in a criminal trial, and where 12 members of a jury for capital offences, nine members of our peers drawn from civic society and citizens of Trinidad and Tobago come forward and listen to facts, and at the end of a trial are asked to determine on the facts whether someone is guilty or not guilty, that remains in place.

The Attorney General has quite rightly seen it fit and despite what was said, I believe, by someone on other side, I cannot remember exactly who it was now, I think it was the Member for Chaguanas West, they threw words at the hon. Attorney General saying, "Come here with facts, come here with data". Madam Speaker, once again, those are hollow, shallow words with no merit and no substance behind them, because this is the first Attorney General certainly

within a very long time, definitely over the period of the last seven years, who has actually brought data to the Parliament. He has gone, [*Desk thumping*] he has taken his time and done the data driving and gathering of the prison system. We now know how many prisoners there are, who is on remand, we now know the backlog of the criminal justice system as we heard with previous traffic offences, how many are clogging up system.

Madam Speaker, the election of whether as an accused to have a judge-only trial as we have heard being admitted here this afternoon despite what was originally said by the hon. Member for Siparia and the shots that were taken previously at the constitutionality of this Bill of, the hon. Member for Siparia stood up during the contribution of the Member for St. Joseph— [*Interruption*]

Madam Speaker: Leader of the House.

PROCEDURAL MOTION

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

Question put and agreed to.

MISCELLANEOUS PROVISIONS (TRIAL BY JUDGE ALONE) BILL, 2017

Hon. S. Young: [*Desk thumping*] Thank you very much, Madam Speaker. The point that I was making was that you still have the opportunity as an accused to elect whether you want a jury to hear your trial or not. The benefits that can be

derived will be effected; we will experience them of having judge-only trial; we will be able to gather the data, the statistics; people will able to see the benefits for certain matters of not having a jury in their trial process, and that is something to be commended.

Madam Speaker, at this point I would like to refer to the opening address of the head of Judiciary of Trinidad and Tobago, the hon. Chief Justice from the 2015 to 2016 law term on September 17, 2015, where the hon. Chief Justice made a plea that was directed at the citizenry of Trinidad and Tobago with respect to jury trial, and all if I may. He stated at page 9 of his address:

"…about 15% to 20% to sitting time is lost…"—[*Interruption*]

Dr. Moonilal: Madam Speaker, 51(b). The Attorney General said that earlier in the day.

Madam Speaker: Member for Port of Spain North/St. Ann's West, please continue.

Hon. S. Young: Thank you very much, Madam Speaker.

> "…about 15% to 20% of sitting time is lost owing to jury management issues such as illness, exams, family funerals, lateness etc., and this does not include the time we spend traipsing them in and out of the courtroom every time counsel want to make a legal submission. At the end of that, there are a significant number of hung juries which mean we have to start the whole thing over again."

And this, Madam Speaker, of course, is the hon. Chief Justice, the head of the Judiciary who is in charge of the administration justice.

He continues now in 2016/2017 the opening of law term on 16

September, 2016. So after the plea that the Chief Justice made with respect to jury trials in 2015, he comes again in 2016 and he says at page 22 of his address:

> "While it is true that 185 accused persons had their indictments dealt with, 75 of those (or 41%) had retrials ordered so that their matters were simply recycled into the system. Simply put…"

And, Madam Speaker, the Chief Justice in his speech now put this part in bold and in caps:

> "THE JURY SYSTEM NOT WORKING!!!"

So, we have the head of judicial system with the support of his judicial officers pleading to the country and the only time the Chief Justice and the Judiciary have to speak to the population in an open setting is at the law term opening. So anyone who has practised law, those of us who have practised in the courts know that the tradition is the voice of the judicial system is always the voice that comes from the Chief Justice at the opening of a law term and he is pleading. In times past, the Chief Justices have asked for financial autonomy, they have said that there has been incurrences on their independence of the Judiciary, et cetera. This Chief Justice has seen it fit in two back-to-back settings of his law term speeches to tell us about the jury system. He goes on:

> "I don't know how many times I have to make the point to those who have no understanding of how it works that if matters are heard by a judge alone he/she has to make a decision one way or the other that is definitive and subject to appeal…"

Madam Speaker: Excuse me. I just want to remind Members of the

provisions of Standing Order 53. I want to hear the contribution of the Member for Port of Spain North/St. Ann's West. Please, continue.

Hon. S. Young: Thank you very much. So, Madam Speaker, the Chief Justice is pleading and he is pleading to us in the Legislature, because we are the ones who can take heed of the calls of an inefficient criminal justice system and make the changes that the hon. Attorney General has been doing. [*Desk thumping*] So this is a Government that is listening to not only the users of the system, but we are listening to those who are in charge of the system because we, the 41 Members in this House here and others in the other place, have the responsibility, the constitutional responsibility to change the law, to amend the law, to make more efficient systems including a criminal justice system.

So, Attorney General, thank you. Thank you for the suite of legislation that you have been bringing, [*Desk thumping*] thank you for improving the criminal justice system despite the cry of wolf by some others here in this House, and I will come to that in a short while in particular the contribution of the Member for Chaguanas West, that I sat there and I wondered to myself, because he has participated, the Member for Chaguanas West, in litigation in the High Court system, so they must know how it operates.

And here we have, Madam Speaker, getting back to my point, if you would permit me, and to the Chief Justice, the hon. Chief Justice pleading with the nation and in particular us, those 41 of us who are elected and part of our duty is to amend the laws, to bring legislation, and this is good legislation.

We have had an Opposition come here today initially attacking the constitutionality of the Bill and all of a sudden whittled down because a Senator

was seen hush, hush in the corridors saying, "Ay, ay doh go down de road with that constitutional argument, you know. Because look de law here, all yuh making a mistake." [*Desk thumping*] The most hasty retreat we have ever seen none other by Member for Siparia jumping up in the middle of the Member for St. Joseph's contribution to say, we have no issue with the constitutionality of the Bill after her whole contribution attacking the constitutionality. Let the population of Trinidad and Tobago take note.

Madam Speaker, back to the hon. Chief Justice.

"I don't know how many times I have to make the point to those who have no understanding of how it works that if matters are heard by a judge alone he/she has to make a decision one way…"

Dr. Gopeesingh: 48, Madam Speaker.

Madam Speaker: Member for Caroni East, may I hear your point of order?

Dr. Gopeesingh: Yeah, 48(8).

Madam Speaker: Please continue, Member for Port of Spain North/St. Ann's West.

Hon. S. Young: Thank you very much, Madam Speaker. It is amazing how those on the other side always seek to stifle the truth being told in this House, [*Desk thumping*] and again, I put down a marker. Right thinking citizens of Trinidad and Tobago—[*Interruption*]

Mr. Charles: Standing Order 48(4). Oh, we are trying to suppress the truth.

Madam Speaker: Member, could you just state that in another way and, please, continue.

Hon. S. Young: Thank you very much. Madam Speaker, those on the other

side seem to become quite nervous when the truth is falling from this side. [*Desk thumping*]

> "…heard by a judge alone he/she has to make a decision one way or the other that is definitive and subject based on a consideration of transparent written reasons, none of which applies to juries."

So, hon. Chief Justice is telling the population that the only opportunity that the Judiciary has to speak to the population including the 41 Members of this House, get rid of the jury system because it is actually improving the criminal justice system, and actually—you know what?—it takes away the uncertainty of a jury system, because a judge is someone who is trained and capable, and actually as this legislation proposes, has to give reasons. [*Desk thumping*] How can any right-thinking citizen and in particular a person who is accused of a crime, Madam Speaker, have a problem with a judge having to give reasons? [*Desk thumping*] Your 12 peers, your nine peers now who sit on a jury do not have to give reasons. This is an improvement in the criminal justice system. So it pains me, it literally pains to have to sit here and to hear once again attempts being made to mislead the population.

So, the Chief Justice continues:

"I was appalled…"

No he says:

> "If the current inefficient and ineffective system is what the country wants to have, then fine. But don't blame me for the consequences!
>
> I was appalled at the conclusion of a recent matter that occupied a court for over 2 years to hear the bleating about the vindication of the jury

system. Of course for those who were acquitted one can well understand the sense of elation. But what about those who have to be retried?"

Madam Speaker, there is no clearer language for a call of responsibility by those who make the law than to hear the cries of the head of the judicial and system and the criminal justice system asking, pleading, saying that we are dealing with an inefficient system, please fit it. And what does this Government do immediately? It comes to the House and it came to the other place with the legislation to fix it. [*Desk thumping*]

Those on the other side who scream and bawl "one man, one this, one that". Let the population judge them now. We are fixing what the Judiciary has asked, as I have just quoted from two back-to-back opening of the law term speeches. This Government is fixing it. This Government will fix the inefficiencies of the criminal justice system. And, Madam Speaker, what is so ironic is that persons who may be subject to a criminal justice system may be the beneficiaries of that efficiency that we are trying to create. So there may be people who, very soon, will be the subject of the criminal justice system and they will thank us that.

Hon. Member: Madam Speaker, 48(4), that is threatening language— [*Interruption*]

Hon. S. Young: Who is threatening?

Mr. Deyalsingh: Who threatening?

Madam Speaker: I would ask all Members to watch their language. I rule that there is no merit in the point. Member for Port of Spain North/St. Ann's West.

8.00 p.m.

Hon. S. Young: Thank you very much, Madam Speaker. [*Desk thumping*] Madam Speaker, that point was related to those who face the criminal justice system. That point is to those who are accused and charged and come before a criminal justice system. That point was not directed at any Member of this House that I am aware of, who may be before the criminal courts. We are trying to create a more efficient criminal justice system, respectfully we are immediately actioning the cries of the Judiciary and the judicial system, and an area of great inefficiency. The Chief Justice continues:

> "Are they and the victims' families not entitled to some finality in determination of guilt or innocence within a reasonable time? From a management process, justice or simply a common sense point of view, any proceeding that occupies so much time and resources without producing a definitive result is a total disaster. That is not a criticism of the judge who had to manage an extraordinarily complex trial, nor of the jury who, untutored in the principles of law and evidence had to sift through mountains of evidence and complex directions. It is a systemic failure that I"—this is the Chief Justice and the Judiciary—"do not have the power to fix because I do not pass legislation."

We do. Let us fix it. What can be the opposition to, not an abolition of the jury system, Madam Speaker, but the provision of an elective basis where an accused can choose to have a judge only hear his or her trial? We have heard absolutely no reasonable suggestion as to why that should not take place.

And on that point, Madam Speaker, I would like to address a few issues raised by the Member for Chaguanas West. I could not believe this was falling from his lips. He told the hon. Attorney General this is an inopportune time for this type of

legislation. He said,having regard to what is happening right now through the judicial system this is an inopportune time. Madam Speaker, absolutely no merit in that submission whatsoever. This is the time. In fact, the time was six years ago. The Chief Justice has been pleading, the judicial system, anyone who practises in it, and my friend the Member for St. Augustine should know, because he out of everybody in this House is the one who has practised the most in the criminal justice system, along with my hon. friend, the Member for Laventille West. And they know. The hon. Member for Toco/Sangre Grande has also seen what is taking place in the criminal justice system [*Desk thumping*] and she supports this legislation.

Madam Speaker, I have taken the time respectfully to tell the population of Trinidad and Tobago that this Government is being a responsible and responsive Government. [*Desk thumping*] Not only hearing but reacting positively and in a productive manner to the clarion cry of the judicial system that is screaming and crying out saying that there are inefficiencies that can be fixed by legislation, and rather than us sit and listen and do nothing about it, we have brought this piece of legislation.

So, Madam Speaker, I commend the Government, and I commend the Attorney General once again for leading the charge with all the other pieces of legislation, we have heard some Members have the audacity to challenge, and to laugh, and to try and ridicule talking about a suite of legislation. Yes, as a Government we have brought a suite of legislation, [*Desk thumping*] and this Government will continue to do what is right for Trinidad and Tobago. [*Desk thumping*] Madam President, this Government will continue to take the difficult decisions, not only with legislation, but in other areas, as we do on a weekly basis.

And we will do what is right for the future population, and the future generations of Trinidad and Tobago, and this is yet another spoke in that wheel of inefficiency. And we will stand proud, and we will stand brave and without fear to carry out our oaths of office, and we will do what is right.

And we assure the population that we will not bring legislation that is unconstitutional, or trampling on anyone's rights, as we heard quite embarrassingly so admitted after a full 40 minutes by the Member for Siparia. [*Desk thumping*] Another submission made by my friends on the other side, I would like to deal with. The Member for Chaguanas West said, tailor legislation that is appropriate. We did! So come now and let the population call upon everyone in this House to support that tailor-made legislation. He said this is delayed legislation. It is quite the opposite. And again, Madam Speaker, I remind the population that this is an elective process. We are not doing away with anyone's rights. We are adding rights. He had made the point about have to be a more data-based Attorney General. There has not been an Attorney General within the last seven years who has brought that much data. The audacity of the submission that this legislation will not impact upon the backlog.

Madam Speaker, we have heard from the person in charge of reducing the backlog that this is the type of legislation. Throughout the English-speaking Caribbean, there actually was a Distinguished Jurist Lecture and panel discussion on "The Continuing Relevance of the Jury System in the English-Speaking Caribbean" held on the 11th and 12th of June, 2013. So, the cry was coming from as far back as June 12, 2013. Justice Jacob Wit, a CCJ judge made the following point, if I may quote from his talk on the panel. He said:

As a former judge in the Netherlands where jury trials do not exist he

> strongly advocated for non-jury trials, describing it as a system that does not work in Trinidad and Tobago.

He said:

> In response to the proposition that juries are part of a democratic society Justice Wit said the following—when the Trinidad and Tobago Government, some months ago, announced a plan to abolish trial by jury—

Madam Speaker, this is in 2013, the Government at the time were those on the other side. This is a CCJ judge saying that the Government of the day i.e. those on the other side who are now in Opposition announced a plan to abolish trial by jury. But now they stand here in this House, and other places and say they want to oppose abolition of trial by jury. But again, we are not abolishing jury trials, we are providing accused with an election as to whether they want a judge-only trial. He went on to say:

> Replacing it with a trial by judge alone or a bench trial, several attorneys reacted as if stung by a wasp.

We have had that recently. Senior practitioners at the Bar screaming and shouting, if you abolish jury trials I will do this and I will do that.

The question should be asked, why? Why would any member of the Bench not want their client to have the opportunity to elect, the opportunity to choose whether they have a jury or not? And the legislation is good legislation, because when we go to it, and when we look at it in committee stage, we would see as legislators, we are putting in place certain safeguards that an accused cannot just elect "I doh want a jury". They have to get legal advice. They have to submit that legal advice. The fact that they have gotten proper legal advice to a judge who then has an ultimate discretion or not. So there are protections in place. There are

forms in place that must be statutorily sworn to.

So all of the protection—and again, Madam Speaker, to the population of Trinidad and Tobago, we have heard not a single reason here this afternoon as to why this legislation should not be passed. Not a single person has been able to point at a specific clause in this legislation [*Desk thumping*] and say in any convincing manner whatsoever that this is bad legislation, it should be corrected by X and Y, and then we should not proceed with it.

Madam Speaker, I have dealt with the elective point—he talked about consultation. I want to put on record here, please, Madam Speaker, through you, tonight, on the 28th of June, 2017 at 8.08 p.m., that is a red herring. The talk about consultations that is thrown time and time again out at us as a Government is a red herring. What is the need—and the Attorney General will address this in his winding-up, because I do not have the answer, but I am sure there was a level of consultation done. But even if there was not, this is not the taking away of anyone's rights. This is actually the provision of a new right to persons, so what must we consult on? You want a new right? That makes no sense. There is a cost to consultations as well, there are certain areas where consultation should take place, and every responsible Government will do, as we did recently with the children marriage Bill and Act. He went over and over and over for consultation; Tobago, south, north, everywhere.

Mr. Hinds: Local government reform.

Hon. S. Young: Local government reform, we had 14 consultations. That legislation is coming to the House shortly.

So, Madam Speaker, I do not want to keep us here much longer. The simple points that I would like the population to go away with are that this is good

legislation, we are giving accused persons more rights than they currently have. They now have the ability to elect whether to have a judge-only trial. We are not getting rid of juries. This is actually a good pilot project. This is one spoke in the wheel of making a much more efficient criminal justice system, and I dare anyone to stand in front of the population of Trinidad and Tobago when they are facing issues of crime on a daily basis and tell them there should not be a more efficient criminal justice system.

So, Madam Speaker, I stand here as the elected Member for Port of Spain North/St. Ann's West, and I commend this Bill to all of the Members of this House here tonight, and I say without fear of contradiction that there is nothing wrong with this legislation. This is good legislation. This legislation answers the call of the Judiciary for there to be a fixing of a system that they are telling us is inefficient. And, Madam Speaker, with those few words, I support this legislation. [*Desk thumping*]

Dr. Bhoendradatt Tewarie (*Caroni Central*): Madam Speaker, I intend to be brief on this Bill. I want to say very simply that it is not true that the last Government, that is to say the Government of which many of us on this side were part, that we at any time contemplated the abolition of a jury trial. [*Desk thumping*] The matter did come up for discussion, and we participated in the discussions, and we engaged the issue. And at times I remember, and it might have been at least three times, it might have been four, around the Cabinet on each occasion that it came up, the matter was very contentious and people had very strong views about the matter. [*Desk thumping*]

The second thing is that I want to remind the Member for Port of Spain North/St. Ann's West that this is a Parliament, and that the purpose of being in

Parliament is to debate the Bills that come here. And the Government side cannot expect that when we come to debate a Bill, whether we are going to support the Bill or not, that we will stand up here and say to the Government, this is a great Bill, and therefore we have nothing to say, we are going to vote for the Bill. That is not the way the Parliament works, and that is not the role of the Opposition. The role of the Opposition in this House is to highlight concerns. Those concerns may be concerns that derived out—

Mrs. Robinson-Regis: Madam Speaker, Standing Order 46(1).

Madam Speaker: Member for Caroni Central, please continue.

8.15 p.m.

Those concerns may come out of an intellectual examination of the Bill. It may come out of the engagement by constituents on matters of concern about the Bill. Some of it may be on the basis of facts in the Bill, some of it may just be on the basis of feelings, things they may read in the newspapers, et cetera, things they may raise as fears or things that they may simply speculate upon, but they raise it to you. And while you may engage them and you educate them, it is important for that constituent to know that you have listened and the way they know is because you have come here and articulated some of their concerns. [*Desk thumping*]

It is also—this matter is not a matter that is settled and it is not a matter that is settled in every jurisdiction. And I remember when this Bill first came here, in this particular House, the choice that is given in this Bill was not as clear as it is here today. When it came here, when this Bill was first circulated, okay, the Bill basically took the position that the jury trial was something that really was not progressive in the legal system and as a consequence the decision by a judge in a trial was superior. That was the argument. That was the thinking behind the Bill.

And it is only after it went to the Senate—it was interrogated, it was engaged, it went to committee—that the amendments were made to bring this Bill back here and the Leader of the Opposition pointed that out because it had moved by a number of pages from eight to where it is now which is, I do not know, 24 pages.

So basically that is the situation and I want to give the experience of the last two Bills that came before this House. The marriage Bill came before this House—

Hon. Members: "Ohhh."

Madam Speaker: Member for Caroni Central, I will not allow you to go back to a matter that has already engaged this House and been passed in this session. So you can continue to make your points within the time you that you have, but please abide by that ruling. Thank you.

Dr. B. Tewarie: I simply want to make the point of two Bills that we have voted for, Madam Speaker, but Bills nevertheless that we criticize during the course of the debate.

Madam Speaker: Member, I think what I have said is quite clear. I am sure you can make your point in another way. Please, I do not want us to go back to something that has been debated and passed, please.

Dr. B. Tewarie: Well, we voted for two previous Bills that came before this House, Madam Speaker, and we thoroughly interrogated that Bill. We suggested amendments to one of the Bills. They were not taken and yet we voted for the Bill. And the reason we voted is because there was enough substance in the Bill—

Mr. Imbert: Madam Speaker, point of order, 48(3).

Madam Speaker: This is precisely the point I am trying to make, Member. So that if you can press on to your point, I think you have made on the foundation of

what you have said already, I think you have made the point, okay? But I do rule and uphold the objection under Standing Order 48(3) which is what I have been trying to steer you from. [*Crosstalk*]

Dr. B. Tewarie: Madam Speaker, all I can say at this point is that there was no need for the self-righteous tone of the Member for Port of Spain North/St. Ann's West. I imagine "self-righteous" now is an unacceptable word in this Parliament. But there was no need for the self-righteous tone of the Member for Port of Spain North/St. Ann's West. All the Members who spoke here—Leader of the Opposition, Member for St. Augustine, Member for Caroni East, Member for Oropouche East, Member for Chaguanas West, all of the Members who spoke here—they spoke to the issues in the Bill, they had a point of view on the Bill and they expressed that point of view. [*Desk thumping*] I believe it is reasonable for anybody who has to be tried in a court of law, if they are given a choice, to make that choice. I do not think anybody should—[*Crosstalk*]

Hon. Members: Well, that is what we are doing.

Dr. B. Tewarie: Well, why do you not let me speak, Madam Speaker! They are interfering with me.

Hon. Members: "Wheeey."

Madam Speaker: Okay, I will just ask for temperance. Member for Caroni Central, what I would suggest, is if you direct your contribution to me. You are a very experienced Member, so I am sure you can rise above the crosstalk and please direct your contribution here. Do not be distracted. Your time is precious.

Dr. B. Tewarie: Madam Speaker—

Madam Speaker: Member, let us leave that, you use your precious time to get your contribution across, please.

Dr. B. Tewarie: Madam Speaker, I wish to ask for your protection. I will direct my words at you. I do not wish them to direct any words at me. And I am asking for your protection in that regard. [*Laughter*]

Madam Speaker: I would ask all Members to respect the decorum of this House. I remind you of Standing Order 50(3) and please allow the Member for Caroni Central to address his contribution and give it the respect it deserves. Continue please.

Dr. B. Tewarie: Thank you very much. Thank you very much, Madam Speaker. I was making the point that the Members acted within the best tradition of Parliament and made the points that they needed to by interrogating the issue. And I was also saying that anyone finding themselves in a situation, Madam Speaker, in which they have to go to trial and having had a choice, I think the choice should be a choice that they are able to make freely rather than have a piece of legislation, a law passed, curb the choice for them. I am not saying that this legislation does that. It does give them the choice and in many clauses, it is repeated here in the Bill before this particular House and with that we cannot have any quarrel.

I think many of the contributions on this side were simply pointing, first of all, to the flaws in the argument about the superiority of a trial in which the judge was the sole determinant and on the other hand, making the case for a trial in which the jury of ordinary people, peers made a decision and they were arguing for the significance of that in relation to certain traditions within the British legal system and the British democratic system which has been passed on here to Trinidad and Tobago and which we have evolved. [*Desk thumping*]

That is what this whole thing was about. We were not fighting with the Government about anything. We were fighting the issues and we wanted to

articulate the issues so that the country would understand. We also wanted to say that there are certain things that are held as sacrosanct but it is held—those things are held sacrosanct only in certain circles and for certain reasons having to do with the evolution of this society. And those points were made, they were articulated, they were pointed out and that is basically the argument we were making.

This Bill, we do not find with the amendments that came from the Senate, we do not find it as objectionable as we found the first eight-page Bill and we make that very clear. It is very different and we therefore are willing to engage the Bill in a constructive way.

In closing, I want to indicate—[*Desk thumping*] Madam Speaker, I simply want to point out to you because these issues come up all the time, that the Members on the other side are simply provoking me. [*Laughter*] And now that is a joke for some Members.

Madam Speaker: I want to assure you that no attempt to provoke any Member by any other Member would be tolerated in this House, okay? So again as I said, direct your contribution to the Chair. You are experienced but you can rise above crosstalk which you know is part of parliamentary practice and traditions. Please look this way and direct your contribution. You have the ear of the Chair.

Dr. B. Tewarie: I will simply close on this point, Madam Speaker. I have made the few points that I wanted to make which is first of all to correct the record that we never intended at any time to abolish jury trials. Secondly, that Parliament is for open and free debate on the issues. Thirdly, that the Opposition has a role to play in this Parliament and the Government cannot prevent us by anything that they do from playing that role of the Opposition [*Desk thumping*] in this country. Thirdly—[*Interruption*]

Hon. Member: Fourthly—

Mrs. Robinson-Regis: Standing Order 48(6).

Madam Speaker: So Member, if you could just restate that in a way that is not imputing any motive and we can press on, please.

Dr. B. Tewarie: What motive did I impute? [*Laughter*]

Hon. Member: He does not even know what he is saying. [*Laughter*]

Madam Speaker: Yes, Member. Again, just restate what you just said and please continue. I will ask all other Members to please, again, conduct themselves with a manner which is deserving of this House. Member for Caroni Central.

Dr. B. Tewarie: I am glad the Members of the Government heeded your statement today, Madam Speaker. I am happy to see it in action. But, Madam Speaker, the role of the Opposition is clear from our point of view and we will not be hindered in any way by the Government, either by their behaviour, their actions or the statements that they make or their attempts to ridicule to prevent us from expressing our view as the Opposition and from presenting ourselves as the opposition voice in this country. We have the precedent of having criticized Bills and voting for it and therefore we choose to do that as is necessary depending on what the Bill might be.

Finally, there is no need for the Government to take a position by any of its Members and in this particular case, the Member for Port of Spain North/St. Ann's West to seek to take a self-righteous position to berate the Opposition—

Hon. Members: "Ohhh."

Dr. B. Tewarie:—for taking a position of their own. It is our right—

Madam Speaker: All right. So you have made the point. Member, please press on and let us—[*Interruption*]

Hon. Member: Go.

Madam Speaker: Member for Caroni Central.

Dr. B. Tewarie: It is our right to express our view and we do not have—the Government has no right in this Parliament to chastise us for the views that we take. That is what we stand up in this Parliament—[*Interruption*]

Mr. Deyalsingh: Madam Speaker, Standing Order 48(6).

Madam Speaker: Member again, please try not to impute any improper motives as I said. You have a little time left, please use it to your benefit.

Dr. B. Tewarie: Madam Speaker, in the time that I have spoken during this period I must have been interrupted 10 or 12 times. The Speaker's attention is not focused on the protection that I asked for—

Hon. Members: "Ohhh."

Madam Speaker: Member, I am sure you really do not mean that in the way it sounds. And therefore, I will ask you not to proceed along that line. The Chair will try as much to rise above that statement, but it is not going to be tolerated if it is continued.

Dr. B. Tewarie: Madam Speaker, you know at a point in time I ask for your protection. Is that correct?

Madam Speaker: Member, please continue with your contribution, please.

Dr. B. Tewarie: Yes. Well, I simply want to say that we have made our contribution in this Bill. We have said what we had to say and we will vote as we feel that we should vote given the conduct of the Government in this matter.

The Attorney General (Hon. Faris Al-Rawi): [*Desk thumping*] Thank you, Madam Speaker. Madam Speaker, I rise to wrap up this debate, I think importantly to actually get back to the terms of the Bill, because most respectfully,

I mean, in the very vacant seats across me now, the large part of the House opposite, I really found it very hard to follow the Opposition's views on this Bill.

Let me start with the response to the hon. Member for Siparia straight away, because many of my colleagues have given good reflection on a number of matters. I note, yet again, the Member for Siparia is not in the House to listen to responses much like other Bills where there were embarrassing positions on the part of the Opposition. But I note in particular the attempt by Members opposite to somehow scurry back to the point that the Leader for the Opposition did not make a comment on the constitutionality of this law. Let me read from the unrevised *Hansard* of the Member for Siparia.

> "However, Madam Speaker, I had planned—in fact in our caucus yesterday I said look, our Senators have spoken on this, they have put in all of these amendments, there was a special select committee and so on, so you know what, tomorrow this Bill should get easy passage. But after the caucus, when I finished my caucus and I got down to actually reading the Bill, I cannot believe after the rigorous process that this Bill went through to reach us here, the amendments…the level of incompetence being demonstrated and this Bill has some fundamentally flawed positions that we cannot do it."

She then goes on, the hon. Member, to touch on an issue of blacklisting which I will come to separately, because the hon. Member spent some considerable time talking about an alleged blacklisting of Trinidad and Tobago.

Mr. Charles: Madam Speaker, Standing Order 55(1)(b). This is tedious repetition. This is the fourth time that I am hearing this point about—[*Interruption*]

Hon. F. Al-Rawi: I am wrapping up the debate.

Mr. Charles:—the political leader and the point she made.

Hon. Members: What wrong with you?

Mr. Charles: It was made by four speakers.

Madam Speaker: Thank you very much, Member for Naparima. Attorney General.

Hon. F. Al-Rawi: Thank you. Yes, Madam Speaker, perhaps the hon. Member is not aware of what a wrap-up involves. But, Madam Speaker, I have the *Hansard* from the Parliament, today's *Hansard* of the unrevised version of the hon. Member for Siparia and I am dealing squarely with the attempt to say something and then run away from it by the entire bench opposite.

The hon. Leader of the Opposition went on to say:

> "…I did not hear him go"—into—"the change to be made to 67 and 68. Now, it is mind-boggling that so much time was spent in the Senate on this matter. So much time was spent in a"—special—"select committee."

She then, the hon. Member went on to speak about man-hours spent on the Bill, et cetera. And the hon. Member says and I quote:

> "…the same fundamental error after all that time is being made with section 67 and section 68 of the Criminal Procedure Act."

The hon. Member then went on to quote and I quote as follows:

> "…I have to refer to the judgement on Madam Justice Pemberton, as she then was, now elevated to the Court of Appeal, in a case of Jason Bissessar—no relative, please—v the Attorney General, in which…a very big deal, because you have brought sections that have been struck down by the courts asking us to insert judge or delete judge"—and jury—"and add

jury. That is a serious matter, and therefore…I will give it to you in a second."

And the hon. Member goes on to cite the judgment as:

"…2009/04/10, judgement by the hon. Justice Pemberton, between Jason Bissessar and—who is the defendant?"

—the hon. Member says—

"The Attorney General. And this was delivered on the 11th day of June, 2010."

The hon. Member then goes on to make a very important position on the part of the Opposition:

"In this judgement the court made it very clear with respect to…67 and 68. And, you see, it is not simply a question of now removing these sections, because you would have to put other provisions in place. But you did it, because it was brought to your attention with the Offences Against the Person, and the Attorney General at time tried to blame the Law Revision Commission, say that they did not do their homework after the court had struck those things down, by striking them."

She says this, the hon. Member:

"The Law Revision Commission cannot change the law."

So here we have the submission from the *Hansard*, unrevised as it is, of the hon. Leader of the Opposition of Senior Counsel saying that the Bill is fundamentally flawed.

We then had the Member for Oropouche East, another Member of the Parliament who has a habit of not being in the honourable Chamber when we are wrapping up Bills, particularly, as he expects answers to come at him, but the hon.

Member for Oropouche East then says, we did not come here to talk about constitutionality, you know. But, Madam Speaker, I listen to the news regularly, unlike the hon. Member's self-professed lack of awareness on that; that is the Member for Oropouche East. And I heard eight o'clock news, nine o'clock news, 10 o'clock news, 11, 12 o'clock news, one o'clock news—Who was being quoted on the news?—the Member for Oropouche East. We are not going to walk out of the Chamber today, we will walk in because there are serious constitutional issues to be dealt with.

So the Member for Oropouche East and the Member for Siparia obviously had the wherewithal and mindset to make sure to speak to the media this morning, talked about serious constitutional issues. But, Madam Speaker, what I found astronomical was that the Members who support the research of the hon. Member for Siparia could have set up a Leader of an Opposition like that. And let me explain what I mean by that.

The hon. Leader of the Opposition had the wherewithal to come to this Parliament and distance herself from the man-hours spent by her own Senators in the Senate, where there was unanimity of purpose and vote, no voices against the Bill and then make an observation that it just cannot be supported effectively, because of serious constitutional issues.

Well, Madam Speaker, the minute I heard that, recognizing that the hon. Member was talking about a 2009 case, with a judgment being delivered in 2010, we are now standing in 2017 and it was delivered in June 2010 when Anand Ramlogan was the Attorney General. The fact is, first of all, let us assume that the submission of the hon. Leader of the Opposition was correct. The hon. Leader of the Opposition's submission is, the law has been struck down. You cannot amend

law which is struck down. You made a fatal error, shame on you.

Number two, I just quoted from the Hon. Leader of the Opposition who said:

"The Law Revision Commission cannot"—amend—"the law."

Madam Speaker, my God Almighty. [*Interruption*] That may be self-righteous perhaps, but my God Almighty, Madam Speaker, the Leader of the Opposition, Senior Counsel Kamla Persad-Bissessar MP, SC, fails to realize that the laws of the Republic of Trinidad and Tobago contained in the Law Revision Act, Chap. 3:03, an Act of Parliament No. 441 of 1979 specifically says in black and white, that the Law Revision Commission shall be constituted. Hear section 16:

> "In the preparation of the Laws for any revision under section 8 or 9, the Commission shall have the following powers:
>
> (a) to omit—
>
> (i) all written laws or parts of written laws which have been repealed expressly or by necessary implication, or which have expired or have become spent or have had their effect;"

This is the black and white laws of the Republic of Trinidad and Tobago. The hon. Leader of the Opposition was an Attorney General of Trinidad and Tobago, was a Minister of Legal Affairs.

The Minister of Legal Affairs has responsibility in the old days for the Law Revision Commission. Prakash Ramadhar then, I am calling the name because of the title, the hon. Member for St. Augustine was the Minister of Legal Affairs and had responsibility for the Law Revision Commission in 2010. The Leader of the Opposition was the Prime Minister of Trinidad and Tobago who saw it fit to bestow silk in 2013 upon a select few, and the Leader of the Opposition comes to

the Parliament and says, the Law Revision Commission cannot revise the laws.

Madam Speaker, it gets worse. In a media release, omissions and alterations of the revised laws, published by the Secretary to the Law Revision Commission, the Law Revision Commission has stated, in black and white, that unfortunately they did not amend laws arising out of the case of *Gilbert Evelyn v the Attorney General*. It was unreported judgment, where Sen. Ramdeen appeared as one of the learned attorneys in that case. And the Law Revision Commission put out in black and white, unfortunately this was not done and the failure to do so was a grave oversight on the part of the Commission.

But worse yet, that is in reference to the laws in 2010, 2011, 2012, 2013, 2014 and 2015, where the People's Partnership, UNC Government had the public purse and expenditure for the Law Revision Commission. So, when the odium is poured, "ah ha, worse Government ever", we heard the hon. Member for Siparia say. Perhaps the hon. Member was referring to the Government that occupied office in the period 2010 to 2015.[*Desk thumping*]

So Madam Speaker, let me deal with the arguments coming out of the Member for Oropouche East, another duck and run submission by the Member for Oropouche East. Started off in his usual comedy, laughing at himself, yet again. I am yet to understand what is so funny in the content that the Member for Oropouche East talks about. I just do not get it, Madam Speaker. "Ah try hard to listen", but I find no comedy in any of the subject matter, laughing constantly. So here we go. The Member for Oropouche East says, in his contribution, and he quotes, said he was waiting for Laventille West to get to paragraph 39 of the judgment. Well, let us deal with the judgment. The judgment of the Court of Appeal of the Republic of Trinidad and Tobago, the Supreme Court of Trinidad

and Tobago which dealt with this matter, if I could find it here, very clearly on the 31st of January, 2017, the Court of Appeal judgment, I want to put into the record, certain parts not traversed by my learned colleague, the Member for Laventille West.

"Summary of Decision.

The appeal…"

—that is against the findings of unconstitutionality in the provisions of sections 67 and 68 of the Criminal Procedure Act. Hear this, paragraph 15:

> "The appeal is allowed for reasons given at paragraphs 31 to 41 below. The cross appeal is also allowed for the reasons given at paragraphs 25 to 30 below."

But listen to this:

> "Relevant Evidence"—paragraph 16:
>
> "The facts as stated are compiled from three affidavits filed in these proceedings."

Hear who gave the affidavits.

> "The appellant"—that is Jason Bissessar—"and Mr. Gerald Ramdeen, his attorney-at-law—and—"Dr. Anton Cumberbatch…"

Let me repeat that. The evidence which the Court of Appeal considered in reversing the decision which the Member for Siparia sought to bring to the Parliament as an, "ah ha, ah ketch yuh", your negligent point. The evidence was given by the appellant, Gerald Ramdeen and Dr. Anton Cumberbatch.

Now why do I say that? Because Gerald Ramdeen now serves as a Senator and participated in the Special Select Committee. Dr. Anton Cumberbatch, now Prof. Anton Cumberbatch of the University of the West Indies, appeared before the

select committee. But, Madam Speaker, listen to this. In the verbatim record of the Special Select Committee, because you know we did a Special Select Committee. Thank God, the verbatim records everything, Madam Speaker. Hear this, verbatim notes on the second meeting, Friday June 16, 2017 at 1.10 p.m. And listen to what we have here, appearing at pages 28 to 29, listen to this. I am quoting now from the verbatim record from Sen. Ramdeen's contribution:

> "A person who suffers an abnormality of mind is not and is different from someone who is guilty but insane because a guilty but insane person has no culpability and therefore, the only reason that you are detaining that person is for the purposes of ensuring that the person is not a risk to society."

8.45 p.m.

So that is why when we had the discussion in Parliament, you go back to the case of Hatfield, somebody who is guilty but insane, you cannot detain that person for any other reason than for public policy considerations and protecting himself from protecting the society. Why have I raised this? Because we squarely considered guilty but insane in the context of sections 67 and 68 of the Criminal Procedure Act. It is not an omission on our part. The only omission that occurred is the Leader of the Opposition, the Member for Oropouche East and the Member for St. Augustine cannot talk to Sen. Ramdeen [*Desk thumping*] who gave evidence in the matter, appeared as an attorney-at-law, participated in the Special Select Committee, and then we have to hear about self-righteousness on part of the Government, "Doh tell us what to do; doh tell us what to say", most respectfully.

Do you know what is infra dig? Infra dig is, as the hon. Prime Minister often says, putting up a straw man to beat him down. That is what this is. It is a

straw man to beat him down. So let us take the argument to the Leader of the Opposition, now recast three versions over when they realized, "Oh, my God, the thing appeal and struck down." First of all, I checked the Privy Council's website, there is no appeal pending right now on this matter. [*Desk thumping*] Secondly, even if there is an application for conditional leave, and let us assume that there is one—let us give the benefit of the doubt.

The Leader of the Opposition is saying, "We cyah support this law because you can't amend the law and, also you ought to change the law", and then Members opposite say, "Well hold on. Doh change the law. Leave it as it is because the court decision is still outstanding. It is under appeal." The Member for Caroni East said it, the Member for Oropouche East said it. So which is it? So, number one, do not amend the law. The fact is the Court of Appeal has upheld the constitutionality of sections 67 and 68. That is the highest appellate court in Trinidad and Tobago, in our local jurisdiction. Therefore, we are bound to accept that the law, as expressed, is in fact part of the body of laws of Trinidad and Tobago. So the whole submission that you are amending law that was struck down, out the door. Shamefully so.

Secondly, leave it as it is. Well if the argument is leave it as it is because you are going to the Privy Council, then why did you raise the point for? What did you raise the point for? The hon. Leader of the Opposition confused herself all how, as did the Member for Oropouche East, saying you cannot confuse "President" with "Court", and under the Offences Against the Person Act, you "hah" to change "President" to "Court", and look you need to do the same thing here. The judgment of Mr. Justice Bereaux of Court of Appeal, supported unanimously by Mr. Justice Mendonca and Mr. Justice Narine, says in pellucid

language, that this case is distinguishable from the Offences Against the Person Act point, and if the hon. Members could actually read a case for once, from cover to cover, they would have seen that.

And what does the court say? The Court of Appeal says that the utilization of the Executive authority of the President is appropriate because the President has the obligation to do the review by way of request, and the honourable Court of Appeal goes further to say that that is supported by implication and by operation of law by applying the rules of common law. But the Member for Oropouche East then says, "But look they get damages in a case"—and then he paused to laugh again at himself—"and they get a hundred thousand dollars in a case". And what happened next? The hon. Member, again, embarrassingly confused himself, because the order for damages was offered in circumstances where the State failed to take a step. Look, it is no different from the order in damages in two cases brought by Anand Ramlogan against his work that he did as Attorney General, where they had failed to operationalize, or provide child rehabilitation centres, and damages were awarded.

Exactly the same person who, when as Attorney General, proclaimed the laws to deal with the forms for the Proceeds of Crime Act, then sued for no forms for the Proceeds of Crime Act and got damages on that. But the determination is also similar to recent rulings of the hon. Mr. Justice Frank Seepersad, who came forward to say that in freedom of information requests, that the Government has done its very best, this Government, to produce Interception of Communication Act reports for 2013, 2014, 2015, all of them which the last Government did not do, and when they went back to court to ask for 2012 to be produced, the hon. judge say, "But hold on. For a whole five years you did not do anything. You

were the Government Ministers, now in court as litigants, I am going to give time for this to be done." So the Judiciary does have a common sense approach to matters.

Madam Speaker, it is no different from the Judiciary also saying and pouring scorn. You would have seen it in today's newspapers, again Justice Seepersad saying that the abject failure of the Government, UNC Government, to have defence council meetings 2010, 2011, 2012, 2013, 2014, 2015, which caused people to go to court and ask for damages, so that was a dereliction of duty of the last Government. Apply that to the circumstances of the Court of Appeal judgment now, layered unto the Court of Appeal saying your common law right of review being exercised properly by the President of the Republic of Trinidad and Tobago, all that you actually have to do is to do the work. And I commend the Minister of National Security [*Desk thumping*] for making sure that the defence council actually sits, and the Office of the Attorney General is in there tidying up all of the five, six years of matters.

Dr. Tewarie: Madam Speaker, Standing Order, 48(1). What is the relevance of that to the Bill before the House?

Madam Speaker: Attorney General, please continue.

Hon. F. Al-Rawi: Thank you. So, Madam Speaker, the Member for Oropouche East just cannot get it right. Now, I understand maybe what the laughter is about on his own statements because he is comparing apples with watermelon—the hon. Member. Secondly, "Oh my gosh. Please hon. Members opposite, lend your Leader a hand, nah." [*Desk thumping and laughter*] Check her case. Madam Speaker, the Parliament of Trinidad and Tobago, we have Wi-Fi. You could pull up the case on the Court of Appeal's listing in the High Court, right here, just as

we did. As the hon. Leader raised the point, we pulled up the judgment right here and looked at it, and I find it incredible that a whole office of the Leader of the Opposition is at work, because what are they doing with the Parliament's money that pays the salaries for research?

So, Madam Speaker, let us move to the next point, data. Hon. Members are saying, "Well bring data, have more discussions. Did you consult?" Let us deal with the consultation point. On the consultation point I can tell you, Madam Speaker, that we received written contributions from the Judiciary, December 21, 2016; from the Criminal Justice Adviser for the UK and Canadian Governments; from Mr. Ravi Rajcoomar, member of the Criminal Bar Association; and from Mr. Rajiv Persad also member of the Criminal Bar Association, and I will say now on the record, all of the advocacy against judge-only trials is misplaced, because as the hon. Member for Port of Spain North/St. Ann's West put it, we are merely providing an amplified opportunity for an election if you so choose.

So if the Member for St. Augustine has a problem, you do not have to elect, but I will tell you this in answer to the question of who will use the system. Madam Speaker, we did not just come up with a suite of laws you know. If you traverse the Chief Justice of the Republic of Trinidad and Tobago, back-to-back Chief Justices, and you look at what they have been crying for, here is what they have been crying for: plea bargaining, abolition of preliminary enquiries, decriminalization of motor vehicle offences and putting them down to road traffic violations, dealing with an experiment for judge only, dealing with Criminal Procedure Rules, asking for new courts, asking for improved conditions to the DPP's office, asking for a separate Division of the Children and Family Division Court, asking for protocols, asking for judicial autonomy. You know what? We

did all of them [*Desk thumping*] and we are operationalizing as we speak.

And, Madam Speaker, I can you tell you, confidently, that the judicial sector committee—we have gone to work further, you know. We are dealing with the prosecutorial arm of the State which is 95 per cent vested in the Trinidad and Tobago Police Service. We are creating a national prosecution agency just by way of convention. We do not need law to do it.

Mr. Charles: And the backlog still high.

Hon. F. Al-Rawi: The hon. Member for Naparima is saying the backlog still high, but at least we know what the backlog is. First Attorney General and first Government in this country to tell this population what we are, who we are, and what we are doing about it. [*Desk thumping*]

You see, solutions do not come out of the air. We had a Ministry of Justice. We had four Ministers of Justice, Emmanuel George, Prakash Ramadhar, Christlyn Moore, Herbert Volney. They produced section 34; we got the DNA not operationalized. Minister of National Security doing it; we got judicial centres. Had to break down because the procurement was wrong, but what else did we get? Electronic monitoring not operationalized. Minister of National Security in tandem with his colleagues working on that; video conferencing at the Remand Yard, not done. We are dealing with that; video conference suite recording. We have put that into effect.

You see, Madam Speaker, hon. Members could come with the cut and paste strategy time and time again; consult some more; think some more; we "doh" like this; it unconstitutional; ah ha, you not doing your job. I can confidently say that we have done our job, but let me tell you one thing. I heard the hon. Member for Siparia talking about Trinidad and Tobago being blacklisted and want to know

about Trinidad and Tobago being blacklisted. Madam Speaker, my God Almighty, again I pray for hon. Members opposite to lend the Leader a hand. Do you know what the hon. Leader was talking about? You know what the publication that came out is? Trinidad and Tobago has not advanced in its position on the Global Forum. Do you know what the Global Forum is? In 2011, the UNC Cabinet agreed to join the Global Forum. They agreed to common reporting standards.

In 2011, there was a peer review. There were two peer reviews which identified what needed to be done. Minister Larry Howai, Minister of Finance, found himself in Berlin in 2014—take a nice trip in October 28th and 29th—to go and commit that Trinidad and Tobago is on track. 2011, 2012, 2013, 2014, 2015, we were supposed to sign 13 bilateral agreements with countries for automatic exchange of information, like we did with FATCA for the United States. The hon. Leader confusing it, calling it FATCA today. It had nothing to do with FATCA. It is Global Forum.

Mr. Imbert: Is they join we in that.

Hon. F. Al-Rawi: They joined us into it. They did not negotiate a single bilateral agreement; not a single one. It took this Minister of Finance in September 2015 to hustle up, and the Attorney General's Office to find ourselves on an application for fast track where we applied for a multilateral convention joining, so we could join the other 142 countries and achieve the multilateral status, or at least we have agreements. We then drafted the law—we went to Paris—we sent a team of technocrats to Paris for fast track review in February 2017, and then we said to the Global Forum, "Listen, we would like you to consider our application." They say, "Hold on. The review is for the period 2010—2015." Do you know what the country did? Nothing.

So the Member for Siparia comes shamelessly, not an ounce of research, nobody opposite helping her, having not done the job for the review period under her own Government, to complain we blacklisted for FATCA, getting that wrong too. Oh my gosh! Madam Speaker, when does shame run out? This is no joking matter. We are in the Parliament of the Republic of Trinidad and Tobago where a Leader of an Opposition stands up to make a contribution and nothing that the Leader says can be relied on. Nothing, most respectfully.

Mr. Hinds: She is an all-rounder.

Hon. F. Al-Rawi: And I do not mean to be pejorative. You will notice that I have taken a very careful slant and tone, but, Madam Speaker, my gosh, it is just embarrassing.

So, Madam Speaker, we intend to treat with the Global Forum, we have legislation—[*Interruption*]

Madam Speaker: Attorney General?

Hon. F. Al-Rawi: Yes, Madam Speaker.

Madam Speaker: Your original 30 minutes are now spent. You are now entitled to 15 more minutes.

Hon. Faris Al-Rawi: Should it please you. I thank the army of researchers comprised in the body of one, in the Minister of Finance. Madam Speaker, with your leave, I wish to quote from the OECD. The OECD said:

> "Applying the objective criteria, and taking into account the fast track reviews, Trinidad and Tobago has been identified as the only jurisdiction which has not yet made sufficient progress towards satisfactory implementation of the tax transparency standards."

Hear this:

"Discussions are continuing with Trinidad and Tobago, and progress is anticipated soon." [*Desk thumping*]

So can you rely on a scintilla of evidence coming from the Opposition? Most respectfully, no. Five years of no compliance, leave out the germane line—because, Madam Speaker, when you come to the Parliament as a Leader of an Opposition, and you tell the country, your country has been—hear the word eh. Not grey listed, not negatively reflected upon—blacklisted for FATCA. Not even Global Forum. What do you expect the banking and investment community to do? What do you honestly expect? How can we expect a non-reaction? This is no different from flood politics, Madam Speaker. And why I use the frame flood politics, it is where again, you put up a straw man to beat it down.

Dr. Rowley: They want to be an act of massive pretence.

Hon. F. Al-Rawi: Correct. There is a calculated—how should I say this as parliamentary? There appears to be a calculated agenda to cause a loss of confidence in every institution, including the State of the Republic of Trinidad and Tobago, and reckless, unresearched, irresponsible, shameful comments like those made by the hon. Leader of the Opposition, as to constitutionality, as to blacklisting, are just not acceptable in a society that respects democracy such as Trinidad and Tobago does and ought to.

So, Madam Speaker, I am not really sure—[*Interruption*]

Dr. Rowley: Tell the Member Caroni East they have a duty to speak.

Hon. F. Al-Rawi: Yeah. The hon. Leader of the Opposition is reminding me that when the Member for Caroni East makes the plea, that the Opposition has—[*Interruption*]

Hon. Members: Hon. Prime Minister.

Hon. F. Al-Rawi:—that the hon. Prime Minister sorry, says—forgive me. I was thinking of the Member for Siparia because I have been on the case of that point. But when the hon. Prime Minister says that in acknowledgment that the Opposition has a duty to speak, Madam Speaker, they have a duty to speak after preparation, and they also have a duty to speak the truth. And if hon. Members were—how should I say? I do not want to say patriotic. If hon. Members were as forthright as they ought to be, they would have just simply said, "You know, we got it wrong. We did not realize the case was overturned. We are sorry about the position. Let us just move on." We heard the move on statement from the Member for Siparia many times before, "Let us just move on".

So, Madam Speaker, that deals with the Member for Caroni Central, that deals with the very little that the Member for Oropouche East had to say. I heard the Member for Caroni East talking about the United States of America. There is no comparison between Trinidad and Tobago and United States of America. Our Constitution does not recognize a right to a jury. The US Constitution does. You cannot compare jurisdictions which have entirely different rubrics and constitutional legal systems. I cannot understand the reference point to the United States of America, most respectfully.

Madam Speaker, I think that we have pretty much traversed everything. Let me perhaps say that there is no need to amend sections 67 and 68 of the Criminal Procedure Act on any one of the arguments offered, inconsistent as they are by the Members of the Opposition. This is good law, this is law which is taking a step in the right direction, it is coupled with operationalization at the same time. The Government has not come here being ashamed, as the Member for Oropouche East constantly says they are talking about their architecture, and their suite, and he said

the suite has now turned bitter. I think the Leader of the Opposition said that.

Dr. Moonilal: Sour.

Hon. F. Al-Rawi: Sour. You know what, I will say it again. The architectural coordinated appreciative model is the opposite of "voops", "vaps" and "vaille-que-vaille", and we make no apology for that. [*Desk thumping*]

So, Madam Speaker, with those submissions on the record, having wrapped up, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

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

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

House resumed.

Hon. Al-Rawi: Madam Speaker, I wish to report that the Miscellaneous Provisions (Trial by Judge Alone) Bill, 2017, was considered in committee of the whole and approved without amendments. I now beg to move that the House agree with the committee's report.

Question put and agreed to.

Bill reported, without amendment, read the third time and passed.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very much, Madam Speaker. Madam Speaker, I beg to move that this House do now adjourn to Friday, the 30th day of June, 2017, at 1.30 p.m. That Friday is Private Members' Day and I will break for the Chief Whip to indicate

what we will be doing.

Mr. Lee: Thank you, Leader. Thank you, Madam Speaker. On Private Members' Day on Friday, we are prepared to debate Motion No. 1 on our Private Members' Business.

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 Caroni Central. I now call upon the Member for Caroni Central.

Preysal Government Primary School (Prevention of Closure)

Dr. Bhoendradatt Tewarie (*Caroni Central*): Thank you very much, Madam Speaker. The matter that I wish to raise, Madam Speaker, is the matter of the Preysal Government Primary School, and from my point of view, and from the point of view of the parents, and teachers, and children, who attend that school, work in that school, and prepare their children to go the school, it is a very important matter. Primary education is for very young children, usually from five to 12, and we have 300 of those children at the primary school in Preysal.

I think, Madam Speaker, through you, that the hon. Minister of Education would know that in 2000, one of the millennium goals was education for all, meaning primary school education across the world, and I think that he would know as well that in terms of sustainable development goals, that this is an important goal of the 17 goals that have been identified by the United Nations. So that he would also know that education is at the centre of a knowledge-driven society, it is the centre of an innovation-led society, and the question I would ask the Minister of Education, through you, Madam Speaker, is why would the Government not act to prevent the closure of a primary school when all that is required is that a problem be solved? And the problem is not large.

So that we have had a situation where the school has been closed over and

over again. It was closed again on Tuesday. Why would the Minister of Education not solve the problem? I would simply like the problem to be solved because the problem is a sewer problem which has a very high stench, and from the point of view of the children and the teachers and the parents, the children get sick, some of the teachers get sick and they are therefore affected by the children's illness as well. Not only are they ill, but when the children come to school, and the parents when their children come home, it is a problem, and I do not think any parents would want to close a school when it inconveniences them as parents.

So what I want to do is to have the Minister of Education help me to find a solution for the problems at the Preysal Government School. The problem is the sewer. It has been fixed before, I will not deny that. I made a request of the hon. Minister and he did have it fixed during the last vacation, but it has still since broken down on several occasions, and when it breaks down the stench is severe.

9.15 p.m.

I spoke to the Minister in October 2015, not just on the school and its dilapidated state and the problems that we were having but also on what he would do with the new school that had been started and was partially completed. I spoke to him again on March 10, 2016; I spoke to him on June the 03, 2016. I wrote letters to him on June 6th, on June 28th, on July 11th. And one of the letters that I wrote, I wrote giving him an entire solution. I would not read the letter in its entirety but I did say to Minister Garcia, the Minister of Education, might I suggest, Minister Garcia, possible solutions. One, use the July/August period to construct a prefab building. I did this as principal of UWI St. Augustine and the three buildings that are prefab are still on the UWI campus being used. Secondly, address a permanent solution for the sewer and rehabilitate the existing toilets; and thirdly, set a target date for completion of the new Preysal Government Primary

School.

What has happened instead is that although on many occasions, the Minister gave me the commitment that the school would be started before the fiscal year 2017 would be over, he then came here during the midterm review to indicate, based on questions, he would not answer the questions in the committee at the finance committee stage but he did answer it to a direct question engaging on the floor saying that other schools had been identified as priorities and this was not now a priority and would be left to the next year.

So we tried in every way. I did not take a role in this in which I played a political or activist role. I allowed the parents, the teachers, to organize their own arrangements—[*Interruption*]—Madam Speaker, the talking in front of me is disturbing me. I would like to ask—

Madam Speaker: I would like all Members to observe the rule that asks Members who are not speaking to listen in silence. It is late, I would not like to have to rise on this matter, again. Member for Caroni Central.

Dr. B. Tewarie: The national PTA got involved with the parents. They sent a petition to them which they also shared with me. I sent this petition to the Minister of Education. It is signed by, I think, 1,000 parents and the Minister has possession of this petition. As I indicated, I also offered a solution and the parents have agreed with the solution. That is to say, they simply want the toilet situation fixed permanently and now they are prepared to move to the community centre which is not too far from the school. They held their graduation there. I was there, another Member of Parliament from our side, from Couva South, was present. And because all the children cannot fit in the community centre, we are asking for a prefab building which will not be a costly exercise nor will it be a large building.

As I indicated, all the solutions can be provided. If the toilet situation is

fixed, the sewer situation, that will solve a problem but the building is a very dilapidated building, and it is possible that things can happen there that can cause accidents to the children and maybe injury to the children. So if we move the children to the community centre and we built the prefab building, they will be safe, they will be free, and if we started construction of the school, they will not be inconvenienced, they will not be under threat, they would not have to deal with the sewer problem and when the school is completed, they can then move into the new school.

So this is basically what I am asking, and Madam Speaker, I do not wish to have any confrontation with the Minister of Education, I just want a solution to the problem. I do not want an explanation of what the problem is, I know what the problem is. All the parents know, all the teachers know, all the children know. I want a solution. I do not want an excuse, it does not add any value. I want a solution. And I certainly do not want any mamaguy on this issue, it involves the lives of children and the convenience of parents and the proper education and facilitation of the teachers providing that education and therefore, what I want is a solution.

As I said, the solution I propose at this point is the community centre—move into the community centre, a prefab building to supplement and a restart of construction as soon as is realistically possible of the unfinished school so that it can be explicitly completed. Education often seems like a system but education is really one school at a time and if we do not pay attention to one school at a time, we are not going to be able—

Madam Speaker: Hon. Member for Caroni Central.

Dr. B. Tewarie: Time is over?

Madam Speaker: Yeah, time is up.

Dr. B. Tewarie: Thank you very much.

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. I am very happy to be given the opportunity to rise and respond to the statements and the arguments presented by the Member for Caroni Central. The first point I wish to make is that this Government is committed to the provision of education and I might say a quality education for all children in Trinidad and Tobago of school age and we will not shirk that responsibility.

Madam Speaker, the problem at the Preysal Government Primary School is one that existed a long time ago. In fact, the Member for Caroni Central, in his presentation, admitted that this is not a new problem and the obvious question now is: Why was it not fixed long ago? We have been toying with this problem and doing our best to ensure that our children are not deprived of an education which is their right. The Member for Caroni Central cited two major problems or two major concerns of his. One is the problem with the sewer and the other one is the delay in the resumption of the construction of the new school. Let me first deal with the problem with sewer.

Madam Speaker, there is a problem that has been identified and that problem is a foul scent that seems to be emanating from the sewer. Officers of the Ministry of Education, accompanied by the experts of EFCL, visited the school on many occasions, and in May 2017, a temporary solution was put in place, which from all reports that I have received, was working well. However, we continue to hear the complaints from teachers and from parents that the foul scent persists.

On June 17th and 18th, that weekend, officers of the EFCL visited the school in an effort to solve the problem and in fact, additional work was done on the sewer lines at the school and those works included a dye test which showed that there were no leaks in the system. I want to stress, on the weekend June 17th to

18th, works were done which included a dye test which showed that there were no leaks in the system. Madam Speaker, it is important for me to state that the principal of the school, accompanied by school supervisors and officers of the Ministry of Education, EFCL also visited the school and on every occasion, it was reported that there was no evidence of any foul scent. Now, I am not saying that there is none, all I am reporting is the principal of the school reported to us that there was no evidence of a foul scent.

However, I want to give the Member for Caroni Central and this House, and in particular, the parents and the students and the teachers of the Preysal Government Primary School that we will do everything possible to ensure that the students are comfortable in those surroundings and during the July/August vacation period, which is only a matter of one and a half weeks off. We will, again, be looking at the problem in an effort to ensure that that problem does not recur.

The second problem that has been identified by the Member for Caroni Central is the fact that there is a delay in the resumption of the construction of the school. I have heard the Member for Caroni Central, when he was in the company of parents while they were protesting, stated that the school was at 60 per cent completion. I wish to inform this House that from the information I have received from the contractors and from EFCL and from the Ministry of Education personnel, the school is at a level of 40 per cent complete.

Dr. B. Tewarie: Would you give way just for one minute? I just want to correct that. I said—and it is recorded—that the school was 60 per cent completed as far as I know but the Minister has claimed 40 per cent. Be that as it may, let us address the issue. I do not want to argue about that.

Hon. A. Garcia: Madam Speaker, I just want to say that everyone would know

and would accept the fact that we are facing stringent economic conditions. There are a number of schools that are at various stages of completion. What we have decided, because of our limited resources, we had to prioritize and the 10 schools that we have identified are schools that are in the region of 90 to 95 per cent complete. Preysal Government Primary School is 40 per cent complete and this is why it was not put on the priority listing.

But as I told the Member for Caroni Central, on many occasions, we will endeavour to ensure that the completion of the school is done and hopefully, it will be placed as work to be done in the new fiscal year. I do not know whether this satisfies him but from all intents and purposes and from all that he has been saying, that does not seem to meet his satisfaction. We can only do what we can with respect to the funds and the resources that are available to us.

But I want to assure the Member for Caroni Central that we are not neglecting the Preysal Government Primary School. I want to assure the Member for Caroni Central that we also hold fast to the goals that talk about the right of a child to an education and we also agree that education is in the forefront of economic development and social development. And this Government and this Ministry of Education, since we have come into office, we have been doing everything possible to ensure that our children are not denied an education.

In fact, access to education is one of our clarion calls and this is why for five consecutive terms, we have been able to open our doors to our students at the beginning of each academic term. So that what happened in the past did not happen and again, I want to give the assurance that during this year, July/August vacation period, we will do everything to ensure that when school reopens in September, all our children will have an access to an education, including the students of Preysal Government Primary School. Thank you very much. [*Desk*

thumping]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.30 p.m.