

*Senators' Appointment*

*Tuesday, May 13, 2003*

**SENATE**

*Tuesday, May 13, 2003*

The Senate met at 1.30 p.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]

**SENATORS' APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from His Excellency the President of the Republic of Trinidad and Tobago.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency GEORGE MAXWELL RICHARDS,  
President and Commander-in-Chief of the Republic  
of Trinidad and Tobago.

/s/ G. Richards

President.

TO: MS. CAROL CUFFY-DOWLAT

WHEREAS Senator Arnim Smith is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, CAROL CUFFY-DOWLAT, to be temporarily a member of the Senate with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Arnim Smith.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 13<sup>th</sup> day of May, 2003.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency GEORGE MAXWELL RICHARDS,  
President and Commander-in-Chief of the Republic  
of Trinidad and Tobago.

/s/ G. Richards

President.

*Senators' Appointment*  
[MADAM PRESIDENT]

*Tuesday, May 13, 2003*

TO: SENATOR PUNDIT MANIEDEO PERSAD

WHEREAS by the provisions of paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, the President, acting in accordance with the advice of the Prime Minister, is empowered to declare the seat of a Senator to be vacant:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by the said paragraph (e) of subsection (2) of section 43 of the Constitution, do hereby declare the seat of you, Senator Pundit Maniedeo Persad, to be vacant.”

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 10<sup>th</sup> day of May, 2003.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Appointment of a Senator

By His Excellency GEORGE MAXWELL RICHARDS,  
President and Commander-in-Chief of the Republic  
of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: MRS. CHRISTINE SAHADEO

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, CHRISTINE SAHADEO, a Senator.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 10<sup>th</sup> day of May, 2003.”

**OATH OF ALLEGIANCE**

*Senators Christine Sahadeo and Carol Cuffy-Dowlat took and subscribed the Oath of Allegiance as required by law.*

**CIVIL AVIATION (AMDT.) BILL**

Bill to amend the Civil Aviation Act, No. 11 of 2001, brought from the House of Representatives [*The Minister of Works and Transport*]; read the first time.

*Motion made*, That the next stage be taken at the next sitting of the Senate.  
[*Sen. The Hon. Dr. L. Saith*]

*Question put and agreed to.*

**PAPERS LAID**

1. Annual audited financial statements of the National Gas Company of Trinidad and Tobago Limited & Subsidiary Companies for the financial year ended December 2001. [*The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on a Special Audit of Certain Areas of Internal Control at the South-West Regional Health Authority (SWRHA). (*Sen. The Hon. C. Enill*)

**ORAL ANSWERS TO QUESTIONS**

**Steps/Measures to Recover Sums of Money Overpaid  
(WASA Managers and CEO)**

- 34. Sen. Wade Mark** asked the hon. Minister of Public Utilities and the Environment:

Could the Minister indicate to this Senate:

- (i) What steps/measures are being taken, if any, to recover the sums of money which were overpaid to the Chief Executive Officer, General Managers and Deputy General Managers of WASA between the period March 2002 to January 2003?
- (ii) Whether the Minister intends to take any action against the Board of Commissioners of WASA for illegally and unilaterally increasing the salaries, allowances and other perquisites to the Chief Executive Officer, several Managers and Deputy General Managers of WASA during the period March 2002 to January 2003?

**The Minister of Public Utilities and the Environment (Sen. The Hon. Rennie Dumas):** Madam President, this is one of the questions the goodly Senator agreed to provide some names. I just want to draw this to his attention.

**Sen. Mark:** I think the Senator is confused somewhat; we are dealing with question No. 34.

**Sen. The Hon. R. Dumas:** Sorry. Madam President, the matter of the salary granted to the Chief Executive Officer, General Managers and Deputy General Managers of WASA over the period March 2002—January 2003 has been referred to the Cabinet of the Government of Trinidad and Tobago for its deliberation and decision.

**Madam President:** What about the answer to the second part of the question? Is that the whole thing?

**Sen. The Hon. R. Dumas:** That is the whole matter concerning those salaries.

**Sen. Mark:** Could the Minister indicate to this Senate when he would be able to provide this Parliament with a proper answer to question No. 34? As you recalled, last week my colleague and friend asked for a week to get an answer to us and now he is saying the Cabinet. We cannot use the Cabinet as a ruse to cover up on a very important matter like this.

**Madam President:** Mr. Minister, could you give an answer?

**Sen. The Hon. R. Dumas:** Madam President, I am sure that there is no ruse here; there is a period of deliberation and the Cabinet will be in a position to give an answer within a month.

**Sen. Mark:** I think that is totally unacceptable. The Minister owes it to this Parliament not to use the cover of Cabinet to deny this Parliament and the population a proper answer to question No. 34.

**Madam President:** Sen. Mark, I understand your frustration but the fact is if it has gone to Cabinet I do not think the Minister can do anything more about it. He will have to wait for a Cabinet decision. Can we move on, please?

**Sen. Mark:** No, no, Madam President, please. With your guidance, could you rule as to whether a minister can come to this Parliament and indicate that the Cabinet—after he had given an undertaking to you and this Senate that he would respond to question No. 34, after he had refused to answer that question when it was properly due? The Minister comes today and says he wants a month again for a Cabinet decision. This is unheard of. We have never had this in here before.

**Sen. Dr. Saith:** Madam President, Sen. Mark has fortunately been a Member of government and understands how government works. What the Minister has

indicated is that recommendations in respect of this matter are now before the Cabinet, for the Cabinet to take a decision on the matter. That is all he is reporting. He cannot answer the question in detail because the recommendations which have been made by his ministry are now before the Cabinet for deliberations. I think he understands.

**Sen. Mark:** No, I do not understand that. I am refusing.

**Sen. Prof. Deosaran:** I really feel obliged to rise, perhaps, in defence of our Parliament. This is a matter before the Parliament of this country. Even though, with respect—we will concede that some time is required, certainly the circumstances and the nature of the question—I would like to submit that a shorter time period be given as a compromise.

**Sen. Dr. Saith:** Madam President, the question is: “What steps have been taken to recover this money?” The ministry has made recommendations in respect of this matter; it has financial and other implications. The Cabinet will now consider these recommendations and come to a decision on the steps to be taken. I think the Senator is putting the Minister in an extremely difficult position for him to say when the deliberations on this matter would be complete. I am making the point again: until a decision is taken by the Cabinet, the Minister is unable to say what steps are being taken.

**Madam President:** I think we have to be reasonable and accept now that this matter is before the Cabinet; the Minister simply cannot give us an answer. I can understand your frustration.

**Sen. Mark:** Is he asking for a deferral for a week? I am not prepared—Madam President, you will have to put this to the Senate—and we are not prepared to allow this to go as it is going. The Minister will have to seek, through you, a deferral for, at least, a week or two. The Minister cannot use Cabinet as a convenience and say a month and next thing it goes to six weeks. That is unacceptable.

**Sen. Prof. Ramchand:** Madam President, there are points I would like to make. The first is that the Senator might be satisfied if he were told that steps are being taken to recover the sums of money and recommendations have been made to recover the money. For one reason or the other, the Minister feels it should go to Cabinet. The second question is: why does this matter have to go to Cabinet?

**Sen. D. Montano:** The matter is not quite as simple as it is being made out to be. There are legal issues involved and the Cabinet needs legal advice among

other things. The Cabinet has no control over how fast the legal advice comes back to it. While we can ask for a rapid response, it is difficult to say here, to demand here, that the answer be provided by the lawyers within a time frame of a day, two days or a week, as the case might be. Every effort is being made to find a solution as quickly as possible. With the greatest of respect, the Leader of the Opposition's business is misbehaving because he understands exactly what the issues are.

**Sen. Mark:** "I misbehaving"? [*Crosstalk*]

**Madam President:** Gentlemen! Sen. Mark.

**Sen. Mark:** He is out of place!

**Madam President:** May I make a suggestion? Maybe we can ask the Minister to ask the House to give him permission to defer the answer for the one month that he has asked; this will give him ample time to get the legal advice and everything else, so that when he comes there will be no need—you may say two weeks, Sen. Mark, then he has to ask for a deferral again.

**Sen. Mark:** Let him come back and ask. He is bound to answer.

**Madam President:** Remember the Minister has given us an answer to the question. [*Interruption*] He has given us an answer by saying that it had gone to Cabinet. We are—it is an answer.

**Sen. Mark:** No Ma'am, that is not an answer.

**Madam President:** It is in answer of what—[*Interruption*]

**Sen. Morean:** You sit there and talk to the President like that?

**Sen. Mark:** I am sorry. I apologize.

**Madam President:** Mr. Minister, please continue.

**Sen. The Hon. R. Dumas:** Madam President, I would like to ask for a deferral of any further response on this matter for a period of one month.

**Madam President:** The Minister is asking for a deferral of the answer to this question for one month.

**Sen. Mark:** No Ma'am. We want a division on this.

*Question put.*

**Madam President:** Can we have some quiet please so that the Clerk can take the division? Sen. Mark, please, the Clerk is going to take the division which you asked for.

*The Senate divided:*                      Ayes 15                      Noes 14

AYES

Saith, Hon. Dr. L.

Yuille-Williams, Hon. J.

Morean, Hon. G

Joseph, Hon. M.

Montano, Hon. D.

Enill, Hon. C.

Gift, Hon. K.

Manning, Hon. H.

Chin Lee, Hon. H.

Dumas, Hon. R.

Titus, R.

Abdul-Hamid, Hon. M.

Sahadeo, Hon. C.

Ramroop, S.

Quamina, Dr. D.

NOES

Mark, W.

Baksh, S.

Kernahan, Dr. J.

Seepersad-Bachan, Mrs. C.

Nicholas, G.

Cuffy-Dowlath, Ms. C.

McKenzie, Dr. E.

Ramchand, Prof. K.

Deosaran, Prof. R.

King, Mrs. M.

Thomas, Amb. C.

Anmolsingh-Mahabir, Mrs. P.

Khan, Brother N.G.A.S.

Seetahal, Ms. D.

*Question agreed to.*

**Madam President:** Mr. Minister, you have one month in which to bring the Cabinet decision and your answer to this Senate. Sen. Mark, you wanted to say something?

**Sen. Mark:** Now that the question has been put, based on what the Government suggested, I would have preferred a deferral of two weeks. The question has been put already, so we will leave it as that.

**Madam President:** Sen. Mark, can we move on to question No. 37?

**Sen. Mark:** Before I put this question, as you recall, I did withdraw two questions last week and this is a continuation as a consequence of those previous questions. I think question No. 37 would not stand until I were to re-file.

**Madam President:** Let us move on to question No. 38.

*Question, by leave deferred.*

### **Financial Settlement between Water Farms Limited and WASA**

**38. Sen. Wade Mark** asked the hon. Minister of Public Utilities and the Environment:

- (a) Could the Minister state the amount of money which was paid to Water Farms Limited as an out-of-court settlement between Water Farms Limited and the Water and Sewerage Authority (WASA)?
- (b) Could he explain how this settlement was ultimately arrived at?

**The Minister of Public Utilities and the Environment (Sen. The Hon. Rennie Dumas):** Madam President, in 1995 the Water and Sewerage Authority entered into several contracts with eight well contractors, including Water Farms Trinidad Limited, for the management and operation of certain well fields in selected areas in Trinidad.



In June 1996, the Authority unilaterally terminated all the well contracts on the grounds that the then executive director had no authority to enter into and to execute those contracts. As a consequence, all the well contractors brought claims against the Authority arising out of the alleged breach of their respective contracts. Water Farms Limited instituted High Court Action No. 2284 of 1996 in which damages for breach of contract were claimed, later quantified as \$74.4 million plus interest and costs.

In the case of Water Farms Trinidad Limited, I am advised that, the matter was called for hearing in court on four occasions: on February 15, 2000, April 04, 2000 and May 08, 2000 when it was adjourned, pending settlement; and January 24, 2001, when it was further adjourned, pending settlement.

In search for settlement, Ernst & Young was engaged to determine the compensation that should be payable to Water Farms Limited for the works they had done, on the premise that the contract was invalid and properly terminated.

The new board of commissioners, on appointment in March 2002, sought legal counsel on the matter and was advised that the contract was wrongfully terminated and settlement therefore shifted from just being compensatory for work done, to one to include other factors including loss of earnings. Legal counsel also advised that the Authority was unlikely to be successful in the matter and that an out-of-court settlement was recommended. A team comprising WASA's technical, in-house legal staff and external legal team, in collaboration with members of the board of commissioners, negotiated with Water Farms technical and legal team in arriving at a settlement of \$51.5 million payable over a nine-month period.

It is to be noted that Water Farms was claiming more than \$74.4 million and that WASA's team considered the settlement of \$51.5 million to be reasonable, in the interest of a commercial resolution of the litigation, achieved by way of compromise and was in agreement to a formula for the satisfaction of the plaintiff's claims in the litigation in consideration for which Water Farms discontinued the litigation and released and discharged WASA from all claims, actual and potential; however arising: whether in relation to the contracts, costs, damages and/or any other way associated with the contracts and released and discharged WASA from all claims of whatever kind or nature; whether in law or in equity that it may ever have had against WASA in these matters.

The Board of Commissioners at its Five Hundred and Seventy-fifth meeting held on July 26 and 27, 2002 approved a settlement of \$51.5 million to the Water

Farms matter and the matter was settled out-of-court on July 29, 2002 in the sum of \$51.5 million. The matter was finally called in the High Court on July 30, 2002 when the settlement was presented to the court and read into the court records.

The Senate should note that as a result of allegations made in another place, to a related question, the hon. Prime Minister has ordered a forensic investigation into the settlement of legal matters at the Water and Sewerage Authority, the findings of which would be presented to Parliament as soon as they are available.

Thank you.

**Sen. Mark:** Madam President, through you, could the hon. Minister indicate to this Senate whether he is aware of the employment, to date, of Mr. Bob Lindquist to pursue this particular matter that he has just referred to? I would like to know whether Mr. Bob Lindquist has been employed—as far as he knows—to pursue this matter to date?

**Sen. The Hon. R. Dumas:** The Minister is not aware.

**Sen. Mark:** Could the hon. Minister indicate to this Senate what was the settlement that Ernst & Young has recommended as an out-of-court settlement in this particular matter; seeing that the final figure turned out to be \$51.5 million?

**Sen. The Hon. R. Dumas:** The specifics of the recommendation by Ernst & Young are not available to me at this point.

**Sen. Mark:** Is the Minister aware that Ernst & Young recommended a figure of \$11 million?

**Sen. The Hon. R. Dumas:** Madam President, with respect to the figure recommended by Ernst & Young, the circumstances in which they were recommended and the claims by which they were to settle, I am not aware at this point in time.

**Sen. Mark:** Is the Minister able to make available to this Senate a copy of the Ernst & Young report for the Parliament's perusal; seeing that he is unaware of these matters?

**Sen. The Hon. R. Dumas:** Madam President, I do not want to suggest how this should be handled. I think we have it clearly before us; an investigation has been requested by the colleague of the Senator and the hon. Prime Minister has agreed that a forensic investigation of this matter should be performed. I do not know the skills of the goodly Senator, but certainly, Mr. Lindquist's skills are of international renown. I am sure the Parliament can await that report.

**Sen. Mark:** I asked my friend—if I am to cease my continuation of questioning, I sought to find out from him whether the Prime Minister of this country, through the Attorney General, has taken steps to employ Mr. Bob Lindquist because that commitment was given some six weeks ago.

**Sen. Morean:** Let me answer that. The matter has been passed to the Attorney General who has spoken to Mr. Lindquist and is to provide him with certain documents when they become available from the Water and Sewerage Authority (WASA).

**Sen. Mark:** One final question; could the Minister indicate to this Senate if he can identify for us the team or the legal counsel that provided this advice to WASA to move from \$11 million that was recommended by Ernst & Young to \$51.5 million?

**Sen. The Hon. R. Dumas:** Madam President, the specifics as to the constituent membership of the team are not available to me, but I am quite willing to get that information for the Senator.

**Sen. Morean:** If the Senator would be patient he would get all the information because we are conducting an investigation in an open and transparent manner and the findings would be made known to one and all.

**Sen. Mark:** One final question to the hon. Minister. Maybe the Attorney General can answer. Could the Minister tell this Senate when this investigation will commence and can he give us some appreciation of another date in terms of the submission of a report?

**Madam President:** Mr. Minister, I think the Attorney General is prepared to answer.

**Sen. Morean:** Let me go over what I just said: documents and information are to be made available to Mr. Lindquist so that he can assess what exactly he has to do. He has not yet received all the necessary information so we cannot say yet how long the investigation will last. Knowing that he is an efficient investigator—as you can see from things that have happened in the past year or so—you know that there will be a report.

**Sen. Mark:** Thank you.

#### **KIDNAPPING BILL**

[THIRD DAY]

*Order read for resuming adjourned debate on question [April 15, 2003]:*

That the Bill be now read a second time.

*Question again proposed.*

**Sen. Mark:** Madam President, before she speaks—

**Sen. Morean:** What kind of behaviour is that?

**Sen. Mark:** Is she the final speaker?

**Madam President:** I do not know that she is the final speaker.

**Sen. Mark:** I just want to know because we have people—

**Sen. Morean:** Who is running this place?

**Madam President:** The Attorney General has asked to speak.

**Sen. Morean:** Who is the President of the Senate? [*Interruption*]

**The Attorney General (Sen. The Hon. Glenda Morean):** Madam President, when this Government took office in 2002, it was confronted with a situation where crime throughout the country was rampant, not just rampant but spiralling out of control. We were faced with the problems of unemployed youths marauding and running rampant through the streets. We were faced with despair among the large number of young people who were unemployed and some of whom were unemployable.

Madam President, faced with this situation this Government got down to work. This Government did not sit back and throw its collective hands in the air in despair also. We got down to putting social measures in place to have these young people and unemployables put bread on the table for their families and support themselves. We put a lot of measures in place; for instance the Civilian Conservation Corps that the hon. Minister of National Security and Rehabilitation spoke about—which took care of a lot of young people—was immediately brought back by this Government because it recognized that the fight against crime was not just about the enactment of legislation. The fight against crime involved putting social measures in place and this is what we have been doing.

In fact, when the election was called in 2002 and we won the election, you heard the cry from the Opposition that we stole the election. That is what they meant. They saw that those people, whom they had neglected, were grateful for the assistance that they were given by this Government. It is not that the election was stolen, but the Government showed that it cared about the people: the less fortunate in the society.

In addition to the social measures, the Government recognizes that in order to combat crime we need to have enforcement. We proceeded to deal with the persons who are responsible for enforcing the law, namely the police service. As

we are well aware, we know the stand taken by the Opposition with respect to alleviating the ills in the police service in their actions towards not supporting legislation in the form of the Police Service Reform Bills. We cannot say that too often because this was an exercise that was initiated by them and one would have expected that they would have followed through on this exercise, but they did not. We have to do what we have to do in order to stem this tide.

You have heard, Madam President, from persons on the opposite side—particularly the Front Bench—that legislation is not the solution. I agree to a great extent that legislation is not the only solution. As we all know, the Government is comprised of the Legislature, the Executive and the Judiciary and we all have to work together for the good of the country. If you are dealing with crime, you have to have your laws in place to deal with offences. You have to empower the police to enforce the laws and most of all, you have to ensure that you put your social measures in place to ensure that the tide is stemmed for young people—or any people for that matter—to turn to criminal activities. This fight against crime is a multifaceted one and this is why, from the inception, in the budget statement, you will recall that one of the things promised early o'clock was legislation to deal with kidnapping. This is what we are here about today.

We heard a lot of talk about all the different social measures and all sorts of things, but it is the duty of the Government, in its quest to alleviate poverty, to divert a sizable chunk of its resources towards the fight against poverty. This is why the Government has increased old age pension, disability grants, and also the budget towards the allocation for the URP.

We also have CEPEP: something people like to talk a lot about. What you will note is that to date nobody has said that it is a bad thing. [*Crosstalk*] You have to deal with the alleviation of poverty. You may complain that it is not being administered in a way that you would like, but that is necessary. [*Crosstalk*] It is a good programme. In fact, we have not done what was done by the last administration: run after large projects where people could fill their pockets and leave us with tremendous bills in relation to enquiries and all sorts of things. We cannot let that happen again. This is why every time I see my friend Sen. Baksh sitting there so smugly—look at what is happening with the Commission of Enquiry into the Airport Project. Here it is, this big project which should have cost one-third of what it has cost with all sorts of allegations flying—

**Madam President:** Attorney General, maybe you can speak about the allegations but not a person in particular. Do not call any names, please.

**Sen. The Hon. G. Morean:** I take what you have said, Madam President, but his name was mentioned because of the fact that he was the Minister responsible. Madam President, this Government is not going after the big projects to fill the pockets of individuals; what it is doing is trying to put bread on the table of those who do not have: the unemployed and unemployable, those without skills.

Madam President, we come to one of the responses that this Government has given, in relation to the fight against crime, namely, this Bill. With respect to the Bill that is before us for debate, there are a number of proposed amendments. I should begin by saying that when I speak to the Bill, Senators would be able to look at the amendments. This is not the norm, but it has been done to facilitate ease of reference. When you look at the Bill you will see some letters in bold which are the amendments. You will see some underlined, they are what are proposed to be removed from the Bill. Contrary to what some Senators have said, this is not a government that is not responsive. We have taken on board a lot of the suggestions that have been made by different persons. As long as suggestions are constructive, we are certainly there to take them on board and to deem whether they are workable. You will see some of the amendments proposed may have been mentioned by some contributors who already spoke on the Bill.

Let me start by giving a little overview with respect to the law before I go directly to the Bill itself. In England, the offence of false imprisonment is an offence at common law—I think we have been told this by Sen. Seetahal—but kidnapping is an aggravated form of false imprisonment. The phrase “common law” is here used in contradistinction to statute law; that is the law that we have in our statute books and whether these laws are equitable or legal in origin. When we say legal we mean as opposed to the equitable principles. The common law denotes that body of law which does not derive its authority from legislation. It is called the unwritten law. This unwritten law has the same force and effect as statute law. The common law is documented in the law reports, which embodied the decisions of judges together with the reasons for those decisions; and there you have your body of common law.

The offence of kidnapping is exhaustively defined in the case of the *Queen v. D*. That is a case that is reported in 1984 which can be found in volume II of the *All England Law Reports*. That case sets out the following four ingredients which constitute the offence of kidnapping: (i) the taking or carrying away of one person by another, (ii) by force or fraud, (iii) without the consent of that person, and (iv) without lawful excuse. We have those four ingredients that constitute the offence of kidnapping.

Kidnapping has always been deemed, by virtue of its nature, a grave and heinous offence. The position in England, as in Trinidad and Tobago, is that offences are divided into indictable and non-indictable offences. The crime of kidnapping is an indictable offence. This is not one of the offences that you can necessarily take summarily. Trinidad and Tobago adopts the common law of England. This is provided for in section 2 of the Criminal Offences Act, Chap. 11:01. I will read for you what it says:

“Every offence which, if done or committed in England, would amount to an offence at common law shall, if done or committed in Trinidad and Tobago, be taken to be an indictable offence, and shall be liable to be and shall be punished in the same manner as it would in England, under or by virtue of any special or general statute providing for the punishment of such offence, or, if there be no such statute, by the common law.”

The offence is well documented in the common law. As we say, it is not contained in the statute; you would not go in the book and see it written out as an offence, but over the years it has developed by virtue of the decisions of the courts and the reasons given for those decisions. The position with kidnapping is that it is, in fact, an indictable offence, punishable in the same manner as obtained in England.

While there may be in some cases the alternative penalty of a fine in addition to imprisonment for life—which is the maximum that can be given for this offence—that option was removed by Act No. 16 of 1989 which excluded the penalty prescribed by section 100(5) of our Summary Courts Act. I will read it for you:

“A person summarily convicted of an indictable offence under this section is liable to a fine of four thousand dollars or imprisonment for two years; but such person shall not be liable to any greater penalty than the maximum penalty to which he would be liable if he had been convicted on indictment.”

Accordingly, the penalty to be imposed for the commission of this offence is governed by the common law of England and varies from life imprisonment to a term of year certain.

We have to look at what life imprisonment is. I saw that something came out recently in England, where they are seeking to define life imprisonment to really mean life imprisonment and not just 15 years. That is what it amounts to.

*Kidnapping Bill*

[SEN. THE HON. G. MOREAN]

*Tuesday, May 13, 2003*

As far as the offence of kidnapping is concerned, the common law has the statutory force of law in Trinidad and Tobago. We have been faced with a situation where kidnapping for ransom has become like a trade in Trinidad and Tobago. The Government has to have a response so as to curb that activity. The Government has decided to bring this legislation and to make kidnapping for ransom, a specific offence. The purpose of this Bill, Madam President, is to seek to empower the law enforcement agencies in Trinidad and Tobago to more effectively curb the spate of kidnappings that have been affecting the country in recent times. Since we are not about reinventing the wheel, the legislation is patterned on two pieces of legislation, namely, the Kidnapping Acts of Singapore and South Australia.

In clause 3 of the Bill, the offence of kidnapping for ransom is clearly defined. It provides that:

“3(1) A person who,...unlawfully leads, takes, decoys, inveigles or entices away, abducts, seizes, carries off or detains any person without his consent or with his consent obtained by fraud or duress and without lawful excuse,...such person...is held, confined restricted or imprisoned or prevented from returning to his normal place of abode or sent or taken out of Trinidad and Tobago...”

In other words, that person is kidnapped. That other person is guilty of an offence under this Act.

Clause 3(2) of the Bill provides that an accused person cannot use the defence that the kidnapped person consented to being kidnapped, if the kidnapped person is under the age of 18 years. The penalty for the commission of this offence is imprisonment for not less than 25 years.

**Sen. Seetahal:** May I ask for clarification. The Attorney General is putting forward her amendments at present, or what is in the current Bill? What is in the current Bill is not less than 25 years. Perhaps, in the amendments, that should be made clear.

**Sen. The Hon. G. Morean:** Let me make it clear. Not less than is what is intended, but the Bill is for 25 years. The intention is that it should be not less than 25 years. We will speak to that in due course in committee stage. What is intended here is that a certain minimum term of years should be imposed and the amendment would be designed to secure that objective.

Under clause 4, a person found with money or property which previously constituted or was part of a ransom paid for the release of a kidnapped person is



liable to imprisonment for 15 years—again, the intention is to make this the minimum—where the accused person knows or has reason to believe that the money, or other property was delivered as a ransom. This provision, Madam President, will target those persons who may not necessarily have participated in the actual kidnapping, but were, nevertheless, part of the gang that plotted and effected the crime plan.

The question was raised with respect to what is effectively plea bargaining. I believe this was raised by Sen. Seetahal where she said:

“If the Government wishes to turn that around, I will suggest that is unfortunate because it would not allow persons who are accessories or accomplices or others to give evidence, they could plead guilty, get a lower sentence or give evidence against the masterminds.”

Now, there may be some validity to that, but the objective here is to ensure that the penalty is—as far as a penalty can be—a deterrent to would-be kidnappers.

### **2.30 p.m.**

On the question of the plea-bargaining issue, we have not yet legislated for that. I know that we have to some extent, but it is not—

**Sen. Seetahal:** May I correct that please. The Bill was passed, it is an Act, it is in law and it is being utilized to a limited extent.

**Sen. The Hon. G. Morean:** It is not really being used because there are some difficulties. We have gone as far as the legislation, but we still have to go back and get it right.

Now, clause 4 would penalize a person who demands or pursues a demand by negotiation. As Senators would see, it is intended to make certain amendments to this clause, so as to make it quite clear as to whom you are targeting—that is the persons who are acting on behalf of the kidnapper, not the kidnapped person, because as the law stands at present, such a person may, in fact, escape prosecution in certain circumstances, so we want to have it quite clear.

Clause 6 is intended to be revised, as the present clause 6 now stands in the disclosure of information, there is a proposed amendment and we would speak about it, in due course in the committee stage—lest I run afoul of procedures.

Clause 7 seeks to empower the Director of Public Prosecutions to apply to a judge in chambers to order a police officer of the rank of sergeant or above, or other suitable person to inspect any book, account, receipt, voucher or other document, if the DPP considers that the evidence of the commission of an offence

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might be found in the aforementioned documents. The intent of this provision is that such inspection might reveal a financial transaction relating to an accused person that could corroborate any other evidence relating to the commission, attempt to commit an offence under this Bill, and subclause (2) empowers a police officer or person authorized by the court, under subclause (1), to enter premises to search for the aforementioned document, et cetera. Subclause (3) would penalize a person who fails to produce, as required, a document that is in his possession or control with a fine of \$100,000 and imprisonment for two years.

I would omit clause 8, because this is one of the clauses that we are seeking to amend, but the objective of this clause is to authorize the DPP to apply to a judge in chambers for an order requiring the manager of a financial institution to hand over copies of the accounts of or under the control of a person suspected of having committed, or charged with the commission of an offence under this Bill, or the accounts of the spouse or dependant child of such person. The objective here is to close that gap that we had in the law, where in these offences, which are being committed, the would-be kidnappers are getting assistance from persons within certain financial institutions. A breach of an order of the court or the wilful provision of false information will result in a penalty of \$100,000 and imprisonment for one year.

Clause 9 imposes a duty on a person who knows of the commission of, or intention to commit an offence under this Bill to give the information to the police, and failure to comply would result in a fine of \$50,000 and to imprisonment for six months.

On the question of evidence of pecuniary resources, clause 10 is proposed to be omitted, because of the fact that, in any event, the law already covers the obtaining of such information, and there is also the added effect of having a person give evidence against himself—incriminate himself—so that is one of the clauses that is being sought to be excluded.

Clause 11 gives protection to persons who give information. Clause 11 seeks to protect those persons who may have given information to the police, which would assist in obtaining the conviction of an accused person. The name or identity of such a person is not to be revealed during the course of the proceedings, unless the informer wilfully made in writing, a statement which he knew or believed to be false, or did not believe to be true, or if in another proceeding, the court is of the opinion that justice cannot be done between the parties thereto, without the identification of the informer.

It is well known that on many occasions, convictions of criminals are secured with the help of informers, and we need to protect such persons. The offence of kidnapping is one in which there is usually some reliance by the police and the prosecution on information given by persons in the course of their investigations, so it is important that the legislation addresses the protection, as far as this is possible, of informers.

Clause 12 is designed to protect persons who would give testimony, which could lead to the conviction of a person who is charged with an offence under the Act for which this Bill is before us. During the prosecution of an accused person for the offence of kidnapping and related offences, it may become necessary for the victim or his family to give evidence in the case against the kidnappers, and their accomplices, and one sees what happens to witnesses very often. So as far as the law can, it has a duty to protect witnesses and, therefore, this clause is intended for the protection of witnesses.

Clause 13 states that section 68(2) and (3) of the Interpretation Act does not apply to the penalties under clauses 3, 4 and 5 of this Bill. The effect of this is that a judge in sentencing a person, found guilty of an offence under this Act, would not have the discretion to send that person to prison for a term less than that provided for in the legislation. If this is not there, then under section 68 of the Interpretation Act if you say, "a maximum or a minimum" it gives the judge the discretion to go anywhere within the range given. The objective is, as far as possible, for the legislation to be as stringent as possible so that it may be a deterrent to would-be kidnappers.

I have dealt with the question of whether legislation is ever at all a deterrent, but we have no choice. We must have legislation; we cannot have anarchy. In any society one lives in there must be rules, and we have to be guided by those rules, and where a situation arises where you need to make rules, you make rules, you make regulations and you make laws to meet the situation.

Finally, section 31 of the Larceny Act is amended here, and the objective is to bring the penalty in line with the range of penalties that we have been advocating so far in the legislation.

Basically, these are the provisions of the Bill which is before us for debate. It may not provide a total answer to the problem, but it is necessary in our fight against crime; in our fight to ensure that we have an ordered society, and that we live in accordance with the rule of law.

Madam President, I thank you. [*Desk thumping*]

**Sen. Dr. Jennifer Kernahan:** Madam President, this Patrick Manning administration is presiding, presently, over a social and political crisis in this country of unprecedented proportions. The Attorney General has spoken about spiralling crime in this country, and she has tried to give the impression that when this administration was imposed on this country—over a year and four months ago—they met a situation of high crime. But I would like to remind the Attorney General that it is under this administration that we have seen the kidnapping of citizens for ransom as a growing industry in Trinidad and Tobago. [*Desk thumping*]

I would like to remind the Attorney General and members of that administration what was the initial response to kidnapping. I would like to remind us collectively, that initially the Prime Minister was saying that it was a plot by the UNC to make his administration look bad. The Prime Minister said clearly to the national community that he was very suspicious of these so-called kidnapping activities and so forth, and the Government refused to deal with the problem.

Madam President, what happened after that? The Minister of National Security came to the national community and he made a big public broadcast and said that he would bring in experts from the United States to deal with this problem, so then it was obvious that this problem was not a ruse by the UNC to make the PNM look bad, but it was a very real problem affecting peace-loving taxpayers and citizens of this country.

What did the Government then do? The Government brought in one Thomas A. Clayton, purportedly an advisor from the United States Government, and this was proven to be untrue, as the United States Government denied claims that this gentleman was a representative. The Government claimed that they were paying this expert to advise us on how to address the problem of kidnapping, and the expert then promptly declined that information. The expert said that he was not being paid, and the expert turned out to be an advisor on the type of insurance that businessmen in this country should use to protect themselves against kidnapping. Madam President, this is the history of how the PNM Government has dealt with this very serious crime in this country.

Our very national security is being compromised now by implacable elements, both within and without our national borders. No citizen feels safe. All our citizens are virtually under siege in this country with this wave of crime and lawlessness that is emanating from all levels in the society.

One year and five months after this administration was imposed on this country, we had a series of gun-related crimes; there is a virtual war on private

security organizations—security officers all over this country are being gunned down and relieved of their guns almost at will. There is a business community that is in flight with all that it implies for the social and economic development of this country. There is kidnapping for ransom—as I said on false imprisonment—being taken to another level in this country, and side by side with this wave of lawlessness, there is the lack of respect for the laws of this country, there are exorbitant salaries—we have seen the information here in this Parliament—being paid to public officials, because that is part of the lawlessness wave in this country. There is rampant discrimination on the grounds of political affiliation practised against citizens of this country. The Attorney General alluded to it just now. There is an institutionalization, and an engineering of a society of young people, and people in general in the society, who would be totally dependent on the State for their wherewithal.

We on this side believe that this country could never progress economically, socially or culturally if the Government is going to create institutions in this country; create power bases in this country where people are totally beholden to the State for their economic and social survival. We are saying that this is no way to build a country, so the so-called CEPEP that they are talking about—when the Government runs the businessmen; the productive sectors, people who are able to create employment and so on; when the Government totally demolishes all the entrepreneurial skills and entrepreneurial outlook in this country by people who are willing to take the risk and invest their money and create jobs and employment in this country, then they are creating a situation where Patrick Manning has to give the people a 10-days in order for them to survive—which we have criticized would be the ruin and the death of our country. [*Desk thumping*]

Madam President, the lawless elements in this society are no longer silent; they are not in the background and they have come out recently on 95.5 radio station during an interview with Umbala. The leader of the Jamaat al Muslimeen came out openly and said that he had certain agreements with the Government of Trinidad and Tobago—this Patrick Manning administration—and he said that he did his part by providing the PNM with the three marginal seats. And we all know the history of that; we know the history of the force, the terror and the guns that were imposed on the people in these three marginal seats in order for the PNM to get them. They are coming out openly and saying what was their allegiance; and what they were promised and, therefore, this is why we are faced with this wave of lawlessness and kidnapping in this country today and this is no longer any secret.

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The Attorney General cannot stand here today and try to fool the people of this country that these things have been happening forever. These things have been happening because of the Pandora's box that the PNM Government opened when they made alliances with the very criminal elements in this society, and they cannot close that box. [*Desk thumping*] They are unable to face these people because these are the people who put them there and "who pays the piper calls the tune", and the tune is being called right now by these criminal elements in this society. The Attorney General should not come here and expect us to believe all the untruths that they themselves believe, because I have already said that these people live in a bubble and they do not know what is actually happening in this country.

What are we facing in this country with this kidnapping for ransom, with this false imprisonment and all the murders and gun crimes? The East-West Corridor is practically paralyzed by all the violence and the revenge killings that we are presently seeing. What we are seeing in this country is that the people are saying that they have no confidence—there is a crisis of no confidence—in the Patrick Manning administration today. [*Desk thumping*] On the other hand, the criminal elements in this country—the terrorists and the kidnappers—have every confidence in this Government. They are backing this Government fully and they are there because they have a purpose to serve in this country over the next five years, over the next 10 years, and they are going about their business like Trinidad is "no man's land". Our international image is the lowest it has ever been, I believe, since the early 1970s when this country refused to allow Cuban planes to land here to refuel on their way to Angola to help the freedom fighters in South Africa, and since then I do not think that our international image has ever been lower.

This crisis of no confidence in this country is not that I am making it up. There was a recent opinion poll in the *Guardian* newspaper and the people have identified crime as one of the major issues in this country that needs to be addressed, and they are not satisfied that it is being addressed; they have identified corruption as a major issue, and they are not satisfied that it is being addressed; and only 20 per cent of the people said that the issue of corruption—

**Madam President:** Senator, what newspaper are you reading from? Could you identify it?

**Sen. Dr. J. Kernahan:** Sorry, Madam President, it is the *Sunday Guardian* newspaper dated May 11, so I am not making this up. There was a poll done and this poll reflects the dissatisfaction and the lack of confidence of the people in this

country with this Government to deal with crime; to deal with corruption; to deal with health; and to deal with tourism. All these things are being documented.

We have families in this country—I said that to substantiate my point—that are expressing lack of confidence in the ability of this regime to protect them; to enable them to go about their business of earning their daily bread; of working and raising their children and providing a future for their children. We have had headlines in the newspapers and we must never forget what we are passing through. Sometimes we take these as nine-days wonders in Trinidad and Tobago, because of our resilience, our humour and ability to survive, we forget the terror and oppression that actually exist among some citizens in this country.

We have headlines such as in the *Sunday Express* newspaper dated April 06, 2003 where the headline says, “Families fleeing Teenagers freed after payment of ransom \$\$”. In this article, the parents of these teenagers have expressed the fact that they are definitely going to send their children away from this country; they are no longer willing to stay in this country; they have expressed willingness to meet with the Prime Minister to express their lack of confidence and their security. The people are saying, “What security do we have in this country and what is being done?” Citizens are openly questioning what is being done to protect them from crime, discrimination and kidnapping that is taking place in this country.

In the *Sunday Express* newspaper also dated April 06, 2003 in the “Sunday Opinion” column, which is an editorial—apart from the ordinary citizens, they have also expressed—I am not making this up—this view in relation to the Kidnapping Bill and it says:

“But legislation alone will not solve the problem.”

And I think the Attorney General realizes that, but she did not say the other part and that is, what will solve the problem? I am going to come to that later down in my contribution.

“There is a disturbing lack of leadership from the Government on the matter as the crime crisis continues...All the grandiose plans announced by the National Security Minister have thus far come to naught as both murders and kidnappings continue the record rise begun last year.”

Madam President, it is not the UNC saying that, it is the *Sunday Express* newspaper editorial and everyone knows that they are not particularly friends of the UNC. The editorial is saying that this unprecedented rise in crime and

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kidnapping began last year, and this is under this Patrick Manning administration, when he opened the Pandora's box by aligning himself with thugs, criminals and kidnapping elements of the society. [*Desk thumping*]

The first step that I would like to suggest to this administration—they recognize that legislation is not all—is that in order to correct this problem the Government must recognize that the legitimate democratic Opposition of Trinidad and Tobago must exist, and has to exist if it does not want autocracy and dictatorship in this country. We are here representing over 376,000 citizens and it is necessary for the Opposition and the Government under this democratic system which we have embraced at this point in time and under the Constitution that we accept at this point in time in order to have transparency, good government, equity and justice for all citizens in this country. That is the value of the Opposition and the Government cannot dismiss the Opposition as irrelevant without consequences in this society.

When the Government does that it sends a message to the people out there; the people who are subverting the country's national security; the people who are subverting the stability of our country, and the Government is saying to them that half of this population is not relevant to the governance and the advancement of this country. Therefore, the Government is undermining the rule of law, and the democratic traditions that we have in this country that we prize so dearly, and this is our Constitution. The Opposition is an integral and important part of the Constitution and that is the first step that this Government must make in order to correct this situation. The Government must desist from spouting this nonsense that the Opposition is being irrelevant.

I have listened to Sen. Prof. Deosaran and he has eloquently advanced a case for the role of the Opposition, and the need for a constitution—not only the Constitution that we have—that embraces even more widely, participatory democracy in this country, and this is one of the serious prerequisites for the social, economic and political advancement of this country. It is only a blind man who refuses to see—as this administration is—the necessity and importance of this, because the Government wants to continue its mantra that “great is the PNM and long will it prevail”, but the citizens of this country have long gone past that.

The people are not about party politics and partisan politics; the people are demanding social and political advancement in this country; they are demanding employment, sustainable development; they are demanding the protection of the environment; and they are demanding things that they did not demand in 1956. Madam President, somebody has said to me that never before—in the history of



this country—has a PNM administration reached such depths, in terms of governments and politics in this country.

I would beg the hon. Minister of National Security to desist from offering to the victims of kidnapers and so on all these platitudes that we have seen him offered in his presentation to this Parliament, where he talked about the psychological impact faced by members of the kidnapped families when their loved ones are kidnapped, and how he shares their pain and anguish. All of this is crocodile tears.

The Minister spoke about walking from house to house with these victims and commiserating with them in their pain and so on, but how could one reconcile that when Abu Bakr gets on the TV and says openly what was the deal between this administration, the kidnapers and terrorists in this country. How can one reconcile that? How can the Government try to come to this country and fool us with this sort of rhetoric?

What we need in this country is action. The people in this country want action. I totally agree with Sen. Arnim Smith and Sen. Prof. Deosaran that what the Government needs is monitoring surveillance, and bringing the perpetrators of these crimes to justice. There are policemen in the service whom I have spoken to—honorable people in the service—and they have complained to me that they do not have the wherewithal to do their jobs and to really come to grips with the crime that is taking over this country in waves. The Government has to weed out the bad elements from the police service and they are not difficult to weed out.

If one goes into any community and talks with any “Nennen” or uncle they would tell you who are the bad elements in the community. They will give you a ball-by-ball description of what is happening; they would tell you “who kill who” and because of what and so forth; they would give you detailed information of what is happening in this country, and the police are not able to get the perpetrators of all these dastardly crimes in this country.

We are very much concerned about this Kidnapping Bill. There are certain clauses in this Bill, which will give privileged information to certain elements of the Anti-Kidnapping Squad—certain privileged information of our citizens and so forth. We are concerned about clauses 3, 8 and 11 in this Bill. We are also concerned about certain provisions in this Bill, because we are not convinced that there is enough distance between the so-called crime fighters, the terrorists and the kidnapers in this country; there is not enough distance and there is too much complicity and, therefore, we would not come to this Parliament—like robots as

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Sen. Arnim Smith said—and rubber stamp any draconian piece of legislation the Government brings to this Parliament in order to deal with kidnapping.

We are saying—as other Senators have said before—that there are instruments that the Government is not using. There is the Money Laundering Act which—I was advised by my legal colleagues—is a powerful instrument which could be used to ferret out people who have unexplained moneys and properties in their possession. There is also the Proceeds of Crime Act and other pieces of legislation, which are not being used. What is happening? Why do we have to come to the Parliament and bring bills which affect fundamental constitutional rights of our citizens, and constitutional liberties of our people, and there are Acts already there for the protection of our people? Why should we do it? We are not going to do it! The Government should come better than that, and go back to the base and disassociate itself from the criminals and thugs in the society. That is what the Government has to do. [*Desk thumping*]

One of these families here had asked—with tears in his eyes—for a meeting with the hon. Patrick Manning to explain how he felt. I do not think that this particular taxpayer, citizen, entrepreneur and businessman got to see the hon. Prime Minister, but I believe that other so-called community leaders have had this privilege at will. And when I talk about disassociation, we must remember the headlines of the past year; we must remember the headlines such as the *Daily Express* of Wednesday, November 13, 2002 when there was a headline entitled: “PM moves to quell URP uproar”. And I quote:

“Among the key Port of Spain activists present were Mark Guerra, Rennie Paul and McDonald ‘Father’ Padmore the man who led the pre-election ‘peace march’ at which a ‘truce’ was signed between community leaders of the Morvant/Laventille area.”

This is our history.

I would like to remind Sen. Danny Montano, since he is the one who made the point that when the Prime Minister walks in communities such as Laventille, he cannot help who walks and talks with him, but there were documented meetings between known criminals, thugs, kidnapers and terrorists with the hon. Prime Minister, and the citizens of this country who are crying out on the oppression of kidnapping, false imprisonment and so forth are unable to meet with the hon. Prime Minister.

Madam President, I would like to remind you of *The Newsday* newspaper dated March 25, 2003 headlined: “Body found in Wallerfield bushes” and this

article dealt with the death of Mark Guerra. I am sure that the hon. Prime Minister's security and so on would have known the history of this person. And I quote:

“According to reports, Guerra was one of the persons who met with Prime Minister Patrick Manning a few months ago to discuss gang-related killings in Laventille.

Guerra, who had described himself as a community leader, had put forward proposals to the Prime Minister to deal with the killings. He was described by the police yesterday as a gang leader who distributed guns to teenagers to carry out crimes, a high ranking member of the Jamaat Al Muslimeen, a close associate of Muslimeen leader Abu Bakr and a suspect in several murders.”

This is the caliber of people with whom our esteemed Prime Minister has been having regular meetings and the Government comes here and cries crocodile tears about kidnapping and crimes in this country. Madam President, we do not believe a word of it.

I have good friends and acquaintances in Laventille/Gonzales, because I grew up there. When I go to these areas and so on, I get the old talk that Guerra was a man who used to say that he does not deal with ordinary ministers, he deals with the father, he goes straight to the top, and he only deals with the Prime Minister. He said this to people in Laventille and this was his trademark. So this is the sort of administration that we have in this country, presiding over unprecedented crime, lawlessness and the rape of our people in this country. [*Desk thumping*]

I believe that the people of this country are far more sophisticated than this PNM administration has given them credit for, because on the “people's meter” on Monday April 10, when the question was asked: “Do you agree with the UNC's position that no support for the Kidnapping Bill unless constitution reform is introduced in this country?” Madam President, do you know what were the results? Sixty-three per cent of the poll said yes, they agreed with the UNC's position that there should be no support for this Bill unless the Government makes a radical about-turn in the way this country is governed.

The people are saying this because they understand that they are in a situation where there is a runaway Executive, and an Executive which has absolutely no respect for the other arms of the State which are the Judiciary and the Legislative, and we see it every day in this Parliament. We are seeing where Ministers are practically refusing to answer questions. We had a crosstalk today from a Minister

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of Government under this administration saying, “We are not bound to answer the question.” That is total disrespect for Parliament and total disrespect for the Legislature, and they are not hiding it. We represent half the citizens of this country and we represent the interest of the taxpayers of this country.

The people understand that unless the Government arranges the Constitution to allow for greater participation and control of an Executive which seems to outrun itself every day, we will not get anywhere in this country; we will not get social justice and equity, which are the fundamentals of true democracy.

I would like to continue with my contribution and remind the Government of the type of headlines that we had such as “Terrorist watch on Jamaat” and “CEPEP is Jamaat’s cash cow”. This is an article in the *TNT Mirror* dated Friday, March 21, 2002 in which—among other things—it was said:

“Before Guerra met Manning, he was just a common thug suspected by the police of being involved in many criminal activities.

In fact, it is my understanding that the police stopped their investigations into Guerra’s nefarious activities after Manning met him.

Perhaps the police and Manning can clear that up for the nation.’ he said.

Guerra a URP advisor from John John, was executed on March 23 in Wallerfield. He was also a senior Jamaat Al Muslimeen member.”

Part of this article went on to say that:

“The deal Manning made with the Jamaat on the political hustings is now playing itself out on the streets of TnT...”

**Madam President:** Senator, I just want to draw your attention to one thing. I have allowed you to finish reading what you were reading, but you are repeating yourself. You have said the same thing over and over throughout your contribution; just try to come back to some new matter please.

**Sen. Dr. J. Kernahan:** Madam President, I had made certain allegations earlier in my contribution, and I am merely using these quotations to substantiate the allegations that I have made, because I do not make allegations without substantiating them, but I am guided by your ruling.

We are very clear as to what this administration is about; the alliances that this administration has made in its effort to get into power and stay in power in this country, and it is very clear that the way out of this impasse is for this administration to admit—instead of coming to this Parliament with legislation that

imposes new restraints on the freedoms and the liberties of our people—that they need to deal with the fundamental problems of alliance with criminal elements.

The crisis of confidence that we are facing in this society, or the lack of confidence that we are facing in this society, we believe that clause 9 is one of the most serious issues that we have with this Bill because this clause says:

“Notwithstanding any other law, a person who is aware of the commission of or the intention of another person to commit an offence under this Act shall, in the absence of reasonable excuse, forthwith give information to police officer of such commission or intention, as the case may be.”

What this clause is saying to us is that it presupposes that a citizen who might have information, or who might have knowledge of unlawful acts that are committed, is bound to give this information to the police, and there is a liability for not doing so, which is a fine of \$50,000 and imprisonment for six months. Now, this is a serious issue. This presupposes that such an individual will have the confidence to go to the police with certain information; will have the confidence that the police would be able to protect that person and their family in the whole milieu in the society where there is this complicity between elements of the police and the kidnapers.

I would like to bring to your attention the plight related to this clause 9 of a constituent of mine, who had certain information about certain drug dealings close to where she lives, and she decided to go to the nearest police station and report on such activities. She was speaking to a police officer and telling him what she went to report and so on, and when she saw who was the inspector in charge of that police station, she dropped the conversation right there, and she ran out of the police station. She refused to divulge any more information, and we could only imagine her reasons for that. These are documented cases of people being unable to go to the police with their information. So we are very concerned about this clause, which would give mandatory sentences of \$50,000 and imprisonment for people who are fearful for their lives. What guarantee do our citizens have under this Kidnapping Bill? This is one of the clauses that we have serious problems with.

At the beginning of my contribution I said that our national security is compromised, and the people do not have any confidence that they are going to be protected and, therefore, to bring clauses like these to the citizens of Trinidad and Tobago is totally unacceptable, and we will not support clauses like these where the situation remains as it is.

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In order for us to really get to the root of this problem we have to deal with all the institutions that have broken down totally in this country. Another issue that we have to deal with—apart from the police service and the elements of the police service—is the penal system, and we have spoken already about the penal system in this Senate.

There was a case recently of teenagers being found with live ammunition inside the prisons, and they were apparently about to hand these equipment to people inside the prisons. So, when the Attorney General and the Minister of National Security and Rehabilitation come to us with a Bill with clauses like this—and there is a prison service where there is no discipline, there is no security, and the service could hardly be called a reputable institution—what are we to think?

One of the justifications that were brought forward with all these heavy mandatory sentences with no bail and so on—although the Government has taken out the clauses with no bail—was that the kidnappers would be free to continue on the streets to ply their trade and to terrorize ordinary citizens.

I want to let the Minister of National Security and Rehabilitation and the Attorney General know—if they do not know already—that prisoners in the penal institutions in this country have cellphones that they use at will to communicate with the outside world, and this is a basic breach of security. I know that for a fact, because people inside the prisons have called me, so it is not hearsay evidence. So when there is a prison system where there is a total lack of security—where prisoners have cellphones, and heaven knows what other sophisticated technological means to ply their trade and do whatever they have to do—then this Bill makes no sense.

The Government has to start from the beginning and deal with the prison system and the lack of security there, and other institutions like the police service because there is no security. The prison service is a joke. So these are some of the issues that we are saying that before the Government attacks the constitutional rights and freedoms of our citizens, it should deal with the institutions that are already there and make them functional and to do the job that they ought to do.

If the Government were to increase the security, surveillance and monitoring internal intelligence unit in the Ministry of National Security and Rehabilitation, it would deal with all these issues, because the prison officers cannot hide what they are doing when they bring drugs, ammunitions, guns and cellphones for prisoners, and everyone knows that is happening, and people could identify those people and

so on. It is no secret and the Government has to deal with that problem before it brings a bill like this to the Parliament to penalize ordinary citizens of our country.

Madam President, as I said before, we also have to deal with the political institutions in this country. The political institutions do not seem to be respected anymore—the divide between the different arms of the State. When the political elements in this country have put in place certain train of events and certain allegiance and so on, this Bill will be of no use to the people of Trinidad and Tobago. So the Government should deal with the prison service, the penal system, the political elements in this country, the autocratic dictatorial rule of this country, where there is no respect for Parliament, no respect for the law and no respect for the Judiciary. These are the things that the Government has to deal with.

**Madam President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. W. Mark*]

*Question put and agreed to.*

**Sen. Dr. J. Kernahan:** Madam President, thank you. I do not think that I would need 15 minutes because I think I have made essentially the points that I wanted to make. I would like to wrap up by saying that what we have in this country right now is this crisis of no confidence. Our citizens are not confident that they are being protected by this administration; our citizens are not confident of the protective forces; and the penal institutions and so forth which are not doing the job which they were mandated to do by the Constitution and that is to ensure that the rights and freedoms of our citizens are respected and so on.

If this Patrick Manning administration is serious about governance in this country; if this administration is serious about economic, social and political development, it will not regain this confidence that the people of this country have lost in them that is so well documented by these polls and so forth; they will not regain this confidence if they continue to sidestep the core elements of the problem and deal with the periphery and trying to “mamaguy” and make a great show of doing something, because the Government has to do something. The people are angry and they are calling on the Government to do something.

Madam President, I have already stated in this Senate that I am very concerned with the militarization of this society; I am concerned because our

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citizens feel threatened to the extent where they are actually going to be calling for more police and army presence in the streets and so on. We do not want to go down that road. We see a self-inflicting crisis; self-inflicting damage in this society; and then the Government is calling for even more damage by increased militarization of the society.

Madam President, we are not going to get the kidnapers out of Laventille; we are not going to get the gunmen out of Laventille by “Baghdad” type operations in Laventille; we are going to get those elements out of Laventille by methodical day-to-day, good old-fashioned police work of surveillance and monitoring. There are clean, honourable men in the police force who are willing and ready to stand up to do this work if the people at the top are removed and for honourable citizens of this country to come forward and clean up this country.

As a former resident of Gonzales, there are many things that this community has called for over the years and these things were never granted. I worked with an organization called: The Jubilance Community Incorporated that made representations to the Patrick Manning administration during its 1991—1995 term in office. We did comprehensive proposals for the Government that we felt would better the people of these areas, and we were not even graced with a reply. There were conferences in Chaguaramas and the people of these areas brought forward comprehensive proposals and nothing has been done.

The CDF is going to give \$140,000 to community groups in Laventille to help develop the economic status of the people in Laventille, but what is the Government doing? The Government is saying that they are going to develop the entrepreneurial skills of the ordinary people in Laventille to open business and so on, but how are they going to start them off? Is it with \$2,000 or \$3,000 maximum? That is ridiculous! The Government has absolutely no respect for the people of this country. How could the Government tell a man that they are going to start him up in a business with \$2,000? What the Government wants to do is to have these people totally beholden to the Government thinking that “this administration cares about me because I could get \$2,000 or \$3,000”, and the people are going to be back right where they have stated within a week.

Madam President, this is terrible, and this is the sort of lawlessness that we have in this country, because when you have an administration that has absolutely no respect for the needs of the people to advance themselves economically in a sustainable manner, then there will always be the kidnapers; the Abu Bakrs and the Mark Guerras who are going to prey on the gullibility, on the needs and passions of these people to make a better life for themselves. This is what we have



in this country, an administration—from since they were in power in 1956—that has totally neglected the human beings, and CEPEP is not going to do it. CEPEP is going to create—as the URP under this administration—a nation of dependants who have absolutely no sense of self-development, no sense of self-worth, of people who are going nowhere fast.

Madam President, I thank you. [*Desk thumping*]

**Sen. Ambassador Christopher Thomas:** Madam President, I thank you for this opportunity. Before I address the Bill before us, however, I would like to take this opportunity to congratulate our newest Senator and Minister, Sen. Christine Sahadeo [*Desk thumping*] and express my hope that she would be very successful in her new function.

Madam President, democracy is a very long and protracted process, but I wonder whether we have done ourselves justice, or whether we have done justice to our citizens by this protracted debate, where this matter is one of such urgency that, perhaps, in the future, we may find some means to address these urgent questions in a more expeditious way.

I join this debate at a time when a number of amendments have been made to the Bill before us, and if you will permit me, as I go through my contribution, I would certainly like to make reference *pari passu* to some of the comments and amendments that have been made.

I consider this Bill to be a very serious one and one that is certainly very required. Members of this Senate need hardly be reminded that this Bill comes at a societal juncture, where there is fear or where there is even confusion; there is suspicion; there is doubt; there is anger; and there is expectation amongst our citizenry.

One of our Senators, in his earlier intervention, referred to the fact that our society is bleeding on these questions. There is tremendous anxiety, and the society is in anguish over these matters, but most of all, there is anger, and there is a strong sense of expectation. The citizens of this country expect that there would be an adequate and effective response to this question of kidnapping for ransom. There is need to try to confront and engage this question in the interest of the citizens of Trinidad and Tobago. I believe our role in Parliament is to do that as effectively as we can.

**3.30 p.m.**

When the hon. Minister of National Security and Rehabilitation introduced the Bill he indicated that it was intended to be a deterrent. In my view a deterrent, like a threat has a number of characteristics, three of which, I believe, are as follows: a deterrent must be credible, which means there must be a co-respondence between what you have decided to do, what you can do and what you will do. As young teachers and parents we were told that we should not say to our students and children that we would twist their arm if they did something wrong, because if you say that then you have to twist it, otherwise you lose credibility and respect. You must do what you have said that you are going to do, and in that sense a deterrent is only effective if it is credible and it is going to be discharged.

The other characteristic of a deterrent, in my view, is that the penalty must be very clear and identifiable. There must be no mistake in terms of how persons perceive the consequences of their action. There must be an ultimate consequence of one's actions or misdeeds, and that must be clear. If you do so this is what is going to happen. So that you know, beforehand, that there is a clear and identifiable consequence.

The third is—what I would like to term here—that the penalty must be implementable. The capacity of the system to discharge the penalty that is prescribed must be there. At every stage you must be able to implement what you have set out to do and what you have prescribed. It is in that context I want to examine some of the provisions of the Bill. If I start with the question of the identification, that seems very clear to me. We have 25 years for kidnapping for ransom, 15 years for possession, 25 years for negotiation and it goes on. They are very clear. So everyone understands very clearly the consequences of one's actions.

To me, therefore, the other aspects or characteristics of a deterrent effect would turn on credibility and implementability, that is to say our legislation must be effective for a number of reasons, largely because the anger and the expectation of the society must, in some way, be fully engaged. So when I looked at clause 3 of the Bill I started to ask myself a number of questions, and found that I was not getting the kind of feedback, so to speak, from the clause itself as to what was intended. I tried several redraftings of clause 3 and it was to no avail.

Then I was reminded of a Spanish expression—Minister Gift is not here but he would certainly bear with my translation—which says, *zapatero a tu zapato* which, in English, means “cobbler, deal with your shoes; do your function”. And I

began to feel that my function in relation to this Bill, since I am no drafter, is not to improve the drafting. My function in this honourable Senate—as I understand it, and particularly in relation to this Bill—is to examine proposed legislation; to review them critically; to make suggestions and, ultimately, to approve or disapprove such provisions or proposed legislation in the interest of the representation of the people. Since I, myself, could not draft it, I felt that perhaps the best way I could clarify the problems would be to ask a number of questions to see whether the hon. Attorney General, who unfortunately, is not here with us at the moment, or, the hon. Minister of National Security might be able to answer these questions. If I could find answers to these questions then I would certainly think that the direction in which I am seeing the purposes of the Bill would have been met.

So I have written a few questions that I would like to raise and put forward for the proponents of the Bill. Is the provision of clause 3 intended to be all-inclusive? Would everyone who is involved in kidnapping for ransom, as stated in clause 3, that is to say, mastermind, false prisoner, a kidnapper; assuming that they are not necessarily one and the same person? Is the provision of clause 3 sufficiently all-inclusive to ensure that each person gets 25 years? Can there be in the present drafting a discretionary competence of the court in relation to this statutory offence?

Let me try to clarify this. If a series of persons kidnap and hold an individual or two for ransom—take them to Venezuela or to some place like this—and ask for \$3 million, and after a three-month period these persons are brought to justice or to trial, would their punishment be the same as two young persons who—let us imagine—kidnapped a trail walker for half a day for \$2,000, would the persons in each group be subject to the same 25 years? Is there a discretionary competence on behalf of the court in relation to clause 3? Are the provisions of clause 3 susceptible to mitigation—first offence, second offence, magnitude of crime, et cetera?

Finally, how mandatory is clause 3? That is to say, while we know that systems are not perfect, are there not loopholes in the legislation that would allow for mandatory sentences if that is the purpose and intention of the Bill? I assume—and I hope that is the purpose and intention of the Bill. Madam President, I have done some extensive consultations on this proposed legislation and everywhere I have turned the people are satisfied that the Bill is justified. [*Desk thumping*] They are satisfied that they would want this Bill to go through. What they would want to be satisfied with is that when this legislation is passed

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justice would not become a charade, astute attorneys would not find loopholes in the legislation to free persons who have committed this offence, that the expectation of the people would be met. Indeed, Madam President, in my consultations if one had proposed 30 years the people would still accept that. If one had proposed flogging the people would accept that. What they would not accept is a political response to a vexing question in the society that is not truly effective in terms of its legal response. So when we look at the provisions of the Bill this is what really concerns me more than anything else; how effective and mandatory is the provision of clause 3.

I am aware of what the hon. Attorney General has said in one amendment. I believe we changed “is liable or shall be liable” to “no less than 25 years” and in that sense it may, in fact, meet the question of mandatory. But I would certainly like the drafters to look at this again and to ensure that there are no loopholes that can be exploited by astute attorneys. I really have no problem with people’s occupations. Some of us have chosen different types of occupation, but I am concerned with the rights and the interests of the citizens out there, to ensure that justice is done, and that we do not find loopholes through which other things could be done. I am sure some of my defence attorneys would not agree with that, but I stand by that position. I am getting a hard look on my left. [*Laughter*]

I believe it is important that we ponder a little on this because in the present circumstances, if we establish very important, strong and stringent legislation and they do not become effective, we could lose our society over this process. There is a great risk with what could happen if these things do not happen. To use a very local expression “if you huff and you puff and you do not blow my house down the next time I would not open the door. And if you huff a second time I would turn to other means. What is going to happen here if we are not careful? There would be the beginning of hit men, vigilante groups, and more unlicensed guns. If people are not satisfied that the legislation is going to meet their expectation and remove their anger and frustration in the society they would turn to other means. In fact, some of them have already turned to other means.

I am going to omit my reference to clause 4—because I believe that has been taken care of in the hon. Attorney General’s amendment, where there had been a mistake; clause 3 was stated as clause 4. I would omit clause 5 as well, where we talked about a person wrongfully restrained or confined; where we use one term and then we use kidnapped in another way. I understand that would now be replaced by clause 5(1), “a kidnapped person”. So that whether “wrongfully restrained” is synonymous with kidnapping we would have one common term throughout the legislation—and I am happy about that if that is the case.

I am a little concerned with clause 5(2), and I would just read part of it which says “a person who knowingly negotiates” and will get twenty-five years imprisonment. This is clause 5(1) and (2). The hon. Attorney General, in her amendments, has, I believe, removed—[*Interruption*]

**Sen. Morean:** Madam President, just a point of correction. I would like to point out that clause 2 is also one of those that is being sought to be deleted, so that there would just be a clause 5. While we are not speaking to the amendment I just think that I should point that out.

**Sen. Amb. C. Thomas:** Madam President, I stated when I started my intervention I really had a bit of a problem and so I thought I had solved it by saying that as I went on I will address some of these amendments *pari passu*. I am still dealing with the Bill. The Bill here has clause (5)(1) and (2), what is being proposed in the amendment, I would address but I must first address the Bill. That, I understand, is the procedure. Therefore, in relation to the Bill I have a little difficulty with clause 5(2), because we are dealing with two different things here. Clause (5)(2) says:

“...does not apply to a person who negotiates or assists in negotiations on behalf of the kidnapped person.”

The Commissioner of Police has said to us that no one should negotiate on behalf of the kidnappers. Therefore, it appears to me that clause 5(2) should not be here since he said that. If it is here, then we have another problem.

One of our hon. Senators who spoke earlier indicated that maybe there should be some kind of private investigator. Why is he saying that? He is saying that because we have reached a position in the society where, if religious leaders are violating their charges; if teachers are abusing their charges, and if we are in a situation where the police themselves cannot be always trusted, then to use the famous classical term *quis custodes ipsos custodiet*, which means: Who will guard the guard? If we can trust no one in our society at this time to deal with this question, where are we?

Why I have difficulty with the question of a professional investigator is essentially because we would then have started to institutionalize an occupation on the basis of a crime that would seem to suggest we continue when the efforts should be to remove that crime. I lived in Guyana for a number of years and because of the choke and rob situation at that time, a profession started which was called “the watchman”. The watchman was a sub-profession because the security personnel charged a lot of money and those who could not afford had watchmen. I

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had watchmen for my officers, and in a truly democratic system I had watchmen for myself. Before I left Guyana something was taking place; the watchmen were banding themselves into an industrial group and were asking for all different kinds of rights: days off, new salary scales, and a number of things.

So what you found was that while you were seeking to stop one thing you were institutionalizing and bringing to the surface another profession or sub-profession. I need hardly remind the Members of this honourable Senate of the real occupation that we now have with us called “professional bailers”. That is now an institution. If you do not have money for bail you could go to a professional bailer. I am not sure whether it is operating on the margin or outside of the margin of the law. But what we do have now is a continuation of that system that has now become, if not respected, a profession or an occupation that is accepted. I wonder if we move toward professional investigators we would not be seeking to do exactly the same thing.

Even while I say this I do have sympathy for the proposal because I do not see any way out. The hon. Attorney General has said that subsection (2) is removed, but even if it is removed the problem still arises. Who negotiates? Or, who intercedes on behalf of traumatized families, where everyone cannot trust every police officer? Who does that? That raises a serious problem for me in terms of either the omission or the retention of the subsection. Because in either case we are seeking to create an undesirable situation that, I believe, we must seek to deal with in some form. So while I have no solutions to that particular clause, I go back to what I said originally; cobbler, attend to your shoes. And I hope the drafters would find some way to deal with this question so that we could look at it again.

Madam President, I have other difficulties with the legislation, but before I leave this one I must say that I do not know how we could find honest brokers—if that is the term. We know that Trinidad and Tobago has an abundance of natural and human talent: one, being smart men—you may call them honest brokers if you wish. I think there are only two cases in recent memory when our smart men have been outwitted. One is in our popular calypso when the Barbadian was saying to the Trinidadian “take your meat out of my rice”. Some of us who have lived long enough may remember Vladman Jones who said “Sam Cooke was coming; Sam Cooke was coming” and he got everybody’s money and then disappeared. When he did come back he came back as a hero. Persons applauded him at the airport.

So that I am not seeing where we are going in terms of who are honest brokers and who are not honest brokers in the society. And how would we deal with this question—where persons are traumatized; families are traumatized and you say, do not deal with them except through the police. I state here, without needing the immunity of this honourable Senate that many persons who have been kidnapped are negotiating under the table while the police are saying they are not negotiating. If that statement is challenged I could call names of persons who have been kidnapped. I have done a lot of research and consideration on this Bill. So while we are saying one thing on the surface persons are concerned with the welfare of their children, their families, their wives and they are negotiating under the table and spending money and the police are still saying do not negotiate with kidnapers. So the solution is not omitting this, and to me, the solution is not private or professional investigators. Although it seems to me that may be the way we need to go if we cannot find some other form.

Now, let us go to clause 6. I think the penalty in clause 6 is very mild and it should be a lot graver. Let me say, why. I happened to meet at our airport two weeks ago, a young man who had been kidnapped. When he spoke to me about the trauma involved and in addition to the trauma, he said something that was very important. He said when he was at the place of imprisonment he was told: “Do not lie because we have all the information”. And there was a print-out of his account, his latest transfers and the funds that he had in the bank, everything; and he was given a copy and they told him, “This is what we know you have.” I am speaking facts here. I spoke to the guy myself. So I am saying that if the *raison d’etre* of this clause is ransom, then if there was no information on reward then there would not be any Bill before us. It is the information that is creating the kidnapping. People have information and pass information to the persons involved and therefore you could be kidnapped. What you are doing in this Bill is punishing the person who passes the information much more leniently than the person who is kidnapping.

What, therefore, can this mean? It can mean two things. I am working at the bank or an institution and I can pass information and get \$20,000 every time, but that may not be enough. I may then become the mastermind. Why should I get \$20,000 and you get \$2 million? So I become the mastermind and I say, I am going to control the show, and I would pass the information to you but I am the mastermind. So I do not know how you can say someone who has passed the information should be given five years while the kidnapper, the prisoner or the mastermind should be given 25 years. I think we should look at this particular clause and upgrade it to probably 15 years to anyone who passes information of

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that kind; or who is convicted of that offence should be penalized by 15 years imprisonment rather than five years imprisonment. That is one of the amendments I propose to move in this honourable Senate.

Now, I am worried a little about clause 7. I wonder if clause 7 is not in contravention of sections 4 and 5 of the Constitution. I would leave that question with our attorneys and our drafters as to whether it is in contravention. The same applies to clause 8(2) and (3). I suspect that they are also in contravention of sections 4 and 5 of our Constitution.

I now turn to clause 9. Clause 9 of the Bill is very interesting to me. It talks about persons giving information in the absence of reasonable excuse. I ask three questions: Are we not raising a civic duty to the level of a criminal offence? That is my first question. If we are doing that, or if we have not done that, are we not shifting the burden of proof from the accuser to the accused? You tell me that if I do not inform and I do not have reasonable excuse then I am going to be imprisoned, fined and jailed. But I must prove that I have reasonable excuse, not you who accuse me. So I ask my attorney friends and hon. Senators whether we are not shifting first, civic duty, to the level of a criminal offence and then shifting the burden of proof from the accuser to the accused. That is the question I wanted to pose. You tell me that I must give a reasonable excuse. Perhaps, the question is answered and I do not even need to go further.

If you look at clause 11(3), Madam President, it tells you in the second part of the clause—unless I misunderstood it—whereas I am protected for the information I give, that information can be disclosed by the police or the courts if they consider it to be relevant to any other crime or any other form of injustice. Perhaps that is the reasonable excuse. If you ask me to give any information to the police in any of these circumstances my answer is no. My reasonable excuse is; you are going to “disclose” me, my family, myself, my children whoever, can be killed. Because the arm of law is not quite as long as the memory of criminals and so if you cannot protect me why are you going to charge me for not giving you information? If you are going to charge me then you must protect me so that my information remains undisclosed. So I would like again to see that matter taken up to the extent where I am wrong. That is fine. I am really seeking to ensure that when we get a Bill through here we get something that stands up and is sustainable under the circumstances.

I would end this part of my intervention simply by saying that clause 12 also seems to me to be misnamed, in the sense that it is not a protection of witness as it is really a protection of evidence—because you are not “protecting the witness



here, you are really protecting your evidence. So when you say “protection of witness” it does not say anything about the witness here at all. Therefore, you might want to look at that in terms of how you redefine the caption for that particular clause.

Madam President, what I have sought to do in the first instance is to context the circumstances of the Bill. Having done so, I tried to ask questions in relation to the provisions of the Bill to ensure that the expectations of citizens of this country are met. I have spoken to citizens far and wide and I know that they expect, not only an effective, political response, but they want an effective legal response that, would, in fact, address the question before them.

I now wish to turn to some reflections and considerations. Earlier in my contribution—I am not sure whether I said it, but I should have said it—the Bill itself is not a stand alone Bill. This Bill, by itself, would not stop kidnapping. It is a good response in the first instance, but how effective it is, is another question. Kidnapping needs much more than simply the provisions of this Bill. In a discussion with a psychiatrist friend of mine I asked: What could we do to recover this whole question of values of the society that seem to be just going? He says, “You have to start with the children.” Then I ask: What do you mean? Twelve years? He said, “No, three years. You got to begin very young and very early.” What, in fact, he was saying is that you have to begin with the education in the schools and in the homes. You just simply cannot impose a legislation in the hope that it would stifle what is contrary to the development of the society and the shift in values that is taking place.

The Bill would, therefore, be a centerpiece of social action, but it must be clothed; it must be underpinned and it must be circumscribed by larger interests if it is to have any lasting effect. The police resources may be inadequate—although, I am sure there is need for more mobile police officers and more resources—but I do not think that is the answer. I think you need to have a network of relations between social services, labour, national security, of course, and so many other ministries that need to make inputs in this whole question if we got to change and address the question from all its dimensions.

Resource management in relation to the police service is important. By that—I do not want to offend anyone—I believe that the days of the ubiquitous, omnipresent commissioners are over. We need a commissioner who is a planner. We need a whole management system with planners in the police service where there are people who could deal with surveillance, intelligence retrieval of information; how do you store information; how do you get information; how do

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you transmit information throughout the country. I have been to about five police stations over the last three weeks, and there is not a single computer in any of these police stations. Not one! There is no technology. The police officers are not even trained to handle that technology.

If you do not have a simple telephone system here—and if you want to contact any place in the country—you cannot source information; you cannot store information; you cannot retrieve information, therefore, your intelligence gathering is awry. It is not proper. You need to be able to do that. So you have to think in terms of a whole restructuring of the police service. That is why I am so interested in seeing this Bill on the reform of the police service. Because if I may just say, en passant, there are certain aspects of those provisions that are already obsolete in my view, but we would take that when we see it. Because there are no trained police officers as yet who can handle computers and can deal with systems like these. Perhaps we need a whole administrative underpinning of that police service, where there are trained persons in these matters. They may not necessarily be police officers, but they could provide you with that information and intelligence so that the entire question of security could be surveyed. If that is not done the problem would not be dealt with.

We spoke about the need for modernization of technology in information and telecommunications and in the whole context of a new approach. Perhaps, we might just consider some of the things that the United Nations have done. One of the things that was very important for us at that time was to deal with the whole question of peacekeeping. We found that it was such a difficult thing to handle peacekeeping in its comprehensive form that we decided to look at de-segregating it, as it were. The present Secretary General to the United Nations, Kofi Annan, was with us at the time—I had the privilege of steering that committee—and we looked at hostility prevention, anticipation, removal, peacemaking and peacekeeping rather than bring all together.

In this country, in relation to kidnapping and the larger question of crime, we need to have a certain system whereby different aspects of this question could be looked at. No single person in this country is capable of handling the question of peacemaking. So if you sectionalize this whole question and there is a police service where persons are looking at hostility prevention: they know the areas where these things would take place; peacemaking; and then there is peacekeeping, you are then able to look at the hot spots—as we did in the United Nations and around the world; and—in Trinidad and Tobago—and the police know them. I know some of the hot spots; I have heard about them. They all know these hot spots. Therefore, why do we not have a system whereby these hot spots

could be identified and be dealt with specifically? Maybe, there is an example that we can use in relation to that.

The modernization of the police service is not the only way we handle this question. We must look to our communities as well; we must look to what is called the mobilization of our community. I believe one of our hon. Senators earlier referred to this as developing a system where people feel and become, what they call, their brothers' or sisters' keepers, where the information that they have would be able to be passed with the proper protection. It is not true to say that this information is not available. What is true to say is that the community is so traumatized and so afraid that even the information that they have they would not pass. And then when there is a Bill such as this which says—*[Interruption]*

**Madam President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. *[Sen. Dr. E. McKenzie]*

*Question put and agreed to.*

**Sen. Amb. C. Thomas:** Thank you, Madam President, I have not, for a long time, spoken for this length of time on my feet, but I thank the indulgence of the hon. Senators for this purpose. I was saying that the modernization of the police service and the relationship with the other ministries and sectors, public as well as private, is not enough, what is needed is a larger community mobilization. And that larger community mobilization must be backed by the kind of confidence the citizens of the country and the police would have in the protection of the disclosure of information. They would feel protected. What exactly does this Bill say?

Very quickly, if I may say, I happen to come from a family where my father was a police officer. On one occasion, my father and two other police officers served as—what they were called then—NCO in charge of the Blanchisseuse Police Station. Two things I remember happened. The first was that a radio patrol came in and said two prisoners escaped and one was heading towards Blanchisseuse—two police officers and one corporal—and that prisoner was caught in exactly 48 hours. The community was mobilized. Everybody felt a certain need to protect themselves, and so there was a mobilized community in 48 hours. There were no cars and radio patrols; there were two horses that the police officers used, and a funny radio that you had to turn up the volume to get information and the dynamo closed off at 9 o'clock. There were no lights except for candles, but in 48 hours he was caught.

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Now, there was another case where a particular young girl was raped in the community. Again, within 38 hours the perpetrators were caught. Merely because the communities felt that sense of rage, that sense of self-protection and the need for security so they worked together because there was no secrecy. What I am really trying to say—I am not saying it as directly as I could—is that more persons than those who you think know about these kidnappings, and that there is more collusion and there is more information. Unless persons are confident that their information would not be disclosed—more than that, unless they feel a sense of community that this is an outrage, this should not happen, this is where the issue of community and mobilization of the community begins.

My third reflection, following from the question of mobilization of community turns to what is called the mobilization of the social or the national conscience. I know some of my attorney colleagues would disagree with me. This country of 1.4 million people—if you divide this into families of say, five, we are talking about no more than 300,000 units of family in this society. Where do people hide? Where do they escape? Where does money in cash flow—what you might call—under the counter or underground? How is liquid cash laundered in this society? If you are going to buy a house from me for \$2 million and you have cash, do I not ask why?

I came to Trinidad, after many years abroad and brought back some money to buy a property, and if I explain to you the rigours and the concerns I had to go through with the bank, the series of forms to sign, and the number of questions I had to answer. For example, how much do you have? How long have you worked? Where did you get that money from? All this was done. So I ask this in relation to how do you change cash of \$500,000 and \$2 million in the society underground and nobody knows. Everybody knows. When I say “everybody”, I mean groups. They all know. If you go to a lawyer or an attorney to seek his/her defence, and you are going to give him/her \$200,000 in cash, and he would not even ask: Where did you get that money from? This is liquid cash! This is not a cheque of \$50,000. So I am saying that if the conscience of the society is so mobilized then these things would not happen, and we would be able to, at least from that point of view, deal with this whole question.

Finally, I feel so strongly about this particular Bill that I want to put three things on record. I would like to go on record as asking the Opposition in the Senate, if they could find it possible to lay aside their adversarial rhetoric and support a Bill, whose interest is directly related to the people of the country and to their constituencies. [*Desk thumping*]

I would also like to go on record as saying that I would ask the Government in power to do the same, and seek to see the extent to which minds can be brought together in the interest of the people. [*Desk thumping*] I believe Sen. Prof. Deosaran did raise the point—I do not think he quite said that he would offer his services, but to the extent that my own service is required, I am prepared to put that service in the interest of the country, so that we get this Bill through as quickly as possible in the interest of the citizens of Trinidad and Tobago.

Finally, I know I am getting into trouble here but I certainly feel so strongly about this after my consultations, that I would propose in consultation with some of my colleagues and if I had the required support, I would move an amendment to this question of kidnapping for ransom or reward be treated as a non-bailable offence.

Thank you, Madam President. [*Desk thumping*]

**Sen. Prof. Kenneth Ramchand:** Madam President, I thank you for the opportunity to speak on this Bill to provide for the punishment of kidnapping for ransom and other related offences, and for matters incidental thereto. Before I make my contribution, I am happy to tell you that a plot to seize and carry off Brian Lara, Shrivnarine Chanderpaul, Ramnarace Sarwan, Omari Banks and, not surprisingly, David Rudder, to a convict colony for the purpose of cricketing service or for revenge in connection with cricketing activity has been anticipated and foiled.

Madam President, I join my colleague in congratulating Sen. The Hon. Christine Sahadeo on her appointment, and welcoming her to this Chamber. I am sure that this access to beauty will soon be followed by a matching flow of intelligence. [*Desk thumping*]

There is one big question about kidnapping that I am not going to go into and that question is to pay or not to pay. If kidnappers knew that nobody was paying then that would be the end of kidnapping. But if you put yourself into the position of somebody, whose relative or friend has been kidnapped, then you could understand the trauma and the temptation to pay. Certain countries have tried to implement legislation forbidding paying or negotiating to pay. As I said, I really cannot go there because I feel this is a kind of debate in which your brain will be working against your emotions.

Madam President, I have divided my contribution into four sections, and I have called the first section “a word to the wise”. In summary, what it is saying—and I go along with Sen. Amb. Thomas, Sen. Prof. Deosaran and all those who

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have spoken about our responsibilities in this matter—we all have a responsibility to criticize this piece of legislation, to improve it as far as possible, or to get it withdrawn and redrafted, and when it comes back—modified according to our agreements—if it calls for a special majority, we all have a responsibility to give it that special majority. [*Desk thumping*]

There are certain other urgent matters that need to come before the Parliament, and I could mention three. The complete plan for Caroni (1975) Limited, so that we could know what would really happen after VSEP. [*Desk thumping*] Kiss of death. The Planning and Development of Land Bill which was debated in Parliament for years, and passed in the Senate in 2001, and which is still not perfect, but which is the best guide we have for regulating all matters relating to land use, rural and urban development and preservation of the environment.

Thirdly, the Government's proposed modifications of the existing plans for the development of Port of Spain. Since—according to section 7 of the Town and Country Planning Act of 1968—any modifications of the already approved plans have to be approved by Parliament, after a clearly spelt-out process of consultation with the City Council and other persons the hon. Minister considers fit.

There are other urgent matters that need to come to Parliament, but as everybody knows, between 1995 and 2002, the number of kidnappings per year in Trinidad and Tobago has risen alarmingly—the last figures I got, show a rise from 56 in 1995 to 227 in 2002. People feel insecure, and the fair name of our beloved country is being sullied and sullied to our economic disadvantage. Something needs to be done about the rise of kidnapping as an occupation and as a growing industry. The required action includes legislative action that may call for special majorities. Again, I would like to say if we agree in this honourable Senate that certain aspects of the legislation require a special majority then it is the duty of every one of us to give support.

Last year, our democracy suffered, perhaps irrecoverably, from the fact that in the absence of a Parliament, many matters that should have come to Parliament did not come to Parliament. The country began to get accustomed to being run by Cabinet dictate. As a Member of Parliament I would be hesitant to embark upon any policy that would create more openings for any Cabinet to usurp the authority of Parliament. Not supporting sensible legislation which requires majority support falls into the category of the kind of action that would drive us further into Cabinet rule.

It is well known that in Opposition, at the height of the Burnham despotism, the late Cheddi Jagan operated a policy of critical support for the Government,

supporting or not supporting Bills on the merits. I think Dr. Jagan's decision that a blanket policy of non-support would not serve the country's interest or his own, was a wise and healthy one.

Madam President, I close this first section. If after a full debate it is agreed that the Bill has to be amended and certain provisions have to be made that require a special majority, we must not hold the country to ransom by withholding our support. But if the debate establishes that this Bill is just a public relations exercise, it is our duty to expose it and take the opportunity to make suggestions about what should be done about crime including kidnapping. I think one of the weaknesses of the Bill is that it deals with kidnapping, which is only one aspect of the huge crime problem that is facing us.

My second section contains reflections on the Bill's dependence upon imprisonment in the context of a prison system, which is in need of systematic and humane overhaul. One of the key terms in the Bill is punishment, not prevention, not more efficient apprehension of offenders but punishment, in this case, jail.

**Madam President:** Hon. Senators, we shall now take the tea break. This honourable Senate is suspended until 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

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

**Sen. Prof. K. Ramchand:** Madam President, just before the tea interval, I was reflecting on the Bill's dependence on imprisonment, in the context of a prison system that is in need of systematic and humane overhaul. I was suggesting that punishment in this Bill means jail. In 1953, a Jamaican writer called Roger Mais wrote a novel entitled *The Hills Were Joyful Together*. In this novel he described what prison does to prisoners; what prison does to those who are supposed to be in charge of and taking care of prisoners and what prison does to the people on the outside whom the prisoners love and who love the prisoners. There is a frightening image inbuilt into the title of the novel, *The Hills were Joyful Together*. The hills are the hills that form a circle around Kingston and the title offers a stony image of crushing imprisonment in the form of the hills closing in relentlessly from all sides, in a macabre dance and tightening that heartless circle upon the body, to squeeze out the soul of those who are caught in the centre.

If what we read in the newspapers about the conditions in our prisons today, is even half true, you can be sure that I would not covet my neighbour's ox, job as a Chief Executive Officer; or anything belonging to my neighbour, the country or to my fellow taxpayers. You can be sure that the thought of going to prison, whether

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to the purgatory of the Remand Yard or the hell prepared for those who have been convicted, would prevent me from doing anything bad. I do not want to go to a place where a person would do anything for a cigarette. I am sure that you remember that calypso about free Coca-Cola sharing around the savannah. If you know what I mean, Madam President, “put up yuh finger”. “If yuh know wha I mean”, scream like those fresh young prisoners.

In spite of all that goes on in prison I am not sure that everybody is afraid of jail. Sen. Arnim Smith has told us that people who commit crimes are not planning on being caught. Sen. Amb. Thomas has told us that the bigger “fish” are able to pay much cash to escape being convicted and sent to jail. One of the big mistakes in this Bill is that it has too much faith in imprisonment as a way of preventing crime or dealing with offenders. If I commit a crime, I would rather “hang” than go to jail. If prison did not deprive people so completely of family life and their conjugal practices; if we had a prison system based on the principle of rehabilitation which would include equipping detainees with education; providing them with skills training; raising their self-respect and respect for others and enhancing their idea of their possibilities as human beings, punishment would be less punitive and revengeful, and it would have a preventive function, ensuring that those who go to prison would have options when they are released to do things that are different from the kinds of things that brought them to jail.

There is another point I want to make about prisons. The number of women prisoners at the only women’s facility at Golden Grove was about 150 the last time I checked. The world’s figures are that for every one female prisoner there are ten male prisoners. I have not been able to get the statistics for Trinidad and Tobago, but I think we have about 1500 male prisoners. The conditions in the women’s prison cannot be described as horrific. My understanding is that the kind of behaviour reportedly going on in the men’s prisons does not go on in the women’s facility. Have we thought about the implications of the gender disparity? Are men more inclined to do jail worthy things than women? If this is so, have we thought about how to deal with this problem?

Forgive me for thinking about schools while I am thinking about prisons. Consider this in dealing with the problems at schools. Smaller schools up to fifth form—where the teachers know the students by first name, their aptitudes and parents and where the principals know who is on their staff—is my solution to the problems that the Minister of Education is not getting much help to solve. I have a feeling that if we must have prisons, we have to design a different kind of prison and one component in the new design would be smaller and more manageable prisons.



We are very far from having an effective prison system. We may never have the money. We may never develop the compassion and train the personnel to carry out prison reform in the way that it should be done. We are very deficient in critical thinking on the subject. Prison cannot prevent crime. It is hard on the whole to prevent crime. It is hard in our time to make people believe in living a good life and the virtue of working for what you get. These days it is hard to stop people from doing their “own” thing. It is hard to stop people from believing that everything goes. It is not just human nature. People are not unobservant. People are not stupid. If year after year they see big people stealing and getting away with it; if commissions of enquiry show them that nobody gets locked up in the end and that politicians would embarrass one another but would never jail one another; if they see how the party of the State rewards its minions high and low—all those qualified snouts in the trough, in whose name and what name can we come to them hypocritically and talk to them about values, patriotism and being good citizens?

If we want to stop crime, little people must not see big people ostentatiously enjoying the fruits of their non-violent and white-collar crimes and getting away with it. Little people must not feel that all the crime fighting is directed against them. It is hard to prevent crime or even understand it. We have to think. If it is hard to prevent crime and we say we would start thinking about it, I suppose that the least we can do is to make our holding operations, the prisons, less inhumane. Boost our watchdog capacity and crucially—I agree with Sen. Amb. Thomas on this—focus on developing a proper school system as the only way to cut off the supply of criminals.

The third section I call, “Not by legislation alone”. In this section, I would talk about some measures that we could take to prevent crime including kidnapping. I feel that when I go on about this, it may look as if I want to create a state that comes close to impinging on personal freedoms. I would like to discuss this and get feedback. There are circumstances in which one can accept certain impingements upon personal freedom in the interest of society as a whole and our survival. We need to ask ourselves constructively: If we are bringing legislation, what measures should we conceive simultaneously with the legislation? Measures that would support, supplement and humanize the legislation and make the legislation enforceable, as Sen. Amb. Thomas was asking. Everybody is aware of some of the broad headings.

There would have to be new, social and economic arrangements; preventive measures would have to be put in place; we must cultivate preventive awareness

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in our citizens about when and how to look out for a crime to happen. We would have to educate the police and give them special training; introduce and install technology in the stations; give special training to those assigned to kidnapping and pay the police officers a proper wage. I am not willing to blame the police for what is happening in our society. We are dealing with near collapse; gross materialism; loss of idealism; lack of integrity and greed. When a city or country is collapsing everybody becomes a looter. The country is being looted by the citizens because it is collapsing on its vacuousness. We need to supplement the legislation with a programme directed against kidnapping in particular and crime in general. I can give some of the headings beginning with measures directly related to kidnapping, although I am unable to think of kidnapping activity as separate from some other forms of criminal activity by the said kidnapers.

I have mentioned prevention and prevention awareness. We have to pinpoint the sites and occasions that are favourable to kidnapping and set up patrols or a police presence. We have to understand the routine and the mode of action of the kidnapper, especially those who are snatching. If they are snatching they have to snatch at convenient points and make their getaways. We can study the activities and know what are snatching points. We have to educate every citizen, rich or poor, to understand that he can be the pawn in the kidnapping operation.

If I have a poor relative in Icacos he must not feel that he cannot be kidnapped. They will kidnap him and try to take my \$50. Everybody rich or poor must realize that he can be a pawn in a kidnapping. That message has to go out to our citizens every day, letting them know the kind of thing they must not do or the kind of place they must not find themselves in because a potential kidnapper can snatch them and use them to extract money from somebody who has no money. I think that certain aggressive measures need to be taken against the gangs.

A few weeks ago Sen. Robin Montano claimed that surveillance equipment was being used to spy on him. If we have surveillance equipment, use it to spy on all those criminals, gangs and community leaders. Listen to their phone calls and find out what they are going to do next. There must be training programmes. I often tell my wife that if a thief breaks into the house threatening mayhem, I feel that I can rap him out of stealing. I would carry him in the study and tell him, "Well I have books, you want some books? If you can't read them, I will give you lessons. I am your boy. I am always fishing up in Macqueripe. I am always at Icacos point. I am your boy. You want some food? I could make you nice fry bake. You want some buljol?" I could rap with him, unless he is a desperate kind of guy, which I am afraid he usually is. We still have to learn to talk to kidnapers.

An interesting question was put to me, that if I am kidnapped and I know that I am being kidnapped, could I tell the kidnapper, "Don't carry me anywhere. Don't call up my wife and give her trauma. Don't call up my family. How much is the ransom? Carry me by the bank. I will give you your money and we call that George." I know the Attorney General would come after me for negotiating a ransom. We have to teach people how to talk to kidnappers. *[Interruption]* I could give extra lessons like many of the principals in the secondary schools, except I do not have a school to use as I please.

Kidnapped victims are a source of information about how kidnappers operate. We have to tell people that if they are kidnapped, look at the kinds of routine the kidnappers follow, so that when they are released they can contribute to the educational programme in kidnapping prevention. I am sure there are many other suggestions that can be made.

I do not think this is draconian. It seems to me that the answer to crime and many other problems in this country is decentralization. By this I mean, you divide the country into ten or so administrative regions and in each one let there be a major hospital, fire station, sports complex; branches of ministries electronically connected to branches in other regions and map each region. Use the army and the police, go into every nook and cranny and find out where everybody lives and get their names.

When ordinary census takers come around, as soon as a dog barks, they are gone. If they see a house looking like they would be raped or kidnapped if they go there, they would not go there. Ordinary census takers are not enough. We must have an armed presence. In each region that you have mapped and bounded go into every house. Find out every trace, track and alley and map them. The police working in that region must have that map and know it by heart just as taxi drivers in London have to know certain areas by heart in order to find the shortest short cut to get anywhere.

You get to see how anybody enters a zone or region. For every point of exit and entry you have surveillance cameras. You bottleneck the crime in the region and have recording of all cars coming and going. For each region you get a number plate. If it is Caroni you call it green. All licence plates from Caroni would have a green border and begin with "C". I do not need a number plate to tell me what is a taxi; what is a "PH"; what is a maxi and what is a truck. Throw out C, PP, P, H, T and so on and begin with a letter that indicates the region. All vehicles are to be licensed according to these ten regions. A car that goes out of a region to commit a crime would be spotted immediately and you could track it

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down. Change your number plate? No. These number plates would be issued only by the Ministry of Works and Transport and they would weld them under the cars. That would be your number plate for life. “You’re not getting any stylish” number plate from any fly-by-night number plate manufacturer. The State would be putting that number plate on the car. Make it permanent.

I am talking about prevention, surveillance and control. I am thinking about these regions as a way for the country to develop. The regional divisions would help us to understand and focus on each region to see the specific development needs and recognize the options for relevant and sustainable employment in each region. It would help us to cut down on the heavy trafficking from one region to the other. You do not want to build the overpass, that is a good reason not to build it. Everybody does not have to go to Port of Spain to work. It would cut down on commuting; reduce the effects of those crime-producing twins of unemployment and social displacement and limit the emergence of ghettos and camps instead of homes.

I want to go back to the mapping of the region and the conducting of the census. We tell everybody that they have six months to get an identification card and then register the cards in the branch of the Ministry of National Security and Rehabilitation of that region to be computerized and either walk with the card, or know the number. Expect that if I wake you in the middle of the night and ask for the card and you say that you do not have it but you say the number, the people can check on you. It is kind of draconian. This is a small country and nothing can hide. Nobody can hide in this country if we have the will to bring that about. I think that we need continuous night patrols and universal street lighting using sodium lights and leaving no dark places. It cannot be done by legislation alone. There are measures to be conceived at the same time as the legislation, which will contribute to better control and the development of the country, as a way of providing employment and opportunity and sapping crime of some of its causes.

My third section is called “Kidnapping for ransom only”, the need for research and thought. My main point is that this Bill is an attempted draft of a kidnapping for ransom Bill. The Bill does not speak either to the spate of kidnappings nor the increase in crime and violence in our country. It is easy enough to say that legislation cannot prevent kidnapping, but that is not a good reason for saying that we should give up the idea of legislation. It is like saying, do not bother to change the Constitution, if we were reasonable any old Constitution would do, or forget law and forget police. There is no crime in heaven. Let us just work at making people better. You cannot say that legislation alone cannot do it, so forget it. You need legislation. You need to take steps and reform the Constitution.

Sen. Seetahal has informed us that kidnapping is one offence for which we do not have written laws and fixed penalties. The hon. Senator did not mean that at present kidnapping is not a punishable offence. It is a punishable offence under the common law. We are not gathered here to criminalize kidnapping. It is already a criminal activity. I agree with her that the time has come for us to put in place legislation to deal with the offence of kidnapping. We must have our law or laws on kidnapping. Before framing our laws on kidnapping, we need to look at the different kinds of kidnapping or abduction. We need to look at the pattern of kidnapping in our country. Who is doing it? For what purposes? We need to do a comparison with kidnapping in other countries.

Look at clauses 7, 8 and 10 of this Bill. When you read these clauses you would imagine that kidnapers in this country have big savings and investment accounts in the bank; they are keeping books; taking notes and issuing receipts, vouchers and other documents in respect of money or delivery of property. What analysis of kidnapers in our country is this conclusion based on? If as it is possible some of our kidnapers are also engaged in other criminal activities and have money-laundering devices in place, can clauses 7, 8 and 10 help us to differentiate kidnapping deposits from other deposits? At the less professional end, do kidnapers who ask for \$200,000 put their loot in the Unit Trust after expenses? They deal in cash and people accept it. No questions asked. They pay their lawyers by cash; buy gold chain, pendant, ring, massive wrist chains, fancy cars and Johnny Walker Blue. I have never drunk Johnny Walker Blue. Our kidnapers are not into savings. Like most of our criminals they are likely to be consumers just like their white-collar counterparts. Our research would help us to understand our specific situation so we would devise laws, penalties and controlled measures appropriate to our country.

I have to go on one of my hobby horses. I was very interested in Sen. Seetahal's explanation that when we copied certain measures from the Singapore legislation, we did not look at the Singapore constitution which is more draconian and much less liberal than ours.

**Madam President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. E. Mc Kenzie*]

*Question put and agreed to.*

**Sen. Prof. K. Ramchand:** The propositions that we hold in culture, politics, linguistics and science apply also to law. There are human universals but there are no cultural universals as colonialism has tried to brainwash us into believing—and still tries to impose on us through the Privy Council—the notion that law and justice is universal, but particular laws have to be culture specific. Research helps us to trace the history of kidnapping; register the emergent forms of kidnapping and to notice some of the essential ingredients in kidnapping.

I present a little of that research before time runs out. The first reference for kidnapping shows that the word comes out of two words, “kid” and “nap”. The earliest reference I can find for “kid” in the dictionaries is in 1200, where the kid is a calf. The word “nap” or “nab” is to steal or carry off. It is of obscure origin but there is an early entry in the 1680s. I speculate that kidnapping first had to do with fowl, chickens and goats. People were stealing young cows and goats. Then, it went on to children. I think that men thought that their children and women were also their domestic animals.

By 1682, there is a reference in the dictionary, which refers to kidnapping servants or labourers for the American plantation. In 1688, a man called John Dykes was convicted of kidnapping or enticing away his majesty’s subjects to go as servants in foreign plantations. In 1680, Mr. John Wilmor kidnapped a boy aged 13 to Jamaica. It is connected with the stealing of persons, animals, children and women all considered to be chattel or property. It has the ingredients of carrying off by force or guile without consent from one place to another. If you captured a man you were capturing a prisoner or holding him as a hostage. The motive would be sale, rent, fulfilment of contract, revenge, labour, sex and marriage.

As Sen. Bro. Noble Khan would tell you, Madam President, it is a crime that you find in the Old Testament. If Sen. Pundit Persad were here, he would have told you that whether by guile or force, Rawan carried Sita off to Lanka without her consent. That is a case of kidnapping. The Caribs abducted Arawak women. Cavemen clubbed women hence the female phrase for a man, “you’re a knockout”. Cavemen clubbed women and dragged them by their hair into the caves. Madam President, when on your glorious wedding day, your beloved husband carried you over the threshold, this was a modern re-enactment and sanctification of the caveman’s practice of clubbing and dragging you into the cave.

We are seeing the ingredients and we have to understand all the ingredients before we can frame the legislation. You have to think about the persons doing

the kidnapping; for what purpose and what kind of action accompanies it. It is clear from the history of kidnapping that there are different kinds of kidnapping. I am not sure that kidnapping for ransom is the only reprehensible type. There is kidnapping of a child for the purpose of doing animal pornography video; kidnapping for prostitution and slavery. I do not like how the legislation seems to prioritize kidnapping for ransom. It leaves us to go to the common law for all the other kinds of kidnapping. This is a very opportunistic kind of legislation. We feel kidnapping for ransom is very strong now, therefore let us deal with that.

I feel that the problem of kidnapping is a growing one. In Colombia and many of the Latin American countries, the target of kidnapping is foreigners. Eighty per cent of the kidnappings are perpetrated against Europeans and Americans. This is what the revolutionary groups and the rebel groups that are also associated with drug dealing use to raise revenue to fight their liberation or political wars. It is foreign currency. Do not tell me that that would not happen here soon. The people who work with the companies that are investing here would be targets. Kidnapping is not static. If we want to legislate, we have to study and categorize it and prepare the kind of legislation that would allow us not to have to run to Parliament every time a new thing comes up.

After centuries of human rights gains, we have moved back to a point where the person is being turned into an object being reified once again. We have gone through all this when people were chattel. After centuries of development, we are back to a point where persons are being used, sold, traded, put into service and made to disappear as if they were objects. It is a very serious problem and we have to take a serious look at it before we legislate. The category chosen by the Government is kidnapping for ransom. The offences are being spelt out. Penalties have been increased and in clauses 3, 4, 5 and 6 they have been made mandatory. I have listened to the Attorney General's explanation that she wants a powerful deterrent. I agree with Sen. Seetahal that the ability to vary the sentence in order to get a small fish to provide evidence to catch a big fish is an important part of dealing with this kind of crime. I join her in asking that these penalties be not made mandatory.

Our focus on kidnapping for ransom is unique in the English speaking Caribbean. I have the legislation for about 12 different Caribbean countries and except for two, the penalties are not mandatory. In every one kidnapping is dealt with as kidnapping, not kidnapping for ransom. It is nice to be different. I do not know why we want to be different in these two respects. It makes less effective our ability to deal with kidnapping, if we approach the problem so narrowly. The

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Barbados legislation is interesting to me. I am sure that the Attorney General has looked at it.

I agree with the criticism that the word “service” in clause 3 opens the thing. It is no longer kidnapping for ransom. It makes the category not watertight. I recommend the removal of the word “service”. My ideal position is that we should turn all the common law relating to kidnapping into statute. We should take in all the kinds of kidnappings we know about including those covered by common law; categorize them; set appropriate penalties and turn them into written law or statute. If you do not want to do that, leave kidnapping as a common law offence and do as murder and have the penalties provided in statute. If neither of these can be agreed upon, every attempt must be made to make the category watertight.

I have said enough to indicate that I would like to see this Bill withdrawn and redrafted in light of the many worthy contributions in this debate. If this is not done, I think I will vote in favour of what the Government puts forward, but I would do so grudgingly and in keeping with a proposition I despise which is, a crumb is better than no bread at all.

**The Minister of Public Utilities and the Environment (Sen. The Hon. Rennie Dumas):** Madam President, I join the other Senators in welcoming Sen. Christine Sahadeo to this Senate. I wish her a long stay and I know that she would be a big contributor to the debates and activities of the Government of Trinidad and Tobago. I do not have the nice language of the Senator who spoke before me.

Earlier in the evening we had a division on what some people thought was an action. I want to use that as my departure point as we stand to call for a division. A division on this Bill serves a function. It is not the division that we heard from Sen. Dr. Kernahan between the members of the Patrick Manning administration and the Panday boys and girls. It is a division that asks us to stand on identification with a position with regard to how we manage the society. It asks us to identify where we stand between savageness and civilization, between the continuance of the aspirations of a people and the willingness to see ourselves dragged down and ensure that personal, private, family and community security become victims of narrow, partisan interest. I suggest that the best instincts of this Senate would ask us to identify with the position that focuses on responsibility. The advice of the good Sen. Amb. Christopher Thomas would lead us where we should go.

When we focus on the problem, as some of us would have said before when we were younger—I refer directly to the Leader of the Opposition—he would



have said, if you are not part of the solution, then you are the problem. I know he would have walked a road which would have called for him to say get up and stand up with the civilization that we are trying to build in Trinidad and Tobago. He would not be part of anything that drags us backward. I am sure that we can ask for that.

I stand in support of this Bill presented by the young Minister, a trained full-hearted, energetic, earnest, hardworking young man who has taken on the responsibility, trials and tribulations of governance. He has come to serve the people of Trinidad and Tobago at this time of need. When we stand today we must join him because he is leading the public charge in a delicate and dangerous place as Minister of National Security and Rehabilitation. He should be supported in will, word and deed. When I was contributing to the budget debate, I said that some of us suffer from a Rip Van Winkle syndrome.

Some of us conveniently forgot and continue to forget why there is a change in the seating arrangement in this place. Some of us forget that the word "corruption" is one that walked in the heels of the people on the other side. Some of us forgot that ministers of government, at least one, stands accused of murder in the society. Some of us forgot that we have evidence that people have been party to violent robbery, supporters of the other side. Some of us forgot that there is active evidence of collusion with the international mafia walking on the other side. Some of us forgot our history and stand today and point fingers.

At all times of trouble come solutions. That is the hope in which we live. We live in the hope that we come together whether we believe in prayer or active propositions of solution, or we believe that the society can work together for the best. We know that in times of trouble something happens. The old people from the countryside in Tobago from where I come say, "if he cannot come, he will send a man". There are good women and good women, here today. [*Laughter and desk thumping*] If we put these good women with these good women we would find a solution. When I look over there I see good brains and good strength. I am sure that we would find an appropriate solution.

Kidnapping is a heinous crime against the person, family, community and one of national impact. The fact that we are spending so many hours with Senator after Senator, while promising to be short, has used all the time available to him or her. It is a serious matter in which the best will, mind and intentions must come. It is a matter that has caused a public outcry in Trinidad and Tobago. From the population has come a cry for help against the perpetrators. An appeal has been made to the national system. The leaders of the national system are the

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representatives of body politics in whatever party they exist. People are happy to say that they are representatives of a party in the national sphere. You cannot be important if you are not taking up your responsibility.

Some of us have failed in taking up our responsibility. We need to answer the call of the people and the appeal to the parliamentarians whether we are Senators or otherwise. As Senators, it is our duty to come with the best solution or compromise in this call. We have a responsibility to design, develop and deliver public goods and services including safety and security as a matter of public policy and administration. If we build that intent to bear and understand where we are, then, we can see the matter no other way than this is a public policy matter requiring the use of data and policy analysis. I commend and put on record how much I feel Sen. Prof. Deosaran, Sen. Amb. Thomas and Sen. Seetahal, to name a few, have contributed to this matter of bringing policy data and analysis to bear on this matter. I know that this side of the Senate has also brought the same. It is with the best of intentions that the appropriate policy response has been decided upon.

**6.00 p.m.**

I suggest that the policy outline of “no quarter to the kidnappers”, of bringing to bear the full weight of all that we can muster as a nation against the kidnappers who hold people and are looking for ransom is what we should leave here with this evening.

Legislation is part of the response and is required because it is an unavoidable part of the public policy programme, which we must bring to bear on this matter. As Senators we must agree. I do not want to be too harsh because I know that people can change their minds. I know that there is a wavering. I know that people have come to this Senate saying all sorts of thing. They go into the streets and the people tell them they need the law. They have heard the people say that the reasons they give for not supporting the law are not good enough and they are wavering.

They are no longer saying “We wait for Constitution reform”. They now say they wait for something else. They keep changing. We suggest that they stop wavering because as they waver and dither, what they are doing as the Opposition is arguing the case of the kidnappers. So long as you do not come fully to bear on this matter, you are leaving room for the continuance. We need national consensus.

There are some things that we have agreed on. Just to identify them; there is already a long-standing agreement that there is a gap in the capacity of the police

to respond to what is going on. We have agreed that in the police service, both in structure and in system, as well as in equipment and structure, there is the gap between what exists and what is desirable. That agreement has been long standing and continues to this point—the point of the joint select committees of both the Lower and Upper House.

We know we cannot go forward except we come together with a number of pieces. Sen. Prof. Ramchand said that the legislation is not enough. We have to deal with the police. I think there is general agreement, but in all human things you cannot have ten priorities. You have to decide one by one, as human capacity allows us; to select one, move on to another one and bring them all along. You cannot do all things at one time.

The first thing they teach you in management anywhere you go—even in learning your tables, you have to start with two by two. Since we are aware we cannot do all things at once, I suggest to you that we throw our weight behind this piece of legislation. Let us get it passed and if it needs to be fixed, let us come again and fix it; but let us show some sign that we are serious about holding the civilization together and protecting the families and individuals of this country from all the vagaries that we know are a threat, when we bring the kidnapping activity on the table for examination.

We need to review the legislation. We are doing that. Sen. Prof. Ramchand, if the other Senator had the good fortune to walk certain places, he would know that there is a reason for that confusion. Our experience of this national calamity does not require any variation either by a disloyal, resistant or recalcitrant Opposition or any individual behaving otherwise than in the public good.

I do not want to tell you—because I am sure you would have heard it yourself—and I do not want to ascribe less than honourable motives to anybody. The recalcitrance has been described as treason—some people have likened it to treason—with the suggestion that if you stand in the way of the safety of the people, if you are disloyal to the process of governance, if you do not accept the will of the people, especially when they express it through constitutional methods and through the officers of the State, then you are skirting very close to treasonable behaviour. It has been so suggested.

Even as we seek ways of doing it, when we deliberately set about an alternative government in a country where the government is legitimately elected, legitimately appointed and proceeding about its business using legitimate methods, you are skirting very close to that. Then when we come to the

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Parliament and get the offer that was given to Sen. Nicholas that if you do not like something in the Bill, you should put forward an amendment, and he answers that it is not his business, or words to that effect, I am suggesting that you are obstructing a responsible, responsive government that is dealing with the real matter that faces the people.

This Government, which represents all sections of the national community, is saying that we care and that we want to help fix this matter. [*Interruption*] We cannot do that—

**Madam President:** Hon. Senator, you are speaking directly to the opposite side. Speak to me! Please.

**Sen. The Hon. R. Dumas:** Madam President, when one woman Senator—and I like my words to be very soft where women are concerned—describes the statements of the good Senator/Minister, when he is commiserating with the victims of crime and expressing his manly feelings of caring, as crocodile tears, she is out of place. She has no holding place on caring. How does she dare to assume to know the feelings of the Senator/Minister who stood and swore to serve the country and has given a goodly part of his youth in that direction? I am sure she will want to withdraw those words. She will do it quietly to him after. We know the people on this side care. That is why we are here.

In our search for a solution, we have been very careful to adhere to the principles of the rule of law. We did not declare any funny behaviour. They did not see any hit gangs being organized by this Government. They did not see any illegal entry into houses. They did not see any unlawful action being pursued. What they see is a Government coming to this Senate and saying these are the solutions they propose for the problem. We are asking you to join with us lawfully and properly, after considered judgments, to ensure that the legislation is the best that this group of people can put together. I am afraid that if we do not use legal means, some people will find themselves in other places doing things, which, in their frustration, is neither good for them nor the country. We are presenting a response and we are asking that you join us in developing that response.

I say those things because I notice that when the suggestion came that there should be no bail, some people decided that this was exactly the thing they would use to destabilize the country. They would suggest to the people that the PNM wants to lock them up and all that kind of craziness. I remember looking in wonderment at the behaviour of some people. Some people, in their contribution, said that we have \$71 million worth of equipment that we are using to spy on them. Then came another person on the same Bench, with crocodile tears, saying

that we have the equipment and are not using it. [*Interruption*] They cannot have their cake and eat it.

The Government has to act as the Government and that is what we are doing. The target for this legislation is really three components as was pointed out by the Senator in presenting the Bill. He was talking about surveillance. He also discussed negotiation and the question of abduction and holding. The critical aim of the Bill is deterrence. He is saying, "We should have an Act together." I read his contribution earlier and I said: What is so hard to follow, when you put the speech and the Bill together? Why is it so hard to understand that the criminal must see a closed fist when he considers attacking our children, our neighbours, our families and our communities? What is so difficult in that? Why are we afraid of that and the only negative thing we can imagine is the employment of state power against the innocent in the society? What paranoia? Where did we come from that we believe that the only thing the Government, made up of individuals from communities right through Trinidad and Tobago, has on its mind is using the power of the State for some nefarious concern? Where does this come from?

Since this Bill came to the Senate, I have seen, unfortunately, instead of the bipartisan approach that the Minister asked for, a political party paying its rental bill in the halls of a trade union by saying: We shall not discuss that, until we discuss Caroni (1975) Limited. Then, I saw a body of people saying that we shall not discuss these matters until we have the charges against an individual dropped. I saw a body of people saying we shall dislocate the activities in this country or mash up the place and create dissension and strife unless we have our way. That is what they are saying.

I am suggesting that they remember well. What we need is the capacity to bring to bear the interest of the people, the power of the State on the concerns as expressed by the people: that they are tired of being victims; that they want the State to act as one; that they want this piece of legislation; and that they want them to help it to be the best it can be.

The Minister promised and he delivered an increased number of policemen in the Anti-kidnapping Squad and increased surveillance capacity, working towards the safety and security of victims and, Madam President, prevention as a means of deterrence. What he asked for, Madam President, is the capacity for tougher legislation, increased penalty and, more than that, a demonstration of public commitment.

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I sound like this because, unfortunately, I have had some recent experience. *[Interruption]* Madam President, I ask for your protection. I take a minute to share this experience with you. On April 17, 2003, some allegations were made that suggested that members working in a certain state-owned agency were in collusion with kidnapers. All measures were taken to contact the persons making those allegations. None of them responded and there was no evidence.

At the end of April that same group claimed they had agents working in that agency. The man was on the TV saying that. He continued in that vein for the rest of the week and on May 04 he reported that he had gained access to some articles belonging to that institution. We found out that on Saturday, May 03, at 8.20 p.m., those articles came into his hands. Investigations revealed that those articles came out of the security of that institution by means of a burglary—a clear case of burglary—a break-in in the Chaguanas branch of that facility. *[Interruption]* There is always a gap between investigation, apprehension and prosecution. We are clear that there is no problem with the system except what is brought to bear by human beings acting deliberately to sabotage and cast aspersions on the validity of that activity.

Further, when in violation of the law, certain people continued to have and hold articles belonging to that corporation, there is a clear violation of the law and there is a clear case to be made of deliberate activities in attempting to destabilize the country. We suggest that people who hold themselves as guardians, purport to be guardians of the people's interest should avoid activities that tend to go in that direction because we know not where it goes. We suggest that we leave the police to do what they are best trained to do and they stay out of other people's business and carry on our activities.

Madam President, we suggest to you that sometimes in our zeal one could overreach oneself, but we take collective responsibility for the well-being of the country and of the individuals who populate it: the families that those individuals attempt to feed, clothe, shelter and educate. We suggest that we acknowledge that at this point, the continuance of this crime and the absence of appropriate measures to deal with it, and especially the absence of a clear expression of our collective will, does not serve any of us.

I suggest that there is nothing to fear by putting enhanced authority in the hands of this young, earnest Minister, nor of the Government of which he is a part; nor of the individuals we have selected by various processes throughout Trinidad and Tobago in our various services, whether the police, the prison or the general public service. When we find individual trouble, we will deal with it, but

collectively our systems are not worse than any in the world and the people who operate them are our people and they are not worse than any other people in the world. They have demonstrated any time they are distrustful of any group, they will remove that group from authority. That is how people have acted. Because we have that kind of focus—

#### PROCEDURAL MOTION

**The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith):** Madam President, I beg to move that the Senate continues to sit—and since I have agreed with the Leader of the Opposition to have one more speaker from his side—to 7.10 p.m.

*Question put and agreed to.*

#### KIDNAPPING BILL

**Sen. The Hon. R. Dumas:** Madam President, the fears that have been expressed—and I come again to them—in my view, are misplaced. Even the earliest speakers on this matter have also demonstrated why those fears are misplaced. I do not think you can find a better analysis or, more cogent proposals than we had earlier. Certainly the emotion, too, says this is our country, Trinidad and Tobago; that we need to work and project into the future from a solid base, coherent viewpoint and solid philosophy in terms of public policy and matters, it would be difficult for any people from anywhere else in the world to match. If on that basis we examine the legislation and take the best from it, we understand the context we are in, then I am sure we will have agreement that the legislation is worth our time and should be enacted.

The alternative is to argue the kidnappers' case: do nothing and let us make our money; do nothing and leave the citizens of Trinidad and Tobago exposed to the wolves that we have presently. We have to be careful.

Sen. Amb. Thomas said it in his style, in his total command of the Spanish, but there is an old saying that a “workman must be worthy of his hire”. When we sit here as Senators, we are workmen for this country and we must be worthy of our hire. We must do what is best for Trinidad and Tobago. We cannot ignore what people are saying. We cannot ignore what is for the benefit, protection and service of the country. I suggest that with the years of training we have all gone through that the expression of confidence and the award of a seat in this Senate require us to come to duty.

Coming to duty today requires us to look honestly at the legislation. It requires us to stand up and be counted. It requires us to stand on the division and say I am

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on the side of the citizens of Trinidad and Tobago. I am on the side of a secure citizenry and I am willing to work with the rest of the people in this Senate.

Madam President, I am going to take my seat, but I am asking the other Senators that at the end of the day let us all be standing on the side of security of the people of Trinidad and Tobago. I thank you.

**Sen. Carol Cuffy-Dowlat:** Madam President. I must begin this afternoon's contribution by joining with all the other Senators—and my colleagues on this end—in congratulating Sen. The Hon. Christine Sahadeo on her appointment to the Senate and as a Minister of Government. When females are recognized I feel extremely proud so to a sister, I say well deserved.

Madam President, as the man thinketh so shall he speak, and this afternoon, as I listened to the hon. Attorney General speak on the Bill to provide for the punishment of kidnapping for ransom and for matters incidental thereto, I began to understand the meaning of that expression.

The hon. Attorney General told us several things, but I begin by pointing out what I know might have been a slip of her tongue. As an experienced attorney, she would understand certain legal doctrines and I now quote the hon. Attorney General:

“As we all know, the Government is comprised of the Legislature, the Executive and the Judiciary and we all have to work together for the good of the country.”

I am certain that the hon. Attorney General did not mean that because she is fully appreciative of the doctrine of Separation of Powers. When the Government sits as a Cabinet, it is the Executive. When it comes into Parliament, together with the Opposition and the Independent Benches, the Government proposes the legislation and passes laws and the Judiciary is the one that implements the legislation. So, it is instructive because it tells us the thinking of the Government. They think they are the Legislature, the Executive and the Judiciary. They think they are all three. This is why we have this Bill before the Senate, and it explains the behaviour of the Government.

Madam President, as the man thinketh, so he speaketh. The hon. Attorney General in her contribution began by saying that when her Government took office in 2002, crime was spiralling and out of control. She is quite right, for between the period December 24, 2001 and October 2002, when her Government was appointed and anointed, it did nothing for Trinidad and Tobago but politick. Parliament did not meet to pass laws or to do the people's business. Abu Bakr and his men took control of our streets, URP and other institutions. PNM Ministers went shopping and spending money, so the country was on autopilot and crime went out of control.



What did the Attorney General continue to tell us? I listened intently to her. She told us that her Government is putting bread on the table of young people. Short-term, instant gratification is what this Government offers the young people of Trinidad and Tobago. I want to take that further. Madam President, do you know what is happening on the streets? On a Friday evening, it is a black bottle in one hand, a box of chicken and chips—usually for the “gyul”—and some money to party over the weekend. Is this the culture we want for our people? This is the food we are putting on the tables of our young people. I think we are losing the culture of hard work, of the dedication and commitment of our young people. It is being destroyed and when the hon. Attorney General stands here and says that this side has accused her Government of stealing the election, I want to shift a bit. I think that the Government is stealing the soul of our nation by destroying our young people with the programmes they now provide.

When we look at this piece of legislation before this Senate, what is it intended to do? The hon. Attorney General says that the legislation before this House seeks to empower law enforcement officers to curb kidnapping. Is that really the problem facing the society today? Do you think, Madam President, that the problem is kidnapping? The problem is bigger than that. The problem is crime in Trinidad and Tobago. This is what the Government should be addressing, not coming with a piece of legislation. I suggest that maybe the Attorney General can speak to the Leader of Government Business and the Minister of National Security and Rehabilitation and do what has been suggested indirectly to them, withdraw the legislation, go back to the drafters, collate all the information and come back, if they so feel they must, with a comprehensive piece of legislation that we can all read and understand. The true intent of this piece of legislation, with all the piecemeal amendments, is difficult to understand.

I really think that the Government ought to be addressing the serious issues facing the society. By saying they will put bread on the table of our young people through CEPEP, old age and disability pension is not going to solve the problems of the society. It is more endemic than that. Unless we understand the root problem, how will we deal with the situation? If we understand that crime is out of control and we accept that as a government they do not have all the answers; and if we go out there and discuss with the citizens of Trinidad and Tobago how we to deal with the issue of crime, then we may begin to make some headway in dealing with the situation that exists today.

The common law quite adequately addresses the issue of kidnapping today. Simply take the Bill in one to its form—I am not too sure what would be the

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correct form. When we look at the definition for kidnapping and the penalty, the definition is very convoluted.

I think Sen. Amb. Christopher Thomas was making the point that we must be careful that we are not passing legislation with good intent, but by the time we get into court, attorneys will be able to find so many loopholes that criminals can walk free. When you have legislation so wordy, it makes it easy for lawyers. I can tell you that as an attorney—and many of my colleagues here will tell you—that the more complex the legislation the easier it is to get around it.

Madam President, when we look at the sentences and we see “not less than 25 years, not less than 15 years”, we are now about to remove a certain discretion and jurisdiction we had given to the Judiciary. I hope, Madam President, you are making the connection between government as defined by the hon. Attorney General and this piece of legislation.

I want to paint a little scenario to explain why I find it extremely difficult to support legislation that says that penalties must not be less than, in this case, 25 years. Suppose, for instance, there are two young men working for a businessman. This businessman refuses to pay salaries or is always short-paying and short-changing them. One day, they happen to see him on the street, drinking and liming and they decide to take him in a car and say they want their money; but by the time they tell him that and he says he is going to the bank to get the money, the family would have already said he has been kidnapped. Those young people will be charged, according to this legislation, for kidnapping and brought before the courts.

Madam President, are those circumstances sufficient to warrant a term of imprisonment of not less than 25 years, or should judges not be given the opportunity to continue to examine all the circumstances of the case before they pass sentence? We have very capable and competent judges in our courts and when we legislate like this, we are taking away jurisdiction and discretion that I am not too sure is in the best interest of the country.

Sen. Amb. Thomas was making the point that there is so much kidnapping taking place that if someone conducts a survey, people will probably say to jail them for life, with no bail. But when a parliament passes law, it does not pass it to deal with a situation that exists today, but it passes a piece of legislation for today and the future and we have to be careful that this legislation is not being passed simply because there is an emotional outcry and Government, in its true PNM style of politicking, decides to come before this Parliament and say “Kidnapping Act, 2003”. Let us be careful. It is their style—immediate and short term.

We listened to Minister Dumas pontificate. I was pleased when I was hearing all these compliments being paid to the Minister of National Security and Rehabilitation. I wondered if it was not a function to honour him. Minister Dumas spoke with all the emotions that we expect, but no reason. He has not really given the Senate reason to support the legislation. In fact, he did not speak on the legislation; he spoke on a number of other things. He even went so far as to say that the actions of an Opposition, when they are looking after the people's business and when they seek the people's interest, that action may be tantamount to treason. But then Minister Dumas must have sat down at many Cabinet meetings or seminars with the hon. Attorney General, so we understand how he understands the business of government.

When we spoke to the Government about the increase in crime and kidnapping, we were accused of misleading the public, of collusion and of all kinds of heinous crimes. When we were saying that there was an increase in kidnapping and that they should do something about it, they ignored us. Today, they have admitted in their own time and style that there is the problem and they must deal with it. Sen. Dumas, then, directly or indirectly, again accuses certain individuals on our side of a conspiracy in TTPost. Again, there is a problem rearing its head and what would you expect of a responsible government? You would expect them to listen and say that they would do what is necessary, not accuse people who give information of heinous crimes and of collusion of conspiracy. Then they come before this Senate and ask us to support legislation that talks about informing the police about crime.

On this side, Senators are getting information about what is taking place in the society today and it is collusion and conspiracy when we speak of it and they want the country to have evidence about crimes taking place in the society and to speak directly to them.

That brings me to the question of our responsibility to inform and how we can legislate responsibility. Moral values and social norms are extremely difficult to legislate. If we were to see a three-year-old walk into a pool and know that child would surely drown, we would immediately try to save the child, not because it is the law, but because something in us says there is a life out there that we must make every effort to save. The need to inform the police of criminal situations is of a similar nature. It must come from wanting to do it. It is extremely difficult to legislate that kind of obligation. You are legislating a moral obligation and criminalizing it. Even if we admit that in a changing society there is need for that kind of legislation, there must be more discussion. Obviously, coming here and

saying this is how it is going to be is not the solution; let us get the views of the population at large.

When we examine the legislation again, we see so many instances of strict liability offences. So many of the clauses put the burden of proof on the accused. You fail to inform, you have to be the person to satisfy the court. You fail to give information, the burden of proving that there was reasonable excuse for failing to give such information, as stated in subclause (1), shall lie on the person being charged. So, if you fail to inform, the burden is yours. We are not Singapore; we are Trinidad and Tobago. We are dealing with our society, our culture and our people and if we are going to ask them to take this kind of onerous responsibility, then they must be fully informed and must understand the obligation being placed upon them.

When we say that the burden of proving shall be upon the person relying on it, disclosing either orally or in writing or in any other medium to a person information relating to the bank account is liable to imprisonment, we are shifting the burden of responsibility and this is a very serious issue and calls for a lot more debate than we are hearing today.

I have read some of the contributions of Senators on the other side and we are hearing that we need this Kidnapping Act because somehow the Government thinks that if they get this piece of legislation passed, then all the problems will go away; they will find the solution to crime. But we all know—and the Attorney General was kind enough to admit—that passing legislation is not the only answer to dealing with the issue of crime. They need to find a number of other solutions. They need to address education. They need to educate the young people. We need to look at the needs of the police; the needs of the judicial system; our young people and children. There are a number of issues that must be examined if we are to deal with the issue of crime. There must be the holistic approach to crime, so when they come with piecemeal legislation and ask us to support it—legislation that is so poorly drafted and we are unable to find the meaning and essence of it—how can we support it?

When we say that in our society people have lost confidence, we cannot help but think of 1995—2000 when the average citizen felt a sense of security. They felt safe. Investors had confidence to come into Trinidad and Tobago. What is happening today? There is no security. Madam President, a friend of mine was saying to me recently—he had just returned from New York—that he felt safer taking the subway in Manhattan than he felt taking a maxi-taxi in Port of Spain, on the Brian Lara Promenade.

Madam President, there are so many people in this society who are afraid because they see crime out of control. They understand who is in control of the

streets. They know who is controlling the employment situation. They know who to go to, to get CEPEP or URP. It is no longer ETP, Employment and Training Programme, it is now URP, Unemployment Relief. There is no element of training and teaching art and craft and preparing persons for life. It is a little handout and a little dole for you know what. We all know this. This is the society we live in today.

When people feel unsafe, when our citizens say they want equality and equity, when over 320,000 persons who supported the United National Congress say that there is very little equity in the society, then you must, as a responsible Government, sit and listen. When we say let us have the Equal Opportunity Act, give us the Act. We passed it. It is law.

The hon. Attorney General indicated many months ago that there are some minor amendments to be made. Bring the legislation. If you are concerned about good governance; if you are concerned about Trinidad and Tobago, bring the amendment to the Equal Opportunity Act. Implement it. Show us you are really serious about making Trinidadians and Tobagonians feel a sense of confidence. Deal with crime in a holistic manner. Do not come with legislation like that and expect support. [*Interruption*]

When I listen to my friend on the other side, I know she is still my friend and colleague. I know her good will is still with us. I know she knows that what I am saying is true. She lives in San Fernando and she passes and sees all those young people whose table the Attorney General is putting bread on standing at the side of the road and painting stones, and I know it breaks the heart of the Senator/Minister because she does not want that for the young people of the San Fernando East and West constituencies. I understand the obligation of the Senator. I know that she feels for those young people whose souls we are now destroying.

We cannot, as a team, support this legislation. It simply will not address the issues facing this society. I hope that on the next occasion when I visit here, we will have the Government bringing legislation that is comprehensive and all-encompassing and maybe we will have the hon. Attorney General bring an amendment to the Equal Opportunity Act so that the citizens can feel a sense of confidence and security in our beloved land.

I thank you.

#### ADJOURNMENT

**The Minister of Public Administration and Information (Sen. The Hon. Lenny Saith):** Madam President, I beg to move that this Senate do now adjourn to Tuesday, May 20 at 1.30 p.m.

*Adjournment*  
[SEN. THE HON. L. SAITH]

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At that time, we will complete the debate on this Bill and deal with the Civil Aviation Authority Bill.

#### **Leave of Absence**

**Madam President:** Before we put the question, there is one piece of correspondence that came to me late that I would like to read into the record.

The letter is from Sen. Arnim Smith asking for leave of absence from the sitting today, May 13, 2003 and it was granted to him.

Before we take the adjournment, let me join with all the other persons who have done so in welcoming our new Senator to the Senate.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned 6.53 p.m.*