

*Leave of Absence*

*Tuesday, December 20, 2005*

**SENATE**

*Tuesday, December 20, 2005*

The Senate met at 1.30 p.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Madam President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Satish Ramroop, who is ill, and Sen. Angela Cropper, from today's sitting of the Senate.

**SENATORS' APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., PhD, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: MRS. MAGNA WILLIAMS-SMITH

WHEREAS Senator Satish Ramroop is incapable of performing his duties as a Senator by reason of illness:

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 section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MAGNA WILLIAMS-SMITH, to be temporarily a member of the Senate, with immediate effect and continuing during the period of illness of the said Senator Satish Ramroop.

*Senators' Appointment*  
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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 20th day of December, 2005."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., PhD, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: MR. WALTON FRANCIS JAMES

WHEREAS Senator Angela Cropper is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, WALTON FRANCIS JAMES, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Angela Cropper.

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 19th day of December, 2005."

**OATH OF ALLEGIANCE**

*Senators Magna William-Smith and Walton Francis James took and subscribed the Oath of Allegiance as required by law.*

**BAIL (AMDT.) (NO. 2 ) BILL**

Bill to amend the Bail Act, 1994, brought from the House of Representatives [*The Attorney General*]; read the first time.

*Motion made*, That the next stage be taken at a later stage of the proceedings.  
[*Hon. J. Jeremie*]

*Question put and agreed to.*

**ORAL ANSWERS TO QUESTIONS**  
**Darul-Islam**  
**(Amount of Money Paid)**

**15. Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries:

Could the Minister state the amount of money paid by the Government or any state enterprise or state agency to the body known as Darul-Islam or any other entity associated with the Jamaat al Muslimeen?

**The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith):** Madam President, I have been advised by the Minister that the answer is still not ready and I would like it deferred to the next sitting of the Senate.

**Madam President:** Okay. Let us move on, Sen. Mark, to question No. 17.

**Sen. Mark:** May I ask that in the future that the gentleman contact me? This was deferred for one week.

**Madam President:** We know that. I am aware.

**Sen. Mark:** It is only because of the season I am not pursuing the matter.

**Madam President:** I thank you very much.

*Question, by leave, deferred.*

**Enforcement of Order**  
**(Jamaat al Muslimeen)**

**17. Sen. Wade Mark** asked the hon. Attorney General:

- (a) Could the Attorney General state whether the Government intends to enforce the order for the payment of compensation of interest and costs made by Justice Joseph Tam to members of the Jamaat al Muslimeen during the insurrection of 1990?
- (b) If the Government has such intention, could the Attorney General state what steps have been taken to enforce the judgment of hon. Joseph Tam that the members of the Jamaat al Muslimeen pay compensation which today stands at over \$40 million?

**The Attorney General (Sen. The Hon. John Jeremie):** Madam President, I find myself in the position of the Minister of Energy and Energy Industries. The answer to this question as well is not ready and I ask that it be deferred to the next sitting of the Senate.

**Madam President:** Sen. Mark, in keeping with the season, it will be deferred.

*Question, by leave, deferred.*

### **Non-operation of Blimp (Disciplinary Action)**

**18. Sen. Wade Mark** asked the hon. Minister of National Security:

Could the Minister state whether disciplinary action has been taken by the relevant authorities against any member of the police service as a result of their inaction in not getting the Blimp operational during the last bombing?

**The Minister of National Security (Sen. The Hon. Martin Joseph):** Madam President, in response to question No. 18, unfortunately this question is not applicable, because it is based on a false premise. The airship underwent inspection in October 2005, for the purposes of certification for airworthiness and was therefore not in service when the bombing referred to in the question occurred. The airship has now been fully certified and is now in active service.

**Sen. Mark:** Could the Minister indicate to this honourable Senate whether the Blimp is now undergoing repairs?

**Sen. The Hon. M. Joseph:** I answered the question by indicating that the airship has now been fully certified and is now in active service.

**Madam President:** Hon. Senators, I have given permission to Sen. Mark to raise a matter after question time.

### **PRIVILEGE OF THE SENATE**

**Sen. Wade Mark:** Thank you very much, Madam President. I seek your leave to raise a matter concerning the privilege of this Senate.

At the last sitting of the Senate, during my contribution in the debate on the second reading of a Bill to amend the National Lotteries Act, Chap. 21:04, I stated to the Senate that the National Lotteries Control Board hereinafter referred to as the NLCB spent US \$75 million on an investigation involving former members of the National Lotteries Control Board.

Upon reflection and having consulted my notes, I rose during the contribution of the Minister of Local Government, Sen. The Hon. Rennie Dumas, at approximately 4.00 p.m. to 4.30 p.m. that afternoon and was at pains to inform this honourable Senate and I indicated that I was mistaken and that the figure I should have quoted was US \$270,000.

I am sure that you will recall the instance in question. During the course of the same debate, I alluded to the fact that the financial accounts of the National Lotteries Control Board have not been audited and laid in Parliament since 1999. I once again was at pains to check with the relevant parliamentary officials to ascertain the accuracy of my statements in this regard.

Notwithstanding the foregoing, the National Lotteries Control Board, in a full page advertisement, signed by its Chairman, Mr. Louis Lee Sing and three of its members, caused to be published in the *Newsday* on Thursday, December 15, 2005 and in the *Guardian, Newsday* and *Daily Express* on Friday, December 16, 2005—The full page advertisement, no doubt at great expense to the taxpayers, quoted me as saying:

1. The National Lotteries Control Board spent US\$75 million on an investigation and;
2. The accounts of the National Lotteries Control Board have not been audited and laid in Parliament since 1999.

The board of directors further demanded that I cease and desist from misleading the people of Trinidad and Tobago. Imagine that, me, cease and desist from misleading the people of Trinidad and Tobago! I am sure, from my contribution here so far this afternoon, you would have no doubt that what was engaged upon by the NLCB's Chairman and Board of Directors was a false and perverted report of the proceedings of this honourable Senate, and further, it appears to be no less than the molestation of a Member of this honourable Senate on account of his speeches in this Senate and a reflection of his conduct as a Member of this honourable Chamber.

The publication of the statement in the form of a full page advertisement is malicious and surgically calculated to bring me into public ridicule and odium. What is even more downright disrespectful is that it comes from a statutory authority/entity which is accountable to Parliament and is nothing short of an attempt to intimidate me in the execution of my duties as a Member of this honourable Chamber.

*Privilege of the Senate*  
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In these circumstances, I refer you and this honourable Senate to the learning on this matter as expressed in Erskine May's *Parliamentary Practice*, 23rd Edition, page 139. I quote:

“Publication of false or perverted reports of debates”

I also refer you to page 143 under the rubric:

“Molestation, Reflections and Intimidation”

Madam President, in accordance with the provisions of the Senate Standing Order 26, I beg to move that leave be granted for the offending publications and its authors to be referred to the Committee of Privileges for investigation.

Madam President, I thank you very much.

**Madam President:** Hon. Senator, as you will appreciate, I have listened to you and I myself will now have to refer to the *Hansard* and to what you have said. I will give you my ruling at the next sitting.

#### **BAIL (AMDT.) (NO. 2) BILL**

**The Attorney General (Sen. The Hon. John Jeremie):** Madam President, I beg to move,

That the Bail (Amdt.) (No. 2) Bill be now read a second time.

I propose to speak first on the necessity for the provisions of the Bill and then to turn to the Bill itself.

Democracy is not an easy system. We recognize that it can sometimes be messy and that it has its faults but it is the best system that we have found, up to now, to ensure that the rights of all the people are respected; and this is, in a real sense, what we are here, belatedly, to do this afternoon. We are here to respect the rights of the people. It is the first duty of the Parliament to serve the people and democracy rests on the ideal that the people should elect representatives and that we should serve them in turn.

Ours is a constitutional democracy in which there is a written Constitution. The idea of promulgating a written Constitution is to enable a society to articulate a set of values and principles by which the people of the society define the existence in relatively fundamental terms.

A written Constitution, therefore, defines its people. It captures the essence of what those people hold true. Whereas in this country the Constitution expressly declares itself to be the supreme law as it does in section 2, then not even

Parliament can, by ordinary simple majority, legislate in a manner which is not consistent with the Constitution. Because a Constitution is by definition articulated in context, mechanisms must exist for it to be altered to fit the needs of the society as those evolve over time.

When our Constitution was enacted in 1976, replacing the 1962 Constitution, kidnapping and violent crime were not the critical problems which they are today. True, there was criminal activity but no one can deny that activity was at the level which we as a society are experiencing today.

I make those points to say this: the Constitution must be treated with respect but it must not bind us to inaction. When the criminals among us learn its provisions by rote and seek to use those provisions, not as the safeguard against the abuse of state power, which they are designed to be, but as a tool to facilitate a reign of terror, then we the people have the right to say that this is enough.

The right to reasonable bail, without just cause within the terms of section 5(2)(f)(iii) of the Constitution is an entrenched individual right in Trinidad and Tobago. It is a critical right in every democracy which is patterned along our lines; that is to say, a democracy in which there is a clearly enunciated right to be presumed innocent until proven guilty.

This country, at this moment in time is, however, experiencing a crime wave of unprecedented proportions. The main and critical problem areas are in relation to kidnappings, kidnappings for ransom and other violent crime.

The Government and Opposition have formed a very rare compact to attempt an innovative answer to the criminals. At the present time, there is evidence of a staggering number of repeat offenders in relation to violent crime and kidnapping. Where persons are caught and released on bail, they simply proceed again to raise funds to meet the cost of their criminal attorneys. Some perpetrators concerned about their initial charges even use the opportunity of bail to seek the witnesses in these matters and then to eliminate them. As with kidnapping, so it is with violent crime. Together, these categories of offences have become industries—part of a subculture in this country.

This afternoon, as parliamentarians, perhaps belatedly, what we seek to do is to say that we are prepared to take action to deal with the enemies of peace in Trinidad and Tobago. The signal which we send is that we seek a return to a better place. This is not a utopian ideal. We must recognize that crime in its present dimensions did not begin overnight and that solid and lasting measures to treat with the crime wave which we are experiencing will not yield immediate

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results, but we must begin the process. What is more, we must see the process through to the very end. As a people, we must recognize that we are fighting not for ourselves but for our land and for our future and our children. Our nation must be secured for our children. When we see them being themselves, the subject of kidnapping and violent crime, the time is overdue for us to take decisive and meaningful action.

The Bill before you is not the Government's idea of what is ideal, in terms of legislation to deal with the witness elimination and revolving door problem, which I have described before. The fact is that the Government required the cooperation of our colleagues on the other side to enact it; the Bill being one in respect of which a special majority is required. We have had that cooperation in these measures and we are happy to have that cooperation.

The Government is also keenly aware of the fact that the benchmarks set in the Bill are difficult—some say impossible—to meet in that, for example, a 60-day period to bring an accused to trial shall require a paradigm shift in the way the courts now do business. But this was what the consensus was and we respect it. We are grateful for it and we shall do all in our power to make the system work.

For the measures to work, we shall need the cooperation of all involved in the administration of justice, the judicial branch, the police service, the prosecutors and, indeed, the Office of the Attorney General and the Ministry of National Security. Recent legislative and administrative action to improve the operations of the Judiciary will go some way in helping us to meet the new and very stringent deadlines.

I would refer specifically to the Bill itself. The Bill is short and contains only seven clauses. As I have said before in discussing the necessity for the Bill, it requires a special majority because it is inconsistent with section 5 of the Constitution.

The special constitutional certificate to enable it to be valid as a special Act is contained in clause 2. What is required specifically, in relation to this matter, in accordance with section 13 of the Constitution, is that the Bill be passed with a three-fifths majority. We can send a proper signal to the community if we act with the unanimity which was found in the other place.

In clause 4, it is provided that a person who is charged with a violent offence—these are listed in Part III—and who has been convicted on two previous occasions of violent crime, shall be denied bail.



Clause 5 stipulates that there shall be no bail granted in respect of kidnapping for ransom, but this provision is qualified.

The Bill is—it was argued persuasively in the other place by the Member for Pointe-a-Pierre—not draconian enough. We accept this. If one looks, for example, at clause 5 to which I have referred, clause 5(a)(ii) provides that in relation to kidnapping for ransom if the accused is not brought to trial within 60 days, that person shall then be entitled to make an application to a judge in chambers for bail; which is the normal course in which bail proceedings are dealt with. This is not to say that automatically, after the 60-day period, the accused, in relation to kidnapping for ransom, will get bail. It merely signifies that he is entitled to make the application for bail. That is all that the section says.

I have noted the commentary in some of the press that the 60-day period is unreasonably short. It might well be so, but we hope that the legislation—together with the executive commitment to do all that is necessary to ensure a speedy trial, together with judicial resolve—will render the provision workable. It is my hope as well that judicial officers will exercise their discretion after the 60-day period, consistently with the proper administration of the ends of justice, which, incidentally in other jurisdictions, they have done, in a sense taking a lead from the legislature as to what the people say is important to them.

We hope too that the experiment with the three strikes principle will help to rid our communities of those with a propensity to commit violent crime over and over again.

As I have said before, this Bill is the product of compromise. The Government's proposals are not fully reflected in the Bill. The Opposition's proposals are not fully reflected in it. In the other place, what I found interesting last Friday is that even the proposals of the so-called Independents, the Members for Barataria/San Juan and Pointe-a-Pierre, did not find themselves into the Bill. Yet it is a measure of and an expression of our combined resolve, our resolve and commitment to a better Trinidad and Tobago and our resolve and commitment to a return to peace within the context of the relative prosperity which we now enjoy. It is a reflection of our collective yearning to be more than we are, to be better than we are and to be safer than we are.

Madam President, even as we enact this legislation, we ensure protection from abuse and the protection of civil liberties by the protection of the law.

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As the Member for Couva North said in his contribution: “ultimately whatever we do as a Parliament is subject to judicial scrutiny”. If we enact legislation which is expressed to be inconsistent with the Constitution, as we do from time to time, the courts ultimately are given power by the Constitution itself to invalidate that legislation. This is a feature of many written Constitutions and it is a feature of ours, by virtue of section 13, which stipulates that Acts such as these shall have effect unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individuals.

Another check on the abuse of power in the Bill is the sunset clause which provides that the Bill shall have the force of law for one year. After that year, the Parliament, as representatives of the people in this democracy, will be able to say whether we wish to give the provisions further life.

Hon. Senators, we are in a state of high readiness now. We must resolve as we end this year that we will provide the very best legislation that can be won and supported to protect our citizens next year. It is in that vein that I urge hon. Senators to join the Government and the Opposition to send a signal of resilience to the people of this country this afternoon. It is a signal to us, the Executive, to make crime and the fight against it our most critical task, to urge the Judiciary to do all that is within its power to deliver justice quickly and to demand of the police that they shake off irresponsibility to keep us safe.

For my part, I commit to the more efficient discharge of my functions under section 76(2) of the Constitution and in particular to do all that is within my power and ability to assist in the administration of the prosecution of crime, in particular kidnapping for ransom and violent crime.

As a product of compromise, the Bill cannot be perfect. We feel that this measure and those which we hope to enact to provide us all with a better, modern, technically efficient police service will provide all of our children with the foundation for safety and comfort which they deserve.

Madam President, no legislation will solve crime but if our future is to be won we must act decisively and we must act now, with resolve and with unanimity; not only here this afternoon in relation to bail but in relation to the police, the courts and the prosecution.

The Bill before us raises the difficult issue of how to balance civil liberties, that is, the rights of the individual in a society against the rights of the society itself. This issue is particularly acute in a society with a supreme law clause and entrenched individual human rights.

To borrow from the words of Justice Robert H. Jackson in dissent in the case of *Terminiello v Chicago*, what is before us is a choice. I quote:

“...not between order and liberty. It is between liberty with order and anarchy without either. There is danger that, if the Court does not temper its doctrinaire logic with a little practical wisdom, it will convert the constitutional Bill of Rights into a suicide pact.”

Madam President, with these few words, I beg to move.

*Question proposed.*

**Sen. Wade Mark:** Thank you very much, Madam President. I rise to speak on the Bail (Amdt.) (No. 2) Bill, which seeks to amend the Bail Act of 1994 to make certain violent offences under the Bail Act of 1994 and the offence of kidnapping for ransom under the Kidnapping Act of 2003, non-bailable offences.

As the Attorney General indicated, the Act would be inconsistent with sections 4 and 5 of the Constitution and, therefore, requires passage by a special majority of three-fifths of the Members of each House.

There is no doubt that the citizens of this twin-island republic are under a state of permanent siege and trauma. Over the past four years, more than 1,000 citizens have been murdered, hundreds more have been abducted, kidnapped and their families forced to pay millions of dollars in ransom and we have also witnessed an increase by the hundreds of thousands of other forms of violent crimes. This is the state of our nation 11 days before the close of what can only be described as the bloodiest year in the annals of our history since independence of 1962. Yet we continue to hear that crime is temporary. Some say that kidnapping is bogus. Others claim that drive-by shooting amounts to collateral damage. Many families are mourning, grieving and traumatizing over the sudden and brutal loss of their loved ones.

After several gestures and the handing out of many olive branches of peace and cooperation, the PNM regime has finally paused to listen, to dialogue, to converse and to negotiate. As the Attorney General said, we have today before us the Bail (Amdt.) (No. 2) Bill. It did not arrive here by accident. It came as a result of discussions and dialogue. It is not as the Attorney General said, and I agree with him, the panacea to crime or solving the crime epidemic or crime wave in our republic. It does represent a beginning of cooperation and conversation with the Government. No longer can we be accused of obstructing, or being recalcitrant for the cover up of clear inadequacies and inefficiencies on the part of the present administration.

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With the Bill before us, we will shortly unmask and expose the emperor who seems to be naked at this time. This Bill has been anchored within the framework of four fundamental principles.

The first principle is the protection against the abuse of power by this administration and there is ample evidence to demonstrate a propensity towards that particular end.

The second principle that has guided the Opposition in its deliberations with the Government is the protection of civil liberties and fundamental rights and freedoms of the citizens of this republic.

Another principle that has guided us is calling on the Government as a policy, virtually, to cease—unlike how they try to call on me to cease and desist—whether directly or indirectly, overtly or covertly governmental funding that could promote and has promoted criminal activities in Trinidad and Tobago.

Of course, the final principle is the cleansing and freeing of the political process from the influence of criminal elements in our nation. These were the principles and they will remain the principles that will guide the UNC in its, I assume, continued deliberation with the regime as they seek our support to address the issue of crime in our country.

We have made it very clear and we want to let you and this honourable Senate know that the passing of laws alone will not solve the crime epidemic in our country. That must be made absolutely clear. There is an urgent need for efficient management of the criminal justice system in this republic. There is need for a well resourced, highly efficient and highly effective police service and, of course, a highly efficient system of criminal justice. These are very crucial ingredients that are necessary, if we are to overcome the crime epidemic in our nation.

Therefore, the Bill is going to be meaningless unless the PNM re-organizes and resources the administration of justice process, as well as facilitate bringing persons to trial within the stipulated time-frame that is outlined in the legislation.

It is very important for us to understand that there are two pillars in the fight against crime: effective and penetrating police work and an efficient and expeditious justice system in our nation.

Although the UNC will be supporting the legislation that is before this honourable Senate today, we have done so to put an end to the constant nagging on the part of the PNM, that Opposition support is needed to help them fight crime.

May I inform you that we were in office for six years without a single kidnapping occurring under the rule of the UNC. We ruled this land for six years without any Opposition support, but now they wish to mask their incompetence by pointing fingers. Now, they can no longer accuse the UNC of failing to support the Bill. We therefore, await, with the passage of this Bill, the reduction in crime.

Let me also indicate to you that if the Government of the ruling PNM regime is serious about crime, my advice to the hon. Leader of Government Business is that one of the first steps they ought to take is to scrap the \$1 billion monstrosity known as the Tarouba Stadium and spend that said money on the fight against crime in the republic.

We would like the Government to spend that money, or at least half of it; we understand it is approximately \$1 billion, on building DNA laboratories.

We would like them to provide more resources to the Judiciary so that we can assist them in clearing the insane backlog at the Forensic Science Centre.

We would like the Government to build new Magistrates' Courts in this land and new High Courts in Trinidad, particularly in central Trinidad.

We call on the Government to fund the appointment of 20 new magistrates and 20 new judges, if they want this Bail Bill to work.

We would like the Government not to allow our nation to further suffer insults by having our Chief Justice going cap in hand to beg the US Government for some digital recording systems. That is the stage we have reached in a country of \$34 billion. Our Chief Justice has to go cap in hand begging.

**Madam President:** Would you give way Senator?

**Sen. Jeremie:** Thank you for giving way, Sen. Mark. The Chief Justice did not go cap in hand to the Americans. The Americans volunteered the money. The Government of Trinidad and Tobago has given millions of dollars in respect of that project and the Judiciary itself has put out several ads to that effect; not targeted at you in the way that you attacked the National Lotteries Control Board earlier on. They have put out ads correcting the situation.

**Sen. W. Mark:** I want to thank the Attorney General. It does not nevertheless address my concern. We should not, in 2005 either have the American Ambassador providing—

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The Chief Justice in today's *Guardian* is stating that they need more. Why must we be talking about solving crime when some of the main planks to assist the Government and people of this country in solving crime have not been addressed? I find it insulting for any American to come and provide to our country. The Ambassador states that he is affected by crime. The staff of the US Embassy is being affected by crime.

Anyway, I was going very cool. Let me continue. This is the season of goodwill and I want to keep in the spiritual realm. May I continue?

We are calling on the Government to take half of the \$1 billion that it is allocating to this monstrosity called the Tarouba Stadium and give to the Judiciary so that they can buy more digital recording systems for the entire court, both judges and magistrates. Therefore, they would no longer have that particular task of writing or taking notes by longhand or handwriting.

We call on the Government, if they want the Bail Bill to work, to build new police stations in the country. We would like them to fund, as we did through an experimentation, the creation of night courts so we can have shifts within the Magistracy where petty offences such as traffic tickets and maintenance could be addressed in the night, so that we would have more efficiency at the level of the courts.

**2.30 p.m.**

We would like to call on the Government to purchase bullet proof vests, more police cars for the police service and, most importantly, we would like the Government to beef up the manpower in the Anti-Kidnapping Squad. It seems that we have a colour coded approach to kidnapping in our country. I say this without any apology. I want to say to the Government that people are not sleeping; their eyes are opened. They are seeing where you are picking, choosing and deploying your resources.

There is a young man by the name of Rajiv Changroo who got kidnapped. There was no helicopter; no blimp; no army and no police. The family is traumatized in this season of goodwill. Where are the resources to ensure that Rajiv goes back home? [*Desk thumping*] You were in the forest day and night. [*Desk thumping*] I am glad that the young lady was rescued. I have no distinction in colour. Anybody who is kidnapped—it is a crime—you must treat that person fairly.

**Madam President:** Would you give way, Senator?

**Sen. W. Mark:** He would have his chance to talk—

**Sen. D. Montano:** On a point of order.

**Sen. W. Mark:**—I am on my legs. What is your point of order? Let me hear what your point of order is.

**Sen. Joseph:** The point of order is the Senator is misleading the Senate. [*Desk thumping*] He is talking about a colour coded approach to dealing—

**Sen. R. Montano:** Misleading the Senate is not a point of order.

**Sen. Joseph:** Misinformation. Madam President, let me correct a comment just made by the Senator, where he is giving the impression that law enforcement is not providing resources for any issue they have to deal with—

**Sen. W. Mark:** All I am asking for is more resources to be allocated to the Anti-Kidnapping Squad.

**Madam President:** I have to rule on the point of order. I would just ask you to—as you said, all you are doing is just asking for that information—do it in such a way that you are not casting aspersions on anybody.

**Sen. W. Mark:** Madam President, I did not cast any aspersions and, if I did, I humbly apologize. It was not my intention to cast any aspersions. All I ask of the Minister of National Security is to make sure that any citizen who is kidnapped is treated fairly and equitably. [*Desk thumping*] All those persons who are missing, we want the Government to get them back for their families. That is all I am saying.

Madam President, we have to improve the administration of justice, but while we are seeking to improve the administration of justice, we see efforts are being made to undermine the administration of justice. You would recall what happened. I would not go into details because that matter is before the court. It is now history that the Chief Justice was almost impeached. That shook the foundation of the administration of justice in our country. Maybe the Attorney General could tell us, later on in the proceedings, or give us a report on the quiet manoeuvrings taking place behind the scenes through arbitration and mediation, to quietly and almost wish away this particular matter involving the Chief Justice. I would like the Attorney General, in his winding up, to address that question and give us a report on that matter. Where is the matter? Why are we not hearing anything about it? Is it being held in secret? The nation needs to know what is taking place. I call on the Attorney General to inform us about this matter when he is winding up.

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I have asked the Attorney General and I want to ask him again: Why is the DPP so quiet on a matter that he has received since August 20, 2005 involving bribery charges? Why is the DPP dragging his feet in laying criminal charges against several high ranking members of the Government?

**Sen. Jeremie:** Madam President, on a point of order. We have held by custom that the DPP is an officer involved in the administration of justice—

**Sen. W. Mark:** I did not cast any aspersions.

**Sen. Jeremie:**—that is protected. He is accusing the DPP of dragging his feet on a matter.

**Sen. W. Mark:** Is that a point of order? [*Interruption*]

**Sen. R. Montano:** That is fair.

**Sen. W. Mark:** I did not cast any aspersions.

**Sen. Jeremie:** I ask you to rule on it. [*Crosstalk*]

**Madam President:** Apart from being irrelevant, it is not related to the Bill. I would ask you to leave the DPP out of the debate.

**Sen. W. Mark:** Madam President, I asked a simple question. Let us leave out the DPP. If the Attorney General does not address this question, very shortly we would expose to the entire country why, to date, they have not been charged in terms of perverting the course of justice in this land. I say no more. We would give the Attorney General some time with his friend, the Director of Public Prosecutions, to determine when they would act.

We are talking about bail; we are talking about crime, and the police has a very critical role to play. We would like to ask the Minister of National Security: Why has the Prime Minister not acted on the recommendation of the Police Service Commission to appoint Mr. Oswyn Allard to the post of Deputy Commissioner of Police? It has been two years. How are we going to solve crime?

**Sen. Joseph:** Madam President, on a point of order.

**Madam President:** Senator, a point of order.

**Sen. Joseph:** Again, he is misleading the Senate. He said two years and that is inaccurate.



**Sen. W. Mark:** What is the accurate thing? He has not told us the time. He said I am misleading the Senate, but he has not said anything. Madam President, could you ask him what the correct time is?

**Sen. Joseph:** He said two years.

**Sen. W. Mark:** Well, tell us when? Tell me; I am asking.

**Madam President:** May I have some peace and quiet?

**Sen. W. Mark:** Sorry, Madam President.

**Madam President:** Hon. Senator, you are being irrelevant as far as I am concerned. [*Desk thumping*] That is not the point of order that was raised, but I am telling you that you are being irrelevant. I would like you to get back to the Bail (Amdt.) (No. 2) Bill. That is what we are talking about. We are not talking about time or anything. I am not interested in that. I would like you to continue with the Bill that is in front of us. [*Desk thumping*] [*Interruption*]

**Sen. W. Mark:** Madam President, I have argued that if we are talking about solving crimes, there are two fundamental pillars: one has to do with the police and its efficiency and the other has to do with the administration of justice. They are tied in with the Bail (Amdt.) (No. 2) Bill. That is absolutely clear. So all I am asking is: Why after this period—whether it is a year or a year and a half or 10 months—has the Prime Minister not appointed Mr. Oswyn Allard to the post of Deputy Commissioner of Police? We know when there are other appointees he would swiftly say that he does not want them—Devanand Maharaj, Feroza John and Ganga Persad Kissoon. All I ask in this context is why the delay. All kinds of suspicions are emerging. I do not want to go into that now. We are going to deal with that matter at the appropriate time.

**Sen. Dr. Saith:** Again, on a point of order. The Senator is well aware that there is a procedure in the Parliament where he can pose questions to Ministers. This technique of seemingly to ask endless questions and maligning people must stop. It is not relevant. If you have questions file them in the Parliament.

**Madam President:** Senator, once more, I am asking you to be relevant to the debate. [*Interruption*]

**Sen. W. Mark:** Madam President, may I continue?

**Madam President:** Yes, but be relevant.

**Sen. W. Mark:** Madam President, how are we going to have confidence in the administration of justice system? How can the people have confidence in the

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system in this critical fight against crime, if the public lacks confidence in the independence and strength of the Judiciary?

Madam President, I would like to bring to your attention a development that took place in the court and which was published in all the newspapers today. We are talking about confidence in the administration of justice in the fight against crime, and I would like the Attorney General, when he is winding up, to tell this honourable Senate whether the Chairman of the Integrity Commission has given blanket exemption to judges and magistrates. Who gave this chairman the authority? Which section of the law gives this man the authority to exempt judges and magistrates from filing their assets, liabilities and income? This is in the public domain now. Firstly, it was an extension and now an exemption. I would like the Attorney General to tell this country why this has taken place. Essentially, we are asking the question: If you and I fail to file our forms, in terms of assets and liabilities and income—we must have confidence in the administration of justice system if we are to solve crimes. I cast no aspersions on the judges or magistrates. All I am saying is if you and I did not declare our assets, the Anti-Corruption Bureau could visit us and we could be fined \$250,000 or 10 years in jail. Do you believe that not a single judge or magistrate has filed his or her declaration since 2002 to 2003?

Madam President, if we are going to have confidence in the administration of justice, how can the guardians who are responsible for holding the law violate the law? That is all I am asking.

**Madam President:** Hon Senator, this is about the third time I am asking you to please be relevant. What we are talking about here today is not the administration of justice but really the Bail (Amdt.) (No. 2) Bill. Senator, would you please come back and talk on the matter?

**Sen. W. Mark:** Madam President, let me just refer to the Bill, as you said, if you want me to go to the specific clauses, the linkages could be escaped. The Bail (Amdt.) (No. 2) Bill contains some seven clauses. The question may be asked: Why did the UNC not support the Bail Bill before? The reason we did not support it before was because of the width and broadness of the definition of “kidnapping”. We found it to be too wide and broad. That was one of the reasons we did not support it. We found that innocent persons could have been imprisoned as a result of the first measure I mentioned.

We were also concerned with the possible misuse of the police service by the PNM to frame up false charges against their political opponents and to have them

incarcerated. I have been advised that the \$60 million equipment that has been bought is really—every single Opposition Member, including the Leader of the Opposition, telephone conversations, landlines, cellphones, faxes and emails are monitored by this electronic surveillance equipment. They are more concerned with monitoring the Opposition than holding the criminals and kidnappers. We know exactly where the equipment is now located. I would not tell you where it is.

**Sen. D. Montano:** Madam President, that is completely unparliamentary.

*[Both Senators on their feet]*

**Sen. W. Mark:** Madam President, may I continue?

**Sen. D. Montano:** He is making accusations here that are unparliamentary.

**Madam President:** The both of you are in the habit of standing together. When one is standing and the other one stands up nobody gives way. Is it a point of order, Minister?

**Sen. D. Montano:** Madam President, it is unparliamentary to make statements like that unless you have the evidence. It is completely out of order.

**Madam President:** Senator, continue but please be cautious.

**Sen. W. Mark:** Madam President, my phone is tapped. *[Crosstalk]* The second point I was raising is the misuse of the police that could cause some difficulty in this country, and we have some problems with that and, therefore, I agree with the Attorney General. The Opposition sought to protect the rights and freedoms of the people in this measure. That is why you would notice in the Bill that we have sought to strike a balance between the citizens' rights on the one hand and the national interests, hence we have categorized kidnapping. We did not leave it broad and say "kidnapping". We said "kidnapping for ransom". That is what we said. We went on further to say that once an individual is denied his liberty under sections 4 and 5 of the Constitution, the Government must put its house in order. I have recommended many measures for them to consider bringing persons to trial within 60 days. The Government has the responsibility of putting its house in order by bringing to trial those persons who have been charged with the offence of kidnapping for ransom. If after 60 days the Government does not have its house in order, then the person could go to a judge in chambers and apply for bail and go and kidnap again and the Government would have failed the people of this country.

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When we talk about “brought to trial”, do you know what we are talking about? We are not talking about a preliminary enquiry here. We are talking about when you put someone to trial you are putting him in jeopardy of being convicted. So it means that the Government cannot deal with the magistrate and PI. They have to go to trial and, therefore, the Bill requires the requisite majority.

The Attorney General has also said—I want to agree with him, I seldom do, but today I am agreeing with him—that in section 13 of the Constitution of the Republic of Trinidad and Tobago, even though this Bill would be passed with the requisite majority, the courts of Trinidad and Tobago could say:

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

So we can pass this law today and the courts can strike it down as being unconstitutional. I just bring this to your attention.

The three strikes and out concept, the revolving door, as the Attorney General referred to it, deals with those perpetual elements that seem prone to resort to a life of crime. What is being said in the particular clause is if someone has been convicted on two previous occasions for a violent crime and is now charged for another violent crime, then bail could be refused in those circumstances. Just as kidnapping for ransom, the person could be held for 60 days and within 60 days that person has to be brought to trial. Of course, the most novel of the provisions is the sunset clause.

The Patriot Act of America, the Anti-Terrorism Act of the United Kingdom and other pieces of legislation have the sunset clause, but because of the propensity of this Government to abuse power, we shall be exposing them. We are gathering the evidence daily on this abuse of power, hence the reason the sunset clause. After one year, we should be monitoring the Government. If they abuse the process within one year the Bill goes into the sunset. [*Laughter*] It will not rise again unless they demonstrate to you and me and the entire country that the power that we have granted to them is not abused by the PNM.

We want the Government to know that this matter is now in its court. I want the Minister of National Security to investigate—as we are dealing with criminal activities here—serious information that has come to our attention.

**Hon. Senator:** This is the Bail (Amdt.) (No. 2) Bill.

**Sen. W. Mark:** This is the Bail (Amdt.) (No. 2) Bill, but somebody in the Ministry of National Security might get no bail. I am here to bring this matter to your attention and I would like the hon. Minister to investigate this matter. It is our information that the Government has ordered three offshore patrol vessels.

**Sen. Yuille-Williams:** Madam President, on a point of order. We sat here and we took a lot of it for the afternoon, but I think the Senator is irrelevant and he continues to be over and over again. He could have a press conference and say some of those things, but not carry us through for the whole afternoon. [*Laughter*]

**Madam President:** Senator, I have asked you on a number of occasions to be relevant. In your remaining time, please try to stick to the Bail (Amdt.) (No. 2) Bill.

**Sen. W. Mark:** I do not know why the PNM is jittery whenever I am talking.

**Hon. Senators:** Jittery?

**Sen. W. Mark:** They seem to be frightened whenever I rise. [*Interruption*] I am not accusing Sen. The Hon. Joan Yuille-Williams of any kind of thing.

**Madam President:** I know.

**Sen. W. Mark:** I do not understand; why is she rising in defence of the Minister of National Security? Let the Minister of National Security defend his Ministry.

**Madam President:** Senator, continue with your arguments.

**Sen. W. Mark:** Madam President, I call on the Minister of National Security to launch an investigation into all the circumstances surrounding the purchase of three offshore patrol vessels which, we understand, are going to cost this nation some \$1.7 billion. This is money that can go into the building of courts or providing the police with more vehicles.

**Madam President:** Now, that argument—[*Crosstalk*]—just cannot hold water.

**Sen. W. Mark:** I do not think the boat is going to hold water. [*Laughter*] Madam President, if they do not want to have the matter discussed now, we would deal with you, the Minister of National Security—\$1.7 billion. We are going to deal with you. You must explain to the country why you have by-passed \$1.2 million in favour of \$1.7 billion. That is what you must do.

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Madam President, let me go on because I would have to deal with that matter at our next Monday night forum. [*Desk thumping*] We have to bring the Minister of National Security to book on this matter. That is the place we are going to deal with it. We have all the information. It is mounting. I agree with the Prime Minister over and over that jail is not nice. I want to appeal to the Government side to heed the Prime Minister's call and warning because many PNM Ministers seem heading toward jail. May I continue? I would not pursue that line again. [*Interruption*]

Madam President, let me welcome Mr. Jaggassar. It was remiss of me not to recognize my colleague—

**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. S. Baksh*]

*Question put and agreed to.*

**Sen. W. Mark:** Madam President, jail is not nice and there will be no bail for 60 days for many of them.

It was remiss of me not to welcome back my good friend. He has recently been appointed and promoted to the Office of the Clerk of the Senate. [*Desk thumping*] I want to congratulate Neil Jaggassar, a very competent administrator. Having been here for 15 years, I think you have learnt a lot from me.

We would like to advise the Government that we extend our support to this measure, but we would be watching them and monitoring them like a hawk to ensure that there is no abuse of power. [*Interruption*] Madam President, that is my teacher. I do not want to tell him where he would be sitting shortly. Jail is not nice. I want to repeat that to the PNM. It is Christmas time.

Madam President, may I say to the Government that via an agreement, we have given our commitment and we are not going back down on our word. We have given our commitment to support the measure before us and this we would do this afternoon. We call on this Government and I anxiously look forward to the Attorney General bringing to this Parliament, legislation to deal with equal opportunity at the earliest convenience. I expect that Bill to be tabled in this Parliament no later than the first quarter of 2006.

Madam President, based on our discussion with the Government, we put on the agenda and on the table, the whole issue of constitutional reform. [*Desk thumping*] We are looking forward with bated breath to a discussion with the Government on the way forward as it relates to constitutional reform in this country.

**Madam President:** The Bail (Amdt.) (No. 2) Bill, Senator.

**Sen. W. Mark:** The Bail (Amdt.) (No. 2) Bill is part of a package of measures, and the Attorney General would admit, which includes the Police Service Reform Bills; constitutional reform; and the Equal Opportunity Act. These are all part of the package. So, I am just bringing this to your attention, if you are not aware. One of the matters discussed with the Government is the whole question of constitutional reform and the Equal Opportunity Act. I want to tell you that we have not put OSHA as yet. We hope that the hon. Minister of Labour, Small and Micro Enterprise Development would be able to bring OSHA shortly. [*Interruption*] That is why I am trying to explain to you a couple of things. Apparently, you were unavoidably absent.

Madam President, we would support the measure and we call on the hon. Attorney General to explain to us the number of issues that I have raised. We are gathering information on a number of matters that have come to our attention in terms of rampant corruption within this administration. At the appropriate time, we would expose those who are guilty of these acts. We hope this Bail (Amdt.) (No. 2) Bill that is being passed today with the support of the Opposition and which takes effect as of yesterday—the Attorney General would have already met with the Chief Justice. I would like the hon. Attorney General to tell this Parliament whether he has met with the Chief Justice to deal with all the matters that are needed to be put in place to ensure the speeding up of justice in the courts of Trinidad and Tobago.

**Sen. Jeremie:** Do you want me to advise you on that matter? I understand the Chief Justice himself has reported on the television last night—I did not see it—and said that he had spoken with me. We talk very often. We have an excellent relationship.

**Sen. W. Mark:** You are talking to him very good now. After they impeached the fellow, they are talking to him good now. Madam President, anyway, may I say on behalf of the Opposition UNC, this matter would have our support.

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Once again, may I take this opportunity in this season of goodwill—this is the season of goodwill in spite of the fact that we have to deal with the Government. Whether it is Christmas Day or Boxing Day or New Year’s Day, we are going to deal with them. It does not matter. It is my duty and responsibility to extend to you, once again, and every single person in this Senate—all the newspaper people, all the clerks, all the police officers and all persons including the Hansard reporters and their respective families—a merry, holy and happy Christmas. I hope we shall all have a bright, prosperous and less discriminating 2006.

Madam President, thank you very much.

**Sen. Dana Seetahal:** Madam President, thank you. Before I comment on the substance of the Bail (Amdt.) (No. 2) Bill, let me just say—and this is in response to various headlines like “No Bail for Kidnappers”—that persons who are charged with the offence of kidnapping are not kidnappers. They are accused people. I think it is important to make that point in the interest of everyone, because we are talking about people’s constitutional rights, as Sen. Mark just said. Just to clarify that the definition of “bail” is a pretrial release in criminal proceedings. It may be considered a contract where an accused person is released on certain terms from custody to his surety or sureties.

It is only if you are arrested that the question of bail arises. So if you are charged with an offence and you are summoned to court, for instance, a traffic offence, a simple assault or shoplifting, the question of bail does not arise. If you are arrested and charged—because all arrests do not mean charges—then that arrested person may be released from custody on bail. That is the only way he is supposed to be released from custody, short of being found not guilty. So, Madam President, this is what we are talking about.

We have a Bail Act that was passed in 1994 with a special majority. I dare say then that it would have been with some cooperation from the Opposition for that majority to have been achieved. I do not know the numbers but, in any event, it was passed with this majority.

Madam President, we have heard—I think I heard on the news and people were commenting all over the place on these talk shows for hours. They talked about constitutional rights and people’s constitutional rights are being infringed without considering the facts: the Opposition agreement to supporting the Bill means that it is no longer unconstitutional, because it would have been passed with the special majority.



The Trinidad and Tobago Constitution is peculiar in the region. It is the only Constitution which confers a constitutional right to bail. It says a person accused of a crime is not to be deprived of the right to bail without just cause. The “without just cause” part gives the courts the power to deny that right to bail if there is just cause; for instance, if you are a repeat offender or if you are charged with a variety of offences, a number of them from one transaction. So it is not a total right to start off with. Even if it is not an absolute right, the Constitution allows that right to be breached if there is a special majority subject, of course, to the provisions of the amendments being reasonably justified in our society that has a respect for democratic rights. So when we talk about this Bail (Amdt.) (No. 2) Bill being unconstitutional and so forth we must read it in light of the fact that the right to bail may be denied if there is just cause and also if there is a special majority. Having made that point and against that backdrop, I think it is important to look at the Bill.

Really, in my view, there are only two clauses in this Bill that matter. The first clause deals with the new provision of denial of bail in respect of certain offences once that person has two convictions for serious offences over the last 15 years. Very few persons have commented on that. To me, that is the real draconian measure in this Bill.

The second provision in this Bill is the so-called “no bail provision” but it is really “no bail for 60 days”. What I propose to do is to look at that first. There are certain questions that I want to ask. The first thing is clause 5A(1) of the Bill says:

“A Court shall not grant bail to a person charged with the offence of kidnapping for ransom...”

Madam President, you would recall that in 2003 this Senate passed the Kidnapping Act, No. 21 of 2003, and “kidnapping for ransom” was made a statutory offence—before it was an offence at common law. Under section 3(1) of that Kidnapping Act it states:

“A person who, for ransom, reward or for any similar consideration, unlawfully leads, takes, entices away, abducts, seizes or detains any person without his consent...commits an offence and is liable to imprisonment for not less than twenty-five years.”

That was a 2003 piece of legislation with a very unusual provision. There is no other law in Trinidad and Tobago with a provision for mandatory sentence of 25 years. The only mandatory provision of this nature is for death, murder. Other than that there is a maximum set and you go up to this. In this case, there is a

minimum set. It was said by the then attorney general that a message was to be sent to kidnapers.

I argued why can we not say: “Is liable to life”. There was a lot made of it and that legislation was passed. So, kidnapping for ransom is a serious offence and so, too, is the offence of knowingly negotiating to obtain a ransom. That is under section 5 of the same Kidnapping Act and that section says that a person who demands or pursues by negotiation, a demand for ransom, reward or any benefit for the release of a kidnapped person commits an offence and is liable to imprisonment for not less than 25 years.

So, there is a serious offence where you demand a ransom or other benefit for the release of a kidnapped person. So you are the negotiator. I have kidnapped and somebody else is negotiating the ransom on my behalf, and the legislation says that he is equally liable; this is “equally” a serious offence, 25 years minimum, the same as for kidnapping for ransom. In my view, it is passing strange that it is not covered under clause 5 here. The only offence covered is kidnapping for ransom which would suggest that in the mind of the Opposition and the Government that offence is less serious than kidnapping for ransom. Is it that the person who negotiates the ransom is less liable and doing something that is not as serious as the person who kidnaps? I would suggest not.

The then attorney general and the then Parliament—government and all of the Senators here, but for two—supported that measure as equating the two offences saying that the two offences were equally serious. In my view, this is a conflict or inconsistency, in terms of the Government’s position.

The second point is that clause 5(2) states that notwithstanding that section, a person charged with kidnapping for ransom, if not brought to trial within 60 days, is entitled to apply for bail. That is the sum of it. Madam President, is this a no bail provision? I do not want to be misquoted here. I am not saying that I am necessary in support of no bail for persons accused of kidnapping. I am saying that having been put out—whether inadvertently or not as a “no bail” for kidnapers—meaning accused kidnapers—provision, one has to look to see whether it is so; and it is not so. It is a holding period for 60 days for persons charged with kidnapping for ransom only. So, it is saying that the courts can hold you for 60 days and if after 60 days you are not brought to trial, then you are entitled to bail. What does “brought to trial” mean? What is the holding period?

Madam President, this is similar to the constitution of most of the Caribbean jurisdictions where the constitution in each case says that a person who is arrested or detained and who is not released shall be brought without delay before a court, and if such person is not tried within a reasonable time, then without prejudice to any further proceedings, he shall be released either conditionally or unconditionally.

In other words, their constitutions, apart from Trinidad and Tobago—all the other Commonwealth constitutions—provide for a speedy trial, subject to which you would be released on conditions, meaning bail. What we are talking about here really, if you read between the lines, is that kidnappers would be kept in custody for 60 days and assured of a speedy trial which, if they do not get, they would be entitled to be released on bail. It may sound ironic, but this provision is the only provision we have in the country that provides for speedy trials for anyone. [*Desk thumping*] It provides for speedy trials for persons accused of kidnapping for ransom only.

So, if you are charged with murder, you are automatically not granted bail under this Bail Act. There are really four offences: hijacking, piracy and treason do not come up regularly, but murder does. There is no bail for murder, but there is no provision in the law for a speedy trial. Barbados, Jamaica and all of these countries do not have any provision where there is no bail for murder. The courts would look at the seriousness of the offence and say that because the penalty in the case of Barbados and Jamaica may be death, then we may not grant you bail because you are likely to flee if you are to be hanged. So there is no provision like what we have. The only other countries that have this provision are St. Lucia and St. Vincent and the Grenadines. In every other country it is discretionary bail.

Madam President, the point I am making here is that by us creating this no bail release for 60 days unless you are tried, we are saying that persons charged with kidnapping for ransom are entitled to a speedy trial. Is that what we really wanted? Is that what the Government and the Opposition wanted? I do not know. It may be so, but it seems to me that the real intention was to hold or deny persons who are charged with a serious offence such as that, to deny them bail so that they would not commit offences whilst they are on bail. This is what I grasped the intention was. My view is that the legislation is not really achieving this because two months after you are arrested, if you are charged with kidnapping for ransom, you are entitled to apply to a judge in chambers or to a magistrate for bail and applying all of section 6 considerations under the original Bail Act, the magistrate may take into account your antecedents, the seriousness of the offence and so

forth but, more importantly, she would look at your previous convictions and if you have any previous charges. If you have no previous charges then, most likely, you would be granted bail.

Persons charged with possession of AK47 and things of that nature are granted bail regularly, once they have no previous convictions or no pending charges. That is the point. So it is 60 days if not brought to trial and without going into details, may I say that in Trinidad and Tobago, no one that I know of has been brought to trial within 60 days for an indictable offence. I am not talking about a summary offence. A summary offence is tried in the Magistrates' Court.

Kidnapping is an indictable offence. With kidnapping, when a charge is laid, a date is fixed in the Magistrates' Court and you would have a preliminary enquiry; you would have to get the witnesses to come; you would have cross-examinations and you have adjournments for that. Nobody is going to sit for 24 hours for one person. After you have that, let us say that it was achieved by a miracle in a month—with the best will in the world that is hardly unlikely—there is a committal for trial that goes to the Director of Public Prosecution (DPP). The DPP must draft an indictment which means he must review all the evidence, and then an indictment is filed; then a cause list hearing; and then a person is put on that list to be tried. So you have to jump the queue. The kidnapper would have to jump the queue many times, but you are still dealing with human beings who must give evidence. So, it would be a very odd, unusual and unlikely happening that anybody would be brought to trial for kidnapping for ransom within 60 days.

### **3.15 p.m.**

So, it means therefore, that all of these people would be entitled to apply for bail—persons charged—which is not a bad thing. I am not saying it is a bad thing, but I am saying, really, all the Government is achieving is to hold kidnappers for 60 days, and that is really what it is. An obvious benefit to that, is that, if there is one of those persons who is likely to commit another offence, for 60 days he will not do so. Probably, if he is working alone and he is likely to influence witnesses, he would be in a less advantageous position to do so.

But, Madam President, it is a fact—I speak from knowledge here—that in the prisons telephones are available. It is not difficult to make communication from the prisons if you want witnesses intimidated or if you want witnesses eliminated. So the advantages of keeping somebody in custody for 60 days, a person charged with kidnapping for ransom is not as it sounds. It is not as beneficial in protecting witnesses and the rest of society, because you can take a little break if you have

been engaging—if that person is in fact guilty—if they have been engaging in kidnapping for ransom; you cool your heels for 60 days; you apply for bail and you get it. I know in the case of one person, that person has no previous convictions; he has been arrested about three times for kidnapping and once for murder and the witness died, so you can arrange your business with your easily available cellphones in the prison and that is it. So, you would more than likely get bail after some time and you come out again. One has to look at any effect that this measure would really have and I do not know that it is going to be of great effect.

Also, Madam President, on the other side, when we are talking about human rights, if we are planning to detain numbers of people, assuming, of course, that we can arrest numbers of people for kidnapping; my information is that of 40-odd offences of kidnapping for ransom in the last year or so there were about 10 cases where arrests were made. In some cases there were several people arrested for one offence which might sound like a lot of arrests, but, still, that is a very low percentage, maybe, quarter of the people or less arrested.

Let us assume you have all of these resources that Sen. Mark talked about and you have these people, where are you placing them? What is the situation with Remand; remembering that these people are still presumed innocent? In the placement of prisoners on Remand one has to bear in mind that they are not serving sentences and I do not know that our prison services, our persons who fund or who look after, who are in charge of those prison services are cognizant of that fact. Because I have visited the Remand Yard—I have said that here—and it is like the black hole of Calcutta. I have never seen the black hole myself but I have read about it. It is dark, dark, dark and there are insects swarming all over the place and there are people there in the dark. There are about 10 people in a cell and they are all stretching out their hands and calling you, it is like animals.

So, if we are talking about ensuring human dignity in the country, we are moving towards a certain vision and we are going to put more people in detention—we are not looking at the rightness or wrongness of it now—once you are doing that you need to provide better conditions. I am not saying better conditions for kidnappers—that is the kind of headlines we look at—I am saying for anyone in Remand. If you are going to deny bail, at least, have the proper human rights, the people's human rights respected and treat them like human beings. You cannot achieve a benefit, a good, deterring persons, safeguarding the public at the risk of denying, possibly, innocent people their rights, or even guilty people of their rights. We cannot be as bad. The State should not be seen to be as equally bad as the offenders. Those are the issues with respect to the question of the holding for 60 days.

Madam President, the real change, if I may say, the revolution in this Bill is the provision at clause 4. We have created something that is fairly novel in the Caribbean, or we will create it, if it is passed, which, I dare say this legislation will be, when we say:

“A Court shall not grant bail to a person who is charged with an offence listed in Part III...”

This is very, very, not draconian—I do not want to use that word—but serious. It says:

“A Court shall not grant bail to a person who is charged with an offence...”

if that person has been convicted on two separate occasions of offences or combination of offences in the Part.

In other words, if I have two previous convictions within the last 15 years for any one of those offences listed in Part III, and today, I am charged with an offence, I absolutely will not, no way, get any bail; there is no question of holding period. It is, as if I am charged with murder; this is what this Bill makes provision for. Nowhere in the Caribbean is there such a provision, that I have seen anywhere, and I can say that up to June, 2005 there was no such provision in the Caribbean.

Let us look at the offence; they are all deemed “Violent Offences”:  
“manslaughter;  
possession and use of firearms or ammunition with intent to injure;  
rape;  
grievous sexual assault...”

Which is different from rape, by the way, it could be committed with instruments and so on—

“sexual intercourse with female under fourteen;  
sexual intercourse with female between fourteen and sixteen;  
sexual intercourse with male under sixteen;  
buggery;  
sexual intercourse with an adopted minor;  
sexual intercourse with a mentally subnormal person;  
incest;  
shooting or wounding with intent to do grievous bodily harm;

robbery, robbery with aggravation...  
an attempt to commit any offence..."

These are all offences to the person, as you can see. That is why they are deemed violent offences and the law will say, that if you have two convictions on separate occasions; say you have one 14 years ago, say, you attempted to rob someone or you robbed someone and then two years after that, which would be 12 years ago, you robbed someone—you went down Charlotte Street and you ripped a chain off someone's neck at Carnival time, which is not uncommon—and you were convicted, because in those days you would have to be tried in the High Court for such an offence; now those robberies can be tried in the Magistrates' Court. So, if you are convicted and then you find yourself charged today—well, it would be next week when the Act is passed—with any of these offences there is no bail until whenever; until the trial is complete. That is what it means, under the new proposed legislation. And people might say, well, yes, you are a criminal, you are a recidivist; you have been committing offences and we want to deal with repeat offenders, and I have heard it.

Madam President, that is all well and good until it is somebody you know or until you have specific situations when you come to deal with individuals. I will give you an example; in St. Lucia, last year, they passed a new code—very extensive code—and in it they changed their bail law and they provided for about six offences for which no bail would be granted, and they have, if charged and if convicted. One of those offences included rape and an attorney was charged with the offence of rape and he was affiliated to the opposition. And the government of the day; the Attorney General, they had to go to court to argue whether or not this was the proper law; whether it was right or whether it was unconstitutional. They argued that, really, the law did not mean that a person charged with rape should be denied bail; the law had to mean a person convicted with rape and on appeal would be denied bail. But the provisions were clear; and in one section they talked about charged and another one was convicted. You would not put charged and convicted because convicted presumes you were charged, but the government of the day sought to get around it; to say, that is what it had to mean, because they did not want it to be seen as if they were doing some kind of—they were trying to set up this young lawyer. And that is the point, when individual cases come up like that; you are looking at this lawyer and you say, his colleague, it was another lawyer who had made the report—it was supposed to be a date rape—and so he fell within that category.

The point I am making, you may have cases where persons may have made mistakes 15 years ago and now they are charged, say, an attempt to have sexual intercourse with a female between the age of 14 and 16, and oftentimes you do not know that person is under 16—I am not making excuses—I am telling you the norm because that person looks 17, if you wear your low riders and you go wearing your short tops, people might think that you are older than you are, and then that is automatic denial of bail. That is the situation with this amendment and that is why I say, that is the real draconian measure as it were. [*Interruption*] We may want that, but we have to consider it seriously.

But, Madam President, more importantly, why is it that kidnapping for ransom is left out from that list? It makes absolutely no sense to me. We have all of these offences; we are talking about wounding with intent; we are talking about attempting to have sexual intercourse with a mentally subnormal person and we are talking about having sexual intercourse with a female between 14 and 16. Somebody has been charged with kidnapping for ransom, you hold that person for 60 days and that person, afterwards, can apply to a judge in chambers, even if that person had two previous convictions for violent offences. Let us say that person had a conviction for possession of a firearm, with intent, and another conviction for grievous sexual assault in the last 15 years, it does not matter; he is still entitled to apply for bail. But another person who has had two previous convictions; if charged with sexual intercourse with a minor or if charged with a robbery or an attempted robbery has no bail.

Is an attempted robbery then, in the eyes of this Parliament, to be treated as more serious than a kidnapping for ransom? This is what we are talking about. This is what we are saying. A person who has two previous convictions for any violent offence in the last 15 years, now charged with attempted robbery, cannot get bail. A person who has those same two previous convictions now charged with kidnapping for ransom, once 60 days have passed, he is entitled to apply for bail. It is incongruous, the law is incongruous; it just does not make sense to me. I know that it is supposed to be a meeting of minds, but I do not know what informed those minds; in that anomaly in this piece of—you have all of the offences to the persons listed there, for which you are saying, no bail; you have two previous convictions, you are considered a repeat offender, you are probably a recidivist; now you have been charged with another one.

So, kidnapping for ransom, it means, this legislation is saying, it is not a violent offence; that is what you are saying. You are saying, rape is a violent offence, manslaughter—if it is motor manslaughter, you knock down somebody and the person dies, you might have been negligent—it is violence; you have



sexual intercourse with a female under 14, even if you are 17 years old and you do that, it is a violent offence; buggery, even if it is consenting buggery, well you know what the law is; I am not getting into the religious aspect, but consenting buggery is a violent offence; well, I have no problem with incest, obviously violent.

Shooting with intent; wounding with intent—you chop somebody, you have a fracas and you take out your cutlass or, as happens these days, your penknife, you stab him up—violent offence. Robbery; you pull a chain off somebody, that is creating fear, that is violence; you do not even have to resort to a gun; you pull a knife and say, “gimme that” on the street, violence. And for any attempt—you do not even have to do it, you attempt to do it, and once you have two previous convictions for any of those in the last two years, that is the three strikes rule that they are talking about here—no bail. But kidnapping for ransom—boy you know after 60 days, cool it out there, go and you apply for bail and you might find a magistrate or a judge who will say, well, those two previous offences, you were a young man, that had happened when you were 17 or 18, because there is no age limit, we will let you have bail and this is what is the irony about this piece of legislation.

There is a benefit, in that, in so far as these offences are concerned, repeat offenders will have—it is unlikely for them—if they are in fact guilty, to come outside and attempt to commit another offence whilst on bail. This, of course, does not mean that when they are outside and they are acquitted they cannot do it, but what is the point, we are talking about bail here.

Madam President, that is, really, my contribution. To me, the best thing about this Bail (Amdt.) Bill, is that it is a rare example of cooperation between the Government and the Opposition; that is the best thing about it, and for that reason I will vote for it. But, I dare say, there will be no amendment here, because I am sure that the Attorney General will not want to go back to the House of Representatives to try for the amendments; if we agree to any, even if it is Christmas and all of that; I am not expecting unattainable goals. So I expect that we will pass it.

But, Madam President, I will vote for it because quarter or one-eighth of a loaf is probably better than none. If one could have some minuscule achievement by detaining persons charged with kidnapping for 60 days and the minuscule advantage of the fact that those who may be guilty would be, unlikely, in that period to commit another offence, then that is a possible advantage. But I still think that the whole thing is really—I would not say a storm in a teacup—in terms of all this grand fanfare about doing something about kidnapping, much ado about nothing.

Thank you very much. [*Desk thumping*]

**Sen. Prof. Kenneth Ramchand:** Thank you, Madam President. I propose to vote for the Bill before us, whatever I may say in the next few minutes. I will vote for the Bill if only to give encouragement to the notion that Government and Opposition can work together and support one another in devising strategies for the benefit of the country as a whole.

I have another reason for welcoming this small thing. Even if cooperation were to fade away as politics and elections take over, the quality of the debate on this occasion will be different. For the first time we will have a debate in which there can be free discussion. You can say what you like about the Bill, because at the end of the day, we are all going to vote for it. It would be a sign of a willingness to be mature if any proposed amendments could be debated in this same spirit of cooperation with the national good in mind.

So, I am quite hopeful that in terms of how our Parliament is developing, this is an occasion for us to have a free debate where both sides can say what they like and not worry about what the party whip would say about them, because it is already agreed; we are going to support it. A little thing, but it could turn out to be plenty.

Madam President, lots of reservations had been expressed about the Bill. The first is: it is not draconian enough. The second is: even with the 60-day period with respect to kidnapping for ransom, charged criminal, with the possibility of extensions, the workings of the justice system may not permit a matter to come to trial in time. I doubt that the answer is simply more judges and more courts, but I will leave that question for those who know the law and the system better than I do, to think about.

Another criticism that one or two of my learned friends have offered is that the Bill does not provide for speedy trial for murder, but seems to provide for speedy trial for kidnapping for ransom. A third criticism is that even if the provisions were implemented satisfactorily they would be unlikely to make any impact on the big problem of crime.

A fourth criticism is: Why restrict it to kidnapping for ransom? What about those who negotiate for ransom, as my colleague has argued? I would like to ask: Are other kinds of kidnapping not just as bad; are they not likely to cause terror and fear and apprehension; are they not likely to cause trauma? I think that to restrict the Bill to kidnapping for ransom just by itself is not enough.

I share some of the reservations that have been expressed privately and publicly, as my comments on the Bill itself will indicate. And while I am talking about it, I agree with Sen. Dr. Mc Kenzie and lots of others: Who will come for bail if you do not catch them? You have to catch them before the whole question about bail can arise.

So, Madam President, there are lots of reservations. I have tried to summarize them. I think, I agree with most of those reservations and these will appear as I go into the Bill itself. The first thing I have to look at is clause 7:

“This Act shall continue in force for a period of one year from the date of commencement.”

I do not understand either the logic or the illogic of this. What are you going to find out after one year? Can you find out after one year that it is working and therefore we will confirm it or will you find out after one year that it is not working? Is it enough time? Is one year enough time for you to decide one way or another? [*Interruption*]

So, Madam President, I just like to understand how people’s minds are working. I would like to understand why it is one year. The amendments, themselves, as I read them, there are amendments to the First Schedule, but there are no amendments to Part I of the First Schedule, “Circumstances in which Persons are not entitled to bail.” Those circumstances remain murder, treason, piracy or hijacking and any offence for which death is the penalty fixed by law.

If we really want it to be drastic and true to our situation we should have amended Part I:

“trafficking in narcotics or possession of narcotics for the purpose of trafficking;”

In my opinion, those should be in Part I.

To me, a drug trafficker is a multiple murderer and a bringer of immeasurable suffering. I do not see why they should be excluded from Part I. If kidnapping for ransom is such a reprehensible thing, I would put it one time in Part I. So, if you really want to be drastic—if these great minds want to meet and be drastic to deal with the problem of crime—then be drastic; recognize the menace of drug trafficking and recognize the menace of kidnapping for ransom by promoting them into Part I.

Madam President, Part II of the original Act is entitled “Specified Offences”. There used to be 14 offences listed from “A” to “N”. That is now repealed and a new Part II consisting of six of those offences is installed. For the offences now listed under Part II, section 5(2) of the law still applies. To put it simplistically or simply, these people—people who commit these offences—will not get bail if they have three convictions for any of the offences in that list. So, that is where the three strikes rule works. First of all, I think three strikes are too many, and I will tell you how much I believe it should be in a while. Three are too many. But these persons—there is an exception—are not denied bail absolutely; they can be denied bail but they have a right to go to a judge in chambers. I find that is giving too many chances, and we should have done something about that.

I am also very worried about the interpretation of the provision referring to three occasions arising out of separate transactions. I do not understand it. I want the Attorney General to tell me, if I steal a car, put my imitation gun in my back pocket, put my little pouches of cocaine in the car to go and sell some cocaine and a police stops me and I hand him 10 blues—*[Interruption]*

**Sen. Dr. Mc Kenzie:** Hundred dollar bills.

**Sen. Prof. K. Ramchand:**—and I say, “Ease me up” and he says, “What, you are trying to bribe me?” and then, I go up and I am charged and convicted for all these four things; does that count as one or four? It sounds to me as if that counts as one; it is only one, so I have to do that three times before I would be denied bail.

**Sen. Dr. Mc Kenzie:** Four charges.

**Sen. Prof. K. Ramchand:** It is four charges, but it is one occasion. That is not right, Madam President.

**Sen. Dr. Mc Kenzie:** On that occasion there was an offence.

**Sen. Prof. K. Ramchand:** No, I would really like the Attorney General to tell me if that counts as one strike or four strikes?

**Madam President:** Would you like him to tell you now?

**Sen. Prof. K. Ramchand:** Yes, yes, please.

**Sen. Jeremie:** It is one strike; it is one transaction but, again, the Bill was a product of compromise. We are striking the balance between civil liberties and your requirement for us to be draconian.

**Sen. Prof. K. Ramchand:** I think this is not. The opposite of what I am saying is not “draconian”. I am just saying, have a little common sense. Four of these things and one strike! *[Interruption]*

Well, anyway. We have a new part in this Amendment Bill. It is Part III called “Violent Offences”. It contains seven of the offences from the old Part II and seven new ones. I looked at them—“Violent Offences”. Burglary and housebreaking have been removed entirely; they are not in I, II or III. To introduce the new category, Part III “Violent Offences”, a new section 5(4) has been indicated.

Whereas for the offences in Part II you need three strikes, in 5(4) Part III, it is two strikes. As my colleague, Sen. Seetahal was saying, this is where it begins to get draconian. I had a question to ask, but I will go along with what my colleague seems to believe: it was intentional that there be no provision in section 5(4) for a person to go to a Judge in Chambers and apply for bail. It is quite absolute that if you have two strikes—no bail. You cannot ask a Judge in Chambers to grant you bail.

**3.45 p.m.**

That is more like what I want. But, Madam President, I do not understand the rationale for the division between Part II and Part III. Because in Part II where you have to have three strikes, you have perverting justice and drug trafficking and I feel that they should be at least two strike offences. Why are they three strike offences?

I would like to know on what basis people sat and decided that these offences go in Part II and those go in Part III. And really, at this point, we are not setting out to define the offences. We are merely trying to make some kind of arrangement about who can get bail or who cannot get bail. Would it not be a more commonsense thing that you sit and say, that drug trafficking is a very serious business and it should go in this section rather than that? I do not plan to change what the law says. We are just determining a question of bail. Should we say, we are being very serious about this thing; we are not making a distinction between two strikes and three strikes. There are certain offences for which we have decided for the next three years, you are not getting bail. Be brave! Or, there are certain offences for the next two years, if you have one conviction for any one of them, you are not getting bail.

Incidentally, I do not like the ordering of Part II Part III. The bail regime in Part III tends to imply that the crimes in Part III are more reprehensible than the ones in Part II. I know they left it in that order—perhaps a bit of laziness because

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they have to go and amend things—but I think in the interest of elegance, you should say, you have Part I, the most serious one; then you have II; and then III. Instead, you have the most serious one first, then the least serious ones according to you are second, and then the middle ones are third. I think in the interest of elegance, the order should be arranged according to degree of gravity. But in any case, in the interest of being effective, you should not bother to have Part II and a Part III. Those are my comments on the amendments.

The implication of bringing into being of a Part III, is that Part III offences are more damning than Part II offences. I do not know what the criteria for making such a decision are, and I feel that for the determining of eligibility for bail, you do not need the refinement of the two categories. Let me just add, I would like it to be the case, that if you are convicted of even one offence under Part II or III, you are eligible to be denied bail.

There is one little amendment, I am wondering, to 5(1). Should 5(1) say, “Subject to subsections (2) and (4)”? I think in the Bill that came to us—

**Sen. Prof. Deosaran:** Which one is that?

**Sen. Prof. K. Ramchand:** The one that says—

**Sen. Prof. Deosaran:** 5(1)?

**Sen. Prof. K. Ramchand:** Amendment to 5(1). Oh, I have to go to the original—sorry, that is why I could not find it—5(1) in the original says:

“Subject to subsection (2), a court may grant bail to any person charged with any offence other than the offence listed in Part I of the First Schedule.”

Should that not be amended, Mr. Attorney General? Should 5(1) not be amended to say:

“Subject to subsections (2) and (4), a court may grant bail to any person charged with any offence other than an offence listed ...?”

**Sen. Jeremie:** No.

**Sen. Prof. K. Ramchand:** No? Okay.

**Sen. Jeremie:** Sorry.

**Sen. Prof. K. Ramchand:** A court may grant bail. I want to know if 5(1) needs to be amended.

**Sen. Jeremie:** It cannot be.

**Sen. Prof. K. Ramchand:** Of the original? To me, that is something that lawyers have to work out.

**Sen. King:** No.

**Sen. Jeremie:** No.

**Sen. King:** It is logic.

**Sen. Prof. K. Ramchand:** Okay. Madam President, I want to come to two questions that are not strictly related to the clauses of the Bill, both of which have already come up. What do you do with persons who are denied bail? Are persons who are denied bail prisoners—prisoners like people who have been convicted of a crime—do they have the same status?

**Sen. Dr. Mc Kenzie:** They would say that they have Remand.

**Sen. King:** Remand.

**Sen. Dr. Mc Kenzie:** They would say that they have Remand.

**Sen. Prof. K. Ramchand:** No. I want to know if I am in Remand, if I am a prisoner?

**Sen. King:** Yes.

**Sen. Dr. Mc Kenzie:** Yes, prisoner on Remand.

**Sen. Prof. K. Ramchand:** But, am I a prisoner because I am paying the penalty for a crime for which I have been convicted?

**Sen. Dr. Mc Kenzie:** No.

**Sen. King:** No.

**Sen. Prof. K. Ramchand:** But I am just being detained and I am just being held. I agree with those who say that the conditions in the Remand Yard are inhuman and worse than the prisons themselves and we have to make special provision for people who are being detained in this way. If you have been denied bail, you have not been proved guilty of anything.

I wonder what is the purpose of denying a person bail. Is it to make sure that they do not go back and do the same thing again?

**Sen. King:** Yes.

**Sen. Prof. K. Ramchand:** Is it to make sure that they do not go and try to bully witnesses and kill witnesses?

**Sen. Dr. Mc Kenzie:** All of them.

**Sen. Prof. K. Ramchand:** Right. But I still feel that they are different from convicted criminals, and that, if the purpose is to prevent them from doing the crime again or from interfering with witnesses, intimidating witnesses and so on, there are other ways of ensuring that they do not do that and there are ways of getting them—I know in some countries they stick some kind of metal in them and send them out and you could track them and know where they are going, what about that?

Why should we mind them while they are being denied bail? Put the chip in them; monitor them; let them report to police stations; let them be sure to be home between the hours of so and so and so. Surely, there have to be systems that would make it unnecessary for everybody who has been denied bail to be kept in detention with us, looking over them with a set of guards and so on. Relating to the issue of what do we do with persons who are denied bail, are we going to make provision that everybody who has been denied bail is going to get a speedy trial?

**Sen. Dr. Mc Kenzie:** [*Inaudible*]

**Sen. Prof. K. Ramchand:** Well I thought that was only for—it seems to me that only the ones who are charged with kidnapping for ransom get a speedy trial; everybody else just has to languish. So I feel that legislation like this should have included some kind of gesture towards speedy trial for everybody who has been denied bail.

Madam President, on the question about delays in giving people speedy trials, if you know how the proceedings in Magistrates' Court upset, worry and vex me. I always thought that a Magistrates' Court was there to decide whether the offence is triable. I did not think what happens in a Magistrates' Court is a trial. But the way the attorneys get on, they are out there to prove that the fellow is innocent, they want to scrutinize everything and cross question everybody and so on.

Madam President, whether the British has this system or somebody else, I do not care. Do not tell me that a magistrate cannot sit with somebody from the Office of the Director of Public Prosecutions and the defence attorney—three big men or women —and decide: “Look, there is enough here for this thing to go to trial, or there is not enough here for this thing to go to trial.” I believe the function should be removed entirely from the Magistrates' Court and it should be done by a small group of people like the defence, DPP and the magistrate presiding. That would save a lot of time to allow the Magistrates' Court to do what it has to do more efficiently, as well.



Take away that function from the Magistrates' Court; speed up the process by having a committee, and the attorney would still get his fees for representing his man at the meeting. He would not get fees for many days and would not have all these postponements and so on. But, Madam President, that to me, is one of the greatest sources of delay in the delivery of justice in this country.

I just have to get in a bit about my Cedros man. I find it a weakness in the administration of justice that senior counsel was not reprimanded by a judge. Senior counsel spoke out of turn in a trial and the judge told him it is okay. The judge did not tell him not to speak like that and the judge did not tell the jury do not listen to that. Matter goes to the Appeal Court and the Appeal Court says: "We do not see anything wrong with how senior counsel behaved." Then, the Privy Council said that the senior counsel behaved badly. Reprimand senior counsel; take back the money from him. Why should that lead to an acquittal?

Madam President, I do not understand all the intricacies in the administration of justice, but I know it is not right and it is not just. Reprimand senior counsel. You could give the man a retrial.

Madam President, I think this Bill cannot be taken simply by itself about bail. It has serious implications on how you catch criminals; what you do with people who are being denied bail and the whole process of trials in this country.

As I have said, I think this is a kind of place for free and open discussion. People could say what they like. All the matters may not be taken on in the present Bill, but I feel this has been an opportunity for us to discuss the administration of justice and I hope that other contributors would take advantage of the opportunity. After all that, I am going to support the Bill because I really would like to mark the fact that we have had cooperation between the parties.

Thank you. [*Desk thumping*]

**Sen. Prof. Ramesh Deosaran:** Thank you, Madam President. Madam President, there was a distinguished attorney who sat on the Independent Benches some years ago when I was his colleague, Sen. Allan Alexander. He repeatedly made the point that the Parliament Chamber is a place for political debate and some of the intricacies and the legal niceties should be more properly worked out in committee stage. And he repeated that message and somehow or the other, my mind today fell back unto this distinguished attorney.

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I would not repeat a number of the things that have been said before, but I must insist on emphasizing one major point in this entire exercise; that is, how this Bill was brought about, both in the Lower House, and in particular today, in the Senate. It seems to me, Madam President, that we cannot and should not direct all our remarks to the Government. This is a Bill that has had direct input from the alternative Government as it were, the Opposition.

In a particular case, for example, of the 60-day time limit, you cannot justifiably accuse the Government of having too restrictive a time frame and leave it like that. It is totally unfair to do so, in my respective view. Certainly, I strongly suspect that while the 60 days is an attempt to preserve what is called people's civil liberties, I am almost dead certain that the Government had come about during the negotiations with a wider time span. I would be grateful not only for my personal interest, but for the benefit of the entire country, especially since this debate and the Bill itself, apart from the bail and the specifications in Part II and Part III, the serious political implications this Bill has for the country now, and quite likely for the next election.

So this Bill has a serious political context which I find very intriguing to see it, if not totally, but partially ignored, except when my distinguished colleague, Sen. Mark spoke and he was on the button in terms of looking at the politics of this legislation. The distinguished Attorney General also made mention as to how this Bill evolved in the particular context of his trying to get a balance between public concern and the need for, what is called, draconian responses, but at the same time to respect sections 4 and 5 of the Constitution.

So it is in that context I would like this debate to proceed and in the committee stage we can properly unravel some of the niceties as to expanding Part II or minimizing Part III and so on. Those are quite reasonable concerns.

Madam President, I want to start off more substantially by looking at the implications of bringing this Bill for what is virtually compulsory refusal of bail for that period of 60 days. It means that we have taken away the discretion from the Judiciary. It is as if we have no confidence in the Judiciary to deal with such matters being brought before them. That is the long and short of it. Of course, after 60 days we will be back to square one, but the Judiciary would be able to return and conduct its business as it would usually do under normal circumstances. So in that sense, this is a hatchet that has been used against the discretion of the Judiciary. Is it justifiable? That is the issue, is it justifiable?

As I listened to the debate to some intent, it reminds me again, of Mr. Allan Alexander, SC and I say so with great respect. Sometimes when lawyers get in these entanglements, they forget the forest and they sometimes get lost through the trees. It is important to keep the forest in mind in this legislation, because it has been a political experiment and in my view never tried before in recent times.

Sen. Mark is right, it is an historic occasion. It does show the limits of political collaboration, because what you have brought here is really a very narrowed down Bill, given the vast range of concerns that the public has about crime and the Government's ability to deal with it. But the fact that it is, relatively speaking, a narrowed down piece of legislation shows you how difficult it is to forge a compromise between an Opposition party that looks forward to the next election, in fact, of winning the next election, and a Government that wants to display its performance in such a way so as to retain its office.

That is the reality. Every other thing we do cannot disguise that fact that the two sides are competing for power and perhaps earlier than we can imagine, which makes it more intense. So we can speak about clause this and clause that, but power is lurking in the shadows. Sen. Mark was right that the public can, in his words, no longer blame the Opposition for not collaborating. So what the Opposition has done and perhaps justifiably so, is to extricate itself from any problems that this Bill might face later on, leaving the Government with a compromised position, which, in my view, appears to be a diminished position.

To me, it is a first rate lesson in the politics of public policy and I would certainly make an attempt to get the *Hansard* and take it to the university to show them how the real world exists, when it comes to building public policy. Because the ace in the next election, Madam President, is not poverty; it is not housing; it is not even the tax structure; not even education as much as it will be crime and the attempt by the Government to deal with crime, kidnapping and murder more specifically. So I want to know how far the Opposition will want to go in surrendering that "S" in what is really political All Fours that is being played out here. Everybody is keeping the trump close to his chest.

**Hon. Senator:** [*Inaudible*]

**Sen. Prof. R. Deosaran:** Really, you are the expert. But at the same time and to be very fair, I believe the Government and the Opposition should be seriously commended for making the effort especially in view of the constitutional constraints in which they operate, as an Opposition and as a Government. To come that close on a matter as sensitive and politically controversial as crime, I think they ought to be congratulated. I am merely showing the limits of that

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collaboration which must be taken in a very serious way because that is the ace as I am saying or you call it the “S” in All Fours towards the next election.

So the Bill which we have here could very well be like the ghost of Christmas. It looks very attractive, but most of it might be wishful thinking, depending on some of the remarks that we have heard before. I did not say so to denigrate the exercise, but I believe from where I stand, I would have to give my best judgment on what is being exercised so that we would know the challenges and how serious they are, that we are up against, which means that if you continue with this collaboration, it would not be much better than what we have had. If you come with the Police Reform Bills, it would be the same thing. The Opposition would want to retain its interest in seeing that the Constitution is not brutalized unnecessarily.

So it is good for us to take this warning early and hasten—in my view again—the exercise towards reconstructing and reforming Parliament and reforming the Constitution itself, so that these joint exercises could be better accommodated without anybody feeling that he would lose an advantage or he would be giving an unfair advantage to the other side.

That is why the Chamber is a place for political debate, to explain and understand these very compelling circumstances with such legislation. It would seem as the Bail Bill as it is, has been, I would say, watered down to some extent because people have concerns about civil liberties. The Bail Bill might be an attempt to bail out both sides from public expectation because the public expects something. So we have to come up with something—which to me does not really deal with the question of crime in the country; and the point was made about murder, a very valid point which I would refer to in a while.

Madam President, the option on this Bill and starting from what the Attorney General and Sen. Mark said, if you want compromise and, I would say, a level playing field to enter into such collaboration with this piece of legislation and other similar ones to deal with crime, the option is for the Government and the Opposition to form a truce that crime would not be debated and discussed on the election platform in the next election.

If you remove that from the election agenda, the level playing field would accommodate a genuine mode of collaboration. As long as that is hanging in the air—crime is a serious electoral and campaign issue—Madam President, I doubt we would see anything further or deeper and realistically so. That is why I say we have to reform the Constitution if at all possible to see whether such collaboration could be more genuine as it were.

This Bill is really a two-pronged attack. First thing it says: No bail for the third charge, of course, after two previous convictions, and this is in clause 4 of the Bill and the need subsequently following with a new Part III list of offences. The other attack is to have no bail for kidnapping for ransom; and I think the point is belaboured. Sen. Seetahal gave an interview in the *Sunday Express* and she elaborated on the anomalies that this will create.

One obvious anomaly—I do not want to belabour the point—is that I believe both the Opposition and the Government have taken on a very daunting task to come up with a compromise in the circumstances I just discussed. The anomaly for example—well to me, murder is a more serious charge than kidnapping for ransom and why you cannot have murder within the 60-day limit. Matters of that kind, therefore, will produce some anomaly and untidiness because I suspect strongly, that somebody—subject to correction but, I am almost certain—would raise a constitutional motion about the unfairness in the system, by looking at a murder charge in terms of a speedy trial and giving this option to kidnapping for ransom.

I am almost certain that will happen too. And there are very few predictions that I have made in this country that have not come through, I could tell you that. But that is a matter for another time. It is very fortunate, I would think, but curiously so, that the Chief Justice himself has described the Bill before us as a reasonable Bill. The word “reasonable” is important and I do not know if those words or that particular word would haunt him later on because in section 13 of the Constitution, to which such repeated references have been made, it does give the Government or the Parliament the authority to pass legislation with a three-fifths majority. But the paragraph does not end there. It ends by saying—and the Attorney General was quite right when he said, “you can have your three-fifths majority and so on and pass the legislation, unless the act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedom of the individual”

So the word “reasonably”, will become a subjective matter when such a motion might very well be filed in court and the same Chief Justice might have to determine whether it is reasonable or unreasonable. Except that he has already said in public that the Bill is a reasonable Bill; except that the challenge for 60 days is the problem. This is a very curious situation in which we are in. This is not to denigrate the Chief Justice because I think like himself, and everybody else, we really want to see something done about crime, if it means cutting some corners here and there.

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I believe he has expressed a commendable disposition to see the best that the Judiciary can do to accommodate what the Parliament wishes. I think that is a good sign because evolution is a slow process. Just as it is a slow process with the Government and the Opposition to join and to come up with such a Bill, perhaps in the evolution of things this insistence upon sterile independence between the Executive and the Judiciary should be diluted when it suits the public interest.

I think the Chief Justice's comments about the Bill being reasonable and he would try to see what the Judiciary can do to expedite parliamentary wishes, except that he needs certain resources, I think that should be a welcome sign as well.

As I said, I will not go into all the details, most of it have been mentioned before, but I merely want to suggest that when this Bill becomes an Act—you see this list of offences, some people even in Parliament have seen this for the first time or are studying it for the first time. Why am I saying that?

Madam President, I am saying that because I would wish the list of violent offences and then the list of specified offences be widely publicized, so the public will get the message more fervently which the Government and the Attorney General wish to send to them. They will know what they should not do. They should know what they would get when they do what they should not in this particular instance. Get the information out dramatically and as seriously as it deserves.

**4.15 p.m.**

Madam President, it is for all these reasons I believe, especially hearing Sen. Mark and the very earnest manner in which the Attorney General presented the Bill. He is caught. We do not have these debates in the newspaper anymore, but there would be some challenges to human rights and civil liberties, so he is caught. I am quite sure that he does not want to show that he is leaning against civil liberties, but at the same time he wants to preserve public concern through legislation. I would have liked to see both the Opposition and the Government holding these talks in public, so the cameras and newspapers could be present to really hear what the Opposition wants, what the Government wishes and what each side could give. Then you would have had a civic exercise, because we do not know. [*Desk thumping*]

I am merely guessing, but with some confidence, what the Opposition may have said; I am guessing as well what the Government may have wanted, and yet we have a product here with such serious electoral consequences. I would have liked that discussion to be in public; it would have raised the standard of

transparency. I do not think there is anything secret that could not have been shared; the public should know. I am quite sure that in the collaboration it was not matters of intelligence and secrecy that were shared; it would have been just how to deal with crime; what the Opposition thought, a, b, c, d; what the Government thought, a, b, c, d and where the compromises were formed; so the public would know how each side stands on the issue of fighting crime. The talk about civil liberties could become more specific and the limits could be seen as to how far each side wishes to go.

I was very thrilled by the Attorney General coming out with such ferocity against criminals: "We will hunt you down, if you stalk us; we will catch you; you can run, but you cannot hide." He did not say so, but that was also implied. [*Laughter*]

**Sen. Mark:** Sounds like a cowboy.

**Sen. Prof. R. Deosaran:** It reminds me of John Wayne in the old movie days, but this time he came out boxing with both gloves, like Muhammad Ali. I hope you scared the criminals, because as soon as the Bill came out another kidnapping happened in Williamsville.

**Sen. Mark:** Nothing was done by the National Security Minister; colour coded approach to kidnapping.

**Sen. Prof. R. Deosaran:** It seems as though you have to try something else, which might very well be the Bill and other accompanying legislation. The kidnapping in Williamsville, like the one with Ms. Solis, is very tortuous and they have the public in a very gloomy mood, including all Senators who are trying to see how best they could help. It seems to me that criminals have no fear of the law; they have no fear of the Government; they have no fear of the police.

Criminals in this country, especially with serious crimes as murder and kidnapping, take innocent people from their homes and business places in the town and countryside. You are in a motor car, you just come home with groceries, you are hurrying from work, they snatch you and put you in a car and take you away from your relatives; especially as it is Christmas time; these people have no heart. They have no fear for anything. So when the Attorney General said that we now have to take decisive action, he was right, given the state we are in.

I will just touch on this briefly, but we really have to examine why we have come to the state we are in. There are several reasons; one is that the police have not been doing a good job of investigating. Even after that, the rate of prosecution and conviction have been very low in the country for serious crimes; everybody knows that, so there is no deterrent in the system, that is what has been happening.

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The criminals did not get up one morning and decide to go on the rampage; they feel there is no deterrent in the country and trials taking three, four, five years; one appeal after the other, which is a right, but at the same time, there are reasons why we have such runaway murders, kidnapping and mayhem in the country: criminals having no fear for the police; no fear for the Government; no fear for law. They have no fear for anybody. In fact, the situation is reversed, it looks as if the authorities are fearful of the criminals now; it is reaching that point. At the same time, I think we have a serious challenge and we are trying to respond in the best way that we could.

In the Preamble to the Bill it says that whereas it is necessary and expedient to bring this Bill so as to violate sections 4 and 5 of the Constitution—again, I remember Allan Alexander about the context of legislation and what it is doing to the public interest. We have to remember that every time we pass a bill like this with a special majority diminishing people's rights and freedoms, we expect something in return as a population. We expect the police to be more efficient. We expect the courts to be more expeditious and efficient. We expect all public officers who are engaged in crime reduction and prevention to be more efficient, because we have given up something sacred; it is similar to the right to privacy.

We have given up the right to privacy by having our financial affairs publicly disclosed, so we expect something else in return. Of course, that is another story, but every time we give up something, by having a special majority diminish our right, we expect something in return; something fair, in terms of preserving law and order, because the next time we would need to pass another piece of legislation to take away another one of our rights, because the first one did not work. Why is that? Because the authorities concerned have done little or nothing, which is the evidence.

Why is it necessary and expedient? Is it because of public pressure? Is it because of the Chamber of Commerce pressure? Is it because of those repeated advertisements in black and white in the *Trinidad Guardian* challenging the Prime Minister to look after his children and so on? Is it to prevent another death march? Maybe not. This is where I am going to enter, perhaps, very peculiar waters. I know the Attorney General would have trouble even getting the information, but we have to put it in the record. I see the Judiciary getting a lot of money; I must say so. They are getting a lot of resources.

Sometimes in the newspapers you get a full page: statistical officer; data manager; this, that and the other; that is a lot of money. It would help the Government and the Attorney General if the AG could have come here and told



us, for example, how many times a magistrate refused bail and a High Court judge granted bail and that offender went out and committed repeated offences, especially serious crimes such as a, b, c and d. Then we would say, "Well, you know, it is not only the Chamber of Commerce that is driving the country's fight against crime. It is not only the death march, as justifiable as it might have been, or letters to the editor, but we have a justifiable reason for bringing the legislation, because the evidence shows that this is expedient and necessary."

What I have been hearing, even from my distinguished colleague Sen. Seetahal, who would have liked this information too, were words like "many, quite a few, sometimes and often". Those are qualitative words that are more suitable for literature; [*Laughter*] not for building public policy on a secure and sound foundation, which can stand the test of scrutiny. I do not think we have that and it is a very unfortunate situation. I am quite sure that even the Minister of National Security would welcome that information.

If you do not have that information, it looks as if the legislation just sprang out of the blue, a sort of Sprangalang legislation. [*Laughter*] But if you have a rationale, an evidence base, that is the word they use now, an evidence base rationale for legislation, not just passion and who vex and "Dey want to win de next election." All that is all right, but for durability and legislative integrity, it would have been nice to have some database on which we could frame this legislation.

Therefore, Madam President, allow me to refer to a question I had posed on bail, which was due for an answer on October 26 this year. I asked the Attorney General, with respect to the specific crimes of robbery, burglary, kidnapping, possession of drugs and drug trafficking, all those on the list, if he could tell the Senate for each of the last three years—not 10, 20, 15 years, only 2002, 2003 and 2004, that should be ordinary recordkeeping in the Judiciary—how many times each crime was committed in each of these years; how many persons were charged for each of those crimes in each year; of those charged, how many were granted or refused bail in the Magistrates' Court; of those who were refused bail in the Magistrates' Court, how many had bail subsequently granted in the High Court. That is what would have enlightened this debate this afternoon, to the justification for the Bill, rather than just talking superficially about collaboration.

I asked the Attorney General: Of those granted bail in the Magistrates' Court, how many had decisions on appeal reversed by the High Court? Of those granted bail in the Magistrates' Court or in the High Court, how many have subsequently been charged for one or more of those crimes, including kidnapping? We would

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have known more precisely the extent to which the legislation would have been justified. It would have made the Attorney General proud, to feel like a real professional coming here, as if he was presenting his case to a university audience. What types of crime have they been charged for while out on bail?

Something happened on the way to this question; it was dropped out of the Order Paper. I wish to bring that to your attention, Madam President. Mysteriously, it was dropped out of the Order Paper. I believe one of the reasons was that I had filed a similar question, but I asked about the last 10 years. The Attorney General did assist by getting half of the question answered about the last 10 years, just from the police records, but the majority of questions, which needed information from the Judiciary, were not supplied. So I then asked a fresh question, rather than 10 years, I asked for only three years; I hope it would be put back on the Order Paper, please. I would like to assist in that regard.  
[*Interruption*]

**Madam President:** Senator, we are at a point now where I can interrupt you. I know that you are in a full flight. You have had 31 minutes, so that when you return from tea, we will continue.

Hon. Senators, this Senate is now suspended for tea; we return at 5.00 p.m.

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

**5.02 p.m.:** *Sitting resumed.*

**Sen. Prof. R. Deosaran:** Madam President, if you look at this Bill and consider the important, historic meeting that took place between the Government and the Opposition, and you put that alongside public concerns and expectations about the Government dealing with crime, it really pales in insignificance. The skeptics among us may very well ask if the Opposition "set up" the Government to bring a Bill like this. It is not inconceivable, given what I said earlier with respect to the politics of public policy.

There are serious questions, but I would not belabour some of them, because they were raised by two other speakers before me, Sen. Mark and Sen. Seetahal. Why kidnapping with ransom only? I think kidnapping is itself a serious crime; you have persons punished, locked in the trunk of a car. I do not think the ransom money should really make a critical difference, when there is human suffering even without ransom. Those are the concerns I have, but I must tell you that I will not resist approving the legislation. I do not think we have a choice at this stage; we really do not have a choice.

I am making these remarks to impress upon the Parliament and the Senate how much wider we have to go in dealing with crime. That is why I referred to the questions I posed, just to remind you; perhaps, we can rectify that question about bail on the Order Paper, because we will be dealing merely with the theory of the legislation if we do not have some empirical basis. It is just as when you require information for social development, you must know the poverty level. In terms of consumer legislation, we must have some data: the price of chicken, how cheap it was 10 years ago, compared to now. You need a database to make proper public pronouncement and policy.

The other issue, as I wind up, is that I notice what is called the "Part II offences". There are six of them. I am not seeing the Attorney General here, so, perhaps, I am subject to correction. In my respectful view, there are six offences, but previously there were 14. I want to know why he dropped off these eight. Take burglary and housebreaking; those are serious offences. They disturb a household and leave it traumatized for all eternity. That is a serious breach of privacy and the right to property. In other words, the thieves are violating your precious constitutional rights. So when we try to preserve their rights in court, we must also consider how they are violating our rights. I would want to know from the Government side, why they have dropped off eight of these specified offences. Those eight are worthy of being governed by the legislation still.

Those are some points I would want to ask about and I hope the Attorney General could give us some clarification. I was waiting until the Minister of National Security returned, because he looked very comfortable today. I think the Attorney General is taking what you might call some of the "heat", as it were, but this Bill cannot succeed without the strong support of all the agencies that fall under the Ministry of National Security.

I would have, therefore, liked, and I am quite sure the national community would have been reassured, that with this legislation there would be some improvement in policing, in terms of investigation. The rate of detection for kidnapping, with and without ransom, would likely be increased and the rate of conviction would, ultimately, be increased, because the Ministry of National Security would have put certain things in place. That would have brought the Bill to further life and give us hope, that not only would it be passed as a piece of legislation from the AG's office, but that the Ministry of National Security would be doing all it could and should do with its agencies to make sure the intention of the Bill is manifested.

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If a year passes and this Bill does not really bring the rewards the Attorney General has promised us, I must tell you that certain people will have to be called to account. I can tell you who these people would be. I was hoping that the Minister of National Security could have joined the debate this afternoon to give us certain assurances and to help build the efficacy that we have witnessed from the Attorney General. But he stands, presumably, like a man alone today, carrying the full weight of Government on his broad shoulders. He came out fighting like Muhammad Ali, but we will see after a year what will happen. I really sympathize with him; he has a very serious dilemma on his hands, to bring something to the public, even though it is in this particular form.

I talk about the Ministry of National Security mainly for the record as well, because if you examine the Police Complaints Authority report from 2003/2004, you will see certain offences. I am glad Sen. Baksh is here; I want him to take this back to his caucus or whenever they meet to discuss these things. You would see complaints from the public in the years 2003/2004, which were covered by the Police Complaints Authority; it is a very serious issue, implications particularly, for making wrongful arrests; if you arrest somebody wrongfully and you deny them bail, that is the implication. So there is the number of wrongful arrests, if only in the complaint stage.

The question of finalizing the report is another issue that has a very low rate, because the police are not investigating police. So wrongful arrest is 104 and there are just two reports from these complaints; so you are only dealing with two reports out of 104 wrongful arrest complaints. Malicious prosecution is a charge that has serious implication for bail. The complaints were 136 for that year; the Police Complaints Authority asked the police for a report as to whether that was true or not and what they were doing about it. Zero report, Madam President; so when I say you have got to clean up this situation as part of the driving force towards the Bill, this is one example; even from the Police Service Commission report of 2003.

I am citing these things, because it is not only clause 4 and clause 3 alone; this Bill depends on the context and circumstances in which it falls, for manifestation. If you look at the 2003 report from the Police Service Commission—Sen. James I know you would be concerned about this. On page 9, a substantial number of disciplinary matters have been brought against the police. They fail to appear as prosecution witnesses; they fail to prosecute with efficiency; they fail to serve documents on fellow officers; they fail to thoroughly investigate matters and bring them to court to prove the charges and there is the non-appearance of police

officers as complainants in court matters. This is not a happy situation, to be considering such a piece of legislation, if only because the legislation depends so fervently on the work of the police. We always sing the song, it is a mantra, that there are a lot of good officers, but it is these miscreants who tarnish the reputation of an otherwise good police service.

The other points I have already mentioned I would not belabour them. Thank you for the opportunity and I wish the Attorney General the best of luck in this difficult exercise. Whatever we can do, in addition to what he is doing, we all stand ready as dedicated citizens, in a country of great need. Thank you.

**Sen. Walton James:** Madam President, thank you for the opportunity to say a few words on this Bill. Let me start by saying that I fully support the Bill, but I would make some remarks on, at least two points. We have had a lot of comments already on the various aspects of it and I will try not to repeat what has been said before.

I think the Bill is a positive step to deter those who are inclined to carry out acts of kidnapping. I think it should have that impact, to a large extent. It would also take out of circulation the persons for a period of up to, at least, 60 days; persons who have committed such acts and if left outside are more than likely to continue to do certain acts in order to find the necessary funds to finance their defence.

The one area of concern also mentioned by a number of people is the hope that the judicial system can be equipped and made to function so that cases are brought to trial within that 60-day period. There seems to be a lot of doubt with regard to whether that could be achieved.

My other point concerns the witnesses who decline to give evidence when persons charged with kidnapping are brought to trial. I saw in one of the newspapers recently where, in fact, a case was dismissed because one of the witnesses refused to give evidence at the trial. If this sort of thing happens, obviously we would not get the effect out of this Bill which we all look forward to getting. On that instance when the witness was asked if he had been threatened, he said that he had not been; so the threat of violence was not the issue, he said that there was some other reason why he would not give his evidence.

It is something I think we need to be watchful of because, in fact, it means that witnesses may well be induced by other means to not turn up to give evidence or turn up and say they decline to give evidence. Therefore, the impact of what we are trying to do today would be completely lost. It is one of those things on which

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I would like to hear some comment, perhaps, from the hon. Attorney General; what can be done in those instances with regard to witnesses who would not give evidence at the trial. He, obviously, must have given some statement before to the police who built the case. In fact, the case coming after is the sequel to what we are doing here with this Bill and it is the important thing to achieving what we want in the final analysis.

Those are my few comments. Thank you.

**Sen. Basharat Ali:** I also wish to make a very brief contribution in support of the Bill before us. I start with a quotation; excerpts from a statement of a speech on June 10, 2003, the day the Kidnapping Bill was done in this Senate. I would just give a few brief excerpts. One sentence from this says:

“We are in a virtual state of crisis and I believe very strongly that there is a great need for crisis management with the objective of protection and prevention of not only kidnapping, but also other crimes in our country...I believe there is a very strong need for firm, decisive and urgent action by our protective services, backed by laws with teeth. Any citizen in this country right now has very great reservations about the police and their capability of detection...Let us all be non-partisan and, for the benefit of our citizenry, approach this in a very urgent way so that we can get something going to alleviate that feeling of fear that is among our people now so that we can continue to enjoy this blessed country of ours.”

I should have said and I wish to say now that I know this quotation, because it is from my maiden speech in this Senate on June 10, when I was sworn in as a temporary Independent Senator. We have reached from June 10 to now, a long period, and I think it is still very relevant that nothing is happening. This is why we are here today to discuss amendments to the Bail Act; to tighten up on legislation.

I read in the media, I think it was Saturday's *Express* newspaper, where a reporter, Sasha Mohammed, quoted from an interview with Sen. Seetahal who had concerns about the two months under the amendment passed in the House the previous day being too short. There was reservation as to whether you could get a case to trial within that period. I am pleased that Sen. Seetahal did elaborate on that today and I feel a little relieved with what she had to say, because the person did not say in the article what her views really were.

The second positive thing that I have seen was last night on television and then today in the *Guardian* newspaper where the hon. Chief Justice spoke and was reported to have said that he was looking at a fast track court to deal primarily with cases involving narcotics, kidnapping and violent crimes. With those words we have a certain amount of optimism; when the person in charge of the judicial system says that he is looking at the amendments favourably and he is giving us some kind of assurance that two months is not such a short time after all. We could, in fact, get someone arrested and who has not gotten bail we could get them to a trial in that period; so that is something we have to look forward to. That is why all of us are here to support the Bill.

The hon. Attorney General in his contribution said two things: that the Bill is a product of compromise, so what was passed in the other House was, in fact, a product of compromise, and it was not perfect. Basically, what he was saying, and I do not want to put words in his mouth, but it is not perfect and we may have to do some amendments as we go along.

I have one question though. On January 13, 2004 another Bill came here which was a product of compromise, which required a three-fifths majority. That was the Occupational Safety and Health Bill, which became the OSH Act by January 30, 2004. Are we being a bit ambivalent? I am using that word again. Here we are passing a Bill which is not perfect; we are willing to compromise and see how it is going to work and we leave OSHA; assented to since January 30, 2004, and up to today no proclamation. It really concerns me, because this is a case of protection of people also.

I am constrained to say that I heard the hon. Minister of Labour, Small and Micro Enterprise Development. I have to say that he acted like Pontius Pilate in that he seemed to have washed his hands of the affair and left it to the higher ups to Cabinet.

**Sen. D. Montano:** You have not heard me yet!

**Sen. B. Ali:** I have not heard you yet, but that is what I heard you say and I heard reported in the newspaper. [*Crosstalk*] I know it is time for the birth of Christ and not the crucifixion, so I do not know whether we will continue to have this situation arising. [*Crosstalk*]

I refer to that particular debate, Madam President, because it was also close to me. It was the day I spoke when I was first appointed as a substantive Independent Senator.

**Madam President:** Come back to the Bill.

**Sen. B. Ali:** I speak on it all the time. I still do not see why we cannot proclaim it and amend it later on. I shall not speak on another Act which is there already, which was debated in this House on June 01, 2004. I remember that date, because that was the day you ruled me irrelevant in my contribution.

**Madam President:** I might have to do the same here.

**Sen. B. Ali:** You may do so as well. There is another Act which was assented to and unproclaimed up to the present time. I hear nothing at all about it, so while I am very pleased to be able to vote with all the parties on this one, let us do other things. Let us proclaim those that are there to be proclaimed and bring them to fruition, for the benefit of all our citizens.

Thank you.

**Sen. Parvatee Anmolsingh-Mahabir:** Madam President, thank you for allowing me to make a brief contribution on the Bill before us. I also lend my support to this Bill. My colleagues have dealt, in detail, with many of the issues, so I will not repeat what was said. However, I feel impelled to emphasize my concern with clause 5(2) dealing with no bail for 60 days. It is not a realistic time frame; 60 days may not be sufficient time for a person to be brought to trial, considering the slow process of our court system. The time taken for police investigation and the preliminary enquiry may well exceed 60 days.

It may well be argued by human rights activists that not to grant bail in the shortest possible period of time may be a rape of the human rights of the individual, but we must always keep in mind that by the act of kidnapping, the victim and his or her family are raped of their human rights. The victim's right to freedom of movement, the right to freedom of enjoyment of life and property—and money demanded by kidnappers is, indeed, property—and the permanent psychological trauma and fear that they suffer at the hands of kidnappers, must not go unnoticed. For these reasons and, more particularly, to allow sufficient time through our court system, this time should be re-examined.

Madam President, if I may deviate for a short space. I have been asked by several groups to ask the hon. Attorney General and the Minister of National Security the burning question: When will hangings resume? [*Desk thumping*] [*Laughter*] In Trinidad and Tobago, the crime wave of murder is now a daily occurrence; it is necessary to stem this tide for the very survival of the nation State of Trinidad and Tobago. We can no longer condone the law of the jungle where human life is meaningless. Jail, however inhumane, is no deterrent to stop the murder rate; we



must enforce the law of capital punishment to stop this degeneration into barbarism and savagery. If not, we will not be able to salvage the society and ensure its survival.

The police service is unable to protect and serve us. We are defenceless and we must defend ourselves. The only check to this generalized madness is the resumption of capital punishment. Convicted murderers and criminals in jail do not place any value on the lives of their innocent victims. They do not hesitate to kill an unarmed, helpless, law-abiding citizen, as we have witnessed throughout this year. However, it is without doubt that those same criminals put a high value on their own lives and seek every avenue possible to escape punishment, while the rights of the victims are ignored. I am convinced that the threat of losing their own lives will serve to stem the tide of murder and mayhem. If not, we are in deep trouble for a long time to come.

Forget those so-called surveys conducted in developed countries; this is Trinidad and Tobago and we must examine what is happening here. The threat of incarceration without bail for kidnapping does not appear to have the desired or intended effect, as we can see already in the case with the kidnapping of Chandoo. The kidnappers are persisting in their nefarious trade in human cargo. The resumption of hanging must be timely, effective and expeditious if potential murderers are to link capital punishment with their crime.

Madam President, we must ask the question again: When will hanging resume? I rest my case.

**Sen. Brother Noble S. A. Khan:** Thank you, Madam President, for allowing me to share some words on what is before us. We are at a very important part of our cultural and social history, when we consider this Bill before us.

It does evoke in me certain feelings; one of them is that for quite some time I have espoused that there should be collaboration, partnership and cooperation. In terms of these three thoughts, which are very close together, we are thinking of the nation as a whole. Governance involves people and today we have a Bill that impacts seriously on the people, to the extent that we have to have this percentage vote. It is more than just an absolute or a relative majority vote.

It does bring to mind too some of the spin-offs of what this Bill, if it goes through, will leave with us. It was very graphic when our colleague, Sen. Seetahal made mention of what exists in the prisons. It did send my mind back as a young boy reading *Dante Inferno*, what took place in the imagery of that water. It did start, if I could recall:

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“In the middle of the journey of my life, I came to myself on a path in which the straight road was lost.”

This was Dante in his dialogue and I think his guide was Plato at the time. He had gone through different stages of hell, so to speak.

One wonders if we are not having, to some extent, a similar experience in our country, when we think of the sort of macabre society we have been able, regrettably so, to evolve so far; things that evoke, if I am to borrow from my good colleague to my right, “existentialist writers” such as Hesse and those sorts, whether if we have surpassed them.

We hear of the rampage and, again, we can draw on literature when making reference. My mind goes back to Dickens’ *Great Expectations*, where, if my memory serves me correctly, a division had reached and Pip had reached a path, leaving to go off to London, which was a new area, all on the way to great expectations. One could think too from the early days of the creation of our State, when we became independent of ourselves, to where we are today; if this is what our founding fathers meant for us. One could think too of the inputs of succeeding generations, which have brought us to what we are.

There are many things we can look upon that we could be proud of, but, regrettably, this landmark we have today gives recognition to the state of the culture of death we have been able to achieve so far. One could ask: Where is the place of the family? Where are the influences or the values that should guide us as a society? Within recent times and not in the too distant past, we have seen the Judiciary being used as a bastion. I apostrophize that word, as bastion, though it has stood the test of a bastion, but one could claim to have been bastardized with what took place within recent times within the judicial processes. Some of our so-called heroes, men who have excelled in different areas, have gone through experiences, which, to say the least, could be very uncivilized. We could see even as far as the collaboration within recent times, what has brought together this group. Of course, outside there it would be a point of debate and subliminally and subconsciously men would think why. Is it a question of survival? Is it a question of building a society? For whom? Who will benefit?

I do recall 1976, an election year. What struck me at that time were the strategies devised and developed. One of the strategies was that, basically, the political elements had entered into a sort of juxtaposition with the arm that was responsible for carrying out the policies of the political directorate. One would think in terms of latter day times of dog houses and those put in these areas, but

these might be just experiences of what emerged. Even within recent times we had the Crowne Plaza meeting and within more recent times, the plays that took place in Whitehall; these are all elements outside, and you cannot deny our thinking processes.

No matter how much wisdom we may have inside these hallowed walls, desecrated as they were not too long ago, in the last 15 years or so, it cannot match the accumulated knowledge that exists outside. I have said that before. When this is played before the outside players, the true participants of our nation, we could have a different outcome. So there is the question of fides, a Latin word, trust; faith is another word—the faith; how we could build our society.

As a people we have been battered. There are so many things we could say, that our history could bear out; from our ancient, indigenous ancestors to what we are today. As we move within our society, we think more of Caribbean people as a hemispheric people. Even within the literature, we could find examples and we could go far. My mind remembers the stories of one kidnapping, Marquez. We could remember that vividly, because it was in another society, the Colombian society. We could remember what had taken place and how it was addressed and how it was reported by the famous Nobel prize winner. But these are all things we could think of.

Law is an important aspect of our existence as a civilized society and we cannot exist without it. It is said that law and order is the first rule. How far law and order has gone and how far we have been able to evolve as a society are in high question. One wonders too if these few sheets of paper with about seven or eight clauses could truly address it. Truly, in any society, one would think that what would motivate and guide is the inward feeling within the people themselves. One would think of what would direct and guide. This becomes voluntary, but very slowly we are seeing a society where even in areas of the faith-based sectors there is some element of force and the attempt to use that as leverage is emerging. This has taken place within recent times and it seems to be part of our very existence today.

On the ground, it is not strange to hear—I think \$34 billion was mentioned earlier today—as what is circulating or proposed to be spent and that is not an inclusive figure, when we think of our economy, in terms of the underground, the washing, the laundering and what have you. If we were to visit the prisons and what have you, they tell you that 25 years is an old person in prison, so we could think of our young people and what we have been able to create in our society and address it through these few sheets of paper. To a great extent, what is causing

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this groundswell must have been the accumulation of some form of misdirection over a period of time. We are not thinking in terms of placing any blame; that is the last thing I would like to ascribe.

In my own tradition it is said that if we were to give each one of us what we deserve, there would be nothing on the face of the earth. I think it is well put when it is said that you should “clean your eyes”, to put it in local parlance, “before you look to clean another person’s eyes”; who is without sin cast the first stone. These are some of the things that would emerge when we think in terms of what is before us.

To some extent, with what has come before us, I feel as a layman that it is not the best. I think our hon. Attorney General has been very committed in what he has said and what he has brought before us. But as with so many other things, there is the question of imperfection. I think he has admitted that it is not a perfect document. With anything that is dynamic in any society, that is how it is, so with what is before us, there seems to be some elements to address. I cannot help but think, with this being part of a social document, a behavioural document, what impact it would have on our society.

I have said that in terms of the younger generation, the big books brought before us with the beautiful debates, do not offer them anything. They will tell you that it means nothing to them and you could take that as good, because what they want, they take. It does not have to be that; but that is what we have bred and brought, despite what ministry of what you have. I would like to stress, and it just flashed on me, the question of the family; the basis of civilization; that building unit. It is not expressed in any of the ministry names. It does not mean to say that it does not have any priority; I do not think so; it has a high priority. But the question is that it should be higher than whatever high priority exists at the moment, within all the frameworks of governance that we have. We are dealing with civil government and there are other elements of governance, I would say, outside of civil government, but if this could receive a higher priority, despite what we have, I think it would have some effect in bringing about the diminution of the relevancy of this Bill, in time to come.

This is one of the areas I would like to share, even as the rampage continues to grow; even if it is the question of survival, our existence. But when we think in terms of now and our children, we think of giving meaning to living, of being. I think the ghost of Christmas was mentioned earlier today; that is Dickens again. But when we think in terms of ghosts, the young people talk about ghosts too; how much they are carrying on their backs. Some of them do it proudly, about “how much caps they leggo”; so if we could shift those parameters around, I think we would be going in a good way.

I do not think that just bringing this law would solve the solution; I do not think our Attorney General or any one of us would think that would do it. It is a question of addressing our responsibilities; trying to build our nation to what we would like it to be and finding out what are the likely consequences of this law, as it relates to the effect we so much desire for ourselves and our people.

Thank you.

**The Attorney General (Sen. The Hon. John Jeremie):** Madam President, I begin by thanking all Senators for their very valuable contributions to this historic debate this afternoon. Permit me to speak specifically to my good friend, Sen. Mark, to one or two of the points made by Sen. Seetahal and Sen. Prof. Deosaran. I will try to answer the question raised by Sen. James. In respect of Sen. Ali, Sen. Anmolsingh-Mahabir and Sen. Bro. Khan, I will be more general.

In relation to Sen. Mark, I want to keep away from the incendiary tone in which he sought to, “support the legislation this afternoon.” I was in the other place, which is supposed to be a place where you take your gloves off and the tone was entirely different from the Chairman of the party, who was the only speaker on that day. His comments were entirely constructive. But Sen. Mark seemed to have taken a very aggressive—there was an animus in what he said. Be that as it may, I am reminded that while I was in the other place, the Chairman of the party said that he had no control over Sen. Mark.

**5.45 p.m.**

In relation to the question raised by Sen. Mark on the Judiciary, I find it curious that in one breath he speaks of judicial misbehaviour, that is in relation to the declarations and the non-filing of declarations pursuant to the Integrity in Public Life Act, and, on the other hand, he speaks of dark conspiracies against the Chief Justice who is a member of the Judiciary. If judicial conduct in this country is to be scrutinized as I believe it must, Madam President, it is playing fast and loose to take two completely divergent positions on one issue of principle. But, it is to be expected from Sen. Mark, and in particular, it is to be expected from him when the cameras are here; they are not here now so he is in a sedate mood.

Sen. Mark as well referred to the Chief Justice and the dispute which has arisen in relation to a particular matter which is now before the court and he asked me a specific question. He asked for an update on the mediation proceedings. If I did not know him better I would think that he was trying to set me up because that surely cannot be his intention. I want to just remind him that we have new civil proceedings rules and mediation is an inherent part of the judicial process now, so

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I do not know what is going on in the mediation; I cannot know. So I do not know if he is trying to set me up. But even if I did know and I do not know, I will be committing suicide if I were to admit anything here this afternoon. That is all I have to say on that matter.

As to the Director of Public Prosecutions (DPP)—and this is a favourite bugbear of his—I do not know why he cannot leave the Director of Public Prosecutions who is a good man in a difficult position, a young man trying to do his best in a very difficult situation, a politically charged environment where there are competing interests and demands on him but I will speak to that.

He spoke about so-called other investigations in corruption and he said he had particular information—I am just refreshing my mind with the notes which I took while he was speaking—and that he was going to reveal all in the fullness of time. He mentioned six persons who might be caught when he revealed all, but all I say on this, Madam President, is that the Prime Minister, whom I have the honour to serve, is a man of principle who is committed to the rule of law. That means that no one; not Sen. Mark, not the Attorney General, no one in this country, not even the chairman of his party is above the law. So all that I say for the moment on that is that I come on bended knees to Sen. Mark and I hope that the source of his information is a better source than that which provided him with the information last week on the US \$75 million. [*Desk thumping*] That is all I say.

**Sen. Mark:** On a point of order! On a point of order!

**Madam President:** May I remind Senators that on a point of order, the other person who is speaking must sit. I am having too many of these confrontations where one does not want to sit when the other asks for a point of order.

What is the point of order?

**Sen. Mark:** Madam President, the hon. Attorney General is misleading the Senate as you are well aware—[*Interruption*]

**Hon. Senator:** What point of order?

**Sen. Mark:** Standing Order 75. [*Interruption*] Madam President, as you are aware, I raised the US \$75 million, and I corrected the record, so for him to repeat that, I am saying that he is misleading you and myself.

**Sen. The Hon. J. Jeremie:** It is not a point of order, is it?

**Madam President:** No, misleading is not a point of order, but I will ask the Attorney General not to go there because he did correct himself in the Senate.

**Sen. The Hon. J. Jeremie:** Exactly. But all I did, Madam President, was express a hope that he does not fall into the same error which led him to have to correct himself last week. That was all I said.

I would just like to add one more comment on that matter and it is that I hope his information does not come from a doubtful and dangerous source. I have nothing more to say on that issue.

With respect to the Integrity Commission, and again, if I did not know my friend better, I would think that he was trying to trap me again because as all of us are aware, the Integrity Commission is an independent body under the Constitution and section 139 of the Constitution clearly defines the responsibilities. I cannot answer for any decision taken by the Chairman of the Integrity Commission, and to compound it, that matter is now engaging the attention of the court. So to ask me to give a view in defiance of the Chairman of the Integrity Commission, and in defiance of the principle that the matter is really *sub judice*, if I had not known him better, I—but I do not think that he would be leading me into error.

With respect to Sen. Seetahal, and these are the substantive comments on the legislation. The kidnapping for ransom point which is not contained in Part III was raised by the Member for Pointe-a-Pierre, agreed to by us in the other place, but our friends—because I want to say that this is an exercise in which we have collaborated and established a consensus—did not trust us with making that change.

The hon. Prime Minister wished to make the change, it is in the *Hansard*, but it was not accepted. Again, I have to say that we are happy with the compromise and the efforts you have made to meet with us and agree on a package of legislation which is in the national interest and I know we will form agreement on the police package which is to come.

With respect to the section 13 point, that is the power to invalidate legislation, I agree with that. It is a check and balance on whatever we do today and I will just refer Members to the case of *De Freitas v The Ministry of Agriculture* in which a similar clause was construed in favour of the Parliament. That is to say, the Privy Council said this of the words “reasonably justifiable” in a democratic society: It said there are three cases in which this phrase has been considered. It quoted a South African case and some Canadian jurisprudence and said what was required was that the law be demonstrably justified in a free and democratic society, but that there was a sufficient important objective for the restriction in dispute in the case; a rational connection with the objective; the use of the least drastic means;

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and no disproportionate, severe effect on those to whom the restriction would apply. So there is—what we used to refer to in private practice—a margin of appreciation in favour of what the Parliament does.

With respect to Sen. Prof. Ramchand, he raised some points of substance again which are perhaps shortcomings in the legislation. I said at the outset that it is the product of compromise and consensus and that really is the only answer which I can give to those points.

Sen. Prof. Deosaran's technical issues which were raised, in essence related to the Ministry of National Security. I had a word with my colleague and I know he is doing his best to ensure that the police service, even under the current dispensation, detects crime, and that the Anti-Kidnapping Squad is appropriately configured to the task which it has to carry out. And I think I am authorized to speak on his behalf when I say that he is prepared to be judged in a year's time, as I am.

Sen. James raised the point on prosecution witnesses who have a change of heart after giving written statements and so forth. Well, they can be prosecuted but the DPP has to weigh the possible adverse consequences of prosecuting these persons against the interest of justice in having persons come forward in the first case to give statements, and I have had some discussion with him recently on a related question in which he has indicated that he is going to take a different tack on that matter.

With respect to the questions raised by Sen. Anmolsingh-Mahabir on when are we going to resume hangings, that is a function of the Judiciary, but I can assure you that I am doing everything within my power to make sure that it happens sooner rather than later, and I am optimistic that we do not have too long to wait.

Madam President, with those few words, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

*Clauses 1 to 3 ordered to stand part of the Bill.*

*Clause 4.*

*Question proposed, That clause 4 stand part of the Bill.*



**Sen. Seetahal:** I have one question to the Attorney General. The original Bail Act, subsection (1) of 5 says:

“Subject to subsection (2) a court may grant bail to any person charged with any offence other than those listed in the First Schedule.”

That is murder and so on. Now, what you are including here in clause 4, and if you turn the page as well, in clause 5A, there is a new provision where bail will be denied. Therefore, clause 5(1) must be made subject to those provisions.

If it is left as is, it will create ambiguity and confusion because any lawyer arguing for bail would say that is a general section saying that a court may grant bail to any person charged with any offence other than Part 1 offences, and if you do not say subject to subsections (2), (4), and 5A then that general—

**Sen. Jeremie:** I disagree. I think the sections are diametrically opposed so there is no need to—

**Sen. Seetahal:** So why do you have “subject to subsection (2)” in the first place if subsection (2) says a court shall not grant bail to a person with an offence listed in Part II? Subsection (2) deals with Part II offences, the new subsection (4) will deal with Part III offences, and 5A offences will deal with kidnapping for ransom. These are obviously exceptions to the general rule.

**Sen. Jeremie:** Yes, but they are stated clearly to be such.

**Sen. Seetahal:** I know they are stated clearly, but Attorney General, you have to agree that subsection (1) of 5 says “subject to subsection (2).” If they are all stated clearly, it is the same way subsection (2) would be stated clearly as well.

**Sen. Jeremie:** If we are amending the Act to insert these provisions—

**Sen. Seetahal:** You do not want to go back to the House, that is what you are saying really. And you will leave ambiguity here. It really should be subject to subsections (2), (4) and section 5A. I want it clearly recorded that that is what it should be and that is what it meant because you are leaving room for interpretation and people coming afterwards will say that, and then your attorneys will have to go to court and say that the specific will override the general because that is where you are going. Then they will say if so, why do you have “subject to subsection (2)” because it means it is only subject to subsection (2).

**Sen. Jeremie:** It is a risk we have to be prepared to take.

**Sen. Prof. Ramchand:** Because you do not want to go back down there?

**Sen. Jeremie:** No, it is not only do we not want to go back down there, but we have a compact Bill with my colleagues opposite whom we have to respect to the letter.

**Sen. Prof. Ramchand:** I just want to put on record that I agree with my colleague. As a man coming from literature, I feel there is need for more precision and less ambiguity and I support what Sen. Seetahal is saying.

**Sen. Jeremie:** I think that if there is ambiguity the lawyers will be able to work it out and the specific will override the general.

**Sen. Seetahal:** But Attorney General, if Sen. Mark is the Leader of Opposition Business here and that is to me a technical change, it is something that is necessary but not substantive. Why create a subsection (3) and a 5A when you are going to say subject to subsection (2) alone?

**Sen. Prof. Deosaran:** Can we hear what your legal advisor has to say?

**Sen. Jeremie:** Can I just say that the advisors agree with me. They say 5A is a new section from section 5 and it stands alone and should be interpreted independently.

**Sen. Prof. Ramchand:** What about section 4?

**Sen. Jeremie:** The same principle will apply.

**Sen. Seetahal:** Subsection (2) relates to Part II, section 4 relates to Part III, if legislation is saying subject—

**Sen. Mark:** Madam Chairman, I want to support the Attorney General on this one and I think if changes are needed, they can come subsequently, but on this particular measure, I will support the Attorney General.

**Madam Chairman:** It is the spirit of the season.

**Sen. Jeremie:** That is a first. I do not think—I am sorry, I could not resist; the Leader of Opposition Business is saying leave it alone.

**Sen. Mark:** That is in the spirit of the season.

**Sen. Jeremie:** We feel that we are correct technically in that if you look at the existing section 5(3), the limit is 10 years. We are creating a new provision entirely, so that we feel the section is independent and will be construed to be so. If there is ambiguity, there is a sunset provision and we are prepared to look at how the Act works this year and perhaps return with the agreement of my colleagues opposite, and the agreement of the Independents whom we intend to bring in at an earlier stage next time.

**Sen. Seetahal:** Is not 4b capital B? I suppose that is a punctuation error.

**Sen. Jeremie:** That is a typographical error. Can it be changed? It is a typo, it does not have to go back anywhere.

**Sen. Seetahal:** I am just pointing it out because we may go with a typo.

*Question put and agreed to.*

*Clause 4 ordered to stand part of the Bill.*

*Clause 5 ordered to stand part of the Bill.*

**Sen. Seetahal:** There is also a typo with “kidnapping Act” I suppose you all saw that.

**Sen. Jeremie:** Yes, it should be a capital K.

**Hon. Senator:** It was hastily put together.

**Sen. Jeremie:** No, it was not hastily put together. It was passed on Friday in the other place so we have to thank the Parliament staff for—

*Clauses 6 and 7 ordered to stand part of the Bill.*

*Preamble ordered to stand part of the Bill.*

*Question put and agreed to, That the Bill be reported to the Senate.*

*Senate resumed.*

*Bill reported, without amendment.*

*Question put, That the Bill be now read the third time.*

**Sen. Jeremie:** Madam President, the Bill requires a three-fifths majority, so I ask for a division.

*The Senate voted :                      Ayes 29*

**AYES**

Saith, Hon. Dr. L.

Yuille-Williams, Hon. J.

Jeremie, Hon. J.

Joseph, Hon. M.

Montano, Hon. D.

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Enill, Hon. C.  
Gift, Hon. K.  
Manning, Hon. H.  
Chin Lee, Hon. H.  
Dumas, Hon. R.  
Abdul-Hamid, Hon. M.  
Kangaloo, Hon. C.  
Sahadeo, Hon. C.  
Williams-Smith, Mrs. M.  
Mark, W.  
Baksh, S.  
Kernahan, Dr. J.  
Montano, R.  
Seepersad-Bachan, Mrs. C.  
Augustus, R.  
Mc Kenzie, Dr. E.  
Ramchand, Prof. K.  
Deosaran, Prof. R.  
King, Mrs. M.  
Seetahal, Miss D.  
Anmolsingh-Mahabir, Mrs. P.  
Khan, Bro. N.  
Ali, B.  
James, F.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

*Adjournment*

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**ADJOURNMENT**

**The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith):** Madam President, I beg to move that the Senate do now adjourn to a date to be fixed. At the risk of repeating myself, I want to say that all the sentiments I expressed still stand, and I can assure Senators this time that we are not coming back before Christmas.

**Greetings**

**Sen. Wade Mark:** Madam President, I join my colleague and say the same thing. But there is one other thing and I do not know if Sen. Dr. Saith can tell us.

I did not see my good friend, Sen. Titus, today. I hope he will be with us in the New Year because I understand big things may be coming his way and he may be heading to South Africa, but I am not too sure. When I did not see him today I was a bit concerned, but I am glad to know everything is okay.

Like Sen. Dr. Saith, I express the same sentiments to you and your family and my colleagues as I expressed last week during my contribution.

**Sen. Dr. Eastlyn Mc Kenzie:** Madam President, I would like to reiterate what I said last week and to say that I am honestly genuine about what I said.

God bless.

**Madam President:** I, too, would like to join once more with everyone in reiterating what I said last week and I do hope that you have an enjoyable holiday season. Certainly, we can look to not returning next week Tuesday because it has been declared a holiday, so Sen. Dr. Saith cannot bring us back, and I do hope when we return we will be refreshed, revived, and ready to work.

All the best and may God bless you all.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.17 p.m.*