

**HOUSE OF REPRESENTATIVES***Wednesday, May 01, 2019*

The House met at 10.00 a.m.

**PRAYERS**[MADAM SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

**Madam Speaker:** Hon. Members, I have received communication from Mr. Fazal Karim, MP, Member for Chaguanas East, who has requested leave of absence from today's sitting of the House. The leave which the Member seeks is granted.

**PAPERS LAID**

1. Audited Financial Statements of MIC Institute of Technology Limited for the financial year ended September 30, 2016. [*The Minister of Finance (Hon. Colm Imbert)*]  
*To be referred to the Public Accounts (Enterprises) Committee.*
2. Annual Report of the First Citizens Bank Limited for the year ended September 30, 2018. [*Hon. C. Imbert*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Public Accounts of the Republic of Trinidad and Tobago for the financial year ended September 30, 2018. [*Hon. C. Imbert*]
4. Public Accounts of the Republic of Trinidad and Tobago for the financial year 2018. [*Hon. C. Imbert*]  
*Papers 3 and 4 to be referred to the Public Accounts Committee.*
5. Ministerial Response of the Ministry of Finance to the Twelfth Report of the Public Administration and Appropriations Committee on an Examination into the Administration of Disaster Relief in Trinidad and Tobago. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]

6. Ministerial Response of the Ministry of Health to the Thirteenth Report of the Public Administration and Appropriations Committee on an Examination into the Administration of Special Health Care Programmes in Trinidad and Tobago. [*Hon. C. Robinson-Regis*]
7. Ministerial Response of the Ministry of National Security to the Tenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Detainees at the Immigration Detention Centre. [*Hon. C. Robinson-Regis*]
8. Ministerial Response of the Ministry of the Attorney General and Legal Affairs to the Tenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Detainees at the Immigration Detention Centre. [*Hon. C. Robinson-Regis*]
9. Ministerial Response of the Ministry of Energy and Energy Industries to the Twentieth Report of the Public Accounts Committee on the Examination of the Report of the Auditor General of Trinidad and Tobago for the financial year 2017. [*Hon. C. Robinson-Regis*]
10. Ministerial Response of the Ministry of Foreign and Caricom Affairs to the Twentieth Report of the Public Accounts Committee on the Examination of the Report of the Auditor General of the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2017. [*Hon. C. Robinson-Regis*]
11. Ministerial Response of the Ministry of the Education to the Twentieth Report of the Public Accounts Committee on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2017. [*Hon. C. Robinson-Regis*]
12. Ministerial Response of the Ministry of Social Development and Family Services to the Twentieth Report of the Public Accounts Committee on the Examination of the Report of the Auditor General on the Public Accounts of

the Republic of Trinidad and Tobago for the financial year 2017. [*Hon. C. Robinson-Regis*]

13. Administrative Report of the Office of the Prime Minister for the period October 1, 2016 to September 30, 2017. [*Hon. C. Robinson-Regis*]

**PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE  
(Presentation)**

**Caroni (1975) Limited**

**Dr. Tim Gopeesingh** (*Caroni East*): Thank you, Madam Speaker. Madam Speaker, I have the honour to present the following report:

Eighteenth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of the Caroni (1975) Limited for the years ended June 30, 2010 to 2018.

**JOINT SELECT COMMITTEE REPORTS**

**(Presentation)**

**Mrs. Christine Newallo-Hosein** (*Cumuto/Manzanilla*): Thank you, Madam Speaker. Madam Speaker, I have the honour to present the following reports:

**Social Services and Public Administration  
Current Level of Violence among Students in Schools**

Eighth Report of the Joint Select Committee on Social Services and Public Administration on its First Follow-up Inquiry into the current level of violence among students in schools with particular focus on Physical and Cyber Bullying.

**Social Services and Public Administration  
Contract Employment in the Public Service**

Ninth Report of the Joint Select Committee on Social Services and Public Administration on an Inquiry into the state of Contract Employment in the Public Service.

**URGENT QUESTION****Water Woes in Princes Town Schools  
(Contingency Plans)**

**Mr. Barry Padarath** (*Princes Town*): Thank you, Madam Speaker. Madam Speaker, question 1 to the Minister of Education. In light of the water woes affecting the constituency of Princes Town and several schools being dismissed early due to a lack of water, could the Minister indicate what contingency plans are in place to avoid this disruption due to dry taps in Princes Town?

**The Minister of Education (Hon. Anthony Garcia)**: Thank you very much, Madam Speaker. Madam Speaker, no school in the south-eastern district has been dismissed early. We have made arrangements with WASA and the fire services to prioritize a supply of water to schools that may be affected. Schools have also been requested to put measures in place to monitor and conserve water. Let me repeat, no school in the south-eastern district has been closed because of lack of water. Thank you very much.

**Mr. Padarath**: Thank you, Madam Speaker. Is the hon. Minister saying that he is not aware that Princes Town Presbyterian No. 1 and Princes Town Presbyterian No. 2 schools have been disrupted due to a lack of water? Is the Minister categorically saying that—

**Madam Speaker**: The Minister of Education. Member for Princes Town, you have already asked the question. Minister of Education.

**Hon. A. Garcia**: Madam Speaker, just before I came to this Chamber I was in contact with our director of school supervision, who was in contact with the line School Supervisor III for the south-eastern district, and the information that was relayed to her indicated that no school, no school has been closed. Thank you very much. [*Desk thumping*]

**Mr. Padarath**: Madam, clearly then the Minister is not aware of what is

happening in the schools—

**Hon. Member:** A question. [*Interruption*]

**Madam Speaker:** Order! Order!

**Mr. Padarath:**—and seeing that the Minister—

**Madam Speaker:** Member for Princes Town. [*Interruption*] Maybe, Member for Diego Martin North/East and Member for Caroni East, maybe you all are not looking this way. Member for Princes Town, you are allowed to ask a question.

**Mr. Padarath:** Thank you, Madam. Madam, in light of the answer provided by the Minister, seeing that he is not aware of what is happening in the nation's schools, could the Minister categorically deny that Princes Town Presbyterian No. 1 and Princes Town Presbyterian No. 2, their classes have not been disrupted for this week due to water problems?

**Madam Speaker:** I am not going to allow that question, I believe that question has been—

**Mr. Padarath:** But answer it, Madam—

**Madam Speaker:** Member for Princes Town.

**Mr. Padarath:** But, Madam, we are just—

**Madam Speaker:** Member for Princes Town.

**Mr. Padarath:** Water has been totally abandoned.

**Hon. Member:** What is wrong with you? [*Crosstalk*] What is wrong with you?

**Mr. Padarath:** Thousands of people—

**Madam Speaker:** Member for Princes Town.

**Mr. Indarsingh:** Water is a problem in the country.

**Mr. Padarath:** Thousands of people in Princes Town have no water—

**Madam Speaker:** Member for Princes Town, I am warning you! I am warning you that you are offending the Standing Orders. Would you get up, retract what

you have done, and we can press on.

**Mr. Padarath:** Madam, I retract, but I stand as the representative for the people of Princes Town—

**Madam Speaker:** Member for Princes Town, hon.—

*[Madam Speaker sits]*

**Mr. Padarath:**—and there are thousands of them without water. We are being denied to speak on their behalf in this Parliament. *[Desk thumping]*

**Mr. Indarsingh:** People are crying out for water. *[Interruption]*

**Madam Speaker:** Member for Couva South. Member for Princes Town, I have cautioned you on more than one occasion, your behaviour is in breach of Standing Order. I consider it gross disorder, and I ask you to withdraw from the Chamber for the balance of today. *[Desk thumping]*

**Mr. Padarath:** Thank you, Madam, but it does not change that Princes Town has no water. It does not help the people of Princes Town.

**Madam Speaker:** Marshal!

**Mr. Padarath:** It does not help the people of Moruga/Tableland.

**Madam Speaker:** Marshal!

**Mr. Padarath:** We are being stifled in Princes Town—

**Madam Speaker:** Member for Princes Town!

**Mr. Padarath:**—and I will continue to be the voice of the people, Madam, and that is totally unfair.

**Dr. Gopeesingh:** Do not let anybody manhandle you. Do not let anybody manhandle you.

**Madam Speaker:** Please leave!

**Mr. Padarath:** Madam, it will not change—

**Madam Speaker:** Member for Princes Town! Marshal!

**Mr. Padarath:**—because thousands of people do not have water. They do not have water. We are elected to represent them and we should be allowed to speak in the Parliament, because we have thousands of people who cannot get water, a basic human right. [*Desk thumping*]

[*Mr. Padarath escorted out of the Chamber*]

### ORAL ANSWERS TO QUESTIONS

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Thank you very kindly, Madam. Madam Speaker, there are three questions for oral answer, we will be answering—[*Interruption*] Madam?

**Madam Speaker:** Member for Couva South. Member for Couva South, this is the last time I would stand to warn you. This type of behaviour is not going to be tolerated today. All Members would be advised to comply with Standing Order 53. Leader of the House.

**Hon. C. Robinson-Regis:** Thank you very kindly, Madam. Madam, there are three questions for oral response today. We would be answering two of those three questions, and we are kindly asking for a deferral of question No. 170 for two weeks. Thank you very kindly. There are no questions for written answer.

**Madam Speaker:** No. 170 is deferred. I now call on the Member for Oropouche West.

*The following question stood on the Order Paper in the name of Mrs. Vidia Guyadeen-Gopeesingh (Oropouche West):*

#### **Illegal Firearms in Trinidad and Tobago (Details of)**

**170.** With regard to reports indicating that over 8,000 illegal firearms are in circulation within Trinidad and Tobago, could the hon. Minister of National Security indicate:

- a) whether there is a relationship between the number of firearms seized and the number of murders committed utilizing same;
- b) the current complement of staff at the Trinidad & Tobago Forensic Science Centre to conduct ballistic testing; and
- c) the countries of origin of the illegal firearms which were seized?

*Question, by leave, deferred.*

**Illegal Entry of Venezuelans Nationals  
(Measures to Deter)**

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

Given the Government's position of non-involvement in the affairs of Venezuela, could the Minister state what measures, if any, have been implemented to deter Venezuelan nationals from illegally entering Trinidad and Tobago?

**The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam Speaker. Madam Speaker, there is absolutely no correlation or relationship between the Government of Trinidad and Tobago's principled position of non-intervention and non-interference in the affairs of other sovereign countries, and the issue of Venezuelan nationals illegally entering Trinidad and Tobago. To suggest this, as the question implies, is a continuation of UNC Opposition's use of misinformation from the Cambridge Analytica play book. The UNC's strategy of continuously repeating falsehoods, twisting the truth, no matter how ridiculous their utterances, is extremely dangerous. Madam Speaker, the reality is that other countries that border or are in close proximity to Venezuela, for example, Colombia, who has taken a different position with respect to the internal governance of Venezuela, faced the same issues with Venezuelans entering their



country illegally. There are actually in Colombia over 1.5 million people from Venezuela entered, and not all of them have entered legally.

Once again for the record, the Trinidad and Tobago Defence Force, and in particular, Madam Speaker, the Trinidad and Tobago Coast Guard, has been dedicating resources to border patrol, both maritime and land patrols, in an effort to prevent illegal entry into Trinidad and Tobago. They have been assisted by the Trinidad and Tobago Police Service, Immigration and our intelligence services. Use of all of the serviceable coast guard vessels to perform maritime border patrols aimed at preventing illegal entry into Trinidad and Tobago as well as requesting similar activity by the Venezuelan authorities, are examples of the operational measures that have been in place for the past few months.

The Government will continue to use all available resources to treat with this problem in a proactive and purposeful manner, and we take this opportunity to thank the men and women in the defence force, the police service, immigration, intelligence, and all of those others who are manning the borders in order to protect us from illegal immigrants. [*Desk thumping*]

**Mrs. Gayadeen-Gopeesingh:** Thank you. Hon. Minister, how is your announced registration process going to affect the counter measures that you have just highlighted here in relation to deterring illegal Venezuelans? [*Desk thumping*]

**Madam Speaker:** I will not allow that as a supplemental question. Member for Oropouche East.

**Dr. Moonilal:** Thank you very much Minister, and thank you for indicating that we are not as bad as Colombia. Could you indicate within the last two days or so, given the very recent volatile situation in Venezuela, what steps would have been taken to increase patrols and patrols on land, and to protect that part of our border?

**Hon. S. Young:** Thank you very much, Madam Speaker, and Member for

Oropouche East. Madam Speaker, as I said, over the past few months efforts have been stepped up to prevent the entry, both on the maritime as well as on the land side. Within the last 48 hours going on to 72 hours, we have increased the number of patrols. Of course the number of vessels we have remains the same, but we are turning them around more. I do not want to talk more about the operational side. Thank you.

**Pre-Diabetes Indicators in Children  
(Details of)**

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

With regard to statements by the President of the Diabetes Association of Trinidad and Tobago on Wednesday February 20, 2019 that children in Trinidad and Tobago have displayed indicators of pre-diabetes, could the Minister indicate:

- a) the number of children who have displayed symptoms of pre-diabetes in primary and secondary schools for the 2017/2018 school year;
- b) whether the Ministry invited any representative from the Diabetes Association of Trinidad and Tobago or the Ministry of Health to conduct awareness sessions in primary and secondary schools; and
- c) the initiatives taken to effectively reduce this problem in primary and secondary schools?

**The Minister of Education (Hon. Anthony Garcia):** Thank you very much, Madam Speaker. The Ministry of Education does not collect data on children who display symptoms of pre-diabetes in primary and secondary schools.

(b) The Ministry of Education has met with, and granted approval to the Diabetes Association of Trinidad and Tobago as far back as 2016 for primary and secondary schools to participate in school quizzes, expositions, as well as art and

the recipe competitions. These activities focus on sensitization of students on diabetes. The Ministry also collaborates with the Ministry of Health and the Regional Health Authorities to conduct diabetes awareness sessions in primary and secondary schools.

(c) The following initiatives have been undertaken to reduce the incidents of pre-diabetes in primary and secondary schools: One, through the health and the family life education, physical education, and the science curriculum at the primary and the secondary schools, the areas of diet, exercise and lifestyle diseases, including diabetes, are addressed.

Two, in September 2016 the Ministry of Education in collaboration with the Ministry of Health has implemented a prohibition and the same of serving of sugar sweetened beverages and foods as school cafeterias/canteens in all schools.

Three, currently the Ministry is also involved in the healthy schools Trinidad and Tobago project, again in collaboration with the Ministry of Health. The project involves:

- (a) the implementation of programmes to develop and maintain adequate levels of physical fitness, promote psychomotor skills development and the acquisition of healthy lifestyles; and
- (b) the training and continued professional development for teacher administrators in the area of health promotion and physical literacy.

The first phase of the project is expected to be implemented in all government and government assisted primary and secondary schools in September 2019. Thank you. [*Desk thumping*]

**Mrs. Gayadeen-Gopeesingh:** Hon. Minister, is the Ministry of Education working in a silo that you could not liaise with the Ministry of Health to get the number of students who are pre-diabetic?

**Hon. A. Garcia:** Madam Speaker, throughout my answer to this question I have been speaking to the collaboration of the Ministry of Education and the Ministry of Health, and therefore that question does not arise. Thank you very much. [*Desk thumping*]

**Mrs. Gayadeen-Gopeesingh:** Madam Speaker, hon. Minister, the question asked, question (a), the number of students, and you said that you are liaising with—

**Madam Speaker:** Question.

**Mrs. Gayadeen-Gopeesingh:** I am asking, do you have the number, yes or no?

**Madam Speaker:** I believe that question was answered originally.

### **DEFINITE URGENT MATTER**

#### **(LEAVE)**

#### **Electrical Blackout at San Fernando General Hospital**

**Dr. Tim Gopeesingh** (*Caroni East*): Thank you, Madam Speaker. [*Desk thumping*] In accordance with Standing Order 17 of the House of Representatives, I hereby seek your leave to move the adjournment of this House for the purpose of discussing a definite matter of urgent public importance, namely the unacceptable, unprecedented, preventable electrical blackout at San Fernando General Hospital on the 25<sup>th</sup> of April, 2019, which endangered the lives of scores of patients.

The matter is definite because it refers to the disruption of an essential supply of electricity for four hours at the San Fernando General Hospital on the 25<sup>th</sup> of April, 2019. The matter is urgent, Madam Speaker, because there is a necessity for immediate repair intervention in order to prevent a recurrence of this event in the near future, as this had directly imperilled the lives of scores of patients on critical life support ventilators, both adults and neonates, and patients in operating theatres having surgical procedures performed. The matter is of public importance because the San Fernando General Hospital serves hundreds of

thousands of citizens in south and central of the country, and its proper functioning is of major importance to all these citizens. Thank you, Madam Speaker.

**Madam Speaker:** Hon. Members, I am not satisfied that this matter qualifies under this Standing Order. I advise that the Member pursues this matter under Standing Order 16.

### **WHISTLEBLOWER PROTECTION BILL, 2018**

*Order for second reading read.*

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

That a Bill to combat corruption and other wrongdoing by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making those disclosures from detrimental action, to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct and to provide for other matters connected therewith, be now read a second time.

Madam Speaker, Trinidad and Tobago is wrestling with its conscience and is fighting for its salvation. This country has engaged in an exercise which in many senses, and according to many commentators, is the equivalent of the definition of insanity. It has been engaged in the management of the number one issue plaguing citizens, that is crime, by simply doing the same thing the same way every time and expecting a different result.

In this regard, Madam Speaker, it is clear that improving the number of years and enlarging the number of years for which an offence is to be treated with in court, raising the fines and adding structures along that route, simply do not take us anywhere. The country has not been focusing upon the most critical of issues,

and that is evidence. We talk in this country about Mr. Big or Mr. Small facing the courts of Trinidad and Tobago. People ask: Where is justice? People believe that justice is skewed. But, it is one thing to have information. It is one thing to banter about allegations on a day-by-day basis about corruption, or wrongdoing, or criminality, but information is not intelligence, and intelligence is not evidence.

The only place that one can have a conviction materialized in the sanctity of the courts where due process prospers, is with intelligence moving on the back of information into the realm of evidence, and this law, Madam Speaker, this Bill, constituting a campaign promise of this Government, is one of the most essential tools to take us to this particular route of making sure that evidence [*Desk thumping*] and quality evidence results in convictions.

Now, Madam Speaker, we have spent the better part of our time in this Parliament engaged in the reform of the criminal justice system, birthing of courts, introduction of rules, appointment of more judges, de-clogging and management of the processes inside of the courts. We have spent a second round of our time improving the white collar crimes of making sure that money laundering is a crime which is triable either way, of ensuring that preliminary enquiries are to be abolished, of making sure counsel of choice is instead replaced by counsel of competence, in making sure the system works in an efficient way. But there are two essential pieces of law that really bring the quality of evidence forward: One is before the Senate as we speak. Those are the evidence amendments in the Evidence (Amdt.) Bill, and the second one is this particular piece of law.

This law sits atop the civil asset explain your wealth legislation. It is directly rooted to it. It sits atop of the disclosure of beneficial ownership in the Companies (Amdt.) Bill, now Act. It sits atop the amendments to cause the creation of a beneficial ownership registry. It sits atop the registration of Deeds

(Amdt.) Bill which is in this House for debate. And, the purpose of this Bill, as the long title suggests, is an Act to corrupt—to combat corruption and other wrongdoings. By what? By encouraging and facilitating disclosures of improper conduct, in both the public and private sector. And what is it engendered and engaged to do? It is to protect the people who make the disclosures from detrimental action, as is defined under the Act, and to regulate the process in which this must work.

The Bill itself, Madam Speaker, is divided into four parts, and it is 29 clauses long, and we would get to that in a second. But the Bill has some history. This Bill was in its original form, laid into this Parliament on November 13, 2015. It was accompanied by a statement which I delivered then on behalf of the Government, and the Bill was referred to a Joint Select Committee. We went into a Joint Select Committee, and that committee held 12 meetings in the period December 04, 2016, to July 15, 2016, and in those 12 meetings we considered a wide matrix of stakeholder comments. We received fulsome commentary from the public and pointed stakeholders, and the committee comprising Members of the Senate and Members of the House went to work on ensuring that we could get a Bill together.

The original Bill as laid did not have a three-fifths majority. In the course of the committee's work we considered pursuant to advice received, that the Bill ought to have a three-fifths majority, and we did that on the back of the fact that the Bill does, certainly, in its form now before us, intersect upon certain entrenched rights in both section 4 and section 5 of the Constitution. So, let us get that out of the way immediately. Section 4(a), (b) and (c) of the Constitution, section 5(2)(e) and (f) provide as follows, is the protection of:

“4 (a) the right of the individual to life, liberty, security of the person and

enjoyment of property and the right not to be deprived thereof except by due process of law;

- (b) the right of the individual to equality before the law and the protection of the law;
- (c) the right of the individual to respect for his private and family life;”

Section 5(2)(e), you shall 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; and”—you shall not

- “(h) 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.”

How does that relate to us today? This Bill in defining who is a whistleblower, what is to be protected in the mechanism of whistle-blowing as a protected disclosure, how it is to be treated, what immunities are to be offered to that whistle-blower, what is to be denied to the people who would otherwise have rights of action against the whistle-blower. Those five aspects intrude upon section 4(a), (b) and (c), and section 5(2)(a), (e) and (h) as I have defined.

### **10.30 a.m.**

How so? Number one, the employee as defined, and I will come to that in a moment, has the right to use information which may include confidential information and to deliver it to whistle-blowing reporters either in an internal process or external process. This also has the opportunity to ensure that the whistle-blower is not prosecuted by offering civil and criminal immunity and immunity from other detrimental action, including administrative and industrial relations and general employee/employer type consequences. And therefore, the



employer is going to be denied an opportunity covered by section 5 of the Constitution.

So in denying that, in causing an exception to the laws of secrecy, in causing an exception to the Data Protection Act, in causing an exception to other laws of our country, the Integrity in Public Life Act, in some circumstances, there is a definite intrusion of rights. But, let us deal now with the concept of section 13 of the Constitution. Section 13 of the Constitution permits an abrogation of rights defined in the Constitution provided it is such that it is supported, firstly, by a three-fifths majority and secondly, that it is proportionate in a democracy such as Trinidad and Tobago which recognizes principles.

So what are the legitimate aims which deal with the three-pronged principles of legitimacy and proportionality in law? As per Maharaj, as per Suratt, as per Francis, as per any one of the umpteen judgments in our jurisdiction, biting both from the Privy Council level and our Court of Appeal level. They provide the need for a legitimate aim that there is a rational connection of the legislation to that aim and thirdly, that you go so far as you need to and no more or that you are within the boundaries of existing law known to your country. That is essentially what proportionality means.

In this particular context, what we can say by way of proportionality is that this law did not appear out of the blue. Very importantly, Madam Speaker, and for the record in dealing with proportionality, we looked at and we borrowed from legislation including the following jurisdictions: the United Kingdom, in the UK Public Interest Disclosure Act, 1998; Malaysia, in the Malaysia Whistleblower Protection Act, 2010; Jamaica, in the Jamaica Protected Disclosures Act, 2011. We also looked at the laws in Malta, the Malta Protection of the Whistleblower Act, 2013. We looked further at the laws in several other commonwealth

jurisdictions. We looked at Canada's Public Servants Disclosure Protection Act; we looked then, Madam Speaker, at a number of jurisdictions and states in the United States of America, et cetera. All of these laws borrow from a similar vein of legitimate aim in targeting the protection of whistle-blowers from detrimental action if there are proper disclosures relating to the proper type of material, they are done in good faith, they are not false, there must be a mechanism of system. So we borrow immediately in terms of legitimacy and proportionality from the several jurisdictions that I have just mentioned.

Madam Speaker, if we stick a pin for a moment and go to legitimate aim, some further. We have a Proceeds of Crime Act. Our Proceeds of Crime Act deals with, for instance, in sections 44 and 45 of that Act, the concept of money laundering. Money laundering is the obtaining of profit or money out of criminal conduct from specified offences. Specified offences are defined in section 2 of the Proceeds of Crime Act and set out in the Second Schedule of the Proceeds of Crime Act and that includes a host of matters: taxation, kidnapping, murder, trafficking in persons, et cetera, a number of matters which we are now well familiar with.

But when we look, Madam Speaker, to the statistics of proceeds of crime and we disaggregate them year by year in the period 2013 to 2019, and we look at corruption, corruption bribery, money laundering and we look at the data on arrested people versus convictions, Madam Speaker; we look at obtaining goods, money by false pretenses; we look at fraud; we look at conspiracy to obtain money by false pretenses, et cetera. If we look at fraud alone, 2012 to 2018; 2012 look at the numbers just from the Judiciary Magistracy, 965; next year, 1,908; next year, 3,821; next year, 3,457; next year, 3,175; next year, 2,650. That is for fraud alone, the number of cases statistics produced by the Judiciary at the Magistracy.

We have similarly for the High Court level—but when we get to the Trinidad and Tobago Police Service and you look at the data which the Government obtained in its Police Manpower Audit through the auspices of the British High Commission, and very importantly the data which came through the Attorney General's Office when we did a prosecutorial audit to see what was going from information, to charge, to conviction, suffice it to say the base of information by way of reports is in the thousands and the numbers that hit the court are in the hundreds and then you get to single digits when you get to the Court of Appeal. Why? Because matters have not proceeded because witnesses cannot be found. Witnesses cannot be found because they are frustrated by preliminary enquiries. Preliminary enquiries run to a term of 20 years in this jurisdiction, plus, they are frustrated by intimidation, they are frustrated by threats of murder, assault. They are dealt with, Madam Speaker, by difficulty surrounding the personalities that must manage the information, corruption inside the respective services, laissez faire, lack of training or competence.

And so, Madam Speaker, the Government's target via the Evidence (Amdt.) Bill and via the Whistleblower Protection Bill is to encourage whistle-blowers to step forward. Why? The common law right now recognizes the concept of indemnification, both in the criminal and civil law. You can be indemnified as a whistle-blower by the State, quite properly protected, enter under plea bargaining and other arrangements, pursuant to what?—pursuant to the criminal law. In fact, the case is AG's reference No. 2, and umpteen state witnesses have gone through that way. I give you the case of Levi Morris, for instance. I give the case of Abdul Malick—Parmesar, forgive me, Parmesar, state witnesses turning as they did under the cooperation of the Director of Public Prosecutions taking a particular course of action.

In the civil law there is also the concept of indemnification, both at state level and at private level. And therefore in these circumstances our current law recognizes the ability to clothe whistle-blowers with protection. But that is very onerous, that is very cumbersome. So we have grounded it instead into an existing Bill which proposes this. So let us come back on track now.

In the Joint Select Committee—I have to confess that it was a serious Joint Select Committee, but it was a serious Joint Select Committee which involved a complete divergence of views. And I make no bones about saying this, Madam Speaker, there was a particular Senator on the Opposition Bench who despite any advance by the Government simply refused to support a single aspect of the Bill. I will be charitable. There was a divergence of view. The particular line coming from the Opposition on the Senate end was, we want a consolidated piece of law, we want to reform the law to replicate what the Integrity Commission looks like, we want a centralized service. This Bill proposes a decentralized system for whistle-blowing. Why? Because it proposes to treat with whistle-blowing in the public sector and in the private sector, both. And therefore the law is framework law where we ask for the establishment of internal processes for whistle-blowing and external processes for whistle-blowing. So we have taken a hybrid approach. So let us get to the Bill where we would flesh out a few of these provisions.

Of course, the first clause is the Whistleblower Protection Act, short title. Second clause is that it shall come into operation by proclamation, the commencement. The third is that it is an Act inconsistent with the Constitution and it requires a special majority. The fourth clause is the definitions clause and in it, in particular, we look to see “designated authority”. The designated authority as defined in this law and as set out in this Schedule is a list of public entity bodies including Integrity Commission, Office of the DPP, Ombudsman, et cetera. These

designated bodies are the entities to which whistle-blowers who are frustrated or debarred from an internal process or who do not trust an internal process, they can approach the external bodies, the state bodies. Also, the external bodies are the bodies, the designated authorities, who receive the serious matters referred to them by internal bodies; where there is evidence of a crime or an offence.

Detrimental action is critical. Definition of detrimental action is to say, what the employee, what the whistle-blower, because the whistle-blower in this Bill is referred to as the employee, what the whistle-blower should not be subjected to. You should not be subjected to unfairly established disciplinary action; you should not have unfair dismissed—be unfairly dismissed, suspended, or demoted; harassed, intimidated, victimized; transferred against will; unfairly refused transfer; terms and conditions altered to disadvantage; adverse references, et cetera, et cetera. Importantly, you should not otherwise suffer injury, loss or damage, in relation to employment, family life, career, profession, trade or business. It is a very wide description of what detrimental action is. It is grounded in umpteen precedents coming from the jurisdictions that I have referred to a short while ago, in particular, Jamaica was particularly persuasive.

A disclosure is a disclosure by a person of information which shows improper conduct. Who is an employee? The employee is the whistle-blower. And what we have sought to do in categorizing the definition of an employee is to say that an employee is somebody who is engaged in contract, contract for services, contract of services. Somebody who is a volunteer; somebody who is an employee in those two categories of an agent of someone, somebody who is working part-time. In other words then, even though we have used a term which otherwise is a strict connotation of employer/employee relationship, the definition of employee as whistle-blower is a wide ranging circumstance designed to attach

anybody who has access to the information in any capacity that they may have access to the information.

Madam Speaker, “employer” is obviously the person on the other side of the employee relationship and it is so defined. And external disclosure is defined as that which goes to the designated authorities. Now what is “improper conduct”? The whistle-blower must be reporting on improper conduct. And if the person is reporting on improper conduct and is doing that reporting within prescription and for bona fide purpose, that improper conduct must be:

- “(a) a criminal offence;
- (b) failure to carry out a legal obligation;
- (c) conduct that is likely to result in miscarriage of justice;
- (d) conduct that is likely to threaten the health or safety of a person;
- (e) conduct that is likely to threaten or damage the environment;
- (f) conduct that shows gross mismanagement, impropriety or carrying it out”—in relation to—“public funds;
- (g) act of reprisal against”—the—“whistleblower;
- (h) conduct that...”—shows—“unfair discrimination on a basis of gender, race, place of origin, social class, colour, religion...political opinion;
- (i) willful concealment...”

What does that do? It captures existing laws. The Environmental Management Authority; it captures the OSHA legislation; it captures common law offences; it captures the whole host of laws treating with public procurement and disposal of property. And that therefore makes this law a natural relative of the public procurement legislation. This law will be a natural relative of the campaign finance reform law which we will bring to Parliament almost immediately upon Cabinet’s consideration of it, if Cabinet so approves.

We also then treat with the various forms of discrimination, and notice that we have added in political discrimination. Far too often we hear political parties in Opposition say, “It is a witch hunt, you are coming behind me”, et cetera. That is why this goes to a court of law. It is not decided by anyone. That is why this Government’s approach on scandal, on mismanagement, has been a rather demure approach, Madam Speaker, we do not stand and name and shame on a daily basis. Action must speak by the authorities that engage in action. [*Desk thumping*] The Trinidad and Tobago Police speaks for that, not any political appointee, Madam Speaker. [*Crosstalk*]

Madam Speaker, we then go to what an organization is, because a whistle-blower does a report on an organization. An organization includes an entity, meaning an individual or any body of persons, et cetera. And that therefore takes care of incorporated, unincorporated and also individuals in terms of who can be reported on. A protected disclosure is defined under section 8(1) and we will come to that. Public body, we tie it in into the Public Procurement and Disposal of Public Property Act, et cetera. And who is a whistle-blower?

A—“whistleblower means any person who makes a disclosure”—not just any disclosure. It must be—“to a whistleblowing reporting officer”—to—“a unit”—and it must be qualified—“as a protected disclosure...”

In other words then, this is not a law designed to just go and tell the media. This is not a law designed to go and scandalize people’s names. This is not a law designed for any of those purposes. This is a law that says if you are with information of improper conduct, you want to speak to it, engage in the reporting in the procedures prescribed by law, internally or externally, make sure that you are telling, that you are making this disclosure on the basis of good faith, essentially. If you are wilful in your disclosure on something that is false you will

suffer a penalty and an offence and jail term. It is designed similar to the Integrity in Public Life Act to condemn action of that type, Madam Speaker.

And, Madam Speaker, this law in clause 5—and then when we go into clause 7, this law is effectively retrospective. This law applies to conduct that existed prior to the commencement of the law. The general principle in law is that retrospectivity must be identified in law. I refer to Liyanage and the AG, Privy Council decision as the locus classicus which has persuasive authority on us. We dealt with it in the Northern Construction, section 34 matter for the repeal of that. On the issue of retrospectivity there is in nothing wrong with retrospectivity provided that there is (a), an expression that it is to be retrospective; and (b), it does not engage in the type of odium that the court considers is there.

This law describes its retrospectivity. This law will apply to a PNM Government. This law coming in our fourth year in Parliament means that everything that this Government has done will be subjected to this law. This law applies to persons prior to us as well. The point is that this law is not discriminatory. Had this law come in year one, yes, okay it could have been a political argument that we are targeting our political predecessors, but this law comes three and a half nearly four years into our term and we took that opportunity after we had put the base preparation into place, courts, systems, amendments of law as has happened.

So, Part II deals with disclosures of improper conduct. What is a protected disclosure is set out in clause 7. A protected disclosure is where the employee, which means whistle-blower, makes a disclosure of improper conduct to a unit, but you must have reasonable grounds to believe. It is not reasonable suspicion; it is not mere suspicion; there is an objective standard in law in the utilization of the phrase in law, “reasonable grounds”. The disclosure under subsection (1) may be



made:

- “(a) although the employee is not able to identify a particular person...;
- (b) although improper conduct occurred before the coming into force of the Act;”

Whether it was in relation to information acquired which probably should not have been disclosed, et cetera. If it is to be given orally, which can happen, you can actually have it reduce by way of a process. It can be given anonymously, but anonymous witness whistle-blower information is not protected until the person becomes known. Why? Because the law is designed to protect you when you are known from detrimental action and that is a critical point inside of here.

It also makes sure to treat with an important observation, raised by Member Ramadhar in the committee, which is, where we treat with parliamentary privilege and we have especially carved out the manner in which we treat with section 55 of the Constitution which is the absolute privilege of Parliament in the context set out. And, Madam Speaker, clause 8 says, when that disclosure is protected:

- “(a) it—must be—“made in accordance with section 7;”
- That is you must go through the process;
- (b) it is made in good faith;”

It must be where the whistle-blower at the time of doing it reasonably believes, based on the information, that the information is substantially true, et cetera, which he knows or ought to know or reasonably know is not false. And therefore this excludes out the wicked purpose.

This includes for instance a matter which is now ended, the Dansam Dansook kind of matter, where a fraudulent statement was engrossed into an affidavit and brought to a Parliament, laid on table and resulted in something which happened in the courts and which then fell apart after due process. That

kind of distinction, that kind of perjury will not find itself in this place.

Madam Speaker, when we go to information relative to legal professional privilege, it was important again, Member Ramadhar had significant concerns and this Government had significant concerns. We treated with it in clause 9, we get to clause 10, here is the anonymous disclosure. And we treat with the fact that you can make an anonymous disclosure, but if that anonymous disclosure is libellous or scandalous you are going to take note of it, you will file it but you would not act upon it. Why? It is reasonable to expect that in today's world of fake news, false information, robots that come and chime into your facebook account and give you reports of everything you are doing wrong, all with the same time stamp, 50 people arriving at the same time, false information and false narratives, Cambridge Analytica style are a feature of this world and therefore libelous and defamatory information given anonymously does not prevail.

Madam Speaker, quite interestingly, sticking a pin, at the caucus of the Government, in dealing with this law, we sat down as a group and there were three letters provided to the Government. One addressed to the Minister of National Security, one to the Minister of Housing and Urban Development and one to the Attorney General. And in that, without going into the specifics, a whistle-blower stepped forward anonymously and gave information in relation to fraud, touching and concerning \$147 million of fraudulent activity. Just like that, by pure coincidence, long before we announce this Bill was going to be debated this happened.

And I would like to say that the Government has taken note of the willingness of several whistle-blowers to step forward because the Americans have a very interesting statement. The first guy on the bus gets the best seat. That is the expression in the American corruption arena. The first guy on the bus gets the best

seat and this law treats with that. Because when we get further to the whistle-blowing mechanisms and I will come to it very quickly, you will see that this law does not exculpate an offender. An offender cannot come and hoodwink and get immunity by simply saying, "I was guilty but now I want to exculpate myself, no criminal, no civil treatment for me, I will just clothe myself as a whistle-blower and get out of dodge." That is not how this law works. This law specifically provides for the manner in which the court ought to consider the whistle-blower's evidence and that ties into the existing law in Trinidad and Tobago for criminal prosecution whistle-blowers and for civil law whistle-blowers. And that is the existing law.

*Division 2* sets up the method for internal disclosures. Basically, everybody in Trinidad and Tobago, public and private, has to set up internal divisions. You have to have a designation of a whistle-blowing reporting officer. Is it any different from Freedom of Information Act? No. Is it any different from public procurement and disposal legislation? No. You can designate an employee. But this law provides by the external route where entities are just too small to do it and have not created entities. So we catered for the fact the argument that may come to say, look, how are people going to operationalize this? How are you going to afford a whistle-blowing protection where it is a one man show? The employee who is a gardener for the boss who is getting contracts knows that there is thief, how would you report to the boss on a one man show? You can do the external route disclosure.

That is clauses 11, 12, 13, straight down to *Division 3*, where we deal with external disclosures. External disclosures are to designated authorities. Designated authorities are set out in the Schedule and they are 21 in number:

"1. Auditor General...

2. Board of Inland Revenue
3. Bureau of Standards...
4. Central Bank...
5. Children's Authority...
6. Customs and Excise...
7. Elections and Boundaries...
8. Environmental Management Authority
9. Equal Opportunity...
10. Fair Trading...
11. Financial Intelligence Unit...
12. Integrity Commission of Trinidad and Tobago
13. National Physical Planning Authority...
14. Occupational Safety and Health Agency
15. Occupational Safety and Health Authority”  
—Agency and authority.
- “17. Office of the Director of Public Prosecutions
18. ...Ombudsman...
19. Regulated Industries Commission
20. Trinidad and Tobago Police Service
21. ...Securities and Exchange Commission”

Why? How you are going to have public procurement laws? Ask for public procurement laws to go to work if you have no evidence? How are you going to get evidence if you do not have a whistle-blower to tell you, look, I sat in X position and I noticed corruption in a particular place in public procurement, be it the government works, private works, a contractor side. You need to give that person the clothing of protection and for those reasons we have established

external authorities this way.

When we get, Madam Speaker, to clause 14 we say you have a director, we say what the functions are, we then get down to an employee of an organization may make an external disclosure in what circumstances. One, if there is no internal route. Two, if you do not trust it. You did not get a response in time, you feel the head is compromised, you feel the body is with turpitude, then step out of that dance and go to the external unit, do not worry with that process. Urgency of the matter, et cetera.

Madam Speaker, clause 16 deals with reference of information. Clause 15 of course provides the time frames in the internal route within 30 days, in the external route within 45 days, further steps for reporting. Clause 16 says where the external unit thinks a better unit should receive it. So somebody makes a report to the Ombudsman, the Ombudsman thinks, you know what, the DPP needs to see this, or the SEC needs to see this. We provide for reference forward and we make sure in in each step of referral onward there is anonymity. You do not just automatically say "Faris Al-Rawi made a report to internal, it then went to external". External number one says, "Faris Al-Rawi made a report to external number two or external number three". No. There is anonymity until there is action on the evidence and then it is enveloped into one.

Part III, clauses 18 onward, treats with protection of whistle-blowers. This is very important. You are protecting a whistle-blower in clause 18 from detrimental action, we have defined detrimental action. Clause 19 is the biggie. You are protecting them from civil, criminal, disciplinary proceedings. Let me repeat that. Civil, criminal, disciplinary proceedings, specifically, and/or detrimental action. But there is a caveat. It must be whistle-blower was in good faith. There is a perceived threat to public interest, et cetera, et cetera. We then go

no immunity to a whistle-blower if he has or he was a perpetrator or an accomplice.

So clause 20 treats with the person who tries to fool the system, commits the crime and then says, "I am a whistle-blower". No, Sir, clause 20 treats with you, but clause 20 mitigates your circumstances by saying, you know what, even though you were guilty, even though you participated in a crime, even though you watched the destruction of the Treasury of Trinidad and Tobago, you are an accomplice, you were involved in that matter, you have now found your conscience, your mitigation needs to be factored in a court of law. Why? That is how it is done right now. AG's reference No. 2 via the DPP, civil proceedings, et cetera. That is where you take the advantage of someone pleading to guilt as it is done in the United States of America, in England, in Canada, et cetera. That is clause 20.

Madam Speaker, there is a prohibition of disclosure of information to identify a whistle-blower. Very strictly in clause 21. Clause 22, we provide for civil remedies for detrimental action. We say a whistle-blower who believes that detrimental action is likely or about to happen, but who has not yet been under clause 18 where you are being protected once you are known, you can take anticipatory protection, go to the High Court and get the advantage of injunctive protection by way of High Court proceedings. Because you must be quia timet, just in time; you must be anticipatory in protection because what is the point if the baby is thrown away with the bath water? So that is what clause 22 does.

### **11.00 a.m.**

In Part IV, clauses 23 to 29, Madam Speaker, these are the offences, and listen to them. Clause 23:

"A person commits an offence if he—

- (a) knowingly prevents, restrains or restricts any person from making

- an internal or external disclosure;
- (b) knowingly intimidates”—persons...
  - “(c) knowingly induces”—persons, threatens, et cetera
  - “(d) being an employer,”—and—“knowingly subjects”—that—“person to detrimental action...
  - (e) purports to make a disclosure under this Act knowing that it contains a statement that is false or misleading, or being reckless as to whether the statement is false or misleading.”

That comes directly out of the Integrity in Public Life Act. Why? This law is not designed to further wicked purpose. And all of us sitting in this Parliament, as politicians, know what wicked purpose looks like. We are often subjected to it ourselves. But you know what? That is what we signed on for. Those of us in this dance subject ourselves to the fact that public office holds public scrutiny and eventually your day will be had. Nobody exemplifies coming through every time a victor better than the hon. Prime Minister, Dr. Rowley—every time. [*Desk thumping*]

Madam Speaker, clause 24 deals with the obligations of secrecy and confidentiality. You cannot disclose, without committing an offence, the person's identity. That is a serious issue. Things must be managed in a very careful way. You are treating with pretrial prejudice; you are treating with publicity aspects. This Government has subscribed to that, insofar as it is very careful about criminal matters not to speak to these matters in the public domain. It may speak about civil matters. That is an entirely different purpose.

Madam Speaker, there is a penalty for obstructing whistle-blowing reporting personnel in clause 25, a penalty for destroying, falsifying documents in clause 26. Where there is a conflict between contract of service and provisions of the Act, the

Act prevails in clause 27. And, again, that relates to a three-fifths majority issue as to the supremacy of the constitutional rights for equality of treatment and for protection of property in section 4(a) and section 4(b) of the Constitution.

We allow for the Minister, subject to affirmative resolution, to amend the Schedule. Let us come back to Parliament and say who ought to be there, not by negative resolution but by way of affirmative resolution. And the Minister has the power to make regulations. Why? Because the Minister is creating framework legislation and framework legislation requires prescription, and prescription is done by way of regulations. Again, the regulations are subjected to affirmative resolution of the Parliament so that the Parliament knows what it is doing.

And, importantly, we cause an exception to section 63 of the Interpretation Act where we modify the fine, away from TT \$500 for breach of a regulation and we prescribe instead, “penalties for offences not exceeding fifty thousand dollars and imprisonment for two years”, keeping it sort of in tandem, albeit at a slightly lesser level from an act of perjury for breach of an oath of secrecy.

So, Madam Speaker, the Government has come to this Parliament after a joint select committee which was not completed. It was not completed because it was clearly evident, at least from my capacity as the chairman, that there would be no agreement in that committee. Secondly, it was completed and then a new Bill was crafted based upon the entire consultation. We came with a three-fifths majority. We came to ask the Opposition for its support. We came to ask the Opposition for its support in the circumstance of saying, “Are you prepared to encourage whistle-blowing protection? Are you prepared, on behalf of the citizens of Trinidad and Tobago, to give evidence a fighting chance? Are we prepared, as a Parliament, to combat corruption, wrongdoing? Are we prepared to breathe life into the public procurement legislation, into the Proceeds of Crime Act, into



industrial relations law, into environmental protection? Are we prepared to do that?"

Madam Speaker, this country is on trial. This country is fighting for its soul. This country has upon it, decisions to be made based upon the concept which can be put in one word, "value". What is your value? What is your value system? Who are we working for? This Government makes itself subjected to this law. This Government, in asking for retrospectivity says, "Come all ye who know about us, and tell your story, if it is a proper disclosure, about improper conduct. Come and sing your soul to the correct authorities in the correct process." We say that of ourselves.

We bring this law now, after treating with the criminal justice system, after putting the white-collar crime principles anchored into the Civil Asset Recovery and Management and Unexplained Wealth legislation, Companies (Amdt.) Act, beneficial ownership, importantly, the Registration of Deeds Bill which will treat with the abuse of equity, which will treat with secret trusts, which will treat with where you hide your wealth lawfully.

We make ourselves subject to this law. [*Interruption*] The Member for Cumuto/Manzanilla might think that funny; may not subscribe to its principle. We will hear from her. But the point is, this law, once passed, can be proclaimed with immediacy, and this law once proclaimed with immediacy, as the hon. Prime Minister says, every top shall stand on its bottom. So, Madam Speaker, we await the contributions of the hon. Members opposite. Today is D-Day. Today is about whistle-blowers. Today is about justice. I beg to move. [*Desk thumping*]

*Question proposed.*

**Dr. Roodal Moonilal** (*Oropouche East*): [*Desk thumping*] Thank you very much, Madam Speaker. I thank you for the opportunity to contribute this morning, on,

arguably, one of the most critical pieces of legislation in recent times that the Government has brought before us. I was happy to hear the Attorney General. And let me say from the outstart, I have been the recipient of several copies of this Bill and as I go along I am hoping that if there is any mistake I make in relation to the Bill itself—because it has changed somewhat over the period—that the Attorney General would correct me if I make any mistake. Because earlier in a version of the Bill that I had, when the term “Minister” was used, it was used in reference to the Minister of National Security. Today, the Attorney General is piloting this piece of legislation. I am therefore to believe that “Minister” means the Minister, the Attorney General. Or is it still the Minister of National Security, if he is not piloting the Bill?

**Dr. Gopeesingh:** Different versions of the Bill.

**Dr. R. Moonilal:** It is the first query I make but it is a simple matter. It is not a difficult matter. So the Attorney General will pilot a Bill for which the Minister in the Bill is the Minister of National Security. That is fine. If that is the issue, it is not a problem. All I am seeking is clarity. [*Interruption*] Madam Speaker, I sat for 45 minutes and listened to the Attorney General of this country. [*Desk thumping*] At no time you had cause to reprimand any Member of the Opposition for disturbing him. I expect the same courtesy and respect. [*Desk thumping*]

Madam Speaker, there are several issues I would like to raise, and just to put in a framework what I intend to do. I intend to speak to the objective and policy of the Bill, the operationalization of the Bill. I will raise a couple issues in terms of the legal and constitutional issues, but there are Members on my side of the Bench who are much more qualified to debate and argue those issues of the legal and constitutional principles, but I will touch a couple of them. But I will speak really to the objective and to the operationalization of this Bill.

Madam Speaker, I have had the opportunity to read this Bill on about three occasions at different times, and the Attorney General gave us the history of it. This is not the first. I think it may be the second, but it is the second unusual situation where a matter has been referred to a joint select committee and, remarkably, the Government's position is that, "We know wha yuh doing in the joint select committee, so we end dat." Over the years, the practice—the done thing—is that regardless of what the Government and Opposition may think on an issue, you will submit a completed report [*Desk thumping*] and the Opposition, whether it is the PNM or UNC, will bring a minority report. So that the Opposition, PNM or UNC, will argue their case by way of a minority report [*Desk thumping*] and the majority would have a report, a majority report. Something like that has happened over the years. But to hear today the Attorney General saying, on behalf of the Government, that "We ended that process. We chose not to continue because we realize you are not supporting"—Okay—that is highly usual and again—

**Hon. Member:** One Member.

**Dr. R. Moonilal:** And one Member, incidentally, was not giving support and so on. So, highly unusual, but we go with it again because I imagine you can do that. They are in charge. They can do that.

Madam Speaker, I want to put on record that I might be the first person speaking on this Bill who is actually a whistle-blower. I am a whistle-blower, and I want to read the definition of a whistle-blower.

A whistle-blower is a person who exposes any kind of information or activity that is deemed illegal, unethical or not correct within an organization that is either private or public.

I am a whistle-blower. And, Madam Speaker, I am in the courthouse today

because I am a whistle-blower. So in a way I have a selfish interest in this Bill. Clause 19 protects me. [*Desk thumping*] If the Bill was in effect, I could have pleaded that I am a whistle-blower and you cannot sue me.

**Dr. Gopeesingh:** Retroactive.

**Dr. R. Moonilal:** So maybe now I will try to see how I can get into this institution of whistle-blowing structure so that I can go to the courthouse and say I am protected by Parliament and clause 19. Having said that, they may come with an amendment [*Desk thumping*] to exempt Members of Parliament from that clause. But, Madam Speaker, a few points in the introduction I want to make again. I am taken aback a bit that the Bill—and I have looked at the legislation in Malaysia, Canada, Jamaica, elsewhere, they have quoted; Malta, I believe as well.

**Mr. Indarsingh:** Malta?

**Dr. R. Moonilal:** In Malta as well. Madam Speaker, the Attorney General says, quite rightly, that the Bill deals with both the private and the public sector. It may have been useful, since it is the first time we are going to embark on this type of legislation, to look at the public sector, but the private sector—and I am saying it in a policy sense, not with the legal construct—to look at the public sector in its entirety, but the private sector that connects with the public sector, clearly meaning private companies that contract, that do business with Government and Ministry, state enterprise, rather than the blanket private sector, because as it is—and the Attorney General and Members can correct me—it is the private sector companies, all 76,000 companies, all companies that operate—and I will give a lot of examples, because another point I make early is that this requires substantial public education [*Desk thumping*] so people understand what the Government is doing, and the public. Because, you see, in a strange way you may have consulted with many organizations—and I took note of it—but you really did not consult with the

whistle-blowers, because the whistle-blowers are the key people here.

And we have had in this country, Madam Speaker, whistle-blowers from time immemorial. I want to remind the country, for the record, the first prominent whistle-blower in this country was Gene Miles, [*Desk thumping*] who, in the early '60s spoke out about the gas station racket, told of underhand deals in the '60s, valued large sums of money for granting gas stations. She gave evidence before a commission of enquiry in the '60s into corruption for the granting of licence. She was the first.

**Hon. Member:** She went mad.

**Dr. R. Moonilal:** I think she went mad and died as a street dweller. I think she died as a street dweller, in poverty in 1972. She was the first. But we have had a succession of whistle-blowers in this country, some quite prominent. So that the issue is not that we want new whistle-blowers, or whistle-blowing is new, it is we are creating a structure, an institution so that you allow now for protection and filtering information that can become evidence. So that is what we are about today.

Madam Speaker, let me just repeat that for the benefit of the Attorney General, that whether some type of construct could have been found to encompass the entire public service and the element of the private sector that contracts with the public service, so you protect State; you protect taxpayers' money, strictly speaking. Because what you are doing now, you are saying if somebody is running a hardware or a restaurant, or something, they hire 20 people, they are under this legislation. But they are not contracting with public moneys per se. If there is wrongdoing there, they have avenues that they can go to: the police; the Fraud Squad and other institutions in law enforcement that they can go to, not necessarily through a state apparatus. Because the objective here, as I understand it clearly, is you want to protect the public purse. You want to protect that. So I raise that

issue, Madam Speaker.

Madam Speaker, I know the time we have these days is limited. Today is one day I would have wished we had the 75 minutes, for the Attorney General as well. So let us get to the Bill because I want to go through some of the issues with the Bill. There can be no complaint about the intention of the legislation. Protecting public disclosures, protecting persons who make disclosures on matters of corruption, wrongdoing, and so on, there could be no issue, no complaint that you are against people who do that, because that is a very important part of governance today, that somebody who smells something, as we say, or gets in their possession some document, they must get into a system that protects them so they can bring forward for investigation, and any other action that may take place.

Madam Speaker, the Attorney General is quite clear. He understands, I think, the society we live in. This is a society where quickly, depending on how much you imbibe, rum shop talk could become national talk. You can go in this country—and I have been a victim of that; I speak as a victim—where there is a political strategy to drown you in rumour.

**Hon. Members:** Yes.

**Dr. R. Moonilal:** What they do is there is a strategy, [*Desk thumping*] a political strategy. They drown you in rumour so that people believe that someone is wrong, someone is corrupt, someone is, you know, involved in hanky-panky. And it is rumour that they drown you. And, Madam Speaker, I could tell you, honestly, I speak as a victim of that. I speak as a victim. And the Attorney General is correct. This Bill, if not properly structured, this Bill could become the rumour Bill to facilitate a rumour mill.

**Dr. Gopeesingh:** Rum shop talk. [*Desk thumping*]

**Dr. R. Moonilal:** This could be for every rumour around the corner, Madam

Speaker, so that anybody see or suspect, or smell hanky-panky—as it is this Bill is structured, and they deal with contract of services—and I will come to employment matters in a little while, and Mr. Attorney General can correct us. Someone contracts for a service, let us assume it is a gardener, a maid or landscaper, or pool person, or something, comes on your property—Right?—there is a contract for service. In a business—let us assume business first—organization—and they see something; they suspect something. They see some visitor, some special visitor arriving—

**Hon. Member:** A plant-like substance.

**Dr. R. Moonilal:** They see a plant-like substance. They see visitor arriving; they see maybe somebody with a bag moving up and down, they say, “Ah ha, that looks suspicious. I will complain.” And where is whistle-blower? And if they do not have the internal mechanism, they go external. You can promote that in the society. And the landscaper or the pool person wants to either protect their job or they want an increase in their pay, and you can create a situation like that, so the Attorney General knows that and has placed some type of check and balance in the Bill already, on that score. But I will argue in a little while that that is certainly not sufficient.

Madam Speaker, I also want to build an argument as I go along, that instead of protecting whistle-blowers, this can expose whistle-blowers [*Desk thumping*] to serious fines and serious prosecution. You know, the first protection you need to give again for a whistle-blower, is try to keep them alive. [*Desk thumping*] That is the first protection. If you blow the whistle on \$100 million corruption—\$147 million corruption, and so on—those are big numbers. Those are serious numbers in a society that is plagued by crime and murder and mayhem.

So, Madam Speaker, you go as a whistle-blower, you have information on

\$100 million corruption scandal, the first challenge is to remain alive. It is not to escape civil liability. It is to escape a coffin. And if you cannot protect persons in this society from being killed, then protecting them from civil liability, and so on, is lesser. And that is my first deep concern.

**Dr. Gopeesingh:** Very good. [*Desk thumping*]

**Dr. R. Moonilal:** The Bill becomes in effect when it is proclaimed, not when it is assented to. The Member for Laventille West appeared last week Thursday on the Facebook, and I think he was announcing from an unknown location, high up in the air, with nobody in sight, that the last civil forfeiture Bill was assented to. And when somebody told him it is not in operation, because it is not proclaimed, 47 minutes later the video was removed. So it is proclamation that makes this operational.

**Mr. Hinds:** It is still there.

**Dr. R. Moonilal:** The video is still there. [*Interruption*] Madam Speaker, the Member for Laventille West is disturbing you.

**Madam Speaker:** Just do not be distracted. Please—

**Dr. R. Moonilal:** Thank you very much.

**Madam Speaker:** I just want to ask one thing, though. You asked for protection earlier. It applies to both sides, I guess. It applies to both sides?

**Dr. R. Moonilal:** I am hearing you now.

**Madam Speaker:** Okay. Member for Laventille West, please continue.

**Dr. R. Moonilal:** The Member for Laventille West is not speaking.

**Madam Speaker:** Continue.

**Dr. R. Moonilal:** Thank you very much. Madam Speaker, I go to 4. And the Bill has a very serious component and this is why I chose to read three times, study and speak and offered myself to the Chief Whip, to be available. [*Desk thumping*]



Madam Speaker, the employment and labour relations matter involved here is very serious, because this attempt to set up structures at the place of work, called “organisation” in the Bill—you see, Madam Speaker, you create “designated authority”—we will come to that later. “Detrimental action”, I think you explained that. That is when you take action against an employer, aka a whistle-blower, and so on. “Unfairly subject to disciplinary”—harassment, intimidation—I do not want to spend too much time with that. If you refuse to give a reference—you know, it is quite detailed what “detrimental action” is, and so on.

Madam Speaker:

“‘Disclosure’ means disclosure by a person of information”—about potential improper conduct.

And what an employee means. Now, is there any synchronization with employee—and I will just raise this for the purpose of clarification—an employee as opposed to a service provider, who is not in the industrial relations legislation, may not be considered an employee. We have enough case law to tell us about the conflict between employee and contract worker. And do they have the same rights? Is a contract worker as well, also a whistle-blower as opposed to an employee? Now, I assume every single public officer in the civil service is a potential whistle-blower. So, we know that. So the whacker man, the pool man, the landscape person, the maid or so, becomes an employee for the purpose of this Bill as a potential whistle-blower.

We are clear on what an “employer” should mean. It is not a big thing. Madam Speaker, what this Bill sought to do is to establish at the place of work. Now:

“‘Minister’ means the Minister to whom responsibility for national security is assigned;”

Now, Madam Speaker, this is a place-of-work matter dealing with allegations of wrongdoing which are not just criminal, or may not even be criminal. It could be unfair practice; it could be misconduct in some other form. One is curious as to why the Minister with responsibility for National Security has this role in this Bill, as opposed to the Attorney General, strictly, who I think has some jurisdiction over matters of the Equal Opportunity Commission and other tribunals that deal with these related matters.

Madam Speaker, “protected disclosure” we are clear on. The Attorney General, at clause 5, told us about the retroactive nature of the business, and so on, so I do not want to get into that. The protected disclosures deal with improper conduct, not with criminal conduct, but improper conduct of which criminal conduct may or may not be. Because at first, it is not criminal conduct. It is improper conduct. So that a disclosure made as a protected disclosure, although the person making the disclosure is not able to identify a particular person, although the improper conduct occurred before coming into force of this piece of legislation in respect of information acquired by the employee while he was employed, he may be a former employee.

So it may not be a current employee in your place of work now, it could be somebody who left the place of work. Now, if this person left the place of work under some circumstances where he was fired, where he was suspended, where something had gone wrong—I think of CEPEP contractors in particular, these days. They are in the courthouse these days with former employees. You can become a whistle-blower after you leave the place of work, because you then suddenly discover that two years ago “I saw something; I heard something about this contractor who did not pay my NIS.”

Madam Speaker, you tell your story orally or in writing, and they provide

for it that you can make an oral disclosure, but you must reduce it to writing, I think within a time frame as well. Madam Speaker, the person who makes a disclosure must reduce that in writing. What I have:

“A disclosure made in relation to a Member of Parliament shall not amount to a breach of privilege.”

So I think that is the issue that the Member for St. Augustine raised.

Madam Speaker, at clause 8—I want to get into that quickly. It deals with protected disclosures.

“A disclosure is a protected disclosure if—

- (a) it is made in accordance with section 7”—of course;
- (b) it is made in good faith”—so you are not malicious.
- (c) at the time of making the disclosure, the whistleblower reasonably believes, based on the information...at that time, that
  - (i) the information disclosed, and any legislation contained in it, are substantially true;...”

Madam Speaker, when people get information, by nature of the people where they are in an organization, you are working at a computer desk in a business, you are listening to your boss, you have information. They ask you to type. Hypothetically, Madam Speaker, they ask you to type an email and in the email, some transaction is taking place. You do not know whether it is true, whether it is not. You have no basis of knowing whether it is even substantially true, but it looks suspicious. Madam Speaker, is that bar a proper bar to subject persons in a protected disclosure, that they must know it is substantially true what they are saying, as opposed to knowing that it is credible? It may be true.

So, Madam Speaker, this is the first one I am making that you are trying to protect whistle-blowers, but placing this kind of onerous burden upon them, that

when you come with information, you must know it is substantially true, the whistle-blower has no legal training. The whistle-blower has no legal assistance. The whistle-blower has no financial or accounting training. How is he or she to know that the information “I am telling you that looks suspicious” is substantially true? Otherwise, they can face penalties. They can face penalties.

“The disclosure is not made for...personal gain;”

We understand what that might be about:

“in the case of an internal disclosure, if it is made substantially in accordance with...internal procedures—”

Now, the Bill speaks to establishing internal procedures for every organization. If you are dealing with 76,000 companies in the private sector, 20-something Ministries of Government, 100 state enterprises, is it that all of these companies will have the same procedure, a different procedure? And what procedure will they be introducing? [*Desk thumping*] Would it have been more useful to standardize one procedure and put it in a schedule to the Bill to say: We have one procedure; anybody come. This is a simple standard procedure. Follow that procedure and get your information out. But you cannot reasonably expect that 76,000 companies and 500 state enterprises will come up with their own internal procedures to receive whistle-blowers.

**Dr. Gopeesingh:** The Bill is flawed.

**Dr. R. Moonilal:** So that is the first serious matter.

**Dr. Gopeesingh:** The Bill is flawed. [*Desk thumping*]

**Dr. R. Moonilal:** Madam Speaker:

“Disclosure is not a protected...if the whistleblower discloses information which he knows, or ought reasonably to have known, is false.”

The Attorney General touched that, because he was clear on that. Again, you are

asking whistle-blowers to indicate that you should know that “ought reasonably to have known that the information is false”.

Now, again, I give you real-life examples, because those of us in the business of politics for many years, like journalists, people come to us with all kinds of information. Madam Speaker, people come with information on every single person in the world, and I am sure my colleagues opposite, they receive their information as well. And when you ask the person: “Did you see this?” “No, but the neighbour son, daughter-in-law tell me.” Then you ask somebody: “Do you have a copy of a tape or a video of something?” “No, but there is a person who have it, but ah not seeing him until next week.” And then you quickly have to realize that—and at the end of the meeting, “You could help meh with a lil money?”

So you understand what going on in Trinidad and Tobago. So one has to be very cautious on this matter, because if someone, I am warning—not warning, but I am informing members of the national community, if you think you are a whistleblower and have information to share on bobol and you come through this mechanism, and it is proven that you ought reasonably to have known it is false—you know, again, Madam Speaker, I choose to do this because there is a time when I must speak as well. [*Desk thumping*]

**11.30 a.m.**

A Member of this Government went, in 2015, on a political platform, would you believe me, and asked me if I know about a mall in Holland. You know that? A Member of the Government sitting down here. Four years now, they “cyah find big mall, dey cyah find small mall” and they will search. I wish they could “gih me ah ticket to go and look for it mehself”, [*Laughter*] you know, I wish they could give me a ticket to go and look. I would love to go and look if you give me

that. [*Crosstalk*] Madam Speaker, Laventille West is saying I should be careful in the airport, “ah coming” to that just now. [*Laughter*] Madam Speaker, a Member of the Government, would you believe a senior politician officeholder asking me that? I say go and find it. Four years now, you cannot find it but this is Trinidad and Tobago. Should I ask the person if he—what? Ask the person, you ought reasonably to have known it is false, “buh you commit an offence”. Madam Speaker, that offence is fine and jail eh, so let me indicate that.

Madam Speaker, “Information protected by legal professional privilege”, there are some legal issues there which I would leave to other colleagues. We have something on that. The anonymous disclosure is not protected until the veil is removed. There is some debate about that because, you know, an anonymous information is also critical information but the Attorney General, I think, explained that somewhat. I do not want to debate that particularly. He says when you become known, then you get the coverage so that is fine.

Madam Speaker, I want to move on to 11. Now, listen to this, I will say it only once:

“An employer shall appoint and keep in his employ such whistleblowing reporting officers”—that—“are required...”

How many whistle-blowing officers are required? One, five, 10? They are saying “appoint”; that is a job you are creating. It is not from the workers who are on the field now, on the shop floor. So 50,000, 76,000 companies appointing one or more whistle-blowing officers. What is the qualification for that? So the employer is appointing a man or woman as a whistle-blowing officer and that person, one day, has to tell the employer, “Boss, ah need some time off to go to the whistle-blowing unit to report you”. That is what happened here. This needs proper thinking. [*Desk thumping*] The employer cannot appoint a whistle-blowing officer who will

go and has the potential to destroy your business because they can take complaint and so on. Clearly this cannot work. And appoint on what basis, on what qualification?

Then what happened in a company, a private family company? The family company says “We hire here 50 people, call one relative. What you doing? I doing nothing. You is the whistle-blowing officer here, come, I have ah job for you.” Because there is no qualification attached. Now, Government will say “we bringing that by regulations”. That is dangerous what they are doing here. [*Desk thumping*] They are trying to pass a majority Bill and then everything with simple majority with regulations. [*Desk thumping and crosstalk*] That is what is happening here, so this cannot work.

Madam Speaker, I have also been involved in trade union work for years and years and years. When the employer has this power to appoint someone as a whistle-blowing reporting officer, who will the employer appoint? Someone who is a serial complainant? In the place of work, people talk all the time. “Dey say yuh see this person, that person always complaining about everything. Every time they come, is something they talking about corruption and bobol and thing. We yuh do?” Appoint that as a whistle-blowing officer? And you have to pay. Who is paying this whistle-blowing officer? Is it another cost for the company? Clearly it is. The Government, I do not think, is going to be paying the whistle-blower. How much money per month? OJT \$5,000, \$10,000, \$8,000? What are the terms and conditions of the whistle-blowing officer? And they have responsibility. Hear this: the person being appointed has responsibility for:

“(a) receiving and processing internal disclosures of information about improper conduct...”—at the—“organization...

(b) determining whether an internal disclosure should be referred...”—for

any—“further...authority—Whistleblowing Reports...”—authority.

That is the power. Although the complainant or the whistle-blower can go behind your back and do an external, look at what is happening here. The whistle-blowing officer, who is appointed by the employer, will get the knowledge first: “You know, John Doe coming here to report about something he see in the back ah the hardware or in the back ah the company. He coming to complain. I told him that doh have no relevance man, that is not true and you know he going to Port of Spain to deal with the DPP office?” The employer has knowledge of that. So this is a recipe for victimization and discrimination at the place of work [*Desk thumping*] the way it is currently structured.

I mean, I want to tell my friends opposite in your own language, somebody working in Balisier House as the tea lady or janitor sees two Ministers talking in the back, innocently exchanging, you know, “ah bag” with some food or something, say look, I saw that but if I go, I cannot report to Sen. Cummings, the General Secretary, I going by the DPP. You understand what is happening here? You cannot set up like this. It has to be some type of structure that allows for independent persons. [*Desk thumping*] At least, Madam Speaker, in the trade union community, the shop floor representative, Mr. Couva South, is appointed by the workers. The workers, in a place of work, they vote for their shop steward representative. He or she represents the workers and takes up their matter. The employees are not voting for their whistle-blowing officer, it is appointed by the employer. That is fundamentally flawed and has to change. [*Desk thumping*]

And you know, Madam Speaker, I want to tell you something. Let us assume that you get a good and proper whistle-blower, a man or woman of integrity, character, strength, courage.

**Hon. Member:** “Where yuh gonna find that?”



**Dr. R. Moonilal:** [*Laughter*] I am hoping we will find that. You know, Madam Speaker, I want to quickly drift to 24(1) in the Bill. Do you know the penalty—and I hope I am reading it wrong because I do not have the latest version. The penalty for any person who discloses then or who leaks, to use the language, the identity of a person making disclosure and so on and statements given or documents, anything like documents and identity, do you know the penalty there is \$600,000 and two years in jail? Now, who is going in this world to be a whistle-blowing officer, if somehow somewhere your employer or any other co-worker comes with a complaint that they can fabricate some evidence against you that you leaked the identity of the person making the complaints, the whistle-blower himself or herself, you face a penalty in law of \$600,000.

**Madam Speaker:** Member for Oropouche East, your original speaking time is now spent, you are entitled to 15 more minutes. You may proceed.

**Dr. R. Moonilal:** Thank you, Ma'am. You face that penalty. You cannot subject a whistle-blower to a fine of \$600,000 and two years in jail. Now, I know there must be a penalty but that penalty has to be a bit lighter I believe so that persons are encouraged to do the work. And a person as a whistle-blowing officer is a person who so far is doing this job, I think, might be free or for a salary we do not know, that person may be getting “ah lil chee chee” at the end of the month as a whistle-blowing officer, but you have to pay \$600,000 if it is deemed that you leak information on identity or documents and two years in jail. That has to be looked at, Madam Speaker. Come on man. I mean, sorry. That has to be looked at.

Madam Speaker, you have now:

“An employer shall publish and republish widely in his organisation...at regular intervals, the internal procedure...”

So, of course, on the notice board, you put an internal procedure up. The date of

time, 30 days. The whistle-blowing reporting officer collects information, he has 30 days to notify the person making the complaint of the status of the matter, if he has referred it, if it has been dealt with and so on and so on.

Madam Speaker, I want to get some critical matters because I would not have time to go in detail on everything I wish to. Remind persons that the whistle-blowing officer, so far, has no qualifications that are being put in the law. So it could really be anyone with any qualifications to do serious work of collecting information, having suspicions whether this could be true or not, taking it to a whistle-blowing reporting unit in a designated authority. That is the job.

Madam Speaker, let me get to this whistle-blowing reporting unit now and I will set it out quickly because I do not want to spend too much time. What they are doing is they have selected 21 agencies and institutions. I am very concerned, the Parliament of the Republic of Trinidad and Tobago is not a designated authority. Maybe it should be. But, Madam Speaker, 21 authorities, designated, all will have a whistle-blowing reporting unit. Who appoints this unit? Who appointed the director? On what terms and conditions? Is it that the Minister of National Security appoints whistle-blowing units or approves terms and conditions? Who will really appoint whistle-blowing units in 21 agencies of Government? And those persons, we have no idea of—what is the qualification of a director? What is the qualification? Is he a lawyer? A police officer? Someone trained in law? Somebody involved, you know, in some matters related? But they are going to give jobs to these persons and these persons collecting information so you have here a non-police investigative unit. That speaks to another danger [*Desk thumping*] where you have persons who are not police officers specifically, or not even with legal training in some cases, undertaking investigations at first-hand into serious concerns.

Now, when you deal with whistle-blowing around the world, I keep saying this is not just for “ah pan ah paint”—somebody “tief ah pan ah paint somewhere and you report”, you know. Somebody going home with “ah wheelbarrow”. This is for hundreds of millions of dollars. Think of fake oil, think of these land deals that they have been talking about as well. Think of all these things. Think of matters like that—buying a boat, buying an aeroplane. Madam Speaker, this is what it concerns and you have persons that the law will not tell us there, you know, their qualifications.

Madam Speaker, another matter that I want to raise quickly is the matter of penalty. Now, it is clear in the legislation that there are serious penalties for persons who induce, threaten, make promise—I am looking for the exact clause because I want to be moving quickly and not in the order I proposed earlier because of the time. Is it at 23? I am being told so let us jump there. At 23, Madam Speaker, if you prevent, restrain, restrict any person from making a disclosure, you intimidate, you make a promise or a threat to someone that they ought not to make a disclosure, you are committing a serious offence and I believe it is \$15,000 and 10 years in jail. So if you promise someone—so in the Bill, as it is set up with an employee/employer relationship, if you fail to promote someone and that has to do with telling the person not to report a matter, you commit an offence, 10 years in jail. If you promote someone, you commit an offence and it is 10 years in jail because both can be found to be inducement.

But, Madam Speaker, I want the Attorney General to consider a serious matter now. Consider what is not raised here. What happens when someone induces a whistle-blower to give a statement by monetary payment, [*Desk thumping*] by promotion? By some other form of inducement to cause someone to become a whistle-blower. You see hypothetically, Madam Speaker, someone may

need money and you could give someone \$10 million—15? You could give someone \$15 million and if that person is terminally ill and needs money immediately, they can become a witness, [*Desk thumping*] they can become a whistle-blower. So you can get money, you can get payment and then on another part of the law, you can get immunity from prosecution [*Desk thumping*] and become a witness and in this case, become a whistle-blower.

So, Madam Speaker, I am asking the Attorney General to prevent that; to prevent persons who—to create now another offence that anyone who induces by promise, by threat, monetary or otherwise, promise and pay money for someone to become a whistle-blower, in these circumstances, commits an offence and is subjected to a fine and a heavy term of imprisonment. [*Desk thumping*] Because, Madam Speaker, it will be a travesty of justice if we create a whistle-blowing organizational structure where persons can induce people to become whistle-blowers with cash, with promises, with contracts. So you owe somebody money and the person say the Government—hypothetically, the Government because it is the public service we are dealing with. The Government owes someone money and you say, “Listen, we ready to pay you”. We are paying X millions of dollars but you have to do something and you become a whistle-blower. That is an offence and it must be placed under this specific legislation. [*Desk thumping*] And worse, Madam Speaker, if it is in circumstances where people are ill, terminally ill and dying and require cash, Madam Speaker, for their health, that should be a higher penalty.

So, Madam Speaker, I raise that issue because in Trinidad, in this culture we run here, which we are all aware of, many of us are in public life for years now, we are aware here. Governments, businesspersons, private and public, governments owe businesspersons a lot of money, they owe and when it is time for payment,

you can induce, you could seek to induce, to threaten persons to become whistleblowers under this legislation. So we must now create that offence, if it is the only thing we add into this Bill, that anyone found guilty, conspiring or otherwise, to induce whistle-blowing activities should be punished with fine and jail. [*Desk thumping*]

Madam Speaker, the structure. Now I know that they consulted and so on and we have to protect persons. I will just touch very briefly on the two matters. I have in my possession—I think it is part of the documents of Parliament—an opinion given by Ian MacIntyre, Senior Counsel, Chief Parliamentary Counsel in which in a startling revelation, Madam Speaker—I cannot read the whole thing before you but I have it here. I think it is part of the record, indicated that this Bill not only violates fundamental and constitutional rights for which you can come—for some that, you can come with a simple majority but it goes so far in the violation of constitutional rights that a court of law can rule that this Bill fails the proportionality test and is not reasonably justifiable in a democratic society and that is a serious alarm that comes, not from the UNC, not from the Opposition Member, but from the Chief Parliamentary Counsel [*Desk thumping*] that even if you pass this Bill with the requisite constitutional majority, you can still fail.

**Mr. Al-Rawi:** That was the old Bill.

**Dr. R. Moonilal:** Madam Speaker, the Attorney General tells me it is the old Bill. I will leave that to a new speaker.

Madam Speaker, I want to indicate that the structure that they are putting in place from an employment perspective cannot be operationalized and cannot be operationalized so. What you should reconsider is a simpler structure that keep whistle-blowing protector and units alive in a lesser number of agencies but allow workers or citizens to access them quickly. [*Desk thumping*] That is all you need.

You did not need to go to 76,000 employees, employers and tell him them hire somebody and pay the money for it. You do not need 21 departments of Government putting a unit in place to—now they call this person a director. When you say director, that means m-o-n-e-y. That is not an OJT person. You are going to spend enormous money on this when you could simplify that structure and allow persons to come with their information or complaints, protect them in terms of the disclosure and if they bring material that has truth in it, the whistle-blowing protection unit can take the matter further. And I recommend as well to the Attorney General that, in this process in Parliament, we try to simplify the structure that you are putting in place [*Desk thumping*] and you may be able to do it quickly if you try that.

Madam Speaker, we have hard evidence of whistle-blowing in this country in the recent past and I just want to remind persons: Carrie-Ann Moreau, employee of the Ministry of Sport, blow the whistle on somebody. Charmaine Lewis was fired as General Manager of the Port Authority in 2017 after she testified before a JSC on the procurement and maintenance of ferries for the inter-island service. Ronald Forde was fired as General Manager of PTSC and Mr. Forde said something in the newspaper that is so—you know, the Attorney General said this deals with the soul of the country, hear the soul of Mr. Forde. He said he warned the people when they go before a JSC, you cannot be factual or truthful otherwise you will end up on the breadline. Could you imagine a general manager of a state enterprise told the country, he said, “Do not do like me, do not tell the truth before a JSC, you could be on the breadline”.

Mr. Attorney General, this is the soul of the nation we are talking about [*Desk thumping*] when a public officer like this speaks in that language in the press. He did not have the protection of Parliament, he spoke in the press. Leone

Grant was fired as Chief Executive Officer of the inter-island transport company in 2018 after he contradicted evidence given by a Member of Parliament on that committee. He gave evidence that was contrary to a high-ranking Member of this Government. Harry Ragoonanan was thrown out of the People's National Movement and he was thrown out of everything when he raised issues of procurement process and worthiness of the *Cabo Star*, *Ocean Flower 2*, *Galleons Passage*. [*Desk thumping*] I do not know, I think he is now party-less and homeless and moving around the place at different venues. He raised issues dealing with allegations of corruption.

So, Madam Speaker, is this whistle-blowing protection unit here, is this for Harry Ragoonanan, Leone Grant, Ronald Forde, Charmaine Lewis, Carrie-Ann Moreau and others? Is this for that? Now in every Ministry, as I understand it, correct me. Every Ministry and Department needs to have a whistle-blowing officer because they are in the public service and you do not say how they are appointed, who hired them, who are approving their terms and conditions. Madam Speaker, in Ministries, it is the Minister—unless it has changed—that these files come to, to approve terms and conditions of work of officers. Now, for many of us, it was a routine matter because they have all the processes they follow, PS recommends and so on. But, Madam Speaker, there are evidence in this country where that was not a routine matter so a Minister of Government has to sign off on the appointment of a whistle-blowing officer in his Ministry, Department, et cetera, et cetera. That is a dangerous thing to do. [*Desk thumping*]

This is why you have to put more thought and Mr. Attorney General, you ought not to have run away from a Joint Select Committee. [*Desk thumping*] You ought not to have run away and we can help. The Opposition, as we did with all the other Bills, can help you because the objective is not a bad objective. We can

help you but you cannot run away from a Joint Select Committee. You cannot set up some type of amorphous structure where we do not know how in the world this thing will be operationalized because you want to deal with something immediately. We all want to deal with something immediately, Madam Speaker, we all want to deal with that but we must protect citizens' rights. [*Desk thumping*] And I think that the Attorney General, he sounds convinced, he is clear as to his objective and so on and as he speaks, the last—I go to say the last Government. Madam Speaker, the outgoing Government will be subject to this legislation and therefore, it must be good legislation if I, or anyone on this side, would have the displeasure of subjecting any one of you to this legislation, Madam Speaker, it should be good legislation.

I thank you. [*Desk thumping*]

**The Prime Minister (Hon. Dr. Keith Rowley):** Madam Speaker, I join this debate just at the time when I thought it was being given serious treatment in this honourable House. It deteriorated to a bit of jocularly, but having said that, Madam Speaker, I simply want to go on record saying that this piece of legislation arriving here today is not out of any act of urgency to deal with any specific situation as implied by my colleague from Oropouche East. Because these are the kinds of comments that will lead the population to believe that we are never serious and that the House engages in matters against their interest.

I recall, Madam Speaker, as leader of the Opposition in an election campaign in 2015, raising with the population the all-pervasive nature of corrupt practices in Trinidad and Tobago and the effects, the deleterious effects that it was having on the society in our development and growth as a nation, in our use of resources, in the development of our human capital, in the restraint of the population's ambitions to be realized and so on. And as part of the election campaign, people



talk about promises made in the election campaign, I would prefer to talk about commitments. A commitment was given that if this party was elected to office, we would put the structures in place to attempt to restrain the runaway growth of corrupt practices in Trinidad and Tobago and we did that on the grounds that a lot of what was happening that was so detrimental to the public's well-being was not being done either in secret or without the knowledge of anyone. Much of what was happening was known to some people or somebody and therefore, if that is known to law enforcement, then the population would stand some chance of treating with the scourge and we would be able to turn around this juggernaut. That is why in that election campaign, we committed to take steps to bring to the Parliament whistle-blower legislation, meaning, not that we were creating any wheel, inventing any spaceship to go to Mars but putting in the legal structure, in the jurisprudence, in the tool kit of law enforcement, another item which will assist us in treating with wrongdoing wherever it might occur. And that is why the Attorney General was able to say that this is not only about wrongdoing in the public sector but in the private sector as well.

And let me make a point on that, Madam Speaker. A few years ago which was before I became Prime Minister or it was just as I became Prime Minister, I had the opportunity to be addressing the Chamber of Commerce at the Westmoorings at their headquarters down there and somebody in the proceedings, when I was taking questions from the gathering, someone at the back of the room made this very big point asking me what is this new Government going to do about corruption in the public sector. And I said to him, we aim to do a lot but may I remind you that 95 per cent of the corruption that occurs in the public sector has some connection usually with the private sector and the audience cheered and that was the end of that conversation.

So that is why the AG, today, is saying that this legislation is not about only public sector corruption because public sector corruption hardly ever is confined to issues and personalities within the public sector. In fact, a lot of the inducement and enticement and the acceptance of it is in the private sector. So let us not put any barrier between them. It is the citizenry, wherever they are located, that are harmed by this and it is growth and fertilization is among the citizenry, so let us not take it personal. Let us not seek to pigeonhole it.

I heard my colleague from Oropouche East say that it needs to be narrowed to be specific, but you do not know who is going to be the whistle-blower. You do not know what they are going to say. Until they come forward and say I know something about something, it is no place, no name, no time. It is only when the whistle-blower comes forward and tells you something of interest that you know that this is whistle-blowing. So how could you want to pigeonhole it? It ought to be left wide open wherever it is: URP, local government, central Government, business sector, that is what you need, wherever it is, because we are damaged across the board.

I am sure everybody in this room, all my colleagues here know stories that they have heard—and there are always stories—about something that happened in URP, in CEPEP, in their Ministry. I mean, Madam Speaker, we get some reports here from local government sometimes 10 years late and you look at them and frankly I just throw them aside you know because what can you do then, 10 years later. First it comes late, secondly, you could see that something is not right here but how do you deal with it? And somebody knows what went on there but you have to just swallow it and say this is Trinidad and Tobago, that is how it is.

What this legislation is meant to do is to encourage and protect people who are volunteering to tell you what they know that may be of use in treating with this

problem because at the end of the day, notwithstanding the fulminations of my friend from Oropouche East, nobody is forcing or creating any whistle-blower. All that is just ole talk. A whistle-blower is going to be a citizen who takes it upon him or herself to volunteer information which they believe is for the public good. That is the only whistle-blower that this legislation acknowledges and expects to come forward. And if they come forward, Madam Speaker—I heard a very strange comment from my colleague from Oropouche East today talking about giving people enticement and inducement to be a whistle-blower and so on and so on.

All I will say to him, that is a poor defence for today's headline, very poor. [*Desk thumping*] And if I were you, I would not demean the House by raising that here and trivializing a serious debate.

### **12.00 noon**

Madam Speaker, my colleague from Oropouche East spoke about a minority report should have been allowed to be made, and so on, and so on. Madam Speaker, they talk about us hurrying here with this. We did not. As per the commitment we made in the election campaign in 2015, it is now 2019, early in 2016, in fact I am now reminded it was November 2015. We came in on September 09, 2015. Let me repeat that for those who heard about rushing and hurrying.

We took over the Government of this country on September 09, 2015. October, November, two months later, we laid in this Parliament our first attempt, a draft, a Bill for whistle-blowing legislation to be brought into law. My colleagues on the other side requested and I dare say demanded that it be sent to committee, as they have done with virtually every piece of legislation that we have brought here.

They were in Government for five years. The issue was there. They never

touched it. We committed to dealing with it as an election campaign promise/commitment. We brought it here inside of a month. And when it got here, my colleagues wanted it in committee. It went to committee, like many other things, and after going to committee then it is today almost four years later we are treating with it on the Parliament floor and I am hearing about us rushing it. It was their intention, Madam Speaker, if I am to interpret it, that the five years would have passed, and even though we would have brought it here with such alacrity in 2015, that it would not have seen the light of day, today the matter is before the Parliament. [*Desk thumping*]

What can I say, Madam Speaker, about a minority report? I have had the experience in this House to see my colleagues on the other side beat matters to death in the committee stage and put in a minority report, and when the matter came before the House to be dealt with, they disowned the minority report and continued to be obstructionists on the matter. So to come and say today that you had no opportunity to do a minority report on this matter is such a big point. It is a non-point. [*Desk thumping*] What it does say, Madam Speaker, is whether in fact we agree that this problem exists in this country, and I will come back to that.

My colleague on the other side talked about being a whistle-blower himself, and had this law been in place he would have been protected. He invites me to respond to that, because we are getting personal now. He is a whistle-blower for coming to the Parliament and reading documents about bank accounts and calling my name and getting his end sued and not saying that the law, if the law was there, it was not going to protect him, he would have had to answer for serious misconduct, because that is the malice that the law is saying must not happen, because the law protects people from that kind of behaviour. [*Desk thumping*]

Let us disregard that from the debate. He makes a big point about a

whistle-blowing officer and who is going to appoint him and who is going to create this job. And, Madam Speaker, when our people who are busy out there working on the buses, working taxi, the hotels, hearing the parliamentarians saying that en passant, they believe that some serious point is being made in the Parliament and something—Madam Speaker, this is not a real point.

We have just spent a long time dealing with, trying to bring to a head this whole question of the procurement legislation, and in that legislation it talks about a procurement officer in every department. Madam Speaker, what we discovered is that some people interpret that to mean that you go out there and hire a whole cadre of public servants who will be procurement officers. A department that is only dealing with a million dollars in procurement might have an establishment, according to them, of a \$10 million department of procurement. We said no, what that law is saying is that you designate some officer as part of their duty, and it is only if you do not have such a person who you can pass that responsibility on to, then you will have to hire somebody to do it. But we are saying that in the public service, we are sure in all the Ministries, we had a, what you call it?—we brought the PSs and Deputy PSs and explained to them that the procurement officers are not that you go out there and hire a set of people. Find somebody within your department who will be designated and identified to do that when it has to be done once in a while in your department.

Would you believe, Madam Speaker, that even after all that, right down to the end, we are still getting Cabinet Notes, Permanent Secretaries still sending us the big long establishment to hire procurement officers for departments. We said no it is not that. And look at what happened today, the same thing. We are saying here that you identify someone within your organization whose job is simply to receive the information, and it is being done already even before the law. In

Angostura, those of you who followed the Angostura issue. In WASA it is happening. So it is happening already, and all we are saying is that a person would be designated and that person, he or she, or even more than one person, would receive. If a person wants to talk to you about something interesting like this, they know who to go to and where to go. But you come here and making a point about it, about the law is defective because it calls for this and operationalization.

Madam Speaker, that kind of argument could be made or could have been made when the police service was going to be formed, when Vincent Peale was going to form the police service. Because you could have said: “You go and give policeman uniform and give him baton and give him power to arrest people? What? All kinda thing could happen. Dey could arrest people on false information. Dey could beat people out of malice.” All of those things could be said about the police, but we had to have a police service and these “could happen” things could always happen.

It reminds me of a cousin of mine who refuse to get married because “he afraid he go get horn” [*Laughter*] and was told by my other cousin that my grandfather lived with it here, my father lived with it and you will have to leave it here but marriage is a noble institution. [*Laughter and desk thumping*] So when that kind of objection is being made to legislation, it is not serious. It is not a serious point.

And we, Madam Speaker, what we need to do, what was even more, as my colleague from Oropouche East got very personal on the matter in talking about who was whistle-blower and who was not whistle-blower, and who will designate this whistle-blower. Well the Angel Gabriel is not available for that purpose. There are positions that have to be appointed by persons in authority. You appoint them. Whatever their shortcomings are, appointments have to be made by human

beings in this country.

He talks about whistle-blowing and the shortcomings of the appointment. I want to remind my colleague from Oropouche East, on this question of appointment of whistle-blower. There was a Solicitor General called Donaldson-Honeywell who wrote complaints to a Prime Minister; serious complaints about misconduct in a serious Government department, criminal conduct, and the Prime Minister sent it to the Attorney General to deal with it. That was a whistle-blower and the Attorney General was the subject of the complaint and that was how it was dealt with, and not once you know, Madam Speaker, twice. And now he is coming here to talk about how you are going to appoint the whistle-blower.

The Attorney General was appointed whistle-blower in the AG's office and that is how it was dealt with. So, there is no foolproof protection of how it will be dealt with. All we are saying, create the law and let the volunteers who will do it, be given the opportunity, and this is just another tool that can be used in some circumstances. That is what we are saying. [*Desk thumping*] And to add insult to injury, he goes on to name a number of people who were the subject of mistreatment by this Government.

Madam Speaker, I cannot let the record go unchallenged, he having named them. Charmaine Lewis, who was the acting General Manager of the port, was removed from her job, not because of any appearance in front of any parliamentary committee, but for the findings in a forensic investigation at the port. [*Desk thumping*]

He had the gall, Madam Speaker, to mention Leon Grant's name. Madam Speaker, Leon Grant was removed from the port after the Prime Minister of Trinidad and Tobago, your humble servant, came before a committee of this

Parliament, showed them documentation where Leon Grant hid pertinent information from the port allowing that *Cabo Star* to be bought and brought here at thousands of US dollars per day more than the owner wanted to do it for. [*Desk thumping*] And it was only when the whistle-blower, the previous owner, communicated with me, telling me that they offered the boat while they were the owner and that was hidden from the port board, that I came to the Parliament here and showed, and that is on the parliamentary record, because I put the email from the previous owner on the parliamentary record and today he has the gall to come here and talk about Leon Grant being removed out of office today. [*Desk thumping*]

That is what they get up to, you know, Madam Speaker, the complete opposite. As though Leon Grant was wronged. Leon Grant was a public officer whose conduct came to us in that way, by whistle-blowing, from a foreign whistle-blower. And you come here today to point finger at this Government in defence of Leon Grant? You and Leon Grant have a lot in common and we are not going to take that from you. [*Desk thumping*]

He talks about Ford. He talks about Ford and the PTSC, Ronald Ford at the PTSC. Madam Speaker, at our party headquarters, we have removed people on frequent occasions whenever it occurs that they are unsuitable for membership in our organization and we need no assistance from the Member for Oropouche East.

And since he wants to talk about Harry Ragoonanan being removed from the Balisier House, when we “move” him out, you “bring” him back in. Madam Speaker, he was moved for good cause. And I draw your attention, there was cogent information available to our party that the conduct, especially and in fact that conduct had influenced—Mr. Grant was out of his job for a few days. We woke up one morning and discovered that Mr. Grant was put out of his job. It had



nothing to do with his appearance before the Parliament, Madam Speaker, nothing. It had to do with improper conduct at the PTSC on the part of persons who have been dealt with appropriately, including removal from the People's National Movement. [*Desk thumping*]

Madam Speaker, I simply want to spend the few minutes that I have left pointing out to this country that there are reasons for us wanting information from whistle-blowers, because we know that there is a lot of wrongdoing taking place in our society at various levels. We know that people know what is going on. Somebody knows and the information that some people have would be useful in helping us to eradicate that problem.

I take you, Madam Speaker, just for illustration, not to debate the report, but I take you to the report of the Financial Intelligence Unit of Trinidad and Tobago, 2018 Annual Report. This is the most recent report laid in this Parliament by the Financial Intelligence Unit, a body that this Parliament created for the purpose of treating with the wrongdoing and criminal conduct, where information of wrongdoing is the *raison d'être* of this organization coming into being. Parliament created it. We did not always have it. We created the Financial Intelligence Unit to deal with financial wrongdoing in this country.

Let me tell you what this report in this Parliament, sitting here, has done. I take you to page 21, Madam Speaker, suspicious activities disclosures. And again, remember it is financial. This deals with financial matters, meaning that wrongdoing where money is either obtained, beneficiaries are breaking the law or something like that and we created the conditions for suspicious activities to be reported and collated and expected to be pursued and prosecuted. That is what we expect. But of course, the report comes to the Parliament, the country might hear about it or not hear about it. It goes on a shelf and it continues.

Comparisons between 2016 and 2018, suspicious disclosures for that period: banking, 2016, 284 of them; 2018, 463; insurance companies, 2016, 31, 2018, 70; investment companies, 2016, 15; 2018, 25; non-regulated financial institutions, even small people's money, co-operative societies, 86 in 2016; 42 in 2017; 51 in 2018; money transfers and wire transfers, 2016, 217; 2017, 325; 2018, 444. In total, when you add all the categories including lawyers, jewellers, motor vehicle sales, real estate, gaming house, total, 2016, 739 reports; 2017, 877; 2018, 1,100. So, in other words, it is there alive and well and apparently getting worse. More reports, and we are assuming that more reports are an indication of an increased activity, where illicit transactions are taking place.

But interesting enough, Madam Speaker, of all the headings we have here, the one that caught my attention the most was private gaming house, meaning the gambling arrangements, which in this country where we turn, we turn our faces away from the sun hoping that people will face the moon, we have no proper legislation in this country acknowledging the presence and operation of casinos, but the whole country is awash with casinos handling millions of dollars, probably billions of dollars, serious criminal conduct associated with them to the extent where the banking community had to withdraw their service from them and the only prosecution against that group of economic activity has been done by a foreign country about activity in Trinidad and Tobago, but in our parliamentary document where we talk about our conduct as a people, 2016 gaming house reports of transactions that are of concern to us, zero. 2017, zero. 2018, zero.

Madam Speaker, how could we as a people be satisfied with a report like that, where every school child knows, every businessman knows that money laundering threatens his business and one of the perfect places to launder money is a casino operation but the Parliament accepts a report that says zero, zero, zero.

And I say, and we say, the Attorney General says and the law says, somebody knows and we want those people to talk. [*Desk thumping*]

And we say that as they speak about what know they should be protected. And as my colleague from Oropouche East understands as well, that if they use the legislation to be malicious or try to damage people through misinformation, the law says that you can be prosecuted. Nothing new. The same condition exists in this Integrity Commission Act where, if you know something or if something is wrong, you can complain, but if your complaint is deemed to be for malicious purposes, there are penalties that can be attached to you. We know that. So this is not new. We are simply saying that the same condition will apply here. If you think you want to be a whistle-blower for the purpose of being malicious and hurtful then you are exposing yourself to damages. But it is in other legislation.

So why come here today and say that this is something that is going to be so hurtful and it is not acceptable? My friend went as far as to quote the public officer who said, when we talked about how the court might rule, referring to legislation, which is not before us today. That comment was not about this Bill. It was about a different draft. And to the extent that we have taken the draft from where it was and brought it here in this form, we have taken that on board. And, of course, there is a lot of our daily existence that the court can rule against.

But when we go before the court and tell the court what we are dealing with—and we have to assume that those who sit on the Bench in the court in this country live in this country and they too see this report and they too read this report—they will then have to determine if they will protect us by deeming that this is not something to spite anybody but something that the society needs if we are to improve from where we are to where we want to go. [*Desk thumping*]

So, to come and say that somebody says that the court might rule against it,

that is always the prerogative of the court. What we have to do here is to put our heads together and make the best piece of legislation available. We all represent a portion of this country's population and everywhere in this country, every citizen is exposed to what I am saying here; everywhere. None of us here has a population in our constituency that is immune from the deleterious actions of the wrongdoing that this Bill is seeking to deal with, none. So we will do the best that we can.

And no legislation is perfect in its drafting or in its promulgation. You can always, and sometimes by experience you come back and amend it later on if you have to. That is why the Parliament deals with so many amendments to old laws. Even new laws you have to amend. So do not come and tell me we cannot enact it into law because you could point to some little thing that could cause it not to be operational.

We have worked on this legislation for two and a half years, and we are now in a position to say to this Parliament and to our colleagues on the other side, let us enact it into law. It will always remain a voluntary action of persons in their place of work or their place of worship, I dare say. Because even the places of worship are not immune to the wrongdoing that is so pervasive in Trinidad and Tobago. And when it is there, all it will do is to give, firstly, an encouragement to those who know and would want to talk.

**Madam Speaker:** Prime Minister, your original time is now spent. You are entitled to 15 more minutes to complete your contribution if you wish. You may proceed.

**Hon. Dr. K. Rowley:** It will give that encouragement to persons, and especially those persons in the public sector—and I will tell you why the public sector—because the vast majority of the criminal conduct that this legislation would probably identify has something to do with public money. Because the grease that

turns the wrongdoing in Trinidad and Tobago is public money, invariably. Because the way the country is run by a national budget funded by the State and the amount of service that the State provides for the population funded from the exchequer creates huge opportunities for persons to interface with public assets and public moneys. And it is there that the wrongdoing is taking place. And those persons are organized in Ministries or in local government bodies or in state enterprise sector bodies, and so on. And, therefore, persons who are either employed there, or who do business with them or who are observant of what is going on, those persons, in protection of their own interest, would want to say what they see that is going wrong and would want things to go right, and they would want to talk to somebody.

Madam Speaker, a simple thing like the use of public vehicles for private purpose, you would not believe how much abuse takes place. This is not to trivialize the situation. But you would not believe how much abuse takes place by persons using public vehicles for private purpose. And you would also not believe how much resistance there is to the Government to have departments mark their vehicles with government marks, because the users want to make sure that the vehicles are not identified when they are being abused.

One of the instructions that this Cabinet gave across the board in the public service is that except for security vehicles and few other exemptions, all public vehicles ought to be marked as such, and the reason for that was to prevent them from being abused, millions of dollars of abuse. Madam Speaker, you would not believe how much resistance we have been getting from the public sector to prevent that from happening. Because once you see a vehicle with a government logo on the door on Maracas Beach on Sunday morning, you know it should not be there.

And they have been resisting no end and you might even ask: How could they resist the government? And I would say easy, just do not do it, and give you reasons why it should not be done or postpone it or just pretend not to hear. I would say even though there was a Cabinet instruction that those vehicles should be marked, very few departments have carried out the instructions. And you enquire as to why it is not being done and they pretend not to hear you and they wait you out until after the election, hoping for a next government. That is how it goes. And I am saying, you would not believe how much millions of dollars we will save in gas and tyre and vehicle, if public vehicles are used for the purpose for which they are bought.

So you would see all kinds of vehicles on the road, nice model, nice hairstyle, nice driver on a government vehicle, government gas, government tyres, government maintenance. “You taxpayer paying for that”. But, of course, if the vehicle was marked you could then complain very simply by taking the number and calling the department and hope that somebody in authority will take that. Madam Speaker, that is just a small end of it. Right?

You heard today about a one hundred million dollar reference to something wrong? I will tell you, Madam Speaker, I am going to ask this House, as I have asked the Attorney General a few months ago to make sure that this Bill comes to the House and it will go to the floor. If my colleagues do not vote for it, it would not be passed into law. But I can tell you, Madam Speaker, every Member on this side will vote to put this into law. [*Desk thumping*]

And the least that we could have done, the least that we could have done as a party coming into Government with the approval of the electorate, to put this into law, was to have ensured that the Attorney General's office—and I want to congratulate the Attorney General and his staff, for the speed at which they

brought this matter to the Parliament. [*Desk thumping*] They did the research. We are not going to be the only country in the world to have this. We were able to look at a number of other countries that have the same problem. These problems are not peculiar to Trinidad and Tobago.

In the Commonwealth, there are a number of other countries that, before us, had seen it fit to enact this legislation. Coming after them, we have been able to look and see what they have done. Their courts have not struck down their legislation as being unconstitutional or inappropriate in a society like ours in the Commonwealth. We have been able to look at them and then say this is the form that we will pattern. We will learn from it. We would build on it, and in fact ours being newer would be better than some of the old ones that are in the books of other Commonwealth countries because we have looked at what they have done. We have spoken to them. We have got their experience. Some of them have offered us their staff to help us in the drafting. So what is this story about we cannot enact this because something bad about it? If you do not want to support it, say you are not supporting it. It is as simple as that. [*Desk thumping*] But it cannot be on the grounds that it is unsupportable and that the courthouse would be a place where it would be struck down as not being reasonable law in a society with proper respect for our rights, and so on, and so on, and so on. That is just an excuse. It is here today, calling on the parliamentarians to put it into law, so that those who are required to enforce the law will be able to use it in appropriate circumstances.

Madam Speaker, these kinds of comments in the House, as though those of us who have the responsibility to bring the legislation, to prepare it and to bring it, that we have some personal agenda against a personal individual situation, we have to remember, from the time we pass it into law, those of us in this group have

absolutely no say whatsoever in dealing with it, because it is only the police in this country, only the police in this country has the authority to arrest anyone. [*Desk thumping*]

And even if, even that there is a security there, if the police as is in— [*Interruption*—Madam Speaker, could you ask the Member for Naparima.

**12.30 p.m.**

**Madam Speaker:** Prime Minister.

**Hon. Dr. K. Rowley:** [*Desk thumping*] Madam Speaker, even where it can be said that the police may abuse their authority, or be guided by political directorate to go after X, Y, Z, they could say that if they wish. Section 90 of the Constitution put an additional protection there. The office of the DPP, beholding to no one, no person, no agency has the power to intervene and stop prosecution, or to initiate it, if it so say. So we have the DPP's office, and the reason for that is that if there is capricious action on the part of the Commissioner of Police and his men and women the DPP can step in and put an end.

So, Madam Speaker, what is this fear, and what is thing about trying to personalize legislation. There is no such thing in the country as PNM law, or UNC law, it is the law of Trinidad and Tobago applicable to everybody in this country. [*Desk thumping*] Much of the laws that we wake up to, and are governed by, we have no idea who enacted them. In the Parliament at the Red House where we hope to go very soon back to the Parliament building, there were some busts and pictures in there of people who were allegedly from the LegCo days, even before independence, who were the ones who passed laws in the last century; those are the laws we live by.

I do not hear anybody getting up and saying De Verteuil pass this and this one do that. No. The laws are for governing our society, and from time to time as



we evolve in one direction or the other we amend the laws, or we replace the laws, or we add new laws. Why are we afraid to do our duty? Today, Trinidad and Tobago expects every parliamentarian to do his or her duty today. [*Desk thumping*] If that is too much for us in our time to do then the failing will be on our part, and our period of service would be one that we ought not to be proud of.

Madam Speaker, I ask my colleagues on both sides of this House to accept this legislation in the spirit in which it was committed, in the spirit in which it was prepared, in the spirit in which it has been brought here and in protection of the people of Trinidad and Tobago where many people know a lot. Everybody knows what ought to be done, a few people know what is going wrong, and we can then use their information to treat with a chronic problem in Trinidad and Tobago. And that problem is the all-pervasive corrupt practice that seems to be getting worse in Trinidad and Tobago. Madam Speaker, I ask my colleagues to support this Bill and enact it into law. Thank you, Madam Speaker. [*Desk thumping*]

**Madam Speaker:** Member for St. Augustine. [*Desk thumping*]

**Mr. Prakash Ramadhar** (*St. Augustine*): Madam Speaker, it is truly an honour to speak after the learned and the most hon. Prime Minister. Let me just indicate upfront that as I speak, I speak out of love of country, I have no cocoa in the sun, nor do I have fear for any man. Indeed as I stand here, I can tell you with all honesty I really do not know if I even have a future in the electoral politics of this nation. And I say that to put in context in response to what I consider a very aspirational statement from the Prime Minister, but we live in a real world.

Prime Minister, please do not take this as any personal attack, but at the end of the day and in the beginning of an era the question must remain, is it not that all of the laws that we pass, many of our colleagues may become subject to them? At the end of the day and the beginning of an era it is to the courts that we look. How

is it reasonable in a modern democracy, Prime Minister, that Section 137 has not been triggered? [*Desk thumping*] And I ask the hon. Prime Minister— [*Crosstalk*]**Madam Speaker:** Member.

**Mr. Deyalsingh:** What is the relevance?

**Mr. Singh:** You will find out soon. Sorry.

**Madam Speaker:** Member, I remind you of standing order 48(1), relevance. I am going to give you a very short—but I do not see the relevance of this.

**Mr. P. Ramadhar:** I am most grateful, because I shall make it most relevant. If it is that out of these whistle-blowing legislative efforts, if it should become law and persons become subject to this law, it is to the courts as the Member for Oropouche East has indicated as to whether this law is applicable in the society, and the learned Prime Minister did in fact reference that. And it is to the court that will determine whether those or this legislation and others will stay on our books and become applicable to any citizen. And that when I reference, and I know the learned Prime Minister may not have fully appreciated the circumstances. And it is my duty as a Member of the Parliament, a colleague of his, of course, to indicate that the perception where you have been called upon to do a duty that only you could perform, you have made no decision one way or the other whether you are going to appoint—

[*Madam Speaker stands*]

**Mr. P. Ramadhar:** Milady, with all due respect, I am about to close.

**Mr. Deyalsingh:** Sit down, sit down.

**Madam Speaker:** Member for St. Augustine, I know sometimes when we are in full flight it is difficult to contain ourselves. But I rise again on relevance and I would ask you to move on to another point, please.

**Mr. P. Ramadhar:** You see, it cannot be where Judiciary that will apply the laws

on our citizens can be held under the Sword of Damocles one way or the other. [*Desk thumping*] And when there is issue as to who is afraid of the application of law—let me tell you why—for the longest while in this Parliament wherever legislation is brought whether it is that issue of explain your wealth, or the SSA, or other legislative efforts that came as simple majority matters, many of my colleagues and the wider population say but this cannot be. If we are dealing with this issue here of whistle-blower legislation you say that because it is required as a constitutional majority, you ask all your colleagues to support it. Then, where is the argument, where is the consistency when other legislation that indeed impacts upon one's privacy and on property rights you bring it as a simple majority? [*Desk thumping*]

And when there is a condemnation of that effort, “allyuh have ting to hide”, “yuh have cocoa in de sun”, “yuh fraid it”, “unpatriotic”. Almost treasonous, my dear friend from Laventille West. And that is why there is a discomfort and an unease in the politics that a lot of the legislation is part of theatre where the Opposition now has been painted as totally corrupt. The population has been groomed to expect anything and everything, so that when colleagues may be arrested and/or prosecuted they say, “you see, we always knew” and thank God for the PNM, great is the PNM, they are upholding the law. [*Desk thumping*]

**Madam Speaker:** Order, order. Member for St. Augustine, continue.

**Mr. P. Ramadhar:** But the great charade is that legislation that has slipped through this House, with the best of intentions by some I imagine, for instance this issue of explain your wealth, will fade into disgrace the moment it is tested before the courts.

**Madam Speaker:** So, Member, I believe what we are dealing with today is whistle-blower protection. So I will ask you to come back to that, please.

**Mr. P. Ramadhar:** I have not left at all, because it is upon that foundation other legislation would be placed to suggest that it is a portrait, a picture that is painted of the crime fighting and corruption busting efforts of the Government which I congratulate. If there is a genuine effort to deal with corruption, nobody will herald that and be more grateful for it than I, and I am sure many of my colleagues. But the most important legislative effort of this Parliament, or the Parliament of Trinidad and Tobago, has been procurement legislation. And four years into the term we have not seen a single effort, I should not say a single effort, we have not seen the light of day for the enforcement of procurement. [*Desk thumping*]

And the Prime Minister was so 100 per cent right on it that corruption really involves Government and people's taxpaying dollars being spent and private enterprise. And that is where we need and if you are really serious about busting corruption let us implement procurement now. [*Desk thumping*] Four years on the books but not developed. In fact, it is no secret I have a meeting with the procurement board this week, they have asked for any assistance I could give. Humbly, I do not know if I could but I will do anything I can to further that effort.

I was so lifted, Prime Minister, when you invited many in our country to visit with you for the introduction, or at least the beginning of the effort for campaign and party finance reform. If I recall that would have been in January 2016. Promise after promise that that would come and hearing, Prime Minister, that it is coming very shortly—[*Interruption*]—Sorry? I look forward to it. But when will it be implemented, for this local government election coming? For the next general election? And the reason I say these things is because we are dealing at the foundation here of corruption.

It is as the Americans say, our political system it is now baked in to it—party and campaign finance—because whoever pays is to be repaid. And unless

we deal with that also, which was an effort started under the last administration to balance off this thing, then we are really just digging little chinks when you have a sledge hammer to deal with the major problem.

So, Madam Speaker, nobody disputes the value of whistle-blowing. In fact, in the United States many may not recall that there was a leak from the presidency of the Nixon administration and one recalls now too that the whole Watergate scandal came about from an illegal break-in into the offices of the Democrats—sorry, or the other way around. But there was a person whose name or nickname had been given as “Deep Throat”, who was able to give information and out of that the media got involved and the media was able to expose so many things. At the end of which the presidency of the United States, the presidency of Richard Nixon fell.

And there are many examples, some quoted by my friend from Oropouche East. Some quoted by the hon. Prime Minister. So there is no denying that it is important. But what do we have in this legislation and let us not understand the severity or what this is all about, where a person who has information comes forward under sometimes the veil of being anonymous, but we are encouraging those persons, and I am attracted to the suggestion from the Member for Oropouche East that it should not be left for an internal reporting structure. Because the moment a person in an organization says to a person who is selected by the “bossman”, if I may use that, that this person is talking about some corruption, there is no guarantee you could put law, but if that officer should whisper into the ear of the bossman, look Mr. X, Rudy from Couva South talking about corruption, you now imperil the life of that person. And that is the hard truth in Trinidad and Tobago.

**Hon. Member:** Today's society.

**Mr. P. Ramadhar:** I wonder what was the cause of the death of that family just south of C3. I wonder what was the cause, what was the motive behind that? And forgive me if I get a little impassioned, I know that woman, I know her two little children. Every time they see me they would hug me. They are now—one is now dead, the mother is dead. And we do not know. Executions take place in this country without response. And I congratulate the efforts of the police who have lifted in some way the confidence in our people. And I shall come now, in a short while actually, to the issue of the police being able to arrest and to charge. But we cannot move away from the reality of this country.

Madam Speaker, I do not know if you recall, but years ago a senior manager at T&TEC was murdered outside of his home. In a shorter time frame some manager or managers at WASA had been executed. Word on the ground is that these were men who saw the corruption and they were willing to take some step to deal with it, they are now dead. So we cannot be speaking about whistling-blowing legislation unless you fix witness protection. [*Desk thumping*]

Attorney General I know your passion, Minister of National Security I know your ambitions. But that is a first and foremost requirement if we are to make any of this thing real. I know of persons today whose homes, as the Member for Laventille West, I am grateful that you brought the legislation for trespass into homes and so. But they are afraid to make reports on it, because they know if they do so—

**Hon. Member:** “Dey dead.”

**Mr. P. Ramadhar:** “Dey dead.” I know of persons whose commercial or rental properties, persons have overstayed and not paying rent and now they are afraid to take legal proceedings against them because a hit is just that. I understand, Member for Chaguanas West, that it is up to \$500 a human life is valued in this

country. So, let us understand why there is anxiety in dealing with putting structures that now expose persons to believe a false sense of hope, a false sense of promise that they are to be protected.

To say that there is a fine that if you disclose who this whistle-blower is that you could be fined and put into prison. How are you going to prove that I tell Rudy, "Listen, I know corruption in that place" and Rudy tells his wife, saying, as an example, that something is wrong, and somehow—you know Trinidad, little talk goes out—and we know who the problem person is, and they are removed physically from our life. This is not something that we should just consider glibly, let me put it like that.

I suggest, just like the Member for Oropouche East has suggested, remove the requirement for internal reports; this is not America where we saw the value of whistle-blowers in the tobacco industry, Member for Barataria/San Juan, where internal memos had shown that cigarettes cause cancer and death. This is not America where there are thousands of persons working as the Ford Motor Company, as an example, who disclosed that there were defects in machinery and vehicles that cause death. What benefit and protection you say you are going to give them? You cannot fire them, you cannot change their conditions, you cannot demote them; that is a different culture.

Which industry in this country has the hundreds of thousands that we can say that will protect, that you will continue to work in an organization that you have made a complaint against that could cause that organization some harm, which? And the way it is drafted, with will due respect to the very able and patriotic members at the CPC's department. How could you draft here that you are required, because that is what the effect of this is, every employer, whether you have one employee or a thousand, are you required to have a whistle-blowing

officer? Prime Minister, you are right. It is not that you just go out and hire, but you take somebody who is already there and you designate who—“who yuh goin and designate, bossman”, your most trustworthy person who will come and tell you, “Hey listen, we have a problem with that fella”.

So let us avoid that and go directly now to the institutions, the 20-odd that are there already, and if you want to create one big institution that will collate everything and then send it to the different institutions as you deem fit. So that the average citizen would not become confused whether he should go to the Integrity Commission, whether he should go to the police, whether he should go to the EMA, whomever. Let us create a whistle-blowing organization, quite similar maybe even to—what is the name of the?—Crime Stoppers, as an example. Where anonymous information is given and you filter it through, you do some investigation and it go up the road. You do not expose people to potential death.

Prime Minister, you were right and you were wrong. When you suggested that in the Government that you did not have to hire a whole set of people, of course, because we already have a structure of paid public servants, but to put that burden on small business, medium business, or whatever other business, parlour, shop or whatever, really is onerous. And the law does not give you any structure that how you ought to populate it.

And as the Member for Oropouche East, and I do not want to over accept all he has said which I think his submissions were very, very valuable. [*Desk thumping*] And notwithstanding his style of bringing a level of levity and a very important graciousness sometimes to the floor on very important issues. But it is not to be denigrated and to be thrown in the corner whatever he says is of no value. No, because as he has indicated he has been inundated in rumours, I do not know where they came from, but we do know these rumours. And therefore persons like



that, or any one of us could be relegated to insignificance because they just offload it on them that anything they say, they have cocoa in the sun, they are afraid, they are afraid, they are afraid.

And that is why I opened by saying I have no fear. I really have no fear of any of this, but I must do my duty to the Government and to the people of Trinidad and Tobago and certainly to the Opposition and the Opposition Leader, who has for a long time been the subject of a lot of rumour-mongering for a sole purpose, I imagine, to undermine the democracy of this country. Because when we do this, that every bit of legislation whether it is FATCA or whatever, that the Opposition is opposing for opposition sake, that we do not want it because they have things to hide, what are you telling the population?—the legitimate Opposition is not worthy of office and only you are worthy of office? [*Desk thumping*]

**Dr. Gopeesingh:** They are most unworthy.

**Mr. P. Ramadhar:** I am not to point fingers, but the country knows what is going on. And Attorney General, there was a very good point, very brilliant submission that you too will be subject, because it is your fourth year and you have your history being in Government from September 2015 and therefore subject to it. Let me ask one question, who in this country, or how few are they who are brave enough to make a complaint against a sitting government? [*Desk thumping*] How easy it is when the country has been groomed that a former government is not to see office in the future so therefore you can go after them. And this is an attack on the democracy because if you destroy credibility of all those who oppose you, all you are left with, is what? What are you left with if you have no Opposition? And that is what the structure, the environment, that has been created is all about.

So, hon. Prime Minister, you have in fact in the past made statements that I agree with, that the professionals in this country have failed the people of Trinidad

and Tobago. As a friend of mine, a colleague lawyer said, we have a road mafia in the country, a highway mafia. We do not mean that people hold you up on the road, but hold up the people when they fix roads. The reason I am saying this, this country spends billions and billions of dollars, whoever in government, year after year, Member for Arouca/Maloney you know this—where the quality of the road, and I am just giving you an example of why whistle-blowing could be important and useful—one month after they finish pave a road, it mash up. Who is it that certified that work as being good and appropriate and passable? Who? It is somebody lower down. But you know who does get the blame for it? Minister of Works and Transport.

Everything in the country figure at the head of it is bobol, corruption. And therefore there is the responsibility and that is why explain your wealth could be quite useful if you go after the right people and not be selective in who you go after and that is where the problem is. The selectivity of who becomes the subject of law; who becomes the subject of investigation and therefore prosecution is what the real issue is at the end of the day.

By dear friend Gary Griffith, and I say that because I think that he has tremendous value in what he is doing, he has lifted the confidence of the population and certainly to members of the police service. But when a Government distorts the process by which a Commissioner is chosen, you ask yourself why. [*Crosstalk*]

**Madam Speaker:** Member for St. Augustine, I want to say that you are offending the Standing Order in that you are imputing improper motives. Okay? I want to say that you are imputing improper motives, and I would ask you to withdraw that. Again, I remind you even though to some extent I understand the broad issues, I remind you that what we are dealing with is whistle-blower legislation and I will

ask you to come back to that. So, please withdraw the statement as it offends the Standing Order with respect to improper motives.

**Mr. P. Ramadhar:** I withdraw it unreservedly. Unreservedly I withdraw it, but we do know that the process that was used—

**Madam Speaker:** Unreservedly cannot have “but”. Unreservedly cannot be followed with but, it can only be followed with a full stop, and a new thought.

**Mr. P. Ramadhar:** A new thought is this, that the process used was different from what we had grown to expect under the law. [*Desk thumping*] I make no aspersions on the good Commissioner; go on with your work. But we have a history in the country that I cannot avoid. And the history is you look and to see who has become— repeatedly, we have to reference our history because we have to learn from it. Who is it, who have they been those persons who have become subject of these kinds of laws. Integrity legislation and so.

**Madam Speaker:** Please. Again I am cautioning you, let us deal with whistle-blower; I am going to give you a little opportunity to link that last statement with what we are doing; if not, move on to your next point, please.

**Mr. P. Ramadhar:** One of the schedule listings is for the Integrity Commission as a designated reporting office, authority. And therefore the Prime Minister, you see when the Prime Minister spoke, he spoke about the environment of the past and the present and the future that he wishes to see and all I am doing is going in the same road on that. [*Desk thumping*] So I do not have to remind you that only Panday get prosecuted, only Finbar get prosecuted. Tim Gopeesingh. I “doh” have to remind you of that.

**Mrs. Robinson-Regis:** Madam Speaker, the Member continues to impute improper motives; I would like a ruling, please. [*Crosstalk*]

**Madam Speaker:** Having regard to the context, I do not see it as imputing, please

continue.

**Mr. P. Ramadhar:** Thank you so much. Forgive me if I troubled you, Member for Arouca/Maloney, I know you have been in the PNM for long. One of its guiding minds. So forgive me, I did not intend that but I am just looking at our history to see who have been prosecuted and then in the environment that has been created where there is a threat, threat, threat all along, we will see.

So, Madam Speaker, I do not intend to be much longer because I think that I have dealt with most of what the hon. Prime Minister had spoken to. However, we cannot lightly ignore the advice of the CPC, Chief Parliamentary Counsel, let me repeat that, Chief, where we are? Parliamentary Counsel, and to glibly suggest there is some other version of the Bill—

**Mrs. Robinson-Regis:** Madam Speaker, that Bill is not before the House for debate. That is not the Bill before us.

**1.00 p.m.**

**Madam Speaker:** Member. Member. Member for Arouca/Maloney, are you standing on a Standing Order? Could you tell me which Standing Order please?

**Mrs. Robinson-Regis:** Madam Speaker, Standing Order 48(1).

**Madam Speaker:** Member for St. Augustine, if I am not mistaken, that point was already raised by the Member for Oropouche East, and I also recollect that it came from the other side that this was with respect to an earlier Bill. I do recollect all of that, so that is all now on the record. I would ask you to move on to something else.

**Mr. P. Ramadhar:** And I disagree with it. So that—

**Madam Speaker:** Member, you are entitled to disagree, but I have ruled. I understand when we are in full flight sometimes it is difficult. All right? But, you may disagree, I have ruled. Please move on.

**Mr. P. Ramadhar:** But you will forgive me, Madam Speaker, when it is said that this does not apply to the present Bill, it is my view that it does. [*Desk thumping and crosstalk*] And, therefore, whether new or old, the issues are the same [*Desk thumping*] because the Chief Parliamentary Counsel referenced the issue of privacy rights—and I will not be all that long, so if you just forgive me as much painful as it might be to some who may have heard it. I do not waste people's time. His advice was, on the issue of privacy rights, identical to whatever Bill you want to call it, and this is what he said in relation to the privacy rights that:

“The Bill, therefore, needs to be passed with a special majority”—which we have—“in accordance with section 13(2) of the Constitution. It is arguable, however, that even if the Bill is passed with such a special majority, it may still be unconstitutional under section 13(1) of the Constitution on the grounds that it is not reasonably justifiable in a society that has proper respect...”

This is what the Chief Parliamentary Counsel tells us. [*Desk thumping*] On the issue, forget the wording, on the issue of whether—and Attorney General I am sure, who I have great admiration and respect for, when he is winding up, tell us if—[*Interruption*] yes, yes, yes—he may have to do things as a politician; but as a person, as a lawyer, I have great admiration and respect for him. So that the point being, does this Bill interfere with privacy rights?

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

**Mr. P. Ramadhar:** There you go. So if it does, then the Chief Parliamentary Counsel's advice is germane and relevant. [*Desk thumping*]

It goes further. Where you deal with property rights, the voiding and unenforceability of contractual rights—you have non-disclosure agreements and other contractual issues, unemployment—and, therefore, his advice on—and this

Bill—new Bill, old Bill or whatever—but the one I read and the one that is before us, speaks to interfering with contractual rights. And, therefore, once again, the great Macintyre, Chief Parliamentary Counsel, says— I am going through a lot of detail in the law that I will not trouble you with—he says:

“As indicated above, however, even if...”—that clause—“is passed with a special majority, it may fail the test of being reasonably justifiable...”

So, you know, it is an attractive argument.

**Madam Speaker:** Member for St. Augustine, your original 30 minutes are now up, you are entitled to 15 more minutes to wind up. If you wish, you may proceed.

**Mr. P. Ramadhar:** I will take less. I am most grateful to you. So it is a very attractive argument. Let us pass the law, and let us see what the courts would say or to hell—I beg your pardon, I withdraw that—or whatever happens down the road to hell [*Laughter*] that the court may or may not, but do not worry about that. But I thought that is what the Parliament is here for. [*Desk thumping*] Not to pass any law—kind of hop along kind of thing—and at the end of which, you know, it is going to trip over. It is a function of this Parliament, with the Government bringing a Bill and the Opposition trying to fix it, which we have done repeatedly. [*Desk thumping*] They say no, we cannot do this, because it is a fraud on the society to give them a sense that you pass law and you will do good, but the first person at your resources to test it, will throw it down and embarrass all of us. [*Desk thumping*]

Today is a very special day for me. It is my mother's—Samdaye Ramadhar's 78<sup>th</sup> birthday, the 1<sup>st</sup> of May. [*Desk thumping*]

**Mr. Indarsingh:** Happy birthday to her.

**Mr. P. Ramadhar:** And I too—as she moves in her age—and, therefore, my mortality is before me and, therefore, I do not wish to participate in anything that

could be a fraud on the people of Trinidad and Tobago. [*Desk thumping*] And if it is, you see, it was just a little whisper that this thing may not be constitutional, but when the Chief Parliamentary Counsel tells you so on a joint select committee, [*Desk thumping*] to say that we are going to ignore that completely, it is a terrible dereliction of the duty of the Parliament. [*Desk thumping*] And I cannot, with all good conscience, associate myself with that.

My colleagues on this side, I do not know what your position is, but in the light of what the CPC has put, I do not know if in good conscience, as much as we all may wish to have this law, but I want to also say as I am saying that, this was all—it is not all that as necessary as you believe, because we have in this Parliament passed law for plea bargaining, and that if it is that information comes, through whatever source, and you investigate and there are those who have done wrong, let them pay. And for those who wish to cooperate to become witnesses, that this does not speak about being a witness, you know, [*Desk thumping*] this speaks about triggering the investigation. It slipped in however, somewhere along the route, that if you are an accomplice or whatever, it does not prevent you from being charged, but that the court will take into consideration the fact of you being a whistle-blower—not a hot-air blower, a whistle-blower with real evidence.

I remember when we started out, this is about where you honestly and reasonably believe and that sort of thing, which may amount to zero, but if you reach the point that matters most, where a decision is taken to prosecute, and you fall into that net, the court is required to say, that they are treating you differently from who are accused, because of the fact that you blew the whistle, but we already have provisions within.

So, take heart that there is alternative avenues to the same end that guilty parties can participate in the prosecutorial process, not just as an accused, but as a

turned witness, like they did with Hypolite in Dhanraj Singh, like they did with Paris in Narinesingh. [*Desk thumping*] So all hope is not lost if this whistleblowing thing just goes up in hot air. It is not lost. There are alternatives and it is defective, and I do not now have the time to go through the details.

There is word somewhere about protected disclosure not being, what? Prejudiced? You cannot use words like “prejudiced”, because it is not with certainty that is required of drafting. Attorney General, I will pull out the word and send a private note to you as I have completed. But that has no place in the law.

We deal now with anonymous information. But you are talking about anonymous disclosure when you have a whole process by which you can become protected. So you just avoid that altogether? And you slip a note, or you whisper to a friend who then tells somebody, and you remain anonymous? But if you could be guilty of a criminal liability or of civil liability for slander, they will hold that information there, and if you become known, then it becomes protected. It is an awful wiry nest that is incoherent in large parts, inconsistent with each other, because you speak about a process, first of all, for you to do your disclosure to become protected, but then you speak about anonymous, but then you could become protected if your identity is later known? Wow! Wow! This is fodder, I warn, for lawyers. This is fodder and a foolery on the people of Trinidad and Tobago. [*Desk thumping*] With these words, I thank you very much. [*Desk thumping*]

**Madam Speaker:** Member for St. Joseph.

**The Minister of Health (Hon. Terrence Deyalsingh):** Oh, he is finished. Thank you very much. [*Laughter*] Madam Speaker, I was very amazed, amazed by the contribution of the Member for St. Augustine this morning. But, Madam Speaker, may I ask what time we are breaking for lunch, if any, so I would know how to—?



[*Laughter*]

**Madam Speaker:** At 1.30 p.m.

**Hon. T. Deyalsingh:** At 1.30 p.m.? Great. Madam Speaker, we have a Bill before us called “Legal Supplement Part C to the ‘*Trinidad and Tobago Gazette*’, Vol. 57, No. 46, 12<sup>th</sup> April, 2018, No. 8 of 2018”, but my friends opposite cannot seem to read. They are mixing up this Bill with another Bill which was before a joint select. But, Madam Speaker, let me say up front, I want to congratulate the Prime Minister and the Attorney General [*Desk thumping*] for bringing a package of legislation to combat white collar crime. White collar crime is the scourge of Trinidad and Tobago. It also gives rise to blue collar crime which manifests itself in things like murder, carjacking and so on. This piece of legislation fits in to the suite of legislation brought by the Attorney General to deal with white collar crime. And other pieces of legislation, just to mention, civil asset forfeiture, explain your wealth Bill, witness evidence, FATCA, Global Forum and beneficial ownership.

Madam Speaker, it is no doubt that white collar crime, if left unchecked as it has been unchecked for decades in this country, because we do not have the legislative framework, and this is where the Attorney General shows his brilliance and class. White collar crime, if not tackled, destroys the fabric of the tapestry of society, because people feel that white collar crime is only the remit and the preserve of politicians. It is not.

It is my hon. Prime Minister, who very early in his tenure as Prime Minister, said he cannot believe the level of corruption in this society. This is a corrupt society from top to bottom, and if we do not put a stop to it, it not only affects individuals, but it gets into the private sector as it has done, it gets into the public sector as it has done and, finally, the institutions of Trinidad and Tobago. And

when institutions fail, societies will fail.

Madam Speaker, I want to deal, first of all, with the statements made by the Member for Oropouche East. And, Madam Speaker, when we were in caucus on Monday evening, I told the caucus that somebody from the UNC is going to come here and pull the same pepper roti argument. What is the pepper roti argument? The pepper roti argument is that you will take this Bill and drive it down to the hardware level and the grocery level, and just like with the pepper roti argument, you would say everybody has to spend a lot of money to set up departments. I said so in the caucus. [*Crosstalk*]

**Dr. Moonilal:** What is the link?

**Hon. T. Deyalsingh:** And the link is, Oropouche West went to town saying that the hardware store—Oropouche East, and I am quoting him—and all the 76,000 listed businesses have to set up a unit. I predicted that in the caucus. And so said so done, and it is not true. Because if you go to clause 15 of the legislation, it speaks to an organization that has no internal procedures established or processed, they can then go to (b), although no internal disclosure has been made. Where can they go? They can go to the Schedule and list one of the 21 businesses there that anybody in the hardware store, in the grocery, in the pepper roti place, can go to any one of these listed entities and make your disclosure and go there. [*Crosstalk*]

Madam Speaker, it is quite amazing how predictable the UNC is—joint select; constitutionality; will not support it. They come here, trivialize, cloud and minimize issues. They say that no organization has the capacity to set up these units. Well, let me tell the member for Oropouche East, tell that to Atlantic LNG, tell that to Angostura, tell that to BP. Right? All these organizations—tell WASA, tell the banks that they have no forum for that, but you come here and trivialize and say tell the “bara man” now. Madam Speaker, I pray to God every night for the

good health of the Member for Naparima. [*Crosstalk*]

Madam Speaker, all these things are listed here who could set up a unit, who does not have to set up a unit. So to come here and pretend that the law tackles everybody, that everybody has to set up these great, big, grand units—and the Prime Minister dealt with it—similarly with the procurement legislation. So, Madam Speaker, that argument holds absolutely no water.

Madam Speaker, if this country does not get serious with the issue of white collar crime, we are doomed to keep repeating the mistakes that this country has made since the days of International Trust. You remember International Trust? Gilman Thomas Hosein. I was doing a google for International Trust, because if you had a whistle-blower then, depositors would not have lost their hard-earned money.

**Dr. Moonilal:** What about Clico?

**Hon. T. Deyalsingh:** I am coming to that. I am coming to HCU. I am coming to all of those things. [*Crosstalk*] I am coming to all of those things. Madam Speaker, we must learn from our friends abroad that you need strong legislation to bring whistle-blowers not into the open, but to give them a forum, to give them protection. The United States learnt the hard way from the savings and loans crisis in the 1970s. That cost the US economy US \$150 billion because of fraud and misconduct. Clico cost this country, what?—TT \$20 billion, thereabouts, and we had to recover that. International Trust: amount unknown. There is an adage in white collar crime: the best way to rob a bank is to own a bank—International Trust, Hindu Credit Union, \$600 million.

Madam Speaker, if we do not pass this legislation today, and hearing our friends opposite, you may not get it because, again, they are happy with the status quo—“leave it so”. “It is working for we.” It is working for the white collar

criminals, what do you want to interfere with it for? “Leave it so.” They want the status quo. Well, Madam Speaker, this Government, under this Prime Minister and under this Attorney General, we have a mandate given to us in 2015 [*Desk thumping*] not to “leave it so”, but to do something once and for all to treat with this scourge of white collar crime and white collar criminality.

Madam Speaker, let us deal with some pertinent issues, some pertinent, pertinent, issues. This Bill specifically talks to protecting a whistle-blower from detrimental action for disclosure or wrongdoing, and that is what we have to be careful about. How do we protect persons? We give them criminal protection, civil protection, industrial protection and political protection. Madam Speaker, another major objective of the Bill is to solve what took place in the Joint Select Committee, and the hon. Attorney General mentioned Sen. Wade Mark in that Joint Select Committee, and Sen. Wade Mark’s style is well known and all you will get in a joint select committee with that person is death by 1,000 cuts. [*Interruption*] I withdraw. I withdraw.

**Madam Speaker:** Yes. And, you know, like the Attorney General, you need not identify the Member and deal with the issue you would like to deal with.

**Hon. T. Deyalsingh:** I withdraw. But it is just that when we try to go to a joint select committee with my friends opposite, it is clear that they want to go on a political platform in 2020 and say we cannot pass any legislation. They will support no majority legislation.

**Dr. Moonilal:** Madam Speaker, 48(1). This was said before. All of that about joint select. [*Crosstalk*]

**Madam Speaker:** Member, I would want to say that, to me, you are bordering on improper motives and, therefore, I would ask you to stay away from that and structure your contribution differently, please.

**Hon. T. Deyalsingh:** Thank you very much. Madam Speaker, let me now turn to the contribution made by the Member for St. Augustine. The Member for St. Augustine started off his contribution by saying and, quite rightly so, that he does not know his future in the electoral political arena. If ever there was an admission, there is. Even your own political leader in the COP is saying that. But the Member for St. Augustine talked about cause of death. He mentioned death. Madam Speaker, if there was a whistle-blower under the UNC, the death of that PTSC employee who was murdered in his bed because of his association with LifeSport may not have happened. If there was a whistle-blower—[*Crosstalk*]

**Madam Speaker:** Member, I would ask you to not go that way, to withdraw that and put it in another way, please.

**Hon. T. Deyalsingh:** Madam Speaker, the Member for St. Augustine said that one of his constituents was murdered in a car a couple days ago, three people.

**Dr. Moonilal:** No, he did not say that. It was my constituency, not his.

**Hon. T. Deyalsingh:** He said it; it was your constituents. I was simply responding—

**Madam Speaker:** We all know the Standing Orders. If somebody has an objection to raise, there is a certain way that you make an interruption. Member for St. Joseph.

**Hon. T. Deyalsingh:** Thank you. So, Madam Speaker, all I was doing was responding to the Member for St. Augustine where he rose the spectre of murder of people who are the constituents of Oropouche East in a recent incident. All I am saying is that whistle-blowing is important, not only for white collar crime but also for the annex to it which is murder. And all I am saying, the incident of LifeSport, if a Member of Parliament and a Minister lost his job over LifeSport, and if there was a whistle-blower then to tell the country what was going on, maybe that person

from PTSC could be alive today. That is the only point I am making, and I move on. I will move on.

The Member for St. Augustine said it is a difficult culture to change. Those were his words. And that is what I am saying.

**Mr. Hinds:** Correct.

**Hon. T. Deyalsingh:** If we do not change the status quo, if we are happy with the status quo, Member for St. Augustine, then what are we doing? [*Desk thumping*] But this is an opportunity, Member for St. Augustine, for us to come together and change the status quo and join us in changing the status quo in Bill No. 8 of 2018. Join hands with us. Why is the UNC always comfortable with the status quo? Why? Whether it is anti-gang, whether it is explain your wealth, whether it is registration of deeds, whether it is beneficial ownership; leave it so, consult more, go to a joint select committee, talk here, talk there, do not pass anything.

**Mr. Lee:** Madam Speaker, Standing Order 48(1), please.

**Madam Speaker:** Member for St. Joseph, please continue.

**Hon. T. Deyalsingh:** Thank you very much, Madam Speaker. [*Desk thumping*] Madam Speaker, the status quo is what has Trinidad and Tobago where it is, and we have a sworn duty to change the status quo. We are not going to “leave it so” and we ask you—we ask the UNC, we ask the Congress of the People—to join us today. We are just two swords length away. Forget the sword lengths, arm lengths. Join us, arm in arm, hand in hand to send a message to Trinidad and Tobago that 41 good souls are here today to serve your interest and to battle the scourge of white collar crime once and for all. Join us hand in hand, mano-a-mano, woman to woman, whatever. Let us do that and send a message to the country that you have elected 41 people of integrity.

**Mr. Lee:** Madam Speaker, Standing Order 55(1)(b), please.

**Madam Speaker:** Member for St. Joseph, please continue.

**Hon. T. Deyalsingh:** Thank you very much, Madam Speaker. Madam Speaker, the Member for St. Augustine incorrectly attributed a statement to the hon. Prime Minister. He said it was the hon. Prime Minister who said that professionals have failed this country. The Prime Minister has repeated that, but it was actually former President and Prime Minister, Arthur Napoleon Robinson, I think, who coined that phrase that professionals have failed this country. And, today, I want to put it to this nation that the Member for St. Augustine, as a professional, needs to reflect on that himself [*Desk thumping*] by trying to bring section 137 of the Constitution into this debate where it had no right to be.

**Madam Speaker:** I did not allow that then, Member for St. Joseph, and I am not allowing it now.

**Hon. T. Deyalsingh:** Thank you very much, Madam Speaker. He has also failed this country in referring to the letter given by Ian Macintyre for the old piece of legislation, and he went to town on that. Madam Speaker, section 13 of the Constitution, Part IV of the Constitution, “Exceptions for Certain Legislation”, and may I read it in so I could deal with the issue. Section 13(1):

“(1) An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5”—certain rights—“and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.”

Madam Speaker, that is why this legislation is a special majority. The Constitution provides for all 41 people of integrity, representing 1.3 million people under section 13 to offend section 4 and 5 rights. That is why we are here today

reaching out to the Member for St. Augustine, reaching out to the Member for Oropouche East and, most importantly, reaching out to the Member for Siparia. Yes, we know the Bill offends sections 4 and 5, but section 13, on justifiable grounds. It is justifiable that you bring this piece of legislation for all the reasons we have articulated that white collar crime and white collar crime criminality [*Desk thumping*] is the most important issue affecting Trinidad and Tobago today, last year, the year before, the last five years, the last 10 years and the last 20 years. For decades, Madam Speaker, white collar crime is the issue.

So is it arguable it is justifiable? We on this side certainly feel so [*Desk thumping*] and the place to have that aired will be in the courts of law. Let the courts of law decide on that, but let us pass the legislation. I make a clarion call to the 18 seats opposite, a clarion call to my colleagues opposite, to join with the 23 across here.

**Mrs. Gayadeen-Gopeesingh:** Madam Speaker, 55(1)(b). I think the hon. Prime Minister asked the same thing. St. Joseph is repeating the same continuously.

**Madam Speaker:** Okay. So Member for St. Joseph, I would ask you to move on.

**Hon. T. Deyalsingh:** Thank you. Thank you very much, Madam Speaker. So, finally, let us join hands together in bringing this piece of legislation. Madam Speaker, as we come close to the lunch break, this piece of legislation is a line in the sand today, today which is the 1<sup>st</sup> of May, May Day—congratulations to the labour movement. The 1<sup>st</sup> of May today is where we put a line in the sand and say we have a piece of legislation which we could build on for the future, and I would explain what I mean by that.

Madam Speaker, many countries, in attacking the issue of whistle-blowing, do not only have one piece of legislation—whether it is England, Canada, the United States, Australia—they always start off with a piece and then as they get the



experience operationalizing, they will bring on other pieces of legislation.

**Madam Speaker:** Hon. Members, it is now 1.30 p.m. I take it we should take the suspension for lunch now. We shall resume in an hour's time at 2.30 p.m.

**1.30 p.m.:** *Sitting suspended.*

**2.30 p.m.:** *Sitting resumed.*

**Madam Speaker:** Member for St. Joseph, you have 20 minutes and 42 seconds of original time left.

**Hon. T. Deyalsingh:** Thank you, Madam Speaker. Madam Speaker, as I resume after lunch, I think I have responded to the member for Oropouche East and the Member for St. Augustine. Madam Speaker, I now want to turn to the actual Bill and talk to the people of Trinidad and Tobago directly to ease their fears about some of the matters being raised opposite. Madam Speaker, the AG, obviously, in piloting the Bill, cannot touch on every single clause, and I want to start to comfort all business owners, small, medium and large, from the “doubles” vendor right up, to pay particular attention to clause 11 of the Bill. So I am going to start to run through some clauses of the Bill. Clause 11 of the Bill speaks to internal disclosures, and I just want to put on the *Hansard* the following:

“An employer shall appoint and keep in his employ such whistleblowing reporting officers as are required for the purposes of this Act.”

And this is where the Member for Oropouche East had some discomfort with, thinking that every single business had to have a whistle-blowing unit and employ people.

This is for corporations, as I indicated earlier, the larger ones like the Atlantic LNGs, the Angosturas, and so on. However, Madam Speaker, when one goes on to read the Act under *Division 3*, External Disclosures, clauses 14, 15, this is where I want to comfort the population that even though a private entity,

whether small, medium or large, does not have the wherewithal to set up a whistle-blowing unit, a whistle-blower in any of these entities, from the “doubles” vendor to the grocery, to the hardware to the pharmacy, to whatever, they can go to a designated authority. And this is where I really want to respond to the Member for Oropouche East, *Division 3*, External Disclosures, and we are dealing with this for the first time:

“A designated authority shall have a Whistleblowing Reports Unit consisting of a director and such other officers as are required for the efficient performance of the functions of the unit.”

And who are these designated authorities, there are 21 designated authorities in the Schedule. It starts—I am not going to call out all 21, but it starts with, one, the Auditor General’s Department, and it goes down to 21 in alphabetical order to the Trinidad and Tobago Securities and Exchange Commission.

So, for example, Madam Speaker, if in both a private or public sector any employee who wishes to be a whistle-blower, if it has something to do with taxation they can make a report to—who?—the Board of Inland Revenue. This is being explained to the public for the first time. If it has to do with bringing in substandard goods from any part of the country, whether it is substandard electrical products and it is fraud, who can they go to?—the Bureau of Standards. If it has to do with children, they can go to the Children’s Authority. If it has to do—and this is very common in Trinidad and Tobago—containers coming in unexamined, invoices being under-invoiced, that is white collar crime; you want to whistle blow on that, you can go to whom?—the Customs and Excise Division. If it is something to do with elections, you go to the Elections and Boundaries Commission. So there are 21 agencies who are designated authorities under this piece of legislation where if a private sector organization does not have a unit and a

whistle-blower wishes to make a report, he has a suite of 21, a menu of 21 agencies to choose from. If it has to do with procurement, Office of Procurement Regulation. If it has to do with health and safety, you can go to the occupational health and safety organization.

You have something against an MP, you could go to the Integrity Commission, and it goes on and on and on, and I want the population to understand this point because it needs repeating, not all private sector organizations need to set up this unit, an employee could go to one of these 21 designated entities. And it goes on in clause 15, and I want to put clause 15 on the record; clause 15 says:

“An employee of”—any—“organisation...”

—And, Madam Speaker, that is crucial:

“An employee of an organisation...”

—any—“...organisation may make an external disclosure to the Whistleblowing Reports Unit of a designated authority...”

And 15(1)(a):

If—“the organisation has no internal procedures established...”

I want the population, I want the reasonable man in society to understand that, because what is being peddled here today, and I would say this for the last time, is that every organization has to set up this unit; the answer is not so. So, Madam Speaker, let us not trivialize and minimize the seriousness of this piece of legislation.

Madam Speaker, I now want to move on to Part IV of the Bill, clause 23. Madam Speaker, the Member for Oropouche East, in his usual style of trivializing serious matters, spoke about the pool man, the gardener in your house seeing something, this legislation is to tackle serious white collar crime. And Part IV, which is clause 23(1), (a) to (e), on page 18, talks about where:

“A person commits an offence if he—

knowingly prevents, restrains or restricts any person from making an internal or external disclosure;”

In other words, if someone, if the reasonable person in society, and the reasonable person in society is defined in law—well, no, the man on the Clapham bus, but we use the local example, the man on the maxi-taxi from La Horquetta or San Fernando, or anywhere, the officious bystander. If that type of person commits an offense then he is not a reasonable person. He is not to knowingly debar anybody, any whistle-blower from making a report; similarly in (b), and we are dealing with this for the first time here, he cannot knowingly intimidate someone. And the Member for Oropouche East, again, tried to scare the population about intimidation, about witness tampering and witness protection.

You cannot—“knowingly induces any person by threats, promises or otherwise to contravene this Act;”

So what the Attorney General was saying in his piloting, there are safeguards, so do not try to bring in the pool man, the gardener, this is not what this Bill is about.

Madam Speaker, I want to deal lastly with the Schedule—and this is important—in some detail. I have mentioned it. Madam Speaker, just by way of example, there was a case in the United States of a whistle-blower who went to the authorities about a company she was working with that was producing nuclear power and they found that in her body, in her house she had plutonium readings way off the charts, and she blew the whistle on that particular company and I think they had to pay her out, in those days, US \$1.6 million, if correct. And that case became a core celeb and eventually it was made into a movie, and some people may know the movie called *Silkwood*; her name, Silkwood. It became a very famous movie about whistle-blowing, *Silkwood*, S-i-l-k-w-o-o-d. I would advise

anybody, both Opposition and Government, if you are serious about whistle-blowing to read that case. Read what that person had to go through. I think I have it here, if I could just refer to it briefly, Madam Speaker, with your permission, she was called Karen Silkwood, and the company had to settle out of court for US \$1.38 million even though they did not admit liability.

Madam Speaker, this is scary and this is the importance of having whistle-blowing legislation. It is not only about white collar crime, it is about any type of fraud—I cannot use the word “lying”—misrepresentation. A person in their job, because one of the designated authorities under this Act is the Occupational Safety and Health Authority. These are very important matters that touch workers, because the Member for Oropouche East was talking about workers’ rights. So this gives the worker who is working in an unsafe environment the opportunity to go to the occupational safety and health and make a report. I commend this article on Karen Silkwood as compulsory reading if we are serious. Madam Speaker, the last point I want to make on these designated authorities, and I started to touch on it before the lunch break, is that today is a line in the sand, let us start to signal to the population how serious we are. No Bill, as the Prime Minister has said, is going to be perfect. We know that. Our friends were in Government, they would have brought imperfect pieces of legislation and we would have supported it. We would go to the courts and sort that out afterwards or we come back with amendments, but let us signal to Trinidad and Tobago, to the red, white and black that we are serious. And I want to make special reference, Madam Speaker, to “Designated Authorities” 1, 2, 11 and 21. These are the ones I am very serious about. Designated authority 1 is the Auditor General’s Department; designated authority 2 is the Board of Inland Revenue; 11, the FIU, Financial Intelligence Unit, and 21, the Trinidad and Tobago Securities and

Exchange Commission. And let us, as 41 intelligent patriotic people admit, admit to the country that one of the biggest frauds ever perpetrated has to be securities, issuing of shares, and so on.

Madam Speaker, the law will evolve, let us pass this piece of legislation today because the manipulation of shares around the world is an issue; white collar crime. The United States learnt the hard way that sometimes you need to bring more specific pieces of legislation to deal with specific issues. So, for instance, they passed the Sarbanes-Oxley Act, I believe about 19 years ago, to deal specifically with fraud in the securities industry. Madam Speaker, it is no secret in Trinidad and Tobago that under the Securities and Exchange Commission, which is listed designated authority, 21, that that agency, the SEC, the Securities and Exchange Commission could have benefited, could have benefited significantly if we had specific laws like Sarbanes-Oxley to get to the bottom of the issuance of shares, especially the IPO for First Citizens Bank. That remains a stain on this country up to today and we have had no response from the SEC as to what happened in that FCB IPO of 2013 or '14. None. Manipulation of the shares, manipulation of that initial public offering, and these are the type of high white collar crime issues we are trying to address with this piece of legislation. It has nothing to do with the pool man, has nothing to do with the gardener, has nothing do with the “doubles” vendor.

So, Madam Speaker, in coming to a close, this piece of legislation is as wide as it is broad and it is necessary. [*Desk thumping*] It is necessary to send a signal to the outside world, whether it is FATCA, whether it is Global Forum, whether it is FATF, whether it is CFATF, and whether it is to the reasonable man in the maxi-taxi from San Fernando or La Horquetta, “we have yuh back; we have yuh back” [*Desk thumping*] because white collar crime has gone unpunished for too long.

Madam Speaker, I urge the Opposition to stand up with the red, white and black today. Stand up for what is right. Stand up for the weak in society. Madam Speaker, I thank you very much. [*Desk thumping*]

**Madam Speaker:** Member for Tabaquite. [*Desk thumping*]

**Dr. Surujrattan Rambachan** (*Tabaquite*): Thank you, Madam Speaker. Madam Speaker, I am very happy to join in this debate as essentially it is a piece of legislation that purports to create a society that adheres to a higher level of integrity, a higher level of personal and collective morality and also to bring about a sense of justice to those who stand on the platform of truth and honesty. Madam Speaker, when the hon. Member for Diego Martin West spoke and also the Attorney General, the Member for San Fernando West, they both referred to the length of time that this particular Bill has been before the Parliament, whether it is at the joint select or whether it was first brought before the Parliament, I believe in December of 2015. And it has been long in coming in terms of getting the debate going, but that of course, you know, they seem to infer that it is being placed at the feet of—gradually it is being placed at the feet of the Opposition. Madam Speaker, the Government must recognize that it is in charge of the affairs of the Government in terms of ensuring that legislation proceeds at a pace that is not inimical to the progress of the society, and therefore to infer that the Opposition is somehow to blame for this, I do not think it is accurate. I think what has to be remembered is that the Opposition has always taken the position that it will support good legislation [*Desk thumping*] as we did on the “explain your wealth” Bill. I think that our support of that surprised even the Government but we live in the same society and it is our intention to build a proper society.

Madam Speaker, I want to start by taking a bit of a philosophical approach to this whole matter, I think it is important. Morality in public life should not be an

elusive goal, although it seems and appears to be an elusive goal. I want to refer to a sacred text by which I am often guided in decision-making, and it is the *Bhagavad Gita*. And like the *Bible*, like the *Qur'an* in which important self-revealing questions are asked, there is a question that is asked by a disciple to his teacher who happened to be Lord Krishna, and the disciple's name was Arjuna. And the question was a very simple one, he said, he asked his teacher, "What is it that propels or drives an individual to commit sin though he knows to the best of his knowledge that it is a wrong action that he is about to do"? There is no one in this world, unless you are really severely mentally deranged, that does not know the difference between right and wrong. But yet something propels us to engage in wrong action even though we know there are consequences for those wrong actions and even though we know the action is against the common good of society. And as politicians, or as a politician I see this legislation also as important for the common good, and whatever we do in this Parliament should always have that focus in mind: What is the common good and are we acting for the common good? [*Desk thumping*]

Madam Speaker, "Why is the person therefore impelled", he asked, "to commit sinful acts even though unwillingly as if by force", is the sentence used. And the teacher replied—the Lord replied, "It is lust". "It is greed alone which is born out of contact with the mode of passion and later transferred into anger. Know this, greed, lust as a sinful all-devouring enemy in the world." Madam Speaker, that is where I want to begin, because the root of our problem when we talk about corruption and when we talk about integrity in public life and morality, is really about greed, personal greed, collective greed, community greed, national greed; it is about greed. Lust for worldly enjoyment is the cause of many of our wrongdoings, and it is the malignant allure sitting within all of us. We believe that



worldly objects will give satisfaction and so we create this insatiable desire to have them, and when desire is not satisfied it gives rise to anger, but when desire is satisfied it gives birth to greed. It is very interesting. And one commits sins under the influence of all three: greed, lust and anger. One might even go to say that there are three gates leading to hell, which one are you choosing, lust, greed or anger?

Madam Speaker, this is a greedy world and Trinidad and Tobago is not exempt, we are all guilty of greed. It could be greed for clothes. It could be greed for a lifestyle. It could be greed for so many things. We need therefore, laws, unfortunately. We need laws to regulate greed. Laws, however, will admonish, laws will punish or laws will also free you, but there is one I like to call “personal law”, and I will refer to that as ethics; man’s law, like that which we produce in this Parliament, and of course there is God’s law. There is man’s law, there is personal law or the law of ethics, the rules of ethics, and God’s law. And if we were a people, not only here in Trinidad in our society, if we were a people of high ethics perhaps we would not need whistle-blowing legislation, but unfortunately we are not necessarily a people of high ethics and the problem is that ethics is the law of the unenforceable. You cannot enforce ethics on anyone, ethics is a personal choice. It is not enforceable by anyone upon any other. Ethics is about the unenforceable rules for personal conduct.

Ethics is what makes you an honest person, a person of integrity or not, and the Bill before us therefore, is about that which is enforceable, man’s law, the law we make in Parliament. But for this particular law, like the “explain your wealth” Bill, like the anti-gang law, like any one of these laws, for it to be effective will require in our society, citizens, men and women of stern ability, commitment, and above all, rare courage. Because, Madam Speaker, in this country we read, ever so

often, and perhaps too regularly, about witnesses who were supposed to go to court tomorrow but they are gunned down today, and because of fear, fear for one's personal safety, fear for one's life, you are going to find that a rare courage and commitment is required if this law is to work. And my question is, do we have such men and women and children in our country? Let me comment and say this, Madam Speaker, that I find it unfortunate that we do not—like the time I went to school—teach a subject called ethics in our primary schools. Maybe it is taught, I do not know, but I have not heard much about it for a long time, but ethics, just teaching our children the difference between right and wrong. But I do believe that we have men and women of courage in this country, I believe so, and this legislation will challenge our personal values.

The Attorney General referred, there is a legislation about values, it will challenge our personal values. It will challenge our societal values, and this legislation is going to give us a chance to look into our personal as well as our national mirrors and make a decision as to what kinds of citizens we want, what kind of society we wish to become and what kind of social values we wish to forge, and that is the underpinning of what I see behind this particular piece of legislation.

Madam Speaker, therefore some important considerations with respect to this Bill, but when I talked about people of rare courage, we have always had people who wanted right in the country. Somebody earlier on mentioned the name Gene Miles, and Gene Miles, of course, you know, paid the price. There is a very telling story in the *Trinidad Guardian* of the 6<sup>th</sup> of May, 2003, "The 'Johnny O' Scandal, Gene Miles, Nationalist betrayed", and it is an important story. A story that perhaps, you know, should not just be left to be lost because it reminds us that ever so often a citizen with courageous spark arises in the society to do that which

is right. But, you know, Madam Speaker, like in her case, you have to be prepared to suffer for doing that which is right, and sometimes you have to suffer against the whole society. You have to live for what you think is the correct thing to do. But you know, Madam Speaker, she suffered, she could not get a job after she said what she had to say, and just to quote this article:

“She neglected her appearance and fell out of, or was shunned by, society. She still had her father’s home in Glencoe, so she never became a vagrant, but was often seen wandering the city, bedraggled and drunk.”

—And then:

“On December 9, 1972, Miles died of a heart attack.”

—And:

“She was”—only—“42 years”—of age.

And there are many Gene Miles in this country. There are many Gene Miles in organizations who suffered the same fate. Let us face it, they are shunned. And, Madam Speaker, Transparency International, in a document entitled, *A Best Practice Guide for Whistleblowing Legislation*, put it very well:

“Whistleblowers often take on high personal risk. They may be fired, sued, blacklisted, arrested, threatened or, in extreme cases, assaulted or killed.

Protecting whistleblowers from unfair treatment, including retaliation, discrimination or disadvantage, can embolden people to report wrongdoing and thus increase the likelihood that wrongdoing is uncovered and penalised.

Whistleblower protection is thus a key means for enhancing openness and accountability in Government and corporate workplaces.”

### **3.00 p.m.**

But, Madam Speaker, even so, what is the state of Trinidad and Tobago with respect to our penchant for reporting corruption? In the 2018 report of

Transparency International's Corruption Perception Index, some important data is given. In this report we are told that Trinidad and Tobago scored 41, and that is on a scale from zero to 100. So they conclude that this made us more corrupt than countries like South Africa, which scored 43, Saudi Arabia 49, and Jamaica 44. And this report was citing such issues as bribery, Government's inability to treat with corruption and the unwillingness to report on corruption by citizens.

What is really telling in this report is this, that only 37 per cent of Trinidadians and Tobagonians agree with reporting corruption. Only 37 per cent agreed with reporting corruption, and this was the lowest compared to countries like Jamaica, 52 per cent and Costa Rica, 75 per cent. In other parts of Brazil and Costa Rica and so on, it was 74 and 75 per cent. Now despite that, 60 per cent of Trinbagonians said not enough was being done to tackle corruption. So 60 per cent say not enough being done, but only 37 per cent say that they are willing to report corruption.

Madam Speaker, what is interesting also is one more statistic that I find very interesting. The report said that of those surveyed in Trinidad and Tobago, 6 per cent of Trinbagonians paid bribes, one of the lowest rates compared to other Latin American and Caribbean countries. Trinidad and Tobago, to quote, by contrast had the lowest bribery rate of the countries surveyed. Here only 6 per cent of people who had come into contact with a public official in the previous 12 months had paid a bribe. And this is the report I thought I would introduce.

But, Madam Speaker, the right of citizens to report wrongdoing is entrenched in their right of freedom of expression, and is linked to principles of transparency and integrity. All persons, in my view, have an inherent right to preserve the common good of society.

One of the interesting aspects of this Bill, and I am subject to correction, Mr.

Attorney General, if I may, is that I had read in section 7 of the Bill that only employees, as it were, can report wrongdoing. That is what the Bill does, cover employees.

**Mr. Al-Rawi:** [*Inaudible*]

**Dr. S. Rambachan:** Okay, fine. But I also want to say that if all persons can report wrongdoing, like we can to a police station, why can all persons, not just employees, not be able to report wrongdoings in a company to a whistle-blowing report unit. Why can they not? Why, for example, can Denyse Renne, Asha Javeed—what is the crime buster now on CNC3?—Mark Basant, not, with their really great investigative skills, not just journalistic, but investigative skills? What prevents them from being part of the group that can report to a whistle-blowing unit? [*Interruption*]

**Mr. Al-Rawi:** It does not.

**Dr. S. Rambachan:** I am very happy to hear, but I am asking the question because my limited understanding of the law I could not interpret it to the extent you are interpreting it. So it does not? You say it does not limit disclosure to employees.

But I want to say another thing to you, Attorney General. It might surprise you that the majority, I would say the majority of private companies in Trinidad, do not as of today realize that this Bill also includes them. They do not realize that, and they do not know that they are subject to what is in this Bill. And that is part of where we have failed as a Government to educate the public on this matter of the whistle-blowing legislation so that people who are affected by the Bill would know that they are going to be affected by this legislation, and the corporate world in Trinidad and Tobago had better get up and take a second look at this Bill.

It is unfortunate that so many things pass in this Parliament, and the public

takes a very low level of interest in it until it is there as law, and it is assented to and it becomes the law, and then everybody sits up and say, “But wait, what has happened?” They even say, “What have you done as an Opposition?” That is one of the unfortunate things about this country. We do not take the active role that we need to take in public affairs.

We do not make laws for ourselves in this Parliament. We make laws on behalf of the citizens for the common good. If there is one appeal I can make here today, it is for citizens in this country to take a more active interest. Madam Speaker, it is good that we have television showing what goes on in this Parliament. It is excellent, and there are people who follow it more than they follow the soaps, and I think that is great. I know a lot of secondary school students and primary school students who actually tell me they saw me on the television on the parliamentary channel and what have you.

But, Madam Speaker, I want to implore the Attorney General, that maybe Attorney General we need to take a time out and give the private sector again an opportunity—although I looked at the JSC and I saw a list of organizations who appeared before the JSC. But remember, those organizations represent a small group of elite people, but the broader world of corporate existence, in my view, the private sector in particular, they are not in tune with what this Bill really means for them as well as for their employees.

So, Madam Speaker, one of the questions I ask is: Should disclosures that lead to prosecution be limited only to employees? Look at the Volkswagen emission scandal. That was first brought to the attention of the authorities by a group of scientists at West Virginia University, and they were not affiliated, the scientists, to Volkswagen in any way, and under the current drafting of this Whistleblowing Act, you know, would such group be able to disclose information

that had as far reaching legal and financial repercussions as did the scientists who revealed the Volkswagen matter.

Madam Speaker, one of the other things I looked at is how many countries have whistle-blowing legislation at this stage. It seems that not a lot of countries in the world. The figure I am coming up with, subject to correction, from the research I tried to do, is about 50 countries. But more or less just about 12 countries have full blown whistle-blower legislation. So I thought I would look at the G20 countries to see what was happening in the G20 countries and to what extent they would have such legislation. When I noted it, Argentina, for example, had no standalone legislation, yet the regulation governing the Anti-Corruption Office grants anonymity to reporting employees. Australia only recently introduced a comprehensive and innovative scheme for most of its public sector, but protection for private sector employees are widely recognized as missing or inadequate in the Australian legislation. Brazil had no specific legislation in place, although in 2013, anti-bribery law encouraged companies to establish whistle-blowing channels. Canada, at a national level protection is granted only in the public sector. NGOs have said the legislation is flawed and ineffective and so no whistle-blower has yet been granted remedy by a tribunal.

I am just pointing to these countries to show the stages of development of whistle-blower legislation, even as we battle here. And I will make my point about the sensitivity of the private sector to the legislation. China—legislation formally protects whistle-blowers in the private sector, but there are consistent implementation loopholes. France—three laws were passed in 2013 to protect whistle-blowers in both the private and public sector, who exposed health and environmental risks, conflict of interests and financial crimes. The report said it was too early to say how strong the legislation implementation would be.

Germany—no specific whistle-blower provision. There are consistent loopholes in the labour law imposing high burdens on whistle-blowers—on the whistle-blower. In instances of corruption, public officials can turn to external authorities. Protection measures are inconsistently interpreted in the; that is Germany. India—the Whistle Blowers Protection Bill covering Government of India employees was passed in 2014; so very recent. So as a country we must somehow I would say congratulate ourselves also, that we are beginning to think in these terms and, in my view, intellectually it puts us out of the Third World zone, and into a country that at least has some vision of where moral progress should be going as a society.

I am still talking about the G20 countries. Indonesia—no standalone legislation. The law on witnesses provides little protection as cases of retaliation and even prosecution against whistle-blowers have been reported. So as I was saying earlier, this is a matter of life and limb. Italy adopted an anti-corruption law in 2012 only, which includes the establishment of whistle-blower protection in the public sector, but not in the private sector. Japan—whistle-blower legislation covers both public and private sectors, but only in cases where a law has been violated. A new State secrecy law has undermined protection for whistle-blowers in the public sector.

Korea—legislation protects whistle-blowers in the private sector, but again the implementation is inconsistent. Mexico—there is no legislation directly addressing the issue of whistle-blower protection. Russia—a 2013 presidential decree introduced new whistle-blower protection measures for public sector employees, although they remain largely inadequate. In fact in Russia there is no comprehensive framework existing to protect private sector employees. Saudi Arabia—limited and vague protection for public sector whistle-blowers; does not



extend to the private sector. South Africa—protective legislation in place for private employees and non-employees as well as for public employees, but non-employees operating in the public sector excluded from protection. Turkey—no legislation addressing whistle-blower protection, and in the UK and US what we know is that both possess adequate whistle-blowing legislation covering the private and public sectors.

So this gives you a broad picture of what is happening internationally, and we could see some actions have been taken as only recently as three or four years ago. But it also shows that in a lot of cases the private sector has been excluded from the legislation.

Madam Speaker, the other matter I wish to raise is the matter of who is a whistle-blower, and how can a whistle-blower also be protected. Here in our law that we are proposing, there is an internal unit to which the whistle-blower goes or there is the external unit to which the whistle-blower goes. But have we considered whether a whistle-blower could go through an attorney? Should we consider that? Jamaica allows for that, by the way, allows for disclosure through an attorney and that is in an effort to maintain confidentiality as well as the veracity of the information.

At the University of Greenwich—G-r-e-e-n-w-i-c-h, I hope I pronounced that correctly, researchers at the Public Services International Research Unit have listed several potential whistle-blowers. Of course direct employees of companies, employees of governments or agencies, who of course whistle-blow on politicians or officials and/or companies, aid workers employed by foreign government, NGO employees, employees of multilateral agencies, example the World Bank, accountants and auditors. They are an important category, they must be seeing evidence going across their desks. Auditors and their staff should be able to

whistle-blow on their clients whether public authority or company. You know, for example, someone auditing particular books of a company—I do not want to deal with A&V Drilling—but let us say they are auditing something and they see something, should they not be able to report it? Consultants and academic researchers, and members of the public.

What about trade unions? Trade unions as the representatives of the whistleblower? Should a whistle-blower be able to work through his or her trade union in order to report matters? When disclosures are made, my next point, to the Whistleblower Report Unit, how can it be guaranteed that they are protected disclosures? Madam Speaker, in this age of advanced technology, there are many different ways in which disclosures can be illegally intercepted. Look, one of the banks is posting on Facebook all the time, warning people that their bank is affected by illegal interception of their clients' credit card numbers and what have you. It is happening. How do we really, in this age and day of advanced technology, protect people? How do we make sure that disclosures are not illegally intercepted?

Madam Speaker, you know why I raise this? I really have fear for the lives of people, you know, who engage in whistle-blowing. I made my point on that very early. So a person making a disclosure will definitely want to ensure that he or she is protected. So here we have the matter of confidentiality and how confidential, although we talk about protected disclosure, how confidential really—

**Madam Speaker:** Member for Tabaquite, your original 30 minutes are now spent. You are entitled to 15 more minutes to complete your contribution. You may proceed.

**Dr. S. Rambachan:** Thank you. So to ensure confidentiality and guard against

retaliation, a whistle-blower may feel more comfortable disclosing information anonymously. But under the current legislation, anonymous disclosures are not protected information. That is clause 10(1) of the Bill. As this information is not protected the person's identity could feasibly be deduced from the information. The Bill, however, Attorney General said, provides that if the identity of a person that makes an anonymous disclosure becomes known, the disclosure will then become protected. That is clause 10(4). But this is after the fact. A person's identity and disclosure could long be discovered before any protected action is taken.

Madam Speaker, anonymous disclosures also have a disadvantage. They could have the unintended consequence of generating false or vindictive allegations if the reporting person cannot be identified and held accountable. Therefore I have a problem with anonymous. If you have something to say, you should come forward and say it. This is why I talked about rare courage and commitment. So this matter of anonymous disclosures, anonymous reporting I have a deep problem with it.

You see, Madam Speaker, one of the things that it says in section 7 of the Bill when it talks about who is making the disclosure, they must have reasonable grounds, and then is a lot of immunity granted about this matter of reasonable grounds and what have you. But, Madam Speaker, you know reasonable grounds could be based on rumours, reasonable grounds could be based on fake news, and one of the distinguishing characteristics of this country is rumour mongering. We somehow feed on rumours; we feed on rumours. Everything is a rumour and rumour assumes a truth of its own and gets legs, and voices, and ears, and eyes. So one has to be very, very careful about that, the whole matter of rumour mongering, and people picking up a rumour and this rumour becomes a disclosure, anonymous

disclosure, and what would that in fact lead to.

There is also the other matter of people making reports to save their skin. That they may have some tiff, an employee has a tiff with the employer, he or she no longer works with the employer and they want to take revenge. All of these matters have to be carefully thought out. And this is why at the end of the Bill where the fines are proposed, the fines seem to be very low in terms of what is proposed.

I tried to find in the Bill what the Act states about the rights of an individual or the rights of a company subject to a whistle-blowing complaint. Let us take the case of a company, and simply ask the question: If a company is being accused of malpractice what are their rights? Let us assume that the company cannot cross-examine the whistle-blower, because one of the things you see here is that the Directors of the whistle-blowing units they have some rare powers. They can decide whether something goes or something does not go, or what have you and so on. Therefore, one of my colleagues did raise towards the end of his contribution, the Member for Oropouche East I think it is, Dr. Roodal Moonilal, the whole question of the directors and their powers, and how these directors are to be appointed. That is something that I think we need to look more deeply into.

In the private sector companies operate, let us face it, to further their own interests. If each company is to institute its own whistle-blowing report unit, what oversight is there to ensure that these units do not only exist on paper and is appropriately equipped and motivated to properly investigate disclosures? Who is going to train the people in these units? Are companies to train their own personnel? Are we going to have several different policies and processes, or are we going to have something that is consistent from organization to organization? How is this going to work? All the legislation talks about is we have to set up

these units, but how are they going in fact to work? Because you could end up with several different mechanisms, several different policies to handle disclosures across different companies.

Now, the French courts have struck down internal whistle-blowing procedures as invalid, as they were too broad in scope or could harm the vital interest of the company, or physical or moral integrity of an individual employee. That happened in French courts to substantiate the point I am making. So I believe that comprehensive training should be provided to streamline procedures, and an independent agency formed to provide advice and support and monitor and review internal whistle-blowing report units.

Now, you set up a Whistleblowing Report Unit, somebody walks in there to make a report and, you know, somebody sees this person innocently walk into the WRU, they do not if the person make a report or not make a report, and that person can become unfairly targeted, and then the whole confidentiality is breached. That is why I am saying that disclosure should be encouraged, not only through a company, but through regulatory authorities, specialized agencies and what have you.

Madam Speaker, my final point is the Director's role. The Bill provides for external disclosure to the WRU within a designated authority, and this WRU is the only unit responsible for receiving and processing external disclosures. A single person in the person of the Director of the WRU considers the appropriateness of the disclosure, whether it should be referred for further investigation or if the case should be handled internally, under section 14(3), 15(2) and (3). Is there any oversight, because I could not perceive it, for the Director's decisions? That is the question I am putting. Is there any oversight for the Director's decisions?

**Hon. Member:** Yes, in the court.

**Dr. S. Rambachan:** Okay, in the court.

Madam Speaker, we all need, as I said, legislation to guide our behaviour, to regulate conduct in the society and what have you. But, Madam Speaker, I do have issues with how well this Bill is understood by the private sector. I do have issues with that. And I think that it will not be foolhardy of me to ask of the Attorney General that maybe we need to do some more education, so that people can become au courant with what this Bill is all about.

Let me state my case very clearly. I am not against legislation that forges a higher morality. I am not against that at all. I think my commitment to the common good suggests that you have to engage in some kind of man's law that regulates irrational behaviour and greed.

Madam Speaker, with those few words, I thank you.

**The Minister of State in the Ministry of Education (Hon. Dr. Lovell Francis):** Good afternoon, Madam Speaker, good afternoon to Members on both sides of the House. It is my pleasure to stand this afternoon to contribute to this Bill with the very, very lengthy title, that I am very happy we can all summarize as the "whistle-blower legislation".

I have listened with intent to every Member that has spoken thus far, both on the Government side and also on the side of the Opposition, with particular interest in what would be said by Members opposing.

I will ignore the contribution of the Member for Oropouche East, and unfortunately I had a meeting so I missed much of what the Member for St. Augustine had to say, so I will not editorialize on that. I can of course refer to what was just said by my colleague from Tabaquite. I have to say that there are significant parts of his contribution that I appreciated.

I appreciated his attempt to provide an ethical and moral grounding to his

discussion. I think in the case of this legislation such a thing was very useful. I appreciate his questioning of whether as a society we have abandoned the teaching of ethics to our young people. I would suggest to him that whereas in a modern education system there is no longer a subject called Ethics, which would have existed previously, there is still an attempt to convey some of that learning through other curriculum areas, particularly Social Studies for example. Whether it is something we need to look more coherently at, is a longer discussion we perhaps can have, but there are attempts to convey that kind of ethical training to our students.

I noted with keen interest, Madam Speaker, his critique of the level of disengagement amongst our citizenry in some of what we do in this Parliament, and I agree to some extent. If there is one caveat I would like to perhaps add, and it is always good to critique oneself before we critique others, I would agree that there is great disengagement, to some extent in our society, in terms of what governance is, how it functions, how it operates, and citizens have to bear the responsibility for much of that. But what I will say as a parliamentarian, sometimes by the way we debate, operate, what we do may be a bit obscure for the person that we sometimes call the typical man or woman to follow. It is not that I am suggesting that our population is under-educated or foolish or lacks acumen.

If we debate an Act and we go through that process which we need to go through of looking at each clause and looking at the semantics, looking at the diction, oftentimes citizens would get lost and disenchanted. So what I might suggest is that in the same way that the Member could come and provide some philosophical underpinning, that there must be room within these debates for different kinds of discourses that citizens can and will choose to follow, and I will leave it right there.

**3.30 p.m.**

Where I take or I have some significant disagreement with the Member is with the notion which he did not state overtly—I will say that up front— that somehow there should be some delay in the passing of this legislation; that is where I take, I have, great disagreement.

And I hearken back to what the Prime Minister, the Member for Diego Martin West, said when he was speaking, that there is never, ever, ever, going to be a perfect legislation, but there is great harm to be caused in constantly waiting, constantly delaying, always looking to tweak every single thing, and you end up doing nothing. [*Desk thumping*]

As a government we provided a commitment, we gave a commitment to this nation that we would look seriously at corruption. I will be the first to admit, as I am sure the Attorney General will, that no Bill that he brings here is ever going to be perfect, but we cannot let the perfect kill the necessary. [*Desk thumping*] So, whereas this law can be amended, discussed, changed, transformed, we must do something.

Madam Speaker, it may have slipped past us, but there is a very rare, I have never seen it in three years plus, there is a very rare consensus in the Parliament this afternoon on both sides that we have a problem. I think everybody in the Chamber understands that we are dealing with issues here that none of us can elide, we cannot obviate; we have a problem in this nation, and the problem can be summarized as corruption. What many do not understand is the source of that problem, and we use it, that misunderstanding, to denigrate ourselves. And I would suggest if there is one thing that we do as part of this process it is understanding that we are not uniquely corrupt, we are not uniquely condign, we are not uniquely benighted as a nation, that there are reasons why we find



ourselves in this kind of quagmire.

Madam Speaker, I was reading something yesterday on social media and it still amazes me to see these things, but it gives a good indication of where our mindset lies. There is throughout this nation a great concern with the question and spectre of corruption that pervades all levels of the society.

So whereas I can argue on one side that we have a culture of corruption here that we have not dealt with in as significant a manner as we should have, there is a tide of feeling that this thing is a problem and we have to do something about it.

I saw one commentator, not particularly talking about this Bill, but talking about the whole issue, the question of corruption, saying that if she had to vote in the future, she would vote for the Queen, because no one here can solve this problem. That really points to a total misapprehension, misunderstanding of where this problem really lies. And I was really happy to sit here and to hear the Prime Minister when he spoke, make a passing reference to the Red House, because I could use that as a very simple anecdote to explain this in a way that will be understood by anybody or everybody.

Madam Speaker, I do not get excited very often, but I am actually excited about the idea of standing in the Red House. As someone [*Desk thumping*] who has been concerned with government and governance maybe all of my life, as early as I could understand the word or the term, the Red House has tremendous symbolic, cultural and real meaning for me; standing there is something I look forward to as a parliamentarian. So much so, Madam Speaker, every day I come to work, before I start work, what I have to do, I stand by the window and I look at the Red House being fixed, and I am proud to be part of a Government—

**Ms. Ramdial:** Standing Order 48(1), please. [*Crosstalk*] What is the clause in the Bill?

**Madam Speaker:** Member for Moruga/Tableland, I really think you should now bring your contribution into what we are discussing here today, please.

**Hon. Dr. L. Francis:** Madam Speaker, I am. I know the Member for Couva North gets confused very easily so I am not insulted. Madam Speaker, we are talking about corruption, we are talking about changing a culture of corruption. We are talking about using the powers of the Parliament which is its statutory obligations to convert a culture, and I am going back to where it started.

Madam Speaker, I have been watching that roof, I am sure it is very expensive, go onto that building, and I am not sure how many people know, but I know, what I am actually looking at is the fourth roof of the Red House going on. Now, you ask yourself, how? You ask yourself, why.

The first Red House was burnt down in 1903, it was rebuilt in 1907. Logically, this should be the third roof going on. It is actually the fourth roof. Why?—because the first roof of the Red House was awarded to the friend of a friend of a friend of the right person, and that person had no expertise in architecture, in construction, and they designed a very beautiful and very ornate roof on the first building in the 1840s, and that roof was so heavy it had to be removed; and, Madam Speaker, that is the point.

Those who believe this culture of corruption is something that is innately us, it is a post-independence thing, it is a failure of our people, do not understand that that history and that culture of corruption that was integral to colonialism is where this thing started. And Madam Speaker, no parliamentarian, no Parliament, that does not understand the source of something or the reason for something can hope to solve this something. [*Desk thumping*]

So, I am sure of one thing this afternoon, the Member for Couva North has learnt something, and that does not happen very often [*Desk thumping*] and you are

welcome, my colleague; and, Madam Speaker, that is where it comes from.

**Ms. Ramdial:** Get the real problem solved.

**Hon. Dr. L. Francis:** That is where it comes from. That is why [*Crosstalk*] we have a history and a culture of corruption and that is why it pervades every level of this society, and if we do not understand that, we do not understand how deeply it has been forced into our DNA, there is no chance of us ever solving it.

Madam Speaker, the Preamble to this Bill says very clearly, this Act:

“...shall have effect even though inconsistent with sections 4 and 5 of the Constitution...”

And that might seem a very trite and very slight statement, but it is very profound, it is very significant.

Madam Speaker, every single Member of Parliament in this Chamber swore on some book of their choice to do one thing—uphold the Constitution and to do right without fear or favour. I am very sure, I am very certain, that the Attorney General is a great respecter of the Constitution. He swore the same oath I swore, and I am sure that he is a very great respecter of the Constitution, but he is bringing to the Parliament a Bill that contravenes significant sections of the Constitution and that is not something that an Attorney General will do slightly, any Attorney General, especially one of this calibre would do slightly. And it is only going to happen, Madam Speaker, it is only happening, because we have no choice.

We have come to the point in our history and development as a nation where we understand, Madam Speaker, if we continue as we are going, if we keeping doing things as we are doing, if we remain, as we were commonly known under the tenure of the previous regime, as an “eat ah food people”, if we continue as a “you pull the string for me people”, Madam Speaker, this nation has no future that is assured. Because that history and that culture of corruption, tied to a rising tide

of criminality because there are intertwined, they are not discrete and distinct as we would like to convince ourselves that they are, will drown all of us.

So what do we do, Madam Speaker? We could talk about this Bill as a discrete Bill, and we could talk about this stature and this stricture and this rule and that rule and we could go down that legalistic tone, that legalistic slant but, Madam Speaker, what we need to understand here is that we are not in the business of passing a Bill today, we are in the business of trying to change a culture. And the normal response to that is to say that one of the most difficult things to be done or that can be done is to try to attempt to change a culture, but we have done that before in this nation, and the situation in this instance is far more dire.

Madam Speaker, I never used to wear a seat belt. I was one of those cavalier people, I will pay the \$200, let the police stop me. You put the right fine at the right time with the right pocket, Madam Speaker, I now wear my seat belt all the time. It is possible to change a culture, all it takes is the right stricture, the right intervention and, Madam Speaker, I will say that the Attorney General and this Government has been putting those things in place not just today [*Desk thumping*] but for much of this session. You could look at this Bill in an isolated way or if you look at the whole suite of the legislation that the Attorney General has been bringing to the Parliament, there is a trend here, we have been doing two things simultaneously. One, attempting to lessen the burden on the courts so that justice can prevail; and on the other hand trying to deal with bogie called corruption. And, Madam Speaker, as someone who is both a Minister and an MP, I can say to you that this thing is real and that it is definitive.

Madam Speaker, I am sure that every single Member of Parliament here, regardless of how you may feel about each other or yourself, has come at some point face to face with this, and sometimes it comes in an innocuous form. I had

one constituent come to me, she has a problem in terms of her

house; there is some slippage. That is normal in my constituency, much of the lands is prone to slippage; she wants the problem solved. She understands that the Member of Parliament is the person that can make this happen, but she comes to me and she says, “If you do this for me, I will pay you X amount of money”.

Now, I understand that. I understand that on a number of levels. Madam Speaker, that says to me a number of things. It says to me that that is the norm, that is the expectation, she may have tried to reach out to somebody before and failed—

**Hon. Member:** Or succeeded.

**Hon. Dr. L. Francis:**—or succeeded [*Crosstalk*] or it points to something more frightening. Naparima, you need some learning too. Madam Speaker, yes. I apologize. It might point to something which is far more dangerous, which is a loss of faith or a lack of faith that the system can work for you. And when as a society we have reached the point where the typical citizen has reached that point, the only end result of that is chaos.

I took the time to explain to her that my job is to assist her regardless of whatever circumstance, and that she really ought not to be offering any kind of an inducement to me, and the matter ended there and the problem was solved. Madam Speaker, unfortunately, there are other circumstances when it is far more sinister.

I had another constituent come to visit me embroiled in a land issue with his neighbour. He says to me, he will give me an inducement if I assist him in getting the land, and then he hits me this kind of “sweet eye, wink, wink, wink”; and I just looked at him, so he keeps winking. And I say, “Partner, you could stop winking, you know. That sweet eye doesn’t work with me”.

**Mr. Singh:** Carry some Visine.

**Hon. Dr. L. Francis:** Yeah. Something like that.

**Mr. Hinds:** You are getting \$900,000.

**Hon. Dr. L. Francis:** And I solved that problem a different way, but those are trite cases. There is one I am facing right now of a more fundamental nature, and it would really take me where I want to go.

Madam Speaker, it has become a thing in this country that whether by accident or by nature or by expedience some of us have accepted a certain level of crime and criminality as normal. Madam Speaker, there are people who believe that it is more cost effective and much easier to work with or make peace with certain criminal elements in the community, and I will give you a very specific example.

We are in the midst now of expending this year \$70 million as part of a longer-term upgrade to the Moruga Road, and despite one or two concerns it has gone fairly well, but there is a circumstance where we have what I would call some “petty gangsters” in the community, I will not talk about affiliation or who utilized them before because it is not germane to the discussion.

What they have done, Madam Speaker, is that they have systematically gone to every single contractor working on the project, whether they are involved in the actual roadworks, whether they are going mundane jobs like a box drain, whether they are doing the landslip walls, they have targeted every single contractor particularly those who are not from the community.

Now, Madam Speaker, they started this a few years ago and it was like a game of chess. They would make a move and I would counter because law enforcement is there to deal with them. My colleague from Point Fortin, the former Minister of National Security, was integral to me checkmating them in the

earlier incarnation of their scheme. By some, I do not know, transformation, some sleight of brilliance, they have actually found a way to meet these contractors before they arrive on site. What they would do is that the contractors would mobilize—and you are all familiar with this—and they would go and intimidate.

**Mr. Lee:** Madam Speaker, 48(1), please. I am trying to understand the relevance of this Bill that the Minister is talking about today, the whistle-blowing legislation, please.

**Madam Speaker:** Minister, Member, I will give you some leeway. Please, continue.

**Hon. Dr. L. Francis:** Thank you, Madam Speaker. Pointe-a-Pierre has that Couva North problem too. Madam Speaker, they found a way to target them before they mobilized, so that by the time the contractor is on site, they are on site as well, and other ancillary criminal activities.

And the point is this, Member for Pointe-a-Pierre, and the point is this, Couva North, which will be lost on you, I know. Madam Speaker the point is this, every year the Government of Trinidad and Tobago, the State, expends significant amounts of funding regardless of party involved to try to develop this nation, to try to take us a step further to improve the infrastructure of our citizens, to improve the quality of life for citizens. And you have to ask yourself as a Minister, as an MP, as a parliamentarian: How much of the money we spend actually hits the ground to affect the lives of our citizens?—and that is the point.

Madam Speaker, we have tried with law enforcement to, once again, counter this threat, but they have so intimidated all of the contractors, and all of the workers, that people are afraid to step forward or stand forward and say that, “I am being extorted, I am being threatened, my equipment is being damaged if I do not acquiesce to this criminality”.

**Mr. Lee:** What clause is that?

**Hon. Dr. L. Francis:** The entire Act; the entire Act. [*Desk thumping*] No. I am not going to answer the Member for Pointe-a-Pierre in a very minimalist way, the entire Act.

**Hon. Member:** It is not an Act.

**Hon. Dr. L. Francis:** Because if someone—the entire Bill. [*Crosstalk*] Madam Speaker, we have people who are looking at their future being leveraged, their future being stolen. [*Crosstalk*]

**Madam Speaker:** The crosstalk is now becoming intolerable. Member for Couva North, I know you have not spoken as yet, but as soon as you catch my eye, you will be given that opportunity. Continue, Member for Moruga/Tableland.

**Hon. Dr. L. Francis:** Thank you, Madam Speaker. Madam Speaker, we have people who have waited for a long time for specific improvements that are seeing the investment of the State being partly stolen in front of their eyes, and they are so intimidated that they are afraid to stand forward and say something. Madam Speaker, without that kind of intervention, this activity or this kind of activity which is happening in my constituency and is happening in other constituencies will continue.

So, Madam Speaker, as someone who is not a lawyer but as someone who understands legalese, but also someone who understands that if we keep presenting laws here in very arcane jargon that cannot be followed by the common person, then much of what we do will be lost, Member for Couva North, but understands that the laws that we pass here have a fundamental impact on the lives of citizens, and that if they understood the kind of impact and how it might empower them, they might be so motivated to do the right thing for the benefit of all of us, I will stand and have this kind of dialogue even if the Member for Pointe-a-Pierre, as



usual, is confused again.

Madam Speaker, we have reached a point in our development as a nation where we are going through a watershed part of our history.

**Ms. Ramdial:** A drought, an outright drought.

**Hon. Dr. L. Francis:** At the end of it we will be fundamentally changed. We used to be the kind of nation that had the kind of economic prowess where we could convince ourselves that we could wink, wink, shrug shoulders, turn away from the corruption that was endemic throughout our public service and private sector; we are no longer than kind of country. Madam Speaker, it used to be that we spent a dollar and we got 10 cents purchase from it, we have to become the kind of nation that spends a \$1 and gets a \$1.50 from it; that is our new reality, that must be your imperative.

And, Madam Speaker, when the Member for Tabaquite talked about education and we would need a greater education guide, he probably talked about it in a narrow sense in terms of schooling, but for this to really function we need two things. We need to ensure that all of the Bills we pass that are dealing with corruption or that can deal with corruption are implemented as they should be. And we need to understand that if the population does not feel invested in it, it will have no meaning, it will not have the kind of impact that it could have.

Madam Speaker, the Prime Minister spoke today in a very aspirational way, and that is important. It is important of a Prime Minister who aspires for the nation, we should all be speaking here in a very aspirational way. We all agree at this point that this society is plagued with corruption, we all agree that we should do something. Madam Speaker, there is no time like the present.

I stand in support of this Bill, I stand in support of the Attorney General. I stand in support of this concerted effort to try to eradicate corruption in this

country or to try to check the spread of corruption. I am a firm believer that if we do the hard work that always comes after the Bill, not just before, not just during the passage, the hard work that comes after—the implementation, the supervision, the police doing their job as is mandated to them—that we can start to turn this tide back.

Madam Speaker, if we just give lip service to this, if we just do not do the hard work that is required, this nation will have no serious future that is worth having. The corruption will continue, the criminality will expand, and this will become a nation that none of us wants to live in. If we as parliamentarians do our job, which is not just to debate and enact the right laws, but also to ensure that they are enforced, we have hope and we have a future, our children might live in a better Trinidad than the one that we are living in now, and that is worth standing and speaking about. Madam Speaker, I thank you. [*Desk thumping*]

**Madam Speaker:** Member for Caroni Central. [*Desk thumping*]

**Dr. Bhoendradatt Tewarie** (*Caroni Central*): Thank you very much, Madam Speaker. [*Crosstalk*] I want to first of all respond in a—

**Madam Speaker:** I really want to hear the Member for Member Caroni Central. And it is after lunch and I am reminding everybody of Standing Order 53; those who want to make interruptions can rely on the relevant Standing Order. Member for Caroni Central.

**Dr. B. Tewarie:** Thank you, Ma'am. I will engage some of the issues that the Member raised in a congenial way really as I stand to make a few points. I do not think I will take my full time on this:

“ACT to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making those disclosures from detrimental action, to

regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct and to provide for other matters connected therewith.”

The Member raised, Moruga/Tableland, the issue of citizens’ engagement, Madam Speaker. And I think perhaps the biggest issue of citizens’ disengagement with the governance process is the dissonance that the citizen feels between what politicians and those in leadership positions say and what they do, and I think we should reflect on that for a moment. It is very real, that dissonance between talk and walk.

The Member said that it is possible to change a culture, and I do believe with him—I believe what he said to be true. It is possible to change a culture, and I do agree with him also that you can have laws or rules that help to change a culture, just like you can have the introduction of technology that helps to transform or change a culture, I do believe that that is true. But in order do that, the dissonance between talk and walk must also be arrested; it helps. So the law supports at one level, the technology supports at another level and the example becomes critical in this process.

He said something else that I thought was important, he talked about the culture of corruption, the rising tide of criminality and that they were connected. I also believe that that is true, because there is a direct connection and sometimes many indirect connections between white-collar crime and the crime on the ground. He mentioned the—I am not sure if he said the “sweep of legislation”, I thought you said that.

**Hon. Member:** Suite.

**Dr. B. Tewarie:** The suite, the suite of legislation, and I did have this, I have been looking at this for like three or four months now, the legislation that was promised, the legislation we brought to Parliament, and there are two things that I find about

the legislation to be extremely strong. It is not limited to this because there might be aberrations, but in general I find, one, a lot of the legislation is prompted by international demands that require legislative action at home. And the second thing is that a lot of the legislation increases governmental power in the country.

And I think if you look at those two elements, I mean, you really question the whole motivation behind the local governance process, not that responding to international promptings is not necessary. I am not so sure that the increasing power of government is justified, but I want to record that when you look at the suite of legislation or maybe this word “sweep” is a good word, in fact, you find these dominant traits in the legislation.

Now, when the hon. Prime Minister spoke and he spoke well, he is a good speaker, both on the platform and in the Parliament, and he is always a clear speaker in his methodology and his message, you know, but he talked about an act of urgency, the legislation not being an act of urgency to deal with any specific matter.

**4.00 p.m.**

And he said it was a campaign commitment to bring the whistle-blower legislation, and it took them four years, but they brought it. He said that they had put it forward before in 2016. It had gone through the Joint Select Committee process. I do agree with my colleague from Oropouche East, that the Attorney General as chair should have proceeded to complete that process and let it come here with the reports. But, having said that, you know there are many, many other promises that they might have brought also not just to the Parliament but to the country.

There was one point that he made though, and I think the Attorney General made a similar point in his presentation, which is that because the private sector is

so connected to public money, because of the largeness of government, and the extent to which they are connected or dependent on public expenditure, government expenditure, that it was necessary to bring one piece of legislation that legislated for both the public and the private sector, and this is where I begin to have a problem. While I take the issue of public money, while I take the issue of the connection between public and private sector in its exposure and engagement of public money, if that becomes a rationale for basically strengthening the power of government over not just the process involving the public sector, but the process involving the private sector, it can turn out to be a problematic issue in a society such as this that is so connected. [*Desk thumping*]

The hon. Prime Minister also said that we must not be afraid to do our duty, and that we have nothing to fear. And I want to say, Madam Speaker, we have always as an Opposition done our duty in this Parliament. [*Desk thumping*] Sometimes the Government likes it, sometimes they do not like it, but always we do what we feel is right for the legislation and for the moment. The moment being not just a political moment, but the connection of the legislation to things that are happening in this society. So, we do not do anything out of fear here. When we do not like something we ask for it to go to the Joint Select Committee. When it comes here, if we have to make amendments, we do it, as we did with the wealth Bill, and we play the role of the Opposition, which is to critically support. If we like something we support it; if we do not like something, we do not support it and we say we do not like it, why we do not like it, and when we have a situation where a compromise is possible we also signal that.

But the Prime Minister talked about corruption in this society generally. He did not use the word “plenty”, but he did talk about—[*Interruption*]

**Madam Speaker:** Member for Laventille West, would you like to make an

interruption?

**Mr. Hinds:** Yes, I was asking my friend from Caroni Central if he would give way, Madam Speaker.

**Hon. Member:** Nah, nah, nah.

**Dr. B. Tewarie:** No, I do not wish to give way, Madam Speaker.

**Madam Speaker:** Continue, Caroni Central. [*Crosstalk*] And that puts an end to it. Continue Caroni Central.

**Dr. B. Tewarie:** Yes. He said that there was corruption in this society and we agree, there is corruption in Trinidad and Tobago, and there is in almost every society. But we do not agree with the position of the Member for St. Joseph that this is a corrupt society from top to bottom. We do not believe that everybody in this society is corrupt.

**Hon. Members:** Correct. [*Desk thumping*]

**Dr. B. Tewarie:** We believe that there is corruption. We believe that there are corrupt people. We believe that corrupt acts take place. We believe that some people yield to temptation more than others, but we also believe that there are honest people in this country, plenty of them, [*Desk thumping*] that they want good government and good governance, and we feel that at the end people in Trinidad and Tobago, I mean, by and large, they want to have a good government that governs well, and by that they mean fairly. [*Desk thumping*] They want a system that allows due respect for the citizen so that they can go about the building of their lives and the management of a life which prepares them for their children's next generation benefits, and they also want to have a place—which is where this whistling-blowing legislation comes into play—where, if something is going wrong and the institutions are not working, they are not functioning, they want to have an opportunity or they want to know that they have a safe place where they

can get something done so that something will be done about it. And part of the frustration of the population is that they see things happening all around and they are not seeing any responses, they are not seeing any consequences, and therefore they get upset.

But, in doing a piece of legislation such as this, we have to ask ourselves some questions, and these were raised by some of the speakers before, both on our side and on the Government side. And that issue is: What kind of societal culture do you need, Madam Speaker, to support whistling-blowing legislation as a contribution to public good? Because we have to understand that that is the intention of this piece of legislation, although it does not say so. The idea is to create the conditions in which an individual citizen feeling moved to do so can make a contribution to the public good. And at the end of the day the purpose of it is good governance, and some people talked about the breakdown of ethics in the private sector. I think it was my colleague from Tabaquite who talked about that, and we all know that one of the issues in governance and in government everywhere, including Trinidad and Tobago but also elsewhere, is the business of corruption in the public apparatus of the State. So the issue is: What is the culture that you need for that? And it is becoming even more fierce, because we know from 2008 there has been a kind of collapse of the ethical foundations of the whole capitalist order, that is one thing, and we certainly know that what is happening everywhere is that Constitutions are being tested, whether it is by our neighbour in Venezuela, or whether it is in the epitome of so-called democracies in this hemisphere which is the United States of America.

So there is constitutional testing at the political level, and we have had the collapse of the ethical foundations within the private sector made very, very clear in 2008/2009. So, it is a problem. So, we are trying to build this legislation and to

present this legislation now, in this kind of climate where we were also affected, because we were affected by the 2008/2009 crisis here in the matter of the big insurance company called Clico and others that were affected during that period. But, we are also affected by issues—so, for instance, in our time when we were in Government we did the procurement legislation. [*Desk thumping*] It took us a little while to get it to the Parliament, but we passed that legislation, and it was precisely—people need to remember that there might have been 10 or 12 years that had passed with that legislation trying to make it to birth and it was the People's Partnership that nursed that process in order to create the conditions for the passage of that legislation.

So, you need a certain culture in order to do it. What type of institutional system is necessary? Now, we know that there are realities if you go to work in a certain place. For instance, if you are in a Cabinet of a country there is such a thing as confidentiality of Cabinet and collective responsibility. If you are in the public service, you know that there are certain things which require you to be confidential about, as part of the public service operations. If you work in a private sector institution, depending on the level that you are, you might be asked to even sign something which says confidentiality, secrecy, et cetera.

And therefore, if you have this element present in your society, whether in the public or private sector, and you have legislation like this, you immediately have a conflict of intention and a conflict of interest and you put an employee or a potential whistle-blower in a position where at some point in time they have to choose. And the protection offered by the legislation, I want to say, my problem with the legislation is that I am not sure that it offers enough protection to the whistle-blower [*Desk thumping*] and at the same time it has the propensity to create the conditions for a massive news-making society, a news-carrying society. [*Desk*



*thumping*] It is that extremity which you need to contain, which I think is absent or missing in the Bill, and I think not thoughtfully rendered, all right, in the—what do you call it, the composition of the Bill, Madam Speaker.

Now, what objective is support for whistle-blowing meant to serve? I mentioned the issue of the public good, and this is important, and one of the questions that arises: Is public good superior to the individual rights and individual freedoms? That is a hard question. That is a real, real hard question. One has to do with the heart of constitutional and human rights questions in most societies, and the other one has to do with a philosophical view of how you build a civilization. These things have been written about for centuries, Madam Speaker. And that is a very hard question. I want to say something, the Japanese have a whistle-blower legislation that they passed in 2004. And you know how they described the objective of that legislation? I will read just a little part of it:

The purpose of this legislation is to contribute to the stabilization and general welfare of the life of every citizen.

It is the same thing, you know, to do with whistle-blowing, and it is strong in its legislation about people having the right to do the right thing when something is wrong. But their conception of what this thing is meant to be is far, far in my view, Madam Speaker, and I am sure in yours, significantly superior in vision, in sensibility, in a sense of ethos about the society itself, and I think that those are the elements of the Bill, I think, that trouble me. And another issue that it raises therefore in that context is what level and dimension of citizenship does it require for responsible practice of whistle-blowing? Because I said two of the issues were it does not protect the whistle-blower well enough. But the second issue is that it can create the condition in which everybody is news-carrying about everybody, and you can have a problem. What is the level of citizenship responsibility that

you need, and how do you cultivate that? How do you help that?

And I want to start with the original issue that I raised, drawing on what my friend from Moruga/Tableland said, which is that dissonance between what you say and what you do, the leadership by example question, being critical in this regard. Because citizenship behaviour is a response to either the evolving nature of leadership by example at the top, or deteriorating nature of leadership by example at the top. [*Desk thumping*] That is what characterizes citizenship behaviour.

So, one of the early points I made was that I had a problem with state jurisdiction over private sector industries, and I do have a problem with that, Madam Speaker, because, you see, the State is large, and the State owns a significant proportion of the industries in this country. Perhaps, getting a little smaller now. I do not know, because, as industries are divested you are also creating more state enterprises, so it may well be growing. But, if you bring whistle-blowing having to do with private sector institutions under the control of the 21 government agencies identified here, Madam Speaker, I think you are drawing the private sector into a domain. I do not know if they would wish to go there. And secondly, I do not know what the implications are for government exercise of control over those private institutions.

Because, you see, many of the institutions we create are meant to be independent in name, Madam Speaker, and to be also independent in reality. But, the temptation is such, because of the political process and constitutional power in our country, that many of those institutions which are meant to be independent can be politicized by the process of appointments and by other things. That then creates a situation in your society where bringing the private sector under this ambit now can create a double jeopardy problem, and I want to warn against it. I

do not think it is healthy for our society. I am against this kind of state expansion of control in any society. [*Desk thumping*] But in a little country like Trinidad and Tobago, 1.4 million, maybe more now with the migration and so on, will increase, but it is still a small society, as bad as things might be, or seem to us sometimes, we still manage to govern pretty well. There is still a fair, there is, yes, a lot of interdependence, but there is a fair, sectoral sense of independence between Government on the one hand, private sector on the other, and we have had a creeping situation here which we need to acknowledge.

We had legislation that we passed here that brought the entire NGO sector under state control. A governance system, which allows for effective individual scrutiny of every civil society institution in the society. I am not against the scrutiny. I am against a situation in which Government being a principal funder of many of these civil society institutions, now has really executive power over many of these institutions on the basis of demand for certain accountability. So that is that. So you bring your NGO—how is a society organized by and large? You have your mass of citizens, but you have government. You have the private sector involved in various business at different levels. You have your civil society sector, and you have the public sector serving under the governance arrangement of the Government in power.

Now, when you bring more and more institutions, more and more sectors of society under governmental scrutiny of this type, you are really creating a society that you do not want. I mean, you might be the Government today, somebody else might be the government, but one day some crazy person might be in government, and Madam Speaker, it has happened in countries that never expected that that would happen to them. That is why you have to make laws which recognize certain restraints, which recognize the limits of reach, which recognize the curbs

that you need to have inherently, on power within the society of those least able to manage it, and therefore I want to say, Madam Speaker, that this is a matter that I am concerned about.

I really do not feel—you know, if BP wants to organize its own entity to manage whistle-blowing, fine, I have no problem with that. If a state enterprise wants to have its own entity to manage whistle-blowing, I have no problem with that. If ANSA McAL wants to have its own whistle-blowing authority, but to have all the private sector institutions also contained in a situation where these individual institutions—a person can write to these institutions and bring them under Government's scrutiny by whatever process you may argue that it is independent institutions or they are arm's-length or whatever. Now, there are some that are justified, like the SEC issue. There are yet others that you can justify, but my own feeling is that you have to be very cautious about what you justify and how much you bring into it. I have a document here which I just want to share a few lines from, which is, it is taken from an article, I do not have the whole article, I pulled out what I needed. "Combating corruption: The development of whistleblowing laws in the United States, Europe, and Armenia", by David Schultz and Khachik Harutyunyan—it is a difficult name. And it was published in 2015. It says here that:

"The first issue is that whistleblowing must have a strong moral-constitutional foundation in a given society."

Okay? It asked for that. I ask the question: What are the conditions which allow you to do that? The second thing is that:

"First whistleblowers should act based only out of respect and honor of fellow citizens and not because of selfish motives such as revenge or the elimination of a candidate for career growth; and second, the media and

authorities must act together to portray good whistleblowers as heroes.”

We have a history in this country, my colleague here talked about it, in which a whistle-blower came to very bad end, and we have instances of recent whistle-blowers who have been demonized in the public space, and the culture is not here. Look at the combative culture sometimes in the Parliament, Madam Speaker, with all due respect for you. It is not you. It is the fact of partisan political behaviour in the Parliament. And many times you know that I have raised this issue that if you have a very confrontational stand in the Parliament, it makes it very difficult to find consensus on certain things.

We go on here, they talked about legislative and institutional measures. I raise the issue of institution:

“The leadership of this new body...”

—That is to say if you are creating an institution to deal with this business of whistle-blowing:

“The leadership of this new body should be appointed/elected by the legislature...”

—You know why? Because they want multi-partisan scrutiny.

Must—“...be appointed/elected by the legislature and through a super-transparent, inclusive, and cross-society participation procedure in order to gain public trust.”

And—

“The leadership of this body should enjoy immunity for the whole period of the service, and removal from the office should be possible...”—

**Madam Speaker:** Member for Caroni Central, your original time is now expired. You are entitled to 15 more minutes to complete your contribution.

**Dr. B. Tewarie:** I would be grateful, Ma'am. Ma'am, in all truth I did not even

think I would speak for half an hour, but I will make a few points and complete.

“The leadership of this body should enjoy immunity for the whole period of the service, and removal from the office should be possible only by a parliamentary decision.”

You know why? Because you want to protect the people who have the responsibility of protecting whistle-blowers. Think of their authority, they have to protect these whistle-blowers. So the best way how to deal with a whistle-blower—all right, if you have a problem with a whistle-blower and you have criminal intent and criminal capacity for power—is to get to one of the people in charge of that, as they have done in other countries in which they have gotten to judges in the system. I mean, we are dealing with the real world here, Madam Speaker. So, I think that is something that if we take this seriously—and I think I had something here on Nigeria too, you know.

Now, Nigeria as you know is a country in which corruption does exist, just like here, but they try to do certain things. They talk about the structure:

A structure built on technology is the best bet for a safer system of protection. For instance, the policy should provide for protective measures to be employed in data transfer, should consider the possibility of and present interception and hacking of the Ministry's computer system, should consider anonymization of data and the desirability of a third party repository for data.

Okay? So they are talking about the protection process.

Now, take our Bill, what does this Bill here have? The Minister is the person to whom the entity reports, and if I am correct, in this Bill it is the Minister of National Security.

**Mr. Deyalsingh:** Yes.

**Dr. B. Tewarie:** Yes. So, I mean, given the wisdom of other people who have executed this in practice, and the derivatives they are now taking from seeing it work, this is not by interested parties. These are by academics who are looking at the system to see whether it is working, how it is working, and how it works best. Should we not take a little caution and get this out of political hands, and not have the private sectors, and [*Desk thumping*] Government and Ministers in charge, and—it is a society we are building. It is a civilization we want to build, you know.

So, Madam Speaker, I have raised some of the issues I want to raise, and I have only one more that I want to raise. This Bill does not deal with the question of journalism, and I want to know what is the position of a journalist to whom a whistle-blower comes and gives information and that journalist then publishes the article in the public domain? Because I want a clear answer to that question. So, the question I am asking is whether a journalist in such a situation is protected, whether the whistle-blower is protected. Now, I know that there are laws and rules that protect sources in journalism, had that not been possible Nixon would have seen his full term. But, it is an issue that remains an issue.

You see, because one of the countries on which we claim we modelled this legislation was Malta, and I do not know, Madam Speaker, if Members on the other side are aware of a name called Daphne Caruana Galizia. And that woman who was a journalist, fairly young, who wrote about government corruption, nepotism, patronage, allegations of money laundering. One day she came home in the evening—she came from work in the evening to go to her apartment, and what happened was that her entire car blew up with her in it and she was gone. Up to now—I think they jailed three people. I think they have three people for trial. I do not know what is going to happen in that particular instance, but I think since we

are using models from countries in which that could happen, and she was a prolific journalist who did it on many occasions, I think this is something that we should worry about and be concerned about.

**4.30 p.m.**

And one of the countries that we modelled it on, they say is Malaysia. Malaysia is a country, you know, Anwar Ibrahim used to be Minister of Finance. He came here in Trinidad. I was Minister at the time in the NAR government, and he came here and he had very high hopes and aspirations of his country, and so on. He fell out with the Prime Minister Mahathir; became Leader of the Opposition. They jailed him. God knows what they did with him in jail, and then eventually he came out, and because of problems in the society, including corruption by the Government which won the elections and eliminated all of them from government, the former Prime Minister and him got together. He is now back in government again. But that is a country in which one of the charges that he was making was the issue of corruption and he ended up in jail for being an accuser of government corruption.

So I am saying that when we make the legislation and we draw the models, we must also understand the history and the context, because not everything that glitters is gold, and we have to be careful about what we are doing. And as I say, this legislation covers broad terrain which neither protects the whistle-blower fully, and can create the conditions in which you have a nation of tattlers, basically, you know, screaming corruption of other people. And Lord knows, depending on the direction of any particular government at the time, and the ethos of that time, how that can emerge in your society.

And there is one final thing that I want to say and this is important, which is that the Member for St. Augustine raised the issue of the problem of witness



protection. I do not want to belabour the point but it is a reality. People have been executed for being a witness before they go to testify in a trial. So that is an issue of concern. And this thing does not guarantee any such protection. You know that. This guarantees, really, protection from litigation, protection from being fired, protection from, you know, demotion, you know, things like that, but there is a more sinister element, depending on the level of corruption. And we talk every day, all the legislation that has been brought here. What it is: terrorism, crime, money-laundering, drugs. The Prime Minister this morning raised the issue of gambling. Big money, he said, and big malfeasance that is recorded nowhere in the public documents for 2016, '17 or '18. He read from the documents, all of these things.

Imagine you are a whistle-blower in this situation in which so much money is involved, who in the Government or in this nation is going to protect you from physical harm in this country? [*Desk thumping*] I mean, we have to give some thought to this thing. Legislation is not a joke to just come here and say, "Listen, Opposition, join hands with us and pass". This is a serious, serious matter. You have to put institutions in place, structures in place. [*Desk thumping*] You have to have systems in place. You have to get your institutions all right. Madam Speaker, I do not want to go where you prevented one of my colleagues from going, but there are three principal institutions that affect us here and one of them now—I mean, at the highest level—is in a situation of uncertainty. Okay? I mean, the Executive of this country, at any given point in time, is always under pressure. You know that; besides that one. And then parliamentarians, we talked already about the issue of governance and the alienation of people from the governance process, and we know that many of the institutions do not work.

Look at the testimony of one of the prosecutors before a joint select

committee the other day, talking about how she, as a prosecutor out at the DPP's office, what she has to face every day. If she has to do that, what is the position of magistrates? What is the position of judges? What is the position of other officers executing the lawmaking and the law execution process? It is a problematic issue, Madam Speaker, and my own feeling is that this Bill is really quite deficient to the time, the context, the stage at which we are in the society and does not take into account the really problematic area of the intertwining of money-laundering, gambling, crime, drugs, all of those things, and I think that this takes a view of a society that you can timidly rein in and get to change its behaviour when the attendant conditions all around us tell us that, look, we are dealing with a fierce reality that needs something much more substantial than this in order to stand the test of time. So I thank you very much for the opportunity to contribute. [*Desk thumping*]

**The Minister of Housing and Urban Development (Hon. Maj. Gen. Edmund Dillon):** Thank you very much, Madam Speaker, for giving me the opportunity to speak in this debate on a Bill entitled:

“An Act to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making those disclosures from detrimental action, to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct and to provide for other matters connected therewith.”

Madam Speaker, when one looks at the Bill and the title of the Bill, there are some key issues that come out, that jump out at you, namely, corruption, wrongdoing, encouraging disclosures of improper conduct and, of course, both in the public and private sectors. But at a heart of it all—and before I even proceed, I want to certainly and truly thank the Attorney General for what he has brought to the

House today, a Bill with respect to what is commonly referred to as the whistleblower's Bill, that will, to my mind, be a game-changer in our system insofar as dealing with crime and security. [*Desk thumping*] And the Attorney General has not disappointed because he continues to bring legislation to this House that works in tandem with efforts being made in national security, and I certainly want to congratulate him once again.

But, Madam Speaker, really, in treating with the Bill before us today, it really speaks to the heart of it, and I think the Attorney General mentioned that. It talks about the whole question of values, the whole question of where do we place our values as a society; where do we place our values as a country; where do we place our values as Members of this august House here, both on the Opposition side and on the Government side. It is really at the heart of our nation, the heart of our soul, insofar as values really are what tells us what is right or wrong and it touches at our heart, really; what tells us what is right or wrong in any given situation, and how do we control the value system.

Madam Speaker, I listened attentively to the Member for Caroni Central. I just want to treat with some of the issues that he dealt with. He started off by speaking and talking about the Member for Moruga/Tableland and talking about dissonance, in terms of walking the talk. And I want to put it quite squarely to him that this Government is one Government that truly walks the talk. [*Desk thumping*] We said that we were going to bring legislation to this House and we have brought legislation, which is what we are expected to do as parliamentarians, Madam Speaker. This is what we are expected to do, bring the legislation to the House. What is the difference there, is whether or not we get the support of the Opposition when we bring the legislation to the House, Madam Speaker. [*Desk thumping*]

You know, he also went on to talk about, that he agreed that there are

people—honest people—in this country who want good governance. But I dare say to him also that the same honest people in this country also want good Opposition. [*Desk thumping*] They want a responsible Opposition. They also want a responsible Opposition who is there, who understands the very patriotic nature of this country and so will support, and be able to support the Bills that are brought here for the benefit of the greater good.

Madam Speaker, he spoke about the whole question of protection, or protection of the whistle-blower, and he said that there was no protection. But I think if he looked at the Bill quite clearly—if you looked at the Bill and you read the Bill quite clearly, and one looks at page 14, Part III of the Bill, it talks of protection of whistle-blowers. And there is a list of adequate protection that is afforded to whistle-blowers. Now, the Bill is there. The Bill is there, and a Bill, as mentioned through the Attorney General, laws can always be amended, but they have to test the ground first of all. They have to be placed on the ground; they have to be placed in the environment, and there is protection. But yet he said that there is no protection. But let me look at the Bill. Let me draw us back to the Bill, “Part III, Protection of Whistleblowers”. And Part III, clause 18 speaks to:

“Subject to the exceptions provided for in this Act, despite any prohibition of, or restriction on, the disclosure of information under any written law, rule of law, contract, oath or practice, a whistleblower shall not be subjected to detrimental action on account of his having made a protected disclosure.”

That is protection being offered. And it goes on. Clause 19 says to us:

“(1) Notwithstanding any other law, but subject to section 20(1), a whistleblower who makes a protected disclosure is not liable to any criminal, civil or disciplinary proceedings for having made such a disclosure.

- (2) Whistleblower protection shall not be prejudiced on the basis that—
- (a) the whistleblower was in good faith, mistaken about the importance of the disclosure;
  - (b) any perceived threat to the public interest on which the disclosure was based has not materialised; or.
  - (c) the whistleblower has not fully respected the procedural requirements of this Act or of any regulations or guidelines made under this Act.”

So there are, in fact, protections offered to the whistle-blower, Madam Speaker, yet he said there are no protections. I do not think if he read the Bill and he understands that there are, and it is a starting point that the Bill really speaks to. As I said, there can be amendments being made once the Bill is tested on the ground, but there are protections laws for the whistle-blower. In some cases, if the whistle-blower runs afoul of his own commitment, that is mentioned in clause 20(3):

- “(3) In any criminal proceedings instituted against a whistleblower based on the fact that the whistleblower was the perpetrator of, or an accomplice in, the improper conduct disclosed by the whistleblower, the court shall, in giving its judgment or decision, take into due account—
- (a) the fact that the disclosure was made by the whistleblower; and
  - (b) whether the whistleblower has assisted the police to apprehend any other person involved in the commission of an offence,
- and the punishment of the whistleblower may be mitigated or remitted, as the court thinks fit, and the court shall expressly refer to this subsection in its judgment or decision.”

So there is a balancing act when you look at this clause with respect to protection of whistle-blowers. So that the Member for Caroni Central must understand that

there are, in fact, protections for the whistle-blower in the Bill, as stated.

**Dr. Tewarie:** I did not say there were none, you know.

**Hon. Maj. Gen. E. Dillon:** You said there were no—your words were there was no protection for a whistle-blower.

**Dr. Tewarie:** I said not enough.

**Hon. Maj. Gen. E. Dillon:** All right. And, you know, he went on again to talk about—[*Crosstalk*] Madam Speaker, he went on to talk about the witness protection and he put on the record that people have been executed under the witness protection. I am not so sure if the Member really understands the justice protection system in Trinidad and Tobago. So to date, since the justice protection programme has started, no one has been killed under that justice protection system. And I am talking about the justice protection system where the witnesses are being engaged based on the MOU signed between themselves and the Director of Public Prosecutions, and they are in that programme.

Now, there is a mistake—and I hear from time to time—that is being made with the witness protection programme. There are witnesses who, based on the police investigation, may take people into custody and protect them. That is not the justice protection witness system, Madam Speaker. It is not. The justice protection system is clearly based on investigation. The witness has sufficient evidence that the DPP feels that is enough for a conviction and that person comes into a memorandum of understanding with the DPP and there are certain things that they must comply with to join the justice protection system. That is the Witness Protection Programme that is running for more than 20 years now, and that is the one that no one has been executed on that programme, Madam Speaker, none. [*Desk thumping*] So there must not be a confusion with those two kinds of programmes. So when we were speaking about it, I wanted to make it quite clear.

As you said, someone has been executed, so I want to put on the record that that is not so.

Madam Speaker, we are treating today with the whole question of this whistle-blowers Act, and the fact is that today, corrupt practices and illegal activities generate rewards for a number of people in this society. We cannot put our heads in the sand. There are a number of corrupt activities that take place in our society. When you look at the landscape right now—and there is a line that runs through almost everything in the security environment. Whether we are dealing with guns; whether we are dealing with drugs; whether we are dealing with trafficking in persons; whether we are dealing with trafficking in illegal drugs, and so on, there is a line of corruption that goes through all those, so that corruption is endemic at all levels of our society.

We talk about white collar crime, and I know that the Member for St. Joseph spoke at length about white collar crime. White collar crime is really a non-violent crime. We may describe it as that. It is committed by someone, typically a person in business, government or a profession in the course of occupational activities, mainly for financial gain. It can involve criminal activities committed by people in the regular course of their business, for example, fraud and embezzlement. Now, we have heard reports of contractors who claim that when they were given contracts they know that they have to pay 10 per cent, probably 20 per cent, of the value of the contract, to a person who helped them to obtain contracts in the first place. And we have seen it. We have heard those stories. We have seen some efforts being made by this Government to bring people to task for that. Madam Speaker, I can speak even with respect to my own Ministry, the Ministry of Housing and Urban Development, where there are situations where we are doing some investigations right now. But there is even some history to that, because we

do have instances where information comes to head, of people who insist on gaining houses, for instance, illegally, by paying either some people within the Ministry, and so on. And that information comes to us, anonymous or otherwise, but it is the same kind of method that we are treating with today, through whistle-blowers.

So that when we talk about whistle-blowers, and so on, what this Bill is about to do is relevant throughout almost all facets of the security environment—almost throughout. And I do not think that whistle-blowers are really a new phenomenon, you know. It is something that has always been there. What this Government is trying to do is to really legislate for it. We have always had whistle-blowers. From time immemorial, we have always had whistle-blowers. It exists in almost all—where you have two people together—two or three people gathered together; where they have groups assembled, there is always someone who can go outside the group and say something that is happening. It happens even within our homes sometimes. So whistle-blowers have always been there. What the Government is trying to do is to legislate for that, to put it right, so that it can help our people, Trinidad and Tobago, to treat with the issues of crime and criminality.

Madam Speaker, of course, in our fight against corruption, we have a number of legislation that ties into this. The Bill that is before us cannot, by itself, treat with all the issues that confront us. It certainly cannot. But we have seen the Attorney General bring a suite of legislation and we have to look at it in a combined manner. They cannot be treated in isolation. So that when we look at the Integrity in Public Life Act, the Proceeds of Crime Act, the recent Civil Asset Recovery and Management and Unexplained Wealth Bill, the Foreign Tax Compliance Act, among others—so there is several legislation that we can look at, combined together that will give us, as the Government, and those who have to



implement the laws, the kind of ability, the capability to treat with the issues that we are trying to treat with. And this is not just the Government, Madam Speaker. This is not a task for the Government alone, but it is a task for all the Members of this House. All 41 Members of this House must be conscious of the fact that we are here to pass the legislation that is required to bring the kind of results for the citizens of Trinidad and Tobago, Madam Speaker. [*Desk thumping*]

Madam Speaker, the time for the blind approach to governance is over. We cannot be blinded. And I dare say to the Opposition, you have to be responsible. You have to understand that you have a role to play, and sometimes we have to stop opposing for opposing's sake. We have to stop opposing for opposing's sake and look at the greater good.

**Mr. Charles:** You are being aggressive for aggressive's sake.

**Hon. Maj. Gen. E. Dillon:** We have to. We have to be able to stop opposing for opposing's sake and look at what the Bill is determined to do. Look at the greater good that the Bill is determined to do. When one looks at the Bill, there are no real issues of contention. We will look at; we will listen. We look and we listen. That is what we are all about. But when you look at the greater good, no one—I dare anyone of us in this House—can say that this legislation is not useful in our current society. [*Desk thumping*] I dare say anyone can say that. Because you look at it, it is not just in Trinidad and Tobago. [*Interruption*] Nah, he is a good man. It is not just in Trinidad and Tobago. Madam Speaker, when you look at Jamaica, and you look at—what is the purpose of the Bill in Jamaica?

“to Encourage and Facilitate the Making by employees of specified disclosures of improper conduct in the public interest;”

Note the words, Madam Speaker: “in the public interest”. In New Zealand:

“to promote the public interest:”—again, the words:

“to promote the public interest:

- by facilitating the disclosure and investigation of matters of serious wrongdoing in or by an organisation, and
- by protecting employees who, in accordance with the Act, make disclosures of information about serious wrongdoing in or by an organisation.”

Again, you hear the words, “public interest”.

Canada—and Canada has it as the “Public Interest Disclosure (Whistleblower Protection)”. So they actually label it as the “Public Interest Disclosure”. And it went on to say:

“to facilitate the disclosure and investigation of significant and serious matters in or relating to departments, public entities, offices or prescribed service providers, that an employee believes may be unlawful, dangerous to the public or injurious to the public interest,”

Again, “public interest”. The United Kingdom—and they name it also: “Public Interest Disclosure Act”. Again, the words “public interest” comes into view. Malaysia,

“...to:

- combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector;
- to protect persons making those disclosures from detrimental action;
- to provide for the matters disclosed to be investigated and dealt with;
- and
- to provide for other”—related—“matters...”

In Malta:

“...to provide...procedures...”—for—“...employees...in both the private sector and the public administration may disclose information regarding improper practices by their employers or other employees in the employ of their employers and to protect employees who made...”

What is common there, Madam Speaker?—“public interest”. You can see it running through the veins of all the jurisdictions, or most of the jurisdictions, the whole question of “public interest”. And hence the reason why I say that this Bill is not about us in this House; it is about the public interest. It is about the citizens of Trinidad and Tobago and what we can do. [*Desk thumping*] This is about the public interest, and that why we are here.

Madam Speaker, in a 2018 publication, “Whistleblower Protections: A Guide”, the International Bar Association’s Legal Policy and Research Unit and Legal Practice Division stated that:

“Organisations, be they government or private, rely on individuals, particularly employees, to bring to their attention information on actual or potential misconduct that may be occurring in the workplace.”

So that the need is there, Madam Speaker. And we talk about the public and the private sector, and there was some contention whether we should deal into the private sector. Madam Speaker, the private sector is ahead of the game, you know. The private sector is ahead of the game. I came from the private sector. I worked with Atlantic LNG for about four years and I can tell you, within Atlantic LNG, there was a system in place for whistle-blowers where you can actually make your pronouncement. If you have information, you send it anonymously, that is, to a designated individual who was in charge of that department, who received information and treated with it accordingly.

And I know that it happens in other—especially in the oil companies, and so on. So it is there. It happens in private organizations already. It is already there, Madam Speaker. So it is not that we are trying to reinvent the wheel. As I always say, we are improving on the wheel, not reinventing the wheel. We are merely improving on the wheel.

Madam Speaker, when we look at whistle-blowers—and it has been defined. Quite frankly, it has been defined. I think the definition has already been dealt with, so I would not go into it. It has been dealt with already. We know what we are talking about. But:

“Whistleblowers can reveal information that would otherwise go undetected, and are therefore a vital source of human intelligence.” Again, we talk about intelligence; we talk about intelligence giving you the kind of information, the kind of thing to treat with. So they can provide what is not normally brought to the fore.

“Such information can often be”—very—“critical to the organisation, ensuring it, among others, operates according to the law and to an appropriate standard, and protects the health and safety of its employees.”

Madam Speaker, this legislation also needs to be robust enough to withstand challenges, and I think if we go through the Bill, we can see that there is a lot of robustness built into it, to withstand challenges which would be raised. After all, Madam Speaker, people do not like to see their income source dry up. We know that. Even if it is illegal gains, they will certainly raise challenges. If this occurs, some employees or members of the public can find themselves on the other side. So their legislation has to be robust, and I think the Attorney General went at length to ensure that the Bill covers as many bases as it can. As I said, it cannot be a final. But I am sure when you look at the Bill, it has covered almost all the

bases, or most of the bases, that are required to protect the whistle-blower or to ensure that the disclosures are both protected and otherwise.

One of the main obstacles in the fight against corruption, fraud and mismanagement, Madam Speaker, is inherently the secret nature of such practices—the very inherent secret nature of those practices. Because, again, especially with fraud and mismanagement, the perpetrators of those kinds of crimes go out of their way for secrecy; go out of their way to cover their tracks, especially when we talk about money and financial crimes, and so on. And, therefore, unless you have somebody inside, unless you have somebody who is close to the event, or close to the perpetrator, it is very difficult to really solve those issues. And this is where whistle-blowers come in, because most of the time a whistleblower is someone who has intimate knowledge of the events; has intimate knowledge that can stand up to the test of time, especially evidentially. And so it is important, Madam Speaker, without this kind of legislation, without the importance of whistle-blowers, these kinds of fraud and mismanagement will go unnoticed, undetected and make our society even worse off.

So hence the reason why I think the Opposition must understand that whistle-blowing legislation aims, to a large extent, at encouraging the disclosure of information of the public interest—public interest. It is for the greater good, and I will continue hammering on that, because they seem to be very parochial in their vision and understanding, and very narrow-minded in their deliberation. So, Madam Speaker, it is about the public interest. And this usually means providing safe channels of disclosure, safeguarding whistle-blowers from relations—and rewarding them for their actions.

Madam Speaker, Transparency International cites whistle-blowing as one of the key triggers for effective corruption investigation. I will repeat that, Madam

Speaker. Transparency International cites whistle-blowing as one of the key triggers for effective corruption investigation.

“Whistleblowing is one method of uncovering corruption in public and private sector organizations. Indeed, whistleblowing may be seen as ‘among the most effective...means to expose and remedy corruption, fraud and other types of wrongdoing in the public and private sectors.’”

Madam Speaker, I do not think anyone can argue about that. It has been proven. It has been tested. It is happening in other jurisdictions. Why not in Trinidad and Tobago? Why not in Trinidad and Tobago?

The G20 Anti-Corruption Working Group has noted that corruption: “...‘threatens the integrity of markets, undermines fair competition, distorts resource allocation, destroys public trust, and undermines the rule of law’...”

Madam Speaker, corruption is a severe impediment to economic growth, and we have seen it. We have seen it happening both in developing countries and developed countries. So therefore, a call for effective whistle-blowing laws has increased in the international conventions against corruption. And you hear it in almost any international convention on corruption. There will always be a call for whistle-blower legislation. There will always be a call for whistle-blowing laws when you are treating with fraud and mismanagement. And most countries have responded by creating new whistle-blowing laws, to improving on the existing laws.

And, again, as I said, it is not a final fix. There is always improvement on whistle-blowing laws, and you have seen it in all the jurisdictions that started before us. They continue to improve their whistle-blowing laws, because the environment changes. The environment is not static. It changes. And so the Bill

that we bring today is subject to change in the future, subject to amendment in the future. So whereas you may take it as is, understand that there is always room for improvement, because there is new fraud being committed almost daily, you know. We are exposed right now to, sometimes, as we get up tomorrow, it is a different kind of fraud being committed in Trinidad and Tobago. Yes. We have seen it.

**Hon. Member:** Venezuela.

**Hon. Maj. Gen. E. Dillon:** Yes, the Venezuelans. We just had one with 120 credit cards the other day, false cards. That never used to happen in Trinidad and Tobago before.

And as the environment changes, we amend the laws accordingly but we have to have a foundation and a start and what this Bill gives us, Madam Speaker, is a start to introduce whistle-blowing legislation in Trinidad and Tobago.

**5.00 p.m.**

Madam Speaker, in the past 10 to 15 years, the need to re-enact and enforce whistle-blowing laws has become one of the most prominent issues nationally and internationally in the global fight against corruption. The United Nations Secretary General, Madam Speaker, in a debate hosted for their 15<sup>th</sup> anniversary of the United Nations Convention Against Corruption remarked:

“...that corruption is neither an acceptable cost of doing business nor a necessary evil.

It is a serious crime, and simply unacceptable.”

—He emphasized that:

“And we need civil society, a free press and young people, to continue doing their valuable work in bringing to light corrupt practices and holding individuals, businesses and governments to account.”

—He further stated that whistle-blower legislation is:

“...the world’s most agile instrument in the hands of the international community to achieve...common goals of good governance, stability and prosperity.”

Madam Speaker, if governments are serious about doing the best for their citizens, and this Government is serious, then we pledge to promote integrity and clamp down on corruption, we must introduce Bills such as the whistle-blower Bill because this is a serious Government. This is one that is determined to ensure that we rid as much as possible, if not eliminate totally, the whole aspect of corruption in our workplace, in our society.

Madam Speaker, the Bill deals with challenges inherent in whistle-blowing to combat corruption. It is in the context that this legislation, the Whistleblower Protection Bill, 2018, has been developed. It is really targeting corruption and when you look at corruption, do not look at it in isolation, corruption goes across the entire landscape. If you look at the basket of security issues, it touches on almost every single item from the lowest level to the highest level, from the blue collar crime to the white collar crime. It touches on all of them.

Madam Speaker, when you look at the Bill itself, you can look at various clauses that had been there to treat with those issues. When you look at clause 7, Madam Speaker and let us look at clause 7. Clause 7 provides for reporting improper conduct which is part of the title of the Bill by enabling the:

“...disclosure of improper conduct to a”—designated—“whistleblowing reporting officer or a whistleblowing reports unit...”

And the Member for Caroni Central spoke about institutions and the mechanism putting in place. Again, when you look at the Bill, the mechanism will be put in place in terms of the reporting officer, in terms of the reporting unit. Those are two mechanisms by which the whistle-blowers can report their necessary



information or intelligence what they have. So there is a reporting officer that is named in the Bill. There is a whistle-blowing reporting unit that is there in the Bill. So the structure is there. Again, whether it is skeleton or otherwise, we can build on it as we go along but the structure is in place. And I heard the Member for Caroni Central speak to fact that there is not a structure in place and so forth and so on, but the Bill speaks to the structure. Madam Speaker, it speaks to the structure. Let me see if I can quickly—I know it has been there and it is there. Yes, it speaks to a “whistleblowing reporting officer” which means:

“...such officer within an organisation appointed under section 11(1);  
‘Whistleblowing Reports Unit’ means a unit of a designated authority established under section 14;”

So that the structure is in place within the Bill itself, Madam Speaker, so clause 7 really talks about it.

At clause 8, Madam Speaker, it talks about the disclosure is protected if:

“(b) it is made in good faith;”

—Or:

“(d) ...is not made for purposes of personal gain;”

So, Madam Speaker, it also tells you the kind of character that we are looking at in terms of the whistle-blower himself or herself. Not someone that is looking for personal gain out of what they are contributing to the disclosures. Disclosures are also protected if:

“...the whistleblower reasonably believes...

- (i) the information disclosed, and any allegation contained in it, are substantially true; and
- (ii) ...tends to show that his employer, another employee of his employer or a person acting in his employer’s behalf has engaged, is engaging

or is preparing to engage in improper conduct;”

So, Madam Speaker, you can see that clause 7, clause 8 touches on the mechanism itself on what should be done insofar as the whistle-blower is concerned. When one looks at clauses 11 to 23, and clauses 11 to 23 establishes the procedures for the whistle-blowing process to take place. So therefore, we talk about the structure, it is covered in the Bill. We are talking about the process, the process is covered under clauses 11 to 23. Clause 12 details a requirement for employer to establish and publish operational internal procedures for dealing with disclosures and to identify the whistle-blowing reporting officer.

So, Madam Speaker, when you look at the Bill in its entirety, structures in place, process in place, mechanism in place, and other clauses deal with the procedures to notify whistle-blowers as to the status of the complaint and so on. And, Madam Speaker, to allay the fears of whistle-blowers, the whistle-blowing reporting officer is strictly prohibited from revealing the identity of a whistle-blower. So there is protection, again, in terms of the identity of the whistle-blower. So there is, in fact, a protection in terms of the identity without his prior consent.

So, again, Madam Speaker, I go back to the Member for Caroni Central who talks about the protection of the whistle-blower. Clause 14 of the Bill requires a designated authority to establish:

“...a Whistleblowing Reports Unit consisting of a director and such other officers as are required for the efficient performance of the functions of the unit.”

Structure, again, in place. Each unit within a designated authority has responsibility for receiving and processing external disclosures from whistle-blowing reporting officers on matters within its purview. These designated authorities are listed in the Schedule of the Bill and encompass the entire gamut of

institutions from financial to environmental which will deal with whistle-blowing reports related.

**Madam Speaker:** Member for Point Fortin, your original time is now expired. You are entitled to 15 more minutes to complete your contribution if you wish. You may proceed.

**Hon. Maj. Gen. E. Dillon:** Madam Speaker, thank you very much. Each unit within a designated authority has responsibility for receiving and processing external disclosures from whistle-blowing reporting officers on matters within its purview. So, again, I emphasize this in terms of structures, processes, all within the Bill.

Madam Speaker, in some countries, there is a dedicated governmental whistle-blowing agency. However, other countries like the United Kingdom and Jamaica have legislation that provides for prescribed persons to receive reports and investigate wrongdoing. So there are different ways in which you can achieve the same means. Some countries have gone that way and others have gone a different way. We, in Trinidad and Tobago, have it laid out quite succinctly, quite clearly in the Bill itself. A review of an explanatory document on the Protected Disclosures Act, 2011, produced by the Commission for the Prevention of Corruption in Jamaica indicates that there are many similarities in the Act to the contents of the whistle-blower Bill of 2018. So, Madam Speaker, as I said, we are not reinventing the wheel, we are improving on the wheel as we go along because there are other jurisdictions that have gone this way before us and therefore, we are not starting from ground zero, we have looked and seen what has been done in other jurisdictions and we are improving on that as we go along just as we had improved the legislation. Madam Speaker, the key to the effectiveness of this legislation with the implementation of the provisions of the Bill, especially as it relates to the

encouragement and the protection of whistle-blowers.

Madam Speaker, clearly, it is clear in our mind, on this side of the House, that we are at a stage insofar as treating with crime and criminality in our society, in Trinidad and Tobago, that this Bill will be a game changer, it will help. And I said let us not view this Bill in isolation. Let us not feel that this will be the panacea for everything, it cannot be. No Bill can do that, no law can do that, no entity can do that but it must be taken as a collective as part of a whole, part of a wider whole and when one looks at the suite of legislation that the Attorney General has brought to this House, he has done a wonderful job, [*Desk thumping*] he has done an amazing job, Madam Speaker, and this is just another part of the pie that he has brought together to treat with the issues of crime and criminality in Trinidad and Tobago.

So, Madam Speaker, let me say again, and I always like to hit the note, that if we understand what our roles are in this House, both on the Government side and on the Opposition side, it is about bringing to this House legislation for the betterment of the people of Trinidad and Tobago, it is not about opposing. There are contributions, yes, but when we see the wider good and I drew reference from all the legislation: Jamaica, New Zealand and Canada and each of them said it is in the public interest. So what we are doing today, let us have in the back of our heads, let us have in our hearts, in our minds, that whatever we do or we contribute, it is not our interest but it is in the public interest of Trinidad and Tobago that we are passing this Bill here today.

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

**Dr. Fuad Khan** (*Barataria/San Juan*): Thank you, Madam Speaker.

**Hon. Member:** You were recognized.

**Dr. F. Khan:** I was recognized. [*Laughter*] Madam Speaker, I have listened

intently to the Member for Point Fortin and the only thing came to my mind is fortune cookie and when I say fortune cookie, I mean when you open a fortune cookie, Madam Speaker, you see all these phrases but they mean absolutely nothing: public interest, public good, public this, public that. So I was thinking more or less like a fortune cookie representation. You see, this Bill in front of us, I cannot understand how somebody could look at this Bill and say it is in the public interest, it is not, and I will show you and I will demonstrate why it is not in the public interest.

You see, Madam Speaker, it is a nice way to speak about how it is corruption and we are going after corruption and the suite of legislation and “da, da, da, da, da”, and we keep running down that road. Madam Speaker, when you look at this suite of legislation, especially this whistle-blower legislation, it reminds me about the Spanish Inquisition. If we remember the Spanish Inquisition in the old days, Madam Speaker, you remember during the Spanish Inquisition, people were burnt at the stake who were not witches because of whistle-blowers. They were burnt at the—

**Mrs. Robinson-Regis:** Madam Speaker, Standing Order 48(1).

**Dr. F. Khan:** I did not give way.

**Mrs. Robinson-Regis:** It was not “give way”, it was a Standing Order.

**Madam Speaker:** Okay, so Member for Barataria/San Juan, I will give you a lil leeway to bring your fortune cookies and your Spanish Inquisition into this debate.

**Dr. F. Khan:** Madam Speaker, I am building up to a serious point as I usually do.

**Madam Speaker:** And that is why I will give you the liberty. Continue.

**Dr. F. Khan:** You see, Madam Speaker, after listening to this debate today, I have always said and the conclusion is this, that when we are in Opposition, we become the Opposition, and when we are in Government, we become the Government, and

listening to most of the Government speakers here today, I realized that they are toeing a line not understanding what line it is that they are toeing.

You see, Madam Speaker, toeing a line is one thing but understanding a line is another and when we talk about constitutional reform, we talk about changing the whole dynamic of a Parliament, and it is important so we could have different levels of thinking, and I am coming to a thought pattern that is a different thought pattern as what has been presented today. I will show you something. Okay, I will try my best to stay on course and not in fortune cookie. [*Laughter*] I will try my best also, Madam Speaker, to make sure that I do not incur the wrath of the Speaker. Right. [*Crosstalk*] I will stick to the legislation.

Now, when I read this legislation, it sounded good on the surface. It sounded so good when you looked at the label of the—

**Madam Speaker:** Members of the Front Bench, you all might not realize it but I am being disturbed and I would really like to hear how the fortune cookies tie up into the debate. [*Laughter*] Barataria/San Juan.

**Dr. F. Khan:** Thank you, Madam Speaker. When you look at this Bill and you look at:

“An Act to combat corruption...”

—“corruption” is bold. So if you are a speed reader, you will not read everything else. You talk about:

“...other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making those disclosures from detrimental action...”—regulating and receiving—

—And you go on. You see, Madam Speaker, clause 7, Part II:

“(1) An employee of an organisation may make a disclosure of improper conduct to a whistleblowing reporting officer or a whistleblowing reports

unit where he has reasonable grounds to believe that improper conduct has occurred, is occurring, or is likely to occur within the organisation.”

Now, when you look at this, you are hearing “has occurred”, “is occurring”, and “is likely to occur” so you are supposing that it will occur. So you are starting off by saying, “I feel and I suppose that this will occur so I am going to report it to the whistle-blowing agency”. No. (2) says:

“A disclosure under subsection (1) may be made—

(a) although the employee is not able to identify a particular person to which the disclosure relates;”

So I am going to say I cannot identify the person but I think he is doing this or she is doing this and what sense does that make? I find it makes absolutely no sense. Somebody could just walk into a whistle-blowing reporting agency and say, “I think this is occurring but I cannot identify who, what, where, how, but I believe it might be occurring”. So you see, Madam Speaker, when you look at subclause (2)(a), then you look at subclause (2)(b):

“although the improper conduct occurred before the coming into force of this Act;”

It happened before, where is it happening? Will it happen? And putting the two of them together, you are supposing something will occur prior to coming into order or after.

Madam Speaker, people are forgetting this is Trinidad, you know. This is Trinidad and Tobago. This is not Malta, this is not the United Kingdom, this is not the United States, this is not wherever, Canada. I think we have lost the ability to think that we are still a small country sitting down in the middle of an ocean and just with a million people. You see, Madam Speaker, it is all well and good for these things to occur in a major country because they have buffers. We have a

system in this country where somebody gets their head blown off and you cannot find who it is. You find somebody, if you look at them too hard or tell them “yuh bad drive meh”, they come out and shoot you. And at the end of the day, nobody is being found, not to any great extent. This is Trinidad and Tobago as we have it.

Now, I am going to show you what this whistle-blowing and the suite of legislation is going to do to the economy of this country and I am going to talk about improper conduct.

“‘improper conduct’ means any—

(a) criminal offence;”

—Anything.

“(b) failure to carry out a legal obligation;

(c) conduct that is likely to result in a miscarriage of justice;

(d) conduct that is likely to threaten the health or safety of a person;”

—That is the OSH law, but now you have somebody whistle-blowing on an employer; an employee whistle-blowing on an employer. Conduct, that is now:

“(f) conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds;”

Madam Speaker, if you buy a boat that is a waste of time, cannot ride the waves to Tobago, is that mismanagement? So therefore, you are misusing public funds. So a whistle-blower could come and say, “that boat that you bought”—which you bought with good intentions. I think the Minister of Finance bought it with good intentions and at the end of the day, it could be considered mismanagement or abuse of public funds. So that person is subjected to the whistle-blowing law which makes no sense. I mean, the whole idea of how it is done here and recorded and then:



“(g) act of reprisal against, or victimization of, a whistleblower or a person related to, or associated with a whistleblower;”

So if you were a whistle-blower, somebody could report that somebody is doing the whistle-blower something so you have a chain of events, like a chain: whistle-blower, anti-whistle-blower, whistle-blower and it keeps going down the road.

“(h) conduct that tends to show unfair discrimination...”

And I want you to listen to this, Madam Speaker.

“conduct that tends to show unfair discrimination on a basis of gender, race, place of origin, social class, colour, religion or political opinion; or”

You go to (i). But I would like to see this one. So therefore, what they are saying—I think that should be placed here that you cannot discriminate against somebody based on their age or their sexual orientation. So you have now left out, purposely, somebody could discriminate against somebody or improper conduct, on their age and their sexual orientation, so you left that open. Why was that not put in here? Because that is what has occurred in this country and other countries and I am quite certain it is in the United States legislation, and it is purposely left out. You see, Madam Speaker, I think that is a deficiency of this legislation that where you must have in it as improper conduct, [*Desk thumping*] where you should not be able to discriminate against a person because of their age or their sexual orientation, and I feel very strongly about that. And in “wilful concealment”, et cetera, et cetera.

Madam Speaker, you could imagine an employer being faced with this Bill? This Bill becomes an Act, it becomes assented to, becomes proclaimed and you have all the employees now being protected to really and truly attack the employer and they are protected to such an extent—well, not like the witness protection where they die, but at least you are protected here. They are protected to such an

extent that they can now go into a whistle-blowing agency, whistle-blowing place and say based on all these improper conducts, anything, this is happening in my employee and in my place of employment.

I could see, Madam Speaker, and I could see and it may sound farfetched that a futuristic action of this kind of legislation, together with the civil asset forfeiture, together with the NGO Bill and the suite of legislation is a complete destruction of the economy [*Desk thumping*] and also, you will have closures of businesses to just get away from this; capital flight because they are going to leave the country and migration. This is what you are going to have. People are going to leave this country, if they are not starting to do it already, banks are going to close and they are closing—[*Interruption*] “Doh laugh”, do not laugh. The banks are coalescing themselves and they are leaving. [*Crosstalk*] They are shutting down and the Minister of Finance is unaware of that. I do not know what country he is living in.

You see, Madam Speaker, this kind of legislation will destroy the informal economy and when you go after the informal economy which is about 70 per cent of the economy that is not seen, the formal economy will eventually dip.

**Mr. Imbert:** Are you crazy?

**Dr. F. Khan:** I am not crazy. I think you are—I was going to say stupid.

**Madam Speaker:** All right, so Minister of Finance, please.

**Mr. Imbert:** Certainly.

**Madam Speaker:** All right so just withdraw that—and do not be misled.

**Dr. F. Khan:** Madam Speaker, somehow he just gets under my skin.

**Madam Speaker:** Member for Barataria/San Juan, both of us cannot be on our legs, I know you know better than this. Do not be misled and please, kinda train your ears this way so that you would not be distracted.

**Dr. F. Khan:** Madam Speaker, I have a problem. “Ah doh hear in dis ear and ah hear very good in dis ear.” [*Laughter*] I have one ear. I hear very good in my left ear and I hardly hear in my right ear. All right, Madam Speaker. [*Crosstalk*] I would like to inform the Minister of Finance, since he is an engineer and I do not think he studied much finance but I know for a fact he is there. These kinds of legislation in a small economy, I am not talking about a big economy with buffers, these types of legislation are all well and good against certain things yes, and you will hear about it throughout the whole system of Transparency International and every single thing.

However, Madam Speaker, you would look at this sort of legislation, employees are going to snitch on employers in any form or fashion. It is going to be a snitch society and at the end of the day, all of these parameters are going to be used to attack the employer because if you fire somebody for pilferage or something, they go towards the whistle-blowing agency and you start the process. So an employer in Trinidad and Tobago or somebody in Trinidad and Tobago who says to them, “I am not going to put up with this anymore, I have had enough of this Spanish type of inquisition and this type of narcissism and fascism, I am going to make sure that I am leaving this country. I will be migrating, taking my children out and taking this—and this is what they will say.

And the banking system, Madam Speaker, I will tell you something. When you have these types of legislation, it is the destruction of the informal economy which is the people who have the cash moving around. They are not going to bank any cash, they are not going to put it in the bank. They are going to just take it and move it out of the country as is being done as we speak. So we are looking at a piece of legislation that is destroying an economy, destroying an informal economy and destroying Trinidad and Tobago because nobody, Madam Speaker, right now

is purchasing properties. The bank is making it difficult because, as they say, source of funds, et cetera. You see, Madam Speaker, the economy is contracting but yet the Minister of Finance is saying that it is booming. I do not understand where is the boom except there is an explosion coming at us.

So, Madam Speaker, in all good sense and fairness, looking at this legislation and I am looking at it as a piece of legislation that is going to destroy the economy as well as run people out of the country, destroy the journalism, proper journalism, together with the suite of legislation, I cannot see this being in the public interest and as a result of that, Madam Speaker, I will not be supporting this legislation. Thank you, Madam Speaker.

**Dr. Tim Gopeesingh** (*Caroni East*): Thank you, Madam Speaker. I do not know what arrangements were being made but I thought the Government Chief Whip was going to end, so I did not hear anything so I stood up to speak. I do not know.

**Madam Speaker:** I recognize you to speak.

**Dr. T. Gopeesingh:** All right, okay. Thank you, Madam Speaker. I will first start by indicating that there was some confusion as to which Bill we were going to discuss and the Attorney General indicated, when some of my colleagues spoke about the Bill, he said that was the old Bill and this is the new Bill but we are not aware of when this new Bill was put on. I saw this on my desk this morning and this is the Bill of No. 8 of 2018, and that is the Bill that we had and we had been using, the Bill No. 8 of 2018, to form our discussions in relation to the debate today.

Let me congratulate my colleagues, all of whom did a lot of work and research and critical analysis of all 29 clauses in the Bill, and put forward very cogent statements and arguments, supporting some areas within the Bill and not supporting some other areas within the Bill. So we ought to congratulate them for

their tremendous work they did and of course, let me congratulate my colleague, former Minister Khan and Member for Barataria/San Juan, on some of his statements that he made there just a while ago.

Madam Speaker, I find it difficult to understand and appreciate how it is that the Attorney General and the Government that can come today and want us to focus on passing this piece of legislation, when, as he had admitted in his presentation, that the work on this Bill started in December 2015 and had gone through a period within the JSC and came up to a conclusion that there was clear evidence that there would be no conclusion because one of our Members was not in agreement with some of the areas which were being discussed in the Joint Select Committee. And he gave a little itinerary of the times that the committee met and so on. So therefore, why did they stop the committee? When there was a first interim report on the 22<sup>nd</sup> of January, 2016, the day it was presented in the House, then an extension was granted until the 22<sup>nd</sup> of March with a second interim report on the 18<sup>th</sup> of March, 2016. Then a third interim report, extension granted until the 17<sup>th</sup> of June, 2016. A fourth interim report on the 17<sup>th</sup> of June, an extension granted until the 9<sup>th</sup> of September. And a fifth interim report, the 9<sup>th</sup> of September, 2016, extension granted until the 9<sup>th</sup> of October, 2016. And following the presentation of the fifth interim report, a final report was never presented before the end of the Session on 19 September, 2016.

So this Bill was lost because the Joint Select Committee never continued its work. And why was that so? Why did the Joint Select Committee not continue its work so that the hon. Attorney General could have come with confidence and say these were the deliberations of the Joint Select Committee, we had a number of submissions and recommendations and they were thrashed out and the CPC and all the advisors came to the conclusion that this should be the Bill? But unfortunately,

that is not the situation. I cannot see any evidence that deliberations took place successfully for him to bring and present this Bill to the House.

**Madam Speaker:** Member for Caroni East, it is now 5.30 p.m., we shall take the suspension now. We shall return at six o'clock.

**5.30 p.m.:** *Sitting suspended.*

**6.00 p.m.:** *Sitting resumed.*

[MR. DEPUTY SPEAKER *in the Chair*]

**Mr. Deputy Speaker:** As we continue the debate after tea, I recognize the Member for Caroni East. You have 25 minutes of your initial speaking time. Kindly proceed. [*Crosstalk*]

**Dr. T. Gopeesingh:** I will suffer them. [*Laughter*] So they are forced to listen. Those who have ears to hear, let them hear.

Mr. Deputy Speaker, I was at the stage where I made the statement that there had been a number of joint select committee meetings, and for some unforeseen circumstance or reasons, these ceased and postponement after postponement, and I have really a legislation timeline of this whistle protection Bill. But I would not go into it, into detail, except to say that, as the Attorney General said, there were about nine or 10 meetings and there are about five reports, five interim reports.

And then on the 15<sup>th</sup> of July, 2016, the JSC, was the last time they met and was never reconstituted into subsequent sessions, thus no final report was laid from the Joint Select Committee. And that is important to note. Why do you set up a joint select committee when you abandon it altogether for about three years and then want you to come to lay in Parliament a Bill and then stating that is not the Bill, it is a new Bill? So we are confused as to really what is the Bill.

On the 23<sup>rd</sup> of September, 2016, the Second Session of the Eleventh Parliament began, no Bill; 21<sup>st</sup> September, 2017, Second Session of the Eleventh

Parliament began, no Bill. Third Session of the Eleventh Parliament began 29<sup>th</sup> September, no Bill. On the 9<sup>th</sup> of April, 2018, the Attorney General brought the Whistleblower Protection Bill, No. 8 of 2018, and brought forward from the Third Session. And on the 12<sup>th</sup> of April, 2018, it was published in the *Gazette* Volume 57, No. 46 and on the 17<sup>th</sup> of September, 2018, that is last year, Standing Order 79(3) invoked Motion to carry the whistle-blower Bill 2018, into the Fourth Session and moved by the Leader of Government Business. The 27<sup>th</sup> of September, 2018, the Third Session of the Eleventh Parliament ended and on the 28<sup>th</sup> of September, the Fourth Session began. And today being the 1<sup>st</sup> of May, probably seven or eight months into this session, we are now beginning to debate this whistle-blowing legislation.

Mr. Deputy Speaker, it is sad. When you tell the country that you came out to ensure that you delivered on your promises from your manifesto, and what you told the people that you are going to do, you will in fact do. So this administration told the country that they are going to bring about this legislation. They started it in December 2015, and it took them almost four years later to bring back this piece of legislation. And then they want us to support this piece of legislation without major considerations from the deliberations of the Joint Select Committee in camera, Mr. Deputy Speaker.

As far as I read, I have the copies of the five interim reports of the joint select committees. And may I refer to them? In the first interim report of the JSC there were requests for submissions from stakeholders, around 16 stakeholders. The Chairman informed members that invitations for written submissions were requested from 16 stakeholders and they named the stakeholders, contacted the Law Association, Criminal Bar Association, the DPP, Trinidad and Tobago Transparency Institute, Chamber of Industry and Commerce, PSA, Public Service

Commission, Police Service Commission, Teaching Service Commission, national union of government, and so on, Anti-Corruption Investigation Bureau, witness protection. So the entities were given a deadline of January 08, 2016, to make their submissions. We are not in any position to determine today whether those submissions were made and considered in the preparation of this Bill.

Have they been taken into account, in terms of the deliberations and the bringing together of this Bill by the Attorney General? Then the committee also agreed that invitations for written submissions would also be requested from 24 more stakeholders. So you have 16 stakeholders here, plus 24 more; that is 40 stakeholders. We are not in a position to determine how many stakeholders made presentations or submissions and we do not know whether any of those submissions or presentations were incorporated into the legislation. So how can you ask the Opposition to consider supporting a piece of legislation, where there were 40 submissions supposed to have been made and we are totally ignorant whether any submissions were made [*Desk thumping*] and whether any deliberations took place on these submissions, Mr. Deputy Speaker.

Mr. Deputy Speaker, there were important submissions that ought to have been considered, the Judiciary, the Police Complaints Authority, the Environmental Management Authority, Energy Chamber, Industrial Court, ATTIC, Bankers Association, TTSCA; exactly what my colleague, the Member for Barataria/San Juan was talking about in some of these organizations, what would happen; credit unions, Trinidad and Tobago Police Service, the Defence Force, Hugh Wooding Law School, UWI, University of Trinidad and Tobago, COSTAATT, OAS, the European Union, World Bank, CFATF. You “ent hear” one of these recommendations or any discussion on any of these things by the presentation of the Attorney General.



Here it is we have a minuscule piece of Bill without any really—being brought together properly, and this is one of our problems that we have as an Opposition team, that every time a Bill is brought it has so much difficulties and so much things that need to be amended and corrected as one of the last ones that was corrected 100 times, about 100 times. So we do not know whether this incorporated any of those recommendations or submissions.

So 40—in addition, Mr. Deputy Speaker, the Chairman had advised members that in an effort to update the media on the committee's plans and to officially launch the call for submissions from the public on the Whistleblower Protection Bill, a 15-media conference was scheduled. The conference was held. How many submissions from the public came? What did the public have to say? What did these 40 organizations have to say on the Bill? Nothing. We are in the dark. And you are asking us to support that?

Suppose they made some strong recommendations that went against the flow of this Bill, how are we to know what really occurred? You had the opportunity to continue the Joint Select Committee, come up with your deliberations, accept the submissions or refuse the submissions, get the recommendations made, incorporate it into the Bill and bring a better Bill to the Parliament today, so that we could have a Bill that was carefully thought out after submissions and recommendations by the 40 organizations that ought to have sent in their recommendations.

So, we have some of the submissions on some of it but have they been considered? You have ATTIC, Central Bank, NATUC. So this is the second interim report. We had about seven or eight who made submissions, and the committee made comments on some of them. But have these comment been taken into consideration and put into the Bill? For instance, the Central Bank, there was a recommendation in the definition of “designated authority”. The word “in” is

missing after “listed”. The definition of “detrimental action” should be expanded to include, not only the actual sanction that the whistle-blower is likely to experience but also the threat of the sanction in that regard. Consideration should be given to replacing the word “means” and the word “includes”, and so on. And the Committee agreed and there is a column for committee's comment. The committee agreed that “means” should remain.

Subsection “so and so” were wide enough to capture this concern. The concern cannot be captured in this piece of legislation. And there are comments in the comments column from the submissions of the various organizations. A few of them, Trinidad and Tobago Transparency Institute, the committee already noted and agreed to make the changes. The committee agreed to cross-reference this concern with the Equal Opportunity Act. Was that done? The committee agreed to cross- reference its concern with the Equal Opportunity Act. The committee agreed that the breadth of the definition of “employee” in the Bill will cover board members, and so on.

So the point I am making, Mr. Deputy Speaker, here are critically important suggestions/recommendations made by major stakeholders in Trinidad; a few of them, probably 15 out of the 40, and we do not know what has happened and where have they gone. So, it is unacceptable for us to have to debate a Bill where work was supposed to be done on the Bill, the committee was supposed to have concluded its work with the relevant recommendations and submissions and that remained not concluded.

So where are we? We debating something in vacuo? Forty organizations supposed to submit. Some submitted, some, they were waiting for submissions. The whole thing defunct, and you are coming to bring legislation. What is really the motive now? We have to ask: What is the motive of bringing this

whistle-blower protection today, and is it in conjunction with what happened today as well? Was this planned? Was this something planned today?

Mr. Deputy Speaker, I have been in this politics 25 years and since 2001, I have been a Member of the House in the Senate and from 2003/2004, I was a Senator in 2007, and a Member of this House from 2007 to now. So many of my colleagues have been around as well and before me. But the politics is—

**Mrs. Robinson-Regis:** Mr. Deputy Speaker, Standing Order 48(6), please.

**Mr. Deputy Speaker:** Thank you. Member for Caroni East, right. How would you like to handle it, retract or would you like to reword your statement?

**Mrs. Robinson-Regis:** No, he wants to retract.

**Dr. T. Gopeesingh:** Mr. Deputy Speaker?

**Mr. Deputy Speaker:** In terms of in conjunction with what happened today, and so on. You know what you said.

**Dr. T. Gopeesingh:** No, I was just trying to make the statement. It is nothing offensive and trust me.

**Mr. Deputy Speaker:** No, but for the record. So what, you are going to retract it? What are you going to do?

**Dr. T. Gopeesingh:** What did I say that I need to retract?

**Mr. Deputy Speaker:** You know what you said, Member?

**Dr. T. Gopeesingh:** What is that?

**Mr. Deputy Speaker:** You know what—Leader of the House.

**Mrs. Robinson-Regis:** Sorry.

**Mr. Deputy Speaker:** You know what you said.

**Dr. T. Gopeesingh:** I cannot remember what. What is it? If you tell me I will— all right, I will retract what I said.

**Mr. Deputy Speaker:** Member, hold on. One sec, one sec, one sec. In

conjunction with what happened today, right, it was a simple statement but I think it had some weight with it. So could you retract, please?

**Dr. T. Gopeesingh:** No difficulty in the retracting, Mr. Deputy Speaker. I do.

**Mr. Deputy Speaker:** Right, proceed.

**Dr. T. Gopeesingh:** I do. But I think the message has already been sent. [*Crosstalk*] All right, Colm.

**Mr. Deputy Speaker:** Again, Member, Member, one second. I think the precedent has already been set, in terms of you retract, full stop. Please. Right? Retract, full stop, right.

**Dr. T. Gopeesingh:** Mr. Deputy Speaker, I retract it and I move on. I move on. So, then we come to the third report. The third report had recommendations from the Integrity Commission, from Afra Raymond, the Trinidad and Tobago Securities and Exchange Commission, AMCHAM, and so on. And they made some very significant comments and contributions, but it would be too long for me to bring into reading some of the comments made by the various organizations. The reports contain them, but just let us say for the Integrity Commission, the comments of the Committee:

The Committee noted that the threshold in this section of the IPLA created a lower standard than the Bill. However, the Committee agreed to consider raising this fine and conviction period in section 21(e) of the Bill.

That was not done.

The Committee instructed the Chief Parliamentary Counsel to examine maximum fines for both summary and indictable offences in relation to 21(e) of the Bill.

That was not done.

And here it is, the Integrity Commission made some recommendations,

because there are major organizations which deal with integrity in public life, and so on, and every one of us in Parliament has to subject ourselves to filling out the forms before the 31<sup>st</sup> of May, and if they made that recommendation, where is it absorbed into this new Bill? And this Bill is very pathetic. It is a very pathetic Bill and we cannot support the Bill in the form that it is now, because these recommendations are not included in it, Mr. Deputy Speaker.

Then we have the copy of the fourth interim report and the fifth interim report of about five or six pages each. They are in fact asking for postponement and postponement. This is a Government that wants to tell the people that they came prepared to do the things which they were elected to do, and after four years, when work was supposed to be done from 2015 to 2018/2019 nothing was done. The committee became defunct and now you are coming to tell us accept this Bill, Mr. Deputy Speaker? How unrealistic. How wrong.

And when the Opposition makes the statement we cannot support this because of X and Y, they say that we are not patriotic, we are not supportive, we are not an Opposition for the people. But we remain strong, so that the comments and values, statements of the members of the public and the organizations must be taken into account in the consideration of any Bill, Mr. Deputy Speaker. You cannot leave out the major organizations and say you are bringing a Bill, and when the Bill is passed, the various organizations have tremendous difficulties with the Bill, and the Bill is really of no use to the entire country.

Mr. Deputy Speaker, I move on to really some of the clauses, and I have to ask some questions in relation to the clauses, and for the hon. Attorney General to answer some of these if he feels like answering but we do not get any answers to some of the questions that we usually ask.

Clause 2 of the Bill is the President, by Proclamation would provide for the

coming into force of the proposed Act on the date fixed by the President by Proclamation.

We have the procurement Act for this. We took five years. The hon. Mrs. Persad-Bissessar, when she was Prime Minister, laid the procurement legislation within the first 28 days of us coming into office in 2010. We worked diligently for two years on that procurement legislation in a joint select committee. It was kept back by two Members of the Opposition then. We finished it in 2015. It was completed, laid in 2015, but four years later is not proclaimed. You are telling me that this will be proclaimed. When is this going to be proclaimed? The Government is incompetent. They cannot do what is required of them. [*Desk thumping*] They cannot deal with the issues.

Now, the other clause 3 would provide that the Act shall have effect, though inconsistent with the Constitution. They suddenly wake up that this needs a three-fifths majority. But when we told them the last piece of legislation needed a three-fifths majority they railroaded us. “Dey doh want three-fifths majority in dat. But dey know dat dey cyah” escape without a three-fifths majority on this and we are only here now because they need our support. If they did not need our support, you think this debate would be continuing now, Mr. Deputy Speaker? They would have wrapped it up, and they would have said: “Well I doh want tuh hear de Opposition anymore. We going to committee stage and we finish” because it needed a simple majority. But thank God this needs a three-fifths majority so that we could stay here and battle it out with them and show them that they are incompetent and they have not taken into consideration the things that are needed to be done.

Clause 5 of the Bill provides:

“for the application of the proposed Act to disclosures of improper conduct,

irrespective of whether the conduct occurred before or after the coming into force of the proposed Act.”

Every piece of legislation now they are bringing before or after coming into force of the proposed Act. So you are making legislation for now and the future, but every time you are making the legislation you are going back. What is the reason for wanting to go back? Is the legislation not supposed to be in prospective rather than retrospective? Is there a reason? This is the second piece of legislation that they are telling us that they want to have a retrospectivity in it. That is unacceptable. Make legislation from now into the future. Why do you want to go back? The last Bill had the same going back, and this is putting fear into the minds of decent citizens of Trinidad and Tobago. Decent citizens are fearful of this Government, fearful.

“Part II of the Bill”—Mr. Deputy Speaker—“Division 1 of this Part, would provide for protected disclosures.”

All right? What is really—so, the whistle-blower is protected.

“By clause 7, the employee of an organisation would be able to make a disclosure of improper conduct within the organisation to a whistleblowing reporting officer...”

An organization, a little establishment with 10 people has to now have a reporting officer and then a whistle-blower reporting unit. So 10 people in an organization privately run. They have to appointment a whistle-blowing officer and the whistle-blowing officer has to report to a whistle-blowing unit within the organization. And we have, as was mentioned by the Attorney General and my colleague from Oropouche East, over 77,000 types of businesses and organizations and companies registered in Trinidad and Tobago. The Attorney General had said 105,000 but “20-something” of them are not functional. So what will happen to

them?

Each one of these now has to have a reporting officer and the Prime Minister spoke this morning of somebody who is designated. So you designate one of the 10 people. What criteria you use to designate somebody to be the reporting officer? And how do you select your whistle-blowing report unit? You know what confusion and chaos going to exist in this country with those 77 different companies, plus other organizations who have to put this into place? Total confusion, total confusion.

So you are bringing laws into Trinidad and Tobago, which you know are not workable and cannot be functional, and you expect people to accept this. That is the type of ability and skill that you all have as a government, little visible skills.

“...a designated authority listed in the Schedule...”

Now, you have—how many companies you have in the Schedule there? How many organizations in this Schedule? You have 21 organizations in the Schedule as designated authority, 21. All right:

“...a designated authority listed in the Schedule...”

A disclosure would need to be based on where an employee has reasonable grounds...”

So the employee has to know what he considers reasonable grounds? Is he a lawyer? He could work it out in his mind? A fella on the street wants to make a report, he would have to consider whether it is reasonable grounds? What was reasonable grounds for him is not reasonable grounds for X or Y and what is not reasonable grounds for the Court. So he has to determine, as the whistle-blower, what are reasonable grounds to believe that improper conduct has occurred. So who determines this? Is it the whistle-blower determines reasonable grounds? Or he makes a whistle-blower statement and where it goes from there? Who



determines whether that is reasonable to or not?

“...that improper conduct has occurred, is occurring or is likely to occur in the organisation.”

But my colleague from Baratara spoke about likely to occur. How in God’s name would somebody know that something is likely to occur? What does he feel or she feels? You are clairvoyant and then you become a whistle-blower for something in the future that you have not experienced but you believe that is going to happen. That cannot be. This cannot be correct. This cannot be.

“A disclosure made by a member of Parliament would not amount to a breach of privilege.”

“Up to now ah trying tuh find out what dat really mean.”

Hon. Attorney General, you are a very brilliant man. You speak well. You are very learned. I have a tremendous amount of respect for your ability to communicate. I would really love you to tell us what this really means:

“A disclosure made by a member of Parliament would not amount to a breach of privilege.”

I could sit down and if you want to give the answer, or if you want to wind up.

**Mr. Al-Rawi:** Thank you, hon. Member. The concern—I would not take the opportunity to wind up—was how the law would articulate against section 55 of the Constitution, which provides the immunity from privilege for parliamentary Members, and what was requested here was consideration coming from Mr. Ramadhar—Member for St. Augustine, forgive me—that we ought to make sure that if the Parliament wanted to give a disclosure under this, a Member of Parliament giving a disclosure would not breach the rule of privilege if that was done. It was taken from the English precedent of similar value.

**Dr. T. Gopeesingh:** Appreciated. Thank you very much. You have cleared up

some issues that I had mentally on this aspect of it.

Clause 8 states:

“...specify the conditions that would need to be complied with a disclosure to be regarded as a protected disclosure.”

Well, they listed some conditions there, but these conditions are amorphous and they could be interpreted any way, one way or the other. So, I do not have much hope in that clause 8 issue.

**Mr. Deputy Speaker:** Hon. Member, your initial speaking time has elapsed. You have an additional 15. Do you care to avail yourself?

**Dr. T. Gopeesingh:** Sure, Mr. Deputy Speaker.

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

**Dr. T. Gopeesingh:** Thank you. Clause 10:

“an anonymous disclosure would not be a protected disclosure. However, if the identity of the person making an anonymous disclosure becomes known...”

So, here it is a conversion from an anonymous whistle-blower to a known whistle-blower. So, who is really an anonymous whistle-blower? In today's age, you think a person reporting something on X—a person X reporting on somebody Y remains anonymous, what justice is there for Y to have to respond to accusations made by an anonymous person? And when does that anonymous person become a non-anonymous person?

**Mr. Al-Rawi:** Hon. Member?

**Dr. T. Gopeesingh:** Yeah.

**Mr. Al-Rawi:** If you would?

**Dr. T. Gopeesingh:** Go ahead.

**Mr. Al-Rawi:** Thank you. Hon. Member, the law specifically proposes that

anonymous whistle-blowing activity is not acted upon. So there are no circumstances. It is filed, and if the person becomes known, it can be activated. Once the person becomes known, because these things happen, at that point the person will have it flow through, if deemed suitable, and have the opportunity to have a defence of being a whistle-blower. So no activity on anonymous witness statements. But it can be received, and if known, something happens after.

**Dr. T. Gopeesingh:** But why do we have the consideration of an anonymous whistle-blower? Why do we have that encapsulated there in the first place? We should not even have that consideration, because it gives the wrong thinking and the wrong meaning that anybody could go and give some information about person Y, and that person is hiding behind the scene and remaining anonymous. I think you will understand what it is I am speaking about.

Well, clause 11 speaks about the internal disclosures that require an employer to establish and publish within his organization internal procedures for dealing with disclosures.

Here is another burden on that organization. Besides having to get a reporting officer and a whistle-blower reporting unit, they now have to have internal procedures for dealing with disclosures. Who formulates those internal procedures? On what basis are those procedures brought forward? How can it work in conjunction with the unit and the whistle-blower? So that is being ambiguous and amorphous.

Now, clause 13, there is a question of a reasonable time. Clause 13 says:

“would require whistleblowing officers to notify whistleblowers of the status of their respective disclosures within reasonable time,”

I think this needs some straightening out, because you need to give a time frame for that.

“Division 3 of Part II...for external disclosures.”

—now—which is clause 14, you—

“have a whistleblowing reports unit consisting of a director and such other officers as are needed.”

And, I made the statement just a while ago, Mr. Deputy Speaker, that there are 21 designated authorities. So, each one of these designated authorities now has to get a director and such other officers as are needed.

So, you will tell me now that the Integrity Commission has to get a director and such other officers for this whistle-blowing thing? Is there, the EBC has to get a whistle-blower and they have to get a director and a team? Who appointments them? How they come to be a significant part of this for the Equal Opportunity Commission or Customs and Excise? How are they appointed? Who appoints them? These organizations, these institutions have a way of being elected. These organizations have a way that they are appointed or elected by the President, et cetera, and so on. So who appoints the directors and who appoints these officers? That does not make sense at all.

So, you are having a director of these 21 designated authorities and you do not know who are appointing them and what would be their role. So that also needs some careful consideration.

**6.30 p.m.**

“Part III of the Bill provide for the protection of whistleblowers. Clause 18...taking of detrimental action against a whistleblower who has made a protective disclosure.”

No difficulty with that, but the whole question of protection of whistle-blowers is something that is frowned upon internationally because here is a man, A, making a report on B. He made a report, you do not know whether it is true or false, but he is

protected. So, a man feels protected and he says, "I know I am going to be protected by this whistle-blower legislation, let me make a report, and let's fight it out". And so a person comes from anywhere, makes a report on person B, and protected. This whole thing about whistle-blower protection is against my grain.

You cannot protect somebody, you should not protect somebody when they are going to incriminate somebody else, to such an extent that it could cause serious damage to somebody else. So, I do not like this whole thing about protection. Protection goes against my grain, you cannot protect somebody because now putting in legislation that if they came with some false information and so on, and they could be subject to criminal or civil liabilities and so on. So you are allowing them to come in but then you say if they come in and they do something wrong they are subjected to liabilities and so on.

The last two points I have on the Bill itself here. I am very happy to see that:  
"Clause 28 will enable the Minister to amend the Schedule subject to affirmative resolution..."

We have always debated whether it is negative resolution or affirmative resolution. It is important that Parliament has a look at some of the Schedules if the Minister wants to change the Schedule. And clause 29 speaks about the;

"...regulations, subject to affirmative resolution of Parliament, to carry the proposed Act into effect."

Which is another area that we are very happy about in terms of the regulation being subject to affirmative resolution which is the way it should be. Let Parliament dictate.

Mr. Deputy Speaker, in my last few minutes I have a voluminous amount of work that we were able to look at and do some work and research in terms of a comparative analysis. One paper from the Australian Association by Professional

and Applied Ethics in Adelaide, “A comparative analysis of whistleblower protection”; and let me read from one part.

“As a result, the overriding purposes of ensuring that revealing wrongdoing in organisations is used to correct and strengthen ethical behaviour in Australian organisations, and that the person who reveals the wrongdoing does not suffer as a consequence, seem to be lost. The paper then compares the rationale of the Australian legislation with that of the UK and the USA. These acts have a very different approach to each other and to the Australian legislation, particularly the UK *Public Information Disclosure Act*, but are, arguably, just as ineffective.”

So a comparative analysis of whistle-blower protections shows that these things are ineffective and the issues are really lost and one more point on that;

“Consistent case study evidence indicates that whistleblowing, even when acknowledged to be meritorious, typically results in victimisation of whistleblowers.”

This is what has been stated here earlier and this is something that is a real issue victimization of whistle-blowers.

Then there is another research on Rights and protections for whistleblowers, Practical Law, United Kingdom, Articles 2003. And you have different columns; employers’ requirements, whistle-blowing restrictions, procedures, overview, et cetera. And they compared France, Japan, United Kingdom and United States, and just one example:

“Are there any restrictions on the subject matter of whistleblowing complaints?”

France said yes, Japan, no; UK, no; United States, no. So there is no conformity or no unanimity across countries which have adopted the whistle-blowing legislation.

“It must be a serious risk to the company relating to accounting, financial auditing, bribery or breach of banking regulations.” Said in France.

Another question answered is:

“Is anonymous reporting permitted?”

France said no, Japan said yes, UK yes, and United States yes.

“Are there any restrictions on who can receive whistleblowing complaints?”

France, yes there are restrictions.

“It is subject to data protection regulations on the processing of personal data, including restrictions relating to cross-border transfers.”

Japan, no; United Kingdom, yes; United States, no.

“Does the accused have a right to access information in the whistleblowing report?” France “Yes. The accused also has a right to correct or delete inaccurate data.”

Japan, no; United Kingdom, “Yes. The accused also has a right to correct or delete inaccurate data.”

So, hon. Attorney General and Members of this House, there is significant research done worldwide and internationally to help us guide—if you are considering the regulations in the future this important information could be a guide to help you make the regulations.

Now, the current state of whistle-blower protection law in Trinidad and Tobago this is a document called “Disclosure Today” and it is a review of Whistleblower Protection Bill, 2015 Trinidad and Tobago by Disclosure Today. Attorney General I think you know this document and who it was dedicated to, I would not raise that now. But Disclosure Today is a United Kingdom organization with local offices in Portugal and Trinidad and Tobago. And below is a non-exhaustive list of laws and rules that the Committee should take into account when

considering the proposed whistle-blower protection law.

And, hon. Attorney General, I did not hear you mention what are some of the other laws that should have been brought in conjunction with this for consideration in the making of this Bill. Criminal law, sector-based laws, specific anti-corruption measures, human rights law, access a right to information laws, laws on classified and privilege information, media law, contract and employment law, labour law and so on, professional reporting duties, codes of conduct—saw its significance defamation and libel laws, restricted confidentiality rules, data protection rules and bank secrecy or other secrecy laws such as the official secrets act, 1911 to 1939 UK, which still forms a part of the Trinidad and Tobago law could pose a challenge.

So some of these laws that were mentioned just a while ago could pose a challenge in the whole management of this whole whistle-blower legislation. And there are other pieces of research like, extracts from the Civil Society Report Spotlight on Sustainable Development 2017—

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

**Dr. T. Gopeesingh:** So, Mr. Deputy Speaker, the lack of whistle-blowing protection framework leads to many forms of retaliation. So a framework has to be considered we do not see any evidence of this framework being done properly.

So in closing, Mr. Deputy Speaker, I want to answer the Attorney General. You should not have stopped after the JSC. You felt that there was clear evidence that there would not be conclusive work to continue. You just cannot accept that one person within the committee was opposing something and you stopped all the work of the Joint Select Committee. A lot of the things I mentioned here would have been would have been taken into consideration. You asked for the Opposition's support are we prepared to include whistle-blowing legislation. We



are prepared to look at the whistle-blowing legislation, we are speaking but there are so many deficiencies at the moment and at this time it remains unacceptable to us.

This country is on trial you said, fighting for survival. We are working with you, we have worked with you on so many of the pieces of legislation. We have corrected so many pieces of your legislation. We have put some many amendments. What is our value system? Our value system we share with you. We are a responsible Opposition. Our value system is a very high responsible value. We take our people first but we must protect the Constitution and fundamental right of every citizen. I thank you, Mr. Deputy Speaker. [*Desk thumping*]

### **ADJOURNMENT**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Thank you very much, Mr. Deputy Speaker. I beg to move that this House do now adjourn to Monday the 6<sup>th</sup> day of May at 1.30 p.m. At that time we will continue debate on this Whistleblower Protection Bill.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 6.40 p.m.*