

**THE
PARLIAMENTARY DEBATES**

OFFICIAL REPORT

IN THE SECOND SESSION OF THE TENTH PARLIAMENT OF THE REPUBLIC OF
TRINIDAD AND TOBAGO WHICH OPENED ON JUNE 27, 2011

SESSION 2011-2012

VOLUME 6

SENATE

Tuesday, May 31, 2011

The Senate met at 11.00 a.m.

PRAYERS

[MADAM VICE-PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam Vice-President: Hon. Senators, I wish to inform you that the President of the Senate, Sen. The Hon. Timothy Hamel-Smith, is currently acting as President of the Republic of Trinidad and Tobago.

SENATOR'S APPOINTMENT

Madam Vice-President: Hon. Senators, I have received the following correspondence from His Excellency the Acting President, Sen. The Hon. Timothy Hamel-Smith:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency TIMOTHY HAMEL-SMITH,
Acting President and Commander-in-Chief
of the Armed Forces of the Republic of
Trinidad and Tobago.

/s/ T. Hamel-Smith
Acting President

TO: ARCHBISHOP BARBARA BURKE

WHEREAS the President of the Senate has temporarily vacated his Office of Senator to act as President of the Republic of Trinidad and Tobago:

AND WHEREAS the Vice-President of the Senate is acting President of the Senate:

Senator's Appointment
[MADAM VICE PRESIDENT]

Tuesday May 31, 2012

NOW, THEREFORE, I, TIMOTHY HAMEL-SMITH, Acting President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 40(2)(a) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, BARBARA BURKE, to be temporarily a member of the Senate, with effect from 31st May, 2011 and continuing during the period that Senator Timothy Hamel-Smith has temporarily vacated his Office as Senator.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 26th day of May, 2011."

OATH OF ALLEGIANCE

Senator Barbara Burke took and subscribed the Oath of Allegiance as required by law.

PAPER LAID

Annual audited financial statements of the National Gas Company of Trinidad and Tobago Limited for the year ended December 31, 2009. [*The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday)*]

ORAL ANSWERS TO QUESTIONS

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Madam Vice-President, I wish to inform this honourable Senate that there are no questions on the Order Paper. The Government has answered all questions which have been raised, and at this point in time, today as this Senate sits, there are no questions on the Order Paper. [*Desk thumping*]

Madam Vice-President: I welcome the Minister of Justice, Hon. Herbert Volney

MISCELLANEOUS PROVISIONS (MINISTRY OF JUSTICE) BILL

Order for second reading read.

The Minister of Justice (Hon. Herbert Volney): Thank you very much, Madam Vice-President. Before I start, I want to tell Senators present that I am deeply humbled by the opportunity to visit the Upper House, and while it is a bit late, a year having passed or soon to come rather, I would like to extend my congratulations to you, Madam Vice-President, on your election to the position of Vice-President of the Senate.

Madam Vice-President, I beg to move,

That a Bill to amend certain enactments to provide for the vesting of functions and powers in the Minister of Justice, be now read a second time.

The Miscellaneous Provisions (Ministry of Justice) Bill, 2011, seeks to amend five pieces of legislation, in order to enable the Minister of Justice effectively to discharge certain responsibilities assigned to him under section 79(1) of the Constitution of the Republic of Trinidad and Tobago.

Madam Vice-President and hon. Senators present, as you would appreciate, following the general election of 2010, His Excellency the President named me as the Minister of Justice in a brand new Ministry and, apart from having original functions as Minister of Justice, there were other functions formerly assigned to Ministers in different Ministries and those Ministers were assigned the portfolios, their respective portfolios, in relation to the remit of certain bits of legislation, where they were named as the relevant Minister responsible for the carrying out of functions under those bits and pieces of legislation.

With the birth of the Ministry of Justice, it has now become necessary and it has been for some time, to regularize the law, in order to amend the law, to enable the Minister of Justice to carry out the functions set out in those bits and pieces of legislation.

This Bill then seeks to amend the definition of “Minister” in the following Acts, in order to enable the Minister of Justice to perform the functions and exercise the powers under those Acts, in particular the Criminal Injuries Compensation Act, Chap. 5:31; the Justice Protection Act, Chap. 5:33; and the Deoxyribonucleic Acid (DNA) Act, and I shall refer to it subsequently as the DNA Act, Chap. 5:34; the Community Service Orders Act, Chap. 13:06 and the Police Complaints Authority Act, Chap. 15:05.

Shortly, clause 1 of the Bill would provide the short title of the Act for which this is the Bill.

Clause 2 of the Bill seeks to amend the Criminal Injuries Compensation Act, Chap. 5:31, by deleting the existing definition of “Minister” and substituting a new definition, which will enable the Minister of Justice to discharge his responsibilities under that Act.

In section 3 of the Criminal Injuries Compensation Act, “Minister” means the Minister to whom responsibility for social services is assigned and “Ministry” has the corresponding meaning.

Then, you have clause 3 of this Bill, which seeks to amend the Justice Protection Act, Chap. 5:33, by deleting the existing definition of “Minister” and substituting a new definition, which would enable the Minister of Justice to discharge his responsibilities under the Act.

Again, in the laws of Trinidad and Tobago, the Justice Protection Act, Chap. 5:33, “Minister” means the Minister to whom is assigned the responsibility for matters of national security. And this amendment proposed in this enabling bit of legislation, this Bill, would serve to substitute a new definition, which would enable the Minister of Justice to discharge his responsibilities there.

Clause 4 of the Bill seeks to amend the DNA Act, Chap. 5:34, by deleting the existing definition of “Minister”. In the DNA Act, Chap. 5:34, the expression “Minister” means the Minister to whom responsibility for national security is assigned. And, the purpose of this enabling Bill is to substitute a new definition, which would enable the Minister of Justice to discharge his responsibilities under the Act.

Clause 5 of the Bill seeks to amend the Community Service Orders Act, Chap. 13:06, by deleting the existing definition of “Minister.” In that Act, in section 2, the “Minister” means the Minister to whom the responsibility for social development has been assigned.

The purport of this Bill is to substitute a new definition, which would enable the Minister of Justice to discharge his responsibilities under the Act.

Then, we have the Police Complaints Authority Act, Chap. 15:05, to be amended by deleting the existing definition of “Minister” and substituting a new definition, which would enable the Minister of Justice to discharge his responsibilities under the Act.

11.15 a.m.

This, Madam Vice-President, is a Bill to enable the legal authority in terms of statutory strictures—permit the Minister of Justice to carry out the functions that are in the Acts for which he is responsible by the hand of the President, to supervise the conduct of business of Government under those bits of legislation.

So having said that, Madam Vice-President, I do not intend to detain this Senate very much longer; I am not known for being long on my feet and I say what I have to say, if there is any contribution that requires that I answer, I prefer to deal with those matters afterwards, in closing the debate in this matter. And I appreciate that today is really Private Members Day, I am told, and I would not

want to get in the way of the Members on the other side who may have some other matters to debate in the national interest.

So, having said that, Madam Vice-President, I respectfully beg to move. [*Desk thumping*]

Madam Vice-President: Hon. Senators, please allow me at least to acknowledge his maiden contribution in this Senate, hon. Minister, Mr. Volney. [*Desk thumping*]

Question proposed.

Sen. Terrence Deyalsingh: Thank you, Madam Vice-President, for allowing me the opportunity [*Desk thumping*] to contribute to the debate on the Miscellaneous Provisions (Ministry of Justice) Bill, 2011, and a warm welcome to Minister Herbert Volney, the Minister of Justice.

Madam Vice-President, I do not intend to detain the Senate too long, but I do have some opening remarks before I go to the specifics of the Bill. We are attempting to create and give legislative support to a new Ministry called a Ministry of Justice, and this is a trend being adopted in many countries around the world; at last count there were approximately about 50 countries around the world which have established Ministries of Justice under different names. Even in the larger countries like Canada and Australia, they have even established departments or ministries by state. So for instance in Australia you have the Australian Capital Territory, New South Wales will have their own, Norfolk Island, Queensland and so on. So what we are attempting to do requires support, but as part of the responsible Opposition that we are, it also requires some scrutiny and some comment.

In trying to find out what the Ministry of Justice attempts to do, I took a look at what the Ministry of Justice in England does, what the Ministry of Justice in Jamaica does and what the Ministry of Justice in other territories do. And they differ from territory to territory as you would imagine depending on their particular needs. The Ministry of Justice in England is very large, it encompasses everything from prison reform, to legislative reform, to restorative justice, rehabilitative justice and so on. The Jamaican website for the Ministry of Justice is also very broad.

I was a little bit disappointed when I looked at the Ministry of Legal Affairs which listed all the Acts and all the different Ministries, the link for the Ministry of Justice does not have on the Ministry of Justice's website a sort of comprehensive outline as to what the Ministry of Justice is attempting to achieve.

11.20 a.m.

Prior to coming to Parliament with the Bill, in the Lower House and the Upper House, I think members of the public who were looking for information, who would have attempted to go onto the Ministry of Justice Trinidad and Tobago's website would have been disappointed. So, the only information they would have had, would have been the hon. Minister piloting the Bill.

The Ministry of Justice's website does have the launch of the logo on December 1, 2010, so the logo was launched. There was also a photograph of the Minister of Arts and Multiculturalism, the Hon. Winston Peters dancing with the parliamentary secretary. That is what the Ministry of Justice's website has, photographs of a logo launch and photographs of people dancing. So, if you want good hard information on the Ministry of Justice, it begs the question, where does one go for it? [*Interruption*]

Sen. Al-Rawi: Sen. Panday was not dancing?

Sen. T. Deyalsingh: No, he was not there, so he was not there dancing. My question is, in listening to the hon. Minister, what is the remit of the Minister of Justice? What is the *raison d'être*? Why are we here looking at a Ministry of Justice especially when many of the Acts that we are seeking to amend have constitutional implications, especially sections 76(2), 79 and 90 of our Constitution?

Section 76(2) of our Constitution deals with the appointment of Ministers and what we are doing with this Bill is taking away responsibilities enacted under previous Bills to different Ministers under the Ministry of Justice. So, I was hoping to hear something about the constitutional implications of the Bill under section 76(2).

Section 79 of the Constitution, Madam Vice-President, deals with the allocation of portfolios to Ministers. The parent Acts of these, I think, five Bills we are seeking to amend would have been passed in accordance with section 79 of the Constitution. So, we are here now allocating portfolios—taking away portfolios from different Ministers and reallocating them to the Minister of Justice. Again, constitutional implications. Last, but not least, section 90 of the Constitution, Madam Vice-President, the Director of Public Prosecutions—because when I come to the individual Bills I will raise the issue of the Director of Public Prosecutions.

Madam Vice-President, the Ministry of Justice, from what I was able to gather this morning, seeks to enhance the delivery of justice, which we have absolutely

no problem with, but in looking at the Acts we are trying to amend, I was unable to determine a pattern as to why those particular Acts were chosen. If you will allow me, I will now go to each Act in turn.

The first Act we are seeking to amend is the Criminal Injuries Compensation Act, No. 21 of 1999. In the parent Act, the Minister there was the Minister to whom responsibility for social services is assigned and the Ministry is the corresponding Ministry.

Question for the hon. Minister in his wrapping up, I think that Act also encompasses the Legal Aid and Advice Act and the Workmen's Compensation Act, am I correct? No, it does not. So we have no overlap there. However, No.78 of 2000, the parent Act:

“An Act to provide for the establishment of a programme for the protection of certain witnesses and other persons; and to provide for matters incidental thereto.”

11.25 a.m.

Madam Vice-President, one of my questions which the hon. Minister could probably address in his wrapping up is that many of these Acts, inclusive of this Act, the Deoxyribonucleic Acid (DNA) Act and the Police Complaints Authority Act, those three Acts, in particular, were passed with constitutional majorities, because they went contra, they offended sections 4 and 5 of our Constitution.

I have spoken to several lawyers—I am sorry the hon. Attorney General is not here again—but my question is for clarification. We may say one thing in the Parliament, but then when you get a very smart defence attorney, the actual reality in practice in the courts could be entirely different. When we have parent Acts which are passed with constitutional majorities and then we seek to amend a particular section, my question is, do these amendments also need to be passed by a special majority or a simple majority?

We may say a simple majority but, as I said, when you reach down into the court system you may get a challenge. Some bright lawyer who is now studying law may find that he can raise a constitutional issue. Sen. Panday would know, he quotes it often, and we may want to avoid a *Pepper v Hart* situation. So, my question to the hon. Minister is, can he tell us definitely, 100 per cent guarantee—put his head on the proverbial block—that when we do these amendments to Acts which were passed with constitutional majorities that we do not need a constitutional majority? So, that is my comment; that is my query.

The reason for referring to section 90 of the Constitution a few minutes ago to deal with the DPP is that under the Justice Protection Act Part II of the Justice Protection Programme, section 10 talks about the DPP to submit applications and, again, the same question goes. When you had the parent Act being passed with a constitutional majority, giving the DPP certain authority and giving the Minister assigned under that Act certain authority, how does that transfer of relationship between the DPP as originally envisaged in the Justice Protection Act relate now to the Minister of Justice and the Justice Protection Act? So, I am hoping the hon. Minister in his wrapping up could talk about that.

The Deoxyribonucleic Acid (DNA) Act, again, this was an Act passed by a special majority because it offended sections 4 and 5 of the Constitution, and the parent Act spoke about two types of DNA samples: (a) which we may call a regular sample; and an intimate sample. The reason for my bringing up the question of samples and the reason for my bringing up sections 4 and 5 of the Constitution is that originally when the Deoxyribonucleic Acid (DNA) Act was passed, it was passed with a constitutional majority, because you were giving the then Minister the authority to take intimate samples to test for DNA. For members of the public who are looking on, the Act speaks about two types of samples. Let us take a regular sample, like your hair, a strand of hair, skin tissue, fingernail clipping, to get a DNA, but in certain criminal cases you may want to take an intimate sample, meaning a sample, the taking of which is invasive, for example, a vaginal swab in the case of a rape, a sample of blood. Those are what we call intimate samples. The parent Act was passed under that context. This is why I keep coming back to my question when we amend Acts, like the Deoxyribonucleic Acid (DNA) Act, which were passed with constitutional majorities, where we are now giving another Minister the authority to take a vaginal swab or blood samples, do we need a special majority? Is it a simple majority and what are the consequences later down the road for that determination? So, that is my question for the Deoxyribonucleic Acid (DNA) Act.

The other Act that we are seeking to amend to give the Ministry of Justice some teeth is the Community Service Orders Act. The Community Service Orders Act, No. 19 of 1997 was an Act to make provision for the making of community service orders in respect of convicted persons; to make provisions for the making of combination orders; and for matters incidental thereto. This Act is fairly straightforward so I have no problems with it.

Act No. 6 that we are seeking to amend, the Police Complaints Authority Act, again, this was an Act which was passed with a constitutional majority, and it was

Parliament's intent that it be so to have an independent Police Complaints Authority under, I think, it was the Minister of National Security. So we are now moving the Police Complaints Authority from the Ministry of National Security to the Ministry of Justice. So, again, my question about constitutional relevance is to be answered.

Madam Vice-President, so we are looking at amending five Acts to give powers to the Minister of Justice. As I said at the start, in looking and researching what different ministries of justice do around the world, I found 50 countries that have implemented ministries of justice. If it is we want to give teeth to the Ministry of Justice; if it is we are looking at the Criminal Injuries Compensation Act, the Justice Protection Act, the DNA Act, the Community Service Orders Act and the Police Complaints Authority Act, I would like to suggest to the Government, through the hon. Minister, through the Leader of Government Business, that the issue of prison reform under the Ministry of Justice also be looked at.

I would like to recommend to the Government that prisons which currently fall under the Ministry of National Security, it may be right for putting that under the Ministry of Justice so that the Ministry of Justice will be a more holistic entity rather than a hodgepodge of responsibilities taken away from different Ministries. I do not know if you see the point I am trying to make.

I think prison reform working together with the Community Service Orders Act is important, because in looking at the English system, the English Ministry of Justice—and not everything that the metropolitan countries do we should do, but if it is good we should look at it—places a premium on prison reform; it places a premium on restorative justice; and it places a premium on rehabilitative justice. I would like to suggest that we look at that, so when our prisoners or our inmates are incarcerated, when they are released if they are trained—at every opportunity I get in the Senate, I always talk about the high rates of recidivism. I would like to see that rate of recidivism drop, and I would like to see our inmates trained; I would like to see some form of rehabilitative justice; I would like to see some form of restorative justice for the victims of crime. So, the restorative justice will fit in nicely with the Criminal Injuries Compensation Act.

I would also like to suggest to the hon. Minister of Justice and through the Leader of the Senate that you also look at the Procedural Rules for both criminal and civil justice. I think that would dovetail nicely. [*Crosstalk*] No, Sir, promise. I did not meet with anybody from the Government over the weekend. [*Crosstalk*] I would like to suggest to the Government and hon. Minister Volney and Sen.

Ministry of Justice Bill
[SEN. DEYALSINGH]

Tuesday May 31, 2012

Panday that the Criminal Procedure Rules and the Civil Procedure Rules be looked at, so we could be more holistic as we try together to have a better system of justice.

Madam Vice-President, as I promised earlier, I would be short. With those few words and those many ideas, I thank you. [*Desk thumping*]

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Madam Vice-President, I wish to indicate that hon. Sen. Helen Drayton indicated that there will be no contribution from the Independent Bench, hence I would probably use a few minutes of the Independents' time. [*Crosstalk*] "You are always hitting meh."

Madam Vice-President, I want to thank Sen. Deyalsingh for such a good contribution. It is the first time we saw him in his time here in the Senate stick to the topic and he has not suffered with the "Ethelbert Hinds syndrome", that is, being tangentially relevant at times. I want to congratulate him for that.

Madam Vice-President, the Government of Trinidad and Tobago, the People's Partnership Government, intends to deal with the issue of crime, and as you have observed during the last session of this session, a number of important pieces of legislation have been introduced—the gang legislation, the bail legislation and intercept legislation—and the objective of all that is to deal with the issue of crime and, today, Madam Vice-President, this Bill as has been introduced is really to carry that process forward, that is, to deal with crime at various levels.

Madam Vice-President, the hon. Senator spoke about section 76 of the Constitution where it speaks about the appointment of the Prime Minister and section 76(3) says:

"The Ministers other than the Prime Minister shall be such persons as the President, acting in accordance with the advice of the Prime Minister, shall appoint from among Members of the House of Representatives and the Senators."

That has happened already. Minister Volney has been appointed in accordance with section 76 as a Minister and, therefore, there is no constitutional ambiguity or any constitutional problems involved.

The second issue which my friend raised was under section 79. I think he really addresses the issue of section 79(1) where it states:

"The President, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other

Minister responsibility for any business of the government of Trinidad and Tobago, including the administration of any department of government.”

What has happened there, if one looks at the last phrase in section 79(1) of the Constitution—“including the administration of any department of government”—now, you heard the hon. Prime Minister speak recently about realigning ministries, that is, the Prime Minister, let us say, may take gender away from the Ministry of Planning and align it in another place. Maybe one state company, for example, at one time it was under the Ministry of State Enterprises, and the former government had realigned that and brought it under the Ministry of Finance, so that is what section 79 speaks about. It does not speak about this situation, it speaks about the Prime Minister having that power.

But in any event, what the Constitution says under section 79 is that the Prime Minister has that power, today it is a different story. The story today is a whole Act, a whole piece of legislation is now being moved from the various ministries into the Ministry of Justice, and the reason for that is that the Ministry of Justice is a new ministry, and when you look at the various pieces of legislation, you will see in the legislation itself—I think it is clause 6 of the Bill—wherever the word “Minister” is referred to, the “Minister” means the “Minister” under whose remit the Act fell. For example, the Police Complaints Authority, “Minister” meant the Minister of National Security. In another one, the Criminal Injuries Compensation Act, the “Minister” means the Minister of Social Development.

So what is happening is, we are changing the law to indicate that the “Minister” now means the Minister of Justice. What is happening is, we are really rationalizing the law and putting the various pieces of legislation under one Minister to give him the remit to act in accordance with this piece of legislation. For example, it says, in certain cases, the Minister may make regulations. So, if this law is not passed, and we speak about the “Minister” although we have the Ministry of Justice actually doing the work, “Minister” means the Minister of National Security.

11.40 a.m.

So the Ministry of Justice would be doing the work and if we do not rationalize the law, the regulations would have to be made by the Ministry of National Security and this is really rationalization of the law. We want to thank you for the observation and agree with you in the other part of your contribution when you said, somebody who probably has now begun to study law will try to raise those issues about constitutionality of certain matters; I agree with you

indeed. It would only be somebody who is about to study law or just embarked upon studying law who would make such an investigation. [*Crosstalk*]

The other issue which the hon. Senator indicated, that it was certain pieces of legislation which had been passed with a special majority and you were asking loudly—I would have expected a kind of question like that coming from Sen. Fitzgerald Hinds, but an intelligent person like you, I did not expect such a question.

Sen. Hinds: I simply ask my friend to leave me out, please. You focus on what is before you.

Sen. The Hon. S. Panday: I want to thank you very much but I did not know you would be so hot under the collar, having gone on television this morning with a bib around your neck giving the impression that you are touting in that you would go on television on—

Sen. Al-Rawi: On a point of the order, Madam Vice-President. On a point of privilege, generally, and several points of order, I am sure my learned senior is not hoping to impute improper motives to my good friend, Sen. Hinds—

Sen. The Hon. S. Panday: No, no, not at all.

Sen. Al-Rawi: And I am sure he will do the right thing.

Sen. The Hon. S. Panday: Yes, I withdraw it but to say that he would have looked much better on national television with a tie rather than putting on his bib at six o'clock in the morning when there was no court at that time—that is all—and we know that—

Sen. Hinds: That is not your business, you all have enough to trouble you on that side; mind your business.

Sen. The Hon. S. Panday: I know but I will tell you, you would have looked much better this morning, much more elegantly attired, if you were wearing your tie rather than wearing a bib at six o'clock in the morning and fixing a bib on the outside so the population will see, when we all know that you usually use a bib when you are only in court, and not even in the case management hearing but in trial.

Sen. Hinds: Focus on the elegant behaviour, that is what you have to do.

Sen. The Hon. S. Panday: Yes, that is why it shocked me so much this morning when the Legal Profession Act speaks about touting, canvassing and advertising. That is why I was taken aback, but let us come back to the matter at hand.

Sen. Al-Rawi: Madam Vice-President, all of 35 perhaps because it does skirt on relevance. I am sure the Vice-President—

Madam Vice-President: If you will allow me to rule, Sir. I think what was started by Sen. Panday was given life by Sen. Hinds and so in his response he has literally opened up. But Sen. Panday, I am going to ask that you continue.

Sen. Hinds: I like your ruling.

Sen. The Hon. S. Panday: Indeed, Madam Vice-President, I think I have said enough.

Sen. Al-Rawi: On a point of order. Madam Vice-President, you had clipped me at 35 beginning and I was coming to privileges, but 35(5) is really where I am. And for the benefit of the listening public:

“No Senator shall impute improper motives to any Member of either Chamber.”

I do consider respectfully—

Madam Vice-President: I cannot hear you; I am being distracted. Could you kindly control yourself, Sen. Hinds, so that I may hear what your colleague is asking?

Sen. Hinds: He remarked that we have been observing your rulings and we heard what you said and we disagree!

Sen. Al-Rawi: Madam Vice-President, on a point of order, 35(1), improper motives are being imputed by a very senior Member of the Government Bench and I should hope that he would condescend to retracting the offending remarks, subject to your ruling of course, Madam Vice-President.

Madam Vice-President: It often surprises me that persons stand here quoting Standing Orders and then asking for a ruling which is completely contrary to the Standing Order quoted. Now you have asked, Sen. Al-Rawi, that I rule on 35(1).

Sen. Al-Rawi: 35(5).

Madam Vice-President: No, you said 35(1).

Sen. Al-Rawi: No, Madam Vice-President [*Inaudible*]

Madam Vice-President: 35(1) deals with relevance and in quoting relevance you subsequently asked for imputing improper motive. While I agree with you that there might be some irrelevance in the motion being discussed, I do not agree that there is any improper motives being—[*Interruption*—No, I do not believe so, but Sen. Panday please be guided that you will continue with your contribution.

11.45 a.m.

Sen. The Hon. S. Panday: I am deeply grateful to you, Madam Vice-President. *[Interruption]* *[Sen. Al Rawi rises]*

Sen. Al-Rawi: I am on my feet. A point of order, Madam Vice-President. A point of order takes precedence, as my learned senior is well aware.

Just for the sake of clarity, Madam Vice-President, I accept that the temperature may be somewhat elevated unnecessarily, but I did rise in my point of order to say that I was rising, perhaps, on the whole of Standing Order 35. I started with 35(1).

For the sake of clarity, I am squarely referring, in my clarification issue on Standing Order 35(5), and I must rise to protect the reputation of my colleague in this Chamber, as it relates to the imputation of an improper motive as to touting under the provisions of the Legal Profession Act, which is an offence under the Legal Profession Act.

My learned senior, the hon. Leader of Government Business, has said that my learned colleague, Sen. Hinds, is touting, and that is a prohibition under the laws of this country. That is an improper motive, and it cannot be clearer.

Madam Vice-President: Your point is taken. Senator, please continue.

Sen. The Hon. S. Panday: Madam Vice-President, I withdraw it most humbly, to my friend, Sen. Hinds; however, I will ask Sen. Al-Rawi and Sen. Hinds to read the Legal Profession Act about advertising.

Sen. Hinds: I have something else to read.

Sen. The Hon. S. Panday: Wait, I will deal with you when the time comes; do not panic.

I come back to the topic at hand in which Sen. Deyalsingh spoke about pieces of legislation that have been passed with a special majority. He was asking whether, if you intended to amend them, you needed a special majority. I humbly submit to Sen. Deyalsingh that if the amendment you are creating does not take away any further rights, which have already been taken away under sections 4 and 5 of the Constitution, there will be no need to have a special majority, when you are amending the law. In these circumstances, with all these Bills, no further rights are being taken away. It is merely transferring these Acts under the remit of the Minister of Justice. In those circumstances, I humbly submit that there is no need to have these Bills passed with any special majority.

Madam Vice-President, if Sen. Deyalsingh had read and done a little more homework—I saw him this morning, he probably just went on the Internet and

picked up a few pieces here and there—but one would have expected that he would have read the *Hansard* in the other place and read the closing, the wind-up as he said:

“Mr. Speaker, as I wind up this debate...”

He went on and dealt with all the issues which Sen. Deyalsingh spoke about: prison reform and restorative justice, and he would go further than Sen. Deyalsingh when he winds up and speak about the parole system. But I do not want to take the wind out of the sail of my colleague.

In those circumstances, thank you, Madam Vice-President.

Sen. Faris Al-Rawi: Madam Vice-President, I rise to make a very short contribution to this Bill before us. We are discussing the Miscellaneous Provisions (Ministry of Justice) Bill, 2011. It, in fact, proposes what seems to be an innocuous amendment to legislation. In particular it purports to deal with five pieces of legislation: the Criminal Injuries Compensation Act, Chap. 5:31; the Justice Protection Act, 5:33; the DNA Act, Chap. 5:34; the Community Service Orders Act, Chap. 13:06 and the Police Complaints Authority Act, Chap. 15:05.

If I may have the pleasure of welcoming the hon. Minister of Justice to this Senate. I still refer to him as Mr. Justice Herbert Volney, properly the Minister of Justice, the Member for St. Joseph. It is a pleasure to have him deal with what I think has been a long outstanding issue on the part of the People’s Partnership Government and, that is, to provide us with what begins to look like a complexion of a legislative agenda.

Sen. Panday: “Yuh gone with dat again.”

Sen. F. Al Rawi: Yes, I have gone on to the issue of a legislative agenda again, because it is critical to the efficacy of Parliament and, in particular, it augurs and is anchored into the concept of this Bill, which seeks to reorganize the ministries of Trinidad and Tobago.

It is quite proper and the Minister of Justice is correct in saying that he has been clothed under section 79 of the Constitution, as a Minister, and that the Prime Minister has properly asked the President to refer responsibilities to him under that section of the Constitution. What is difficult for us, as a Senate, is not so much the trivialization which we have been fed this morning, in part by my learned senior, Sen. The Hon. Panday, as to this being simple reorganization of ministerial responsibilities; instead, what lies at the heart of the proposed amendments is, in fact, the definition that each Act is to receive by way of amendment.

Ministry of Justice Bill
[SEN. AL-RAWI]

Tuesday May 31, 2012

The Bill itself before us is a simple one, six clauses, but it is far reaching insofar as clauses 2, 3, 4, 5 and 6 of the Bill all have the same formulation. They say that you are to delete the definition of “Minister” in the respective Acts and substitute the following:

“‘Minister’” means the Minister to whom responsibility for the Criminal Injuries Compensation Board...”—or the DNA or whatever other piece we are dealing with—“is assigned and ‘Ministry’ has the corresponding meaning;”

So if I leave out the phrase it would be:

“‘Minister’ means the Minister to whom responsibility is assigned and ‘Ministry’ has the corresponding meaning;”

Madam Vice-President, that would effectively result in a replacement into those five pieces of legislation of a formula which allows the Parliament of Trinidad and Tobago to be bypassed in terms of ministers assigned for responsibility, and it would allow a simple gazetting of any minister responsible, to manage the legislation which falls under his or her purview. So we are now moving from a system where ministers, having been defined in five pieces of legislation, are now going to be open to change by mere gazetting.

We do know that, I think it was on June 25, 2010, that the President caused notice to be issued in the *Gazette* that the Hon. Herbert Philip Volney, the Member of Parliament for St. Joseph, be assigned to the Ministry of Justice, and that under his purview fell the criminal justice system, the prison system, the forensic services, probation services, offender management, victims of crime, management of illegal immigrants and deportees, legal service complaints, Advisory Committee on the Power of Pardon, Mercy Committee. Also assigned to him were the following statutory boards, being, the Legal Aid and Advisory Authority; Police Complaints Authority, Sentencing Commission and the Criminal Injuries Compensation Board. The legal notice issued on June 15, 2010, ascribed these various portfolios to the Minister of Justice.

As my learned colleague, Sen. Deyalsingh pointed out, the concept of a Ministry of Justice is not a novel one necessarily. It is going to be an interesting experience to see how the management of aspects which were previously dealt with by the Ministry of National Security, the Ministry of Social Services and the Ministry of Legal Affairs, is going to be better oriented, as this Government surely intends, through the Ministry of Justice. But what is critical for us to hold on to is the following issue: whether we as a Parliament are prepared to introduce a formula into legislation which simply allows the Prime Minister, by direction to the President, from *Gazette* notice to *Gazette* notice, to change the responsibilities

of ministries. That anchors into that which was delivered by Sen. Deyalsingh, that is, if we take the five pieces of legislation that we seek to amend today, one must reflect upon the fact that the legislation was debated by Parliament, and that the appointment of a minister to manage the realm which any one piece of legislation was intended to achieve, was deliberated upon by the Parliament of Trinidad and Tobago, both in the Lower House and in the Senate.

At first blush, it may seem that this is a simple issue. But by way of example, I wish to point to amendments recently proposed in the financial intelligence unit legislation that came before us. I wish Members to reflect upon how serious an issue it was for the Parliament of Trinidad and Tobago, that the Attorney General not be the office appointed to supervise the FIU, and that instead the Ministry of Finance be that institution. That is directly relevant to the very formula we are considering today.

You see, when we were contemplating where legislation sits, whether it is in a past piece of legislation or in legislation to come, it is very relevant to us what ministry is going to be in control of any one piece of law. That anchors into the very difficulties which we face in a developing democracy. We are often at pains to point out that Trinidad and Tobago, in fact, enjoys a fusion of powers, as opposed to necessarily a separation of powers of the type contemplated by Montesquieu in his constitutional theory, borrowed from the Greeks albeit, that there be a separation of powers between the Judiciary, the Legislature and the Executive.

In our particular system which is, of course, one inherited from the English, it is noteworthy that we adopt and manage a system of fusion of powers, rather than a separation of powers. It is essential for us to contemplate that we must be jealous to consider legislation as a whole, and that if we contemplate amendments of this type, which is a piecemeal amendment to legislation, that we may be letting more out than we cater for, and that it is important for us to reflect upon whether we as a Parliament are now allowing the Executive too much control, to change responsibilities for legislation from Minister to Minister by mere gazetting.

We have to contemplate where ministries are anchored. I did read the contributions of the hon. Minister of Justice in the Lower House. Sen. Panday is correct in saying that the wind-up delivered there, did deal with some measure of what is to come from that Ministry.

12.00 noon

Of course, Sen. Panday could not have been uncharitable in his commentary to say to my learned colleague, Sen. Deyalsingh, that he should read there and he should be guided by that, because surely he appreciates that we must debate in this House, and what happens downstairs is not necessarily how we are to be bound, Madam Vice-President. If that were so, we could have been very well stuck with very bad legislation of the type that we saw a majority government bring in the form of the Data Protection Act, where it was the intervention of the Senate that caused critical amendments to be made, Madam Vice-President. So we are not bound by what goes on in the Lower House; if that were so, Madam Vice-President, we would not have nine Senators of the Independent Bench with us.

Madam Vice-President, in taking note of what was said in the Lower House, I did take note of the statements of the hon. Minister in saying that, for instance, as it related to the DNA legislation, we were dealing with the issue of evidence management. And in dealing with evidence one would think it apposite to management that the Ministry of Justice has measure there. But, Madam Vice-President, what I wish to draw by way of my second caution, the first being that should we change the formulation simply to allow gazetting by the Prime Minister at her whim, the second point is, are we focusing upon the efficacy of Ministries, and are we also not opening a Pandora's box as it relates to implementation of the law, one, and secondly, duplication of efforts?

You see, Madam Vice-President, if you were to take for example, the Criminal Injuries Compensation Act, the name by itself contemplates that there must be some form of management by lawyers or elements of justice or legal management, be it the Ministry of Legal Affairs or now, the Ministry of Justice. But when you look to the heart of the Act itself, and you look even to the constitution of the board there, Madam Vice-President, you would realize that the majority of it really deals with the roll-out of benefits—capped to \$25,000 per person—by the Ministry of Social Services, however you wish to call it. So the question is going to be, what will the degree of overlap be from Ministry to Ministry?

When you look at the composition of the board under the Criminal Injuries Compensation Act, you will see that there is actually room for one attorney-at-law only. So the involvement of the Ministry of Justice as the managing entity for that

piece of legislation has a question mark to it, Madam Vice-President, because the heart and soul of that particular piece of legislation really lies in the Ministry of—as it is now called—the People or the Ministry of Social Services as it was previously called.

Madam Vice-President, the efficacy, therefore, rings true, and that is to be contemplated by the statements of the hon. Chief Justice made at the opening of the Law Term in 2010, when he noted that, the Judiciary being the centre force behind the management of justice in this country has to rely upon interoperation of third party factors and in particular the Legislature, Madam Vice-President.

And I wish, for the purposes of paternity, to note that the Minister of Justice is fortunate to have had an excellent predecessor in the person of the last Attorney General, the hon. John Jeremie. I wish to reflect upon the words of the Chief Justice in his opening speech, where he noted at page 5 that—and permit me to quote:

“It is also the reason that we are focused on the nurturing of strategic partnerships in the recent past. An outstanding example of the success of this approach has been the new remand via video-conferencing pilot project that involved the prison and police services, the Bar, the Ministries of the Attorney General and Public Administration, and our technology service provider. At the suggestion of the Bar, we have also seen that the technology can be easily employed for bail applications. We need to help each other to help ourselves. Some of this was begun with the previous administration and I referred in last year’s speech to some of the very fruitful initiatives that had begun to develop. I want to acknowledge, in particular the efforts at comprehensive legislative reform undertaken by former Attorney General John Jeremie, that had in some instances, just reached the stage of draft legislation before the May 24th general election.”

12.05 p.m.

“Many of these reforms will be critical in ensuring our capacity to cope with the pace and complexity of litigation, especially criminal, that will be coming through the courts. He delivered on his promise to increase the complement of Judges in the Supreme Court, and that will be a big help.”

So, Madam Vice-President, with the centre of a good start, with the centre of legislation having been drafted as it relates to, in fact, the DNA Act, amendments to the legal aid provisions that are to come, you would see that the Minister of

Ministry of Justice Bill
[SEN. AL-RAWI]

Tuesday May 31, 2012

Justice has had a helpful start. I wish to note that this Government has stated its intention to continue with work, and in fact, and I hope, genuinely to improve upon it.

On that note I wish the hon. Minister of Justice well and I wish to indicate that we as an Opposition will certainly be supporting, not only that which we started already, but proposals which will achieve, in particular, an amelioration of the criminal justice system. On the issue of the Justice Protection Act, I know that the hon. Minister of Justice proposes to come back to Parliament with a number of reforms that have either started under the PNM or those of his own initiative, and I ask him to take note in particular of the work which we did in the Trafficking in Persons Act and in other recent legislation where we considered the appropriation to the Consolidated Fund of moneys which were to be taken under the Proceeds of Crime Act, and therefore, made available to victims of crimes.

I would ask him to please take note, in proposed amendments that he may be considering, of the use of anonymous witness statements as a measure of improving the criminal justice system—I think there is a very helpful case, that is *R. v. Mayers* in the United Kingdom. We dealt with it in the Trafficking in Persons Act, but I hope that he would take note of this suggestion because we may see some amelioration of the witness protection system, in particular, as that is rolled out under the Justice Protection Act.

Madam Vice-President, I think that it is our responsibility to assist any move to improve justice, the access to justice and the delivery of justice. I think that the PNM, as it ruled under its last tenure, and the People's Partnership are on one page as it comes to the reform of the criminal justice system and the civil justice system. I would like the hon. Minister of Justice to focus on the case management system that we are looking at, but in the haste to get to a better form of criminal justice administration, we need to pay attention to ensuring that we do not throw the baby out with the bath water.

My own view is that the formulation recommended by this Bill as it has started off to be in relation to the five pieces of legislation that we are considering to amend this morning, Madam Vice-President, I think that the formulation is dangerously wide. I would be much happier with simply ascribing these to the Minister of Justice as opposed to introducing a formula which can be changed at any point in time without reference to the Parliament, because we would be losing a valuable opportunity to have input by way of debate, and that is critical to avoiding a tendency to trivialization.

Madam Vice-President, I know that the Minister of Justice has indicated that we are about Private Members' Day today. I wish him to encourage his Government to publish a legislative agenda. Parliament breaks, I understand, on June 17, 2011; we are in fact intended to move to another place and we would not be in this hall for much longer, but, Madam Vice-President, if the Minister of Justice were to achieve one purpose only, I would crave him to craft a legislative agenda for his Government. That would allow us to factor the intersection between various Bills as we consider them and to factor how we may better assist his Ministry in its stated intention to improve the access to justice and in particular criminal justice.

With those few words, Madam Vice-President, I thank you.

Sen. Fitzgerald Hinds: Thank you very much, Madam Vice-President, for an opportunity to make a contribution to this very important debate.

Madam Vice-President, I have noted your ruling earlier in this debate that in your opinion the thing was open, and that was said in response to some objection taken by my friend, Sen. Al-Rawi. So, I should be guided by this comments on that and I will proceed accordingly.

As has already been stated, we are here today, in effect, to create work to the new, brand new Minister of Justice. As has already been explained, several areas of legislation; the Criminal Injuries Compensation Act, the Justice Protection Act, the Deoxyribonucleic Acid (DNA) Act and others have been under this Bill, proposed to be removed from where they were put to allow the Minister of Justice to have something to do. Madam Vice-President, I have said in other places that this Government really is a conglomeration of all those in the society who had strong objection to the governance of the PNM, who had various causes, who had issues wherever they were; whether it was environmental, whether it was about the economy, whether it was—whatever the quarrel was, this Government entertained them all.

And you would remember, Madam Vice-President, that when the Minister of Justice took office, my learned friend, Minister Volney, he exploded onto the scene with a scathing attack on the Chief Justice of this country and revealed to us, in so doing, that he too had a grouse, he too had a personal pique and issues and he was entertained by the Government on that basis. Madam Vice-President, there were issues about the possibility of him as a judicial officer at that time communicating—

Sen. Panday: Madam Vice-President, Standing Order 35(1).

Madam Vice-President: I do not think Sen. Hinds is quite complete in his point so I would ask that you—at least let us see the relevance in it. [*Inaudible*] [*Desk thumping*]

Sen. F. Hinds: Thank you very much. There were concerns about whether there was—because this Parliament, which is called upon today to pass this legislation is also responsible for the maintenance of the democratic institutions and positions in this country, and there was a concern about whether there was some kind of cross-fertilization, if you like, between the Executive and the Judiciary, upon and leading to the appointment of the hon. Member. It is simply in that context that I raised the matter as I proceed, and whether it revealed a challenge to the question of the separation of powers.

Madam Vice-President, I followed this debate in the other place and our colleagues in the other place raised, to my mind, a fundamental issue or two and I saw the winding-up and the response of the hon. Minister of Justice, and, in my humble view, he skirted a very important issue, because one of the elements of these amendments today—this Bill seeks to amend the definition of “Minister” in the following Acts to enable the Minister of Justice to perform the functions and exercise powers under those Acts and these Acts are listed. One of them is the Police Complaints Authority Act, and in the other place it was pointed out to the hon. Minister that unlike the Criminal Injuries Compensation Act, unlike the Justice Protection Act, unlike the Deoxyribonucleic Acid (DNA) Act and unlike the Community Service Orders Act, the Police Complaints Authority was not an ordinary institution; all the evidence is that it was established as an independent organization and the features of that were very well known to the hon. Minister. It was pointed out to him.

I looked eagerly at his response to that and I saw that he practised the art well known to that Government of obfuscation, he ducked it, so I am obliged therefore, to raise the matter again, not to embarrass the Minister, not to tax him unduly, because we know he may not be able to deal with that, but rather for clarity and by way of elucidation, to explain a point that was made to him when it was pointed out that this Police Complaints Authority is an independent organization and evidence to support that was offered.

Section 6 of that Act says plainly that:

“The Authority shall comprise a Director and a Deputy Director to be appointed by the President on the joint advice of the Prime Minister and the Leader of the Opposition.”

It was pointed out to him that that fact alone emphasized the independence of that institution, the leaders of that institution—the director and the deputy director—as an independent body from Executive or political interference. A very important point.

Section 17 says that:

“The funds of the Authority shall consist of monies as are appropriated to it by Parliament from time to time.”

Another important feature demonstrating its independence.

So that the Police Complaints Authority is not part of any Ministry as the other functions that we are attending to today says, and it was established by a special majority because it was clear that it had implications for sections 4 and 5 of our Constitution. Those matters were raised with the Minister and when I saw his winding-up—it appeared as though the debate went late into the night—the hon. Minister simply pointed out that those who raised that issue in the other place might have been tired, unable to concentrate, and therefore he just brushed it aside.

I would like the Minister to explain today how then could the Government by way of a simple majority move that institution in the way that it proposes to do under this Act? All I want is some clarity on the matter and I know that the hon. Minister is sufficiently well trained and able to provide clarity, not for my sake, but for the benefit of the citizens of this country who observe closely what we do in their interest here, especially those of us who are elected, as he is, coming from the other place, as we welcome him here today.

Now, the Criminal Injuries Compensation Act is designed to provide some financial support for the victims of crime or their dependants in this jurisdiction. It is not unique to Trinidad and Tobago; it exists in England, and indeed, in other places. This was established—the unit that is responsible for the processing of these applications and the investigations of those, and the unit, that make recommendations to the board, was established in 2006.

12.20 p.m.

It is obvious that it was a good idea and of course the levels of compensation that it offered at the time may have been adequate, but time has run, inflation has set in from time to time and sometimes the injury sustained by the victims and their dependants could be so severe, people lose houses by way of arson—it is not going to be considered here because this has to do with personal injury—
[*Interruption*]

Sen. Al-Rawi: And one-year limitation.

Sen. F. Hinds: —and there is a one-year limitation rule as well, so that it has become demonstrably, and to some extent not as effective as it could be in providing or satisfying its expectations when it was established in 2006.

Recently we had the very unfortunate situation of very, very high profile of the Greens who sustained serious injury in the island of Tobago and that took national, regional and international prominence. It required some rearguard action on the part of the Government, quite rightly, to protect the image and the interest of Trinidad and Tobago, because the Greens were obviously determined in extracting their pound of flesh from the Government as a result of the behaviour of a citizen of this country, possibly—not possibly—certainly in a very, very unfortunate way.

I want to take this opportunity on behalf of Trinidad and Tobago, again, to express our commiserations to the Greens and to cause them to understand that we do not encourage that kind of behaviour, promote that kind of behaviour on the part of our citizens, and it is something that we are attending to by way of all the other measures we put in place to deal with crime generally. I saw the conduct of the Greens and the thing has now taken backstage when it comes to the image of Trinidad and Tobago because, as you know very well, Madam Vice-President, there is an issue now that is engaging the international community that has more than anything else, damaged, the international reputation of Trinidad and Tobago. *[Interruption]*

Sen. Panday: Madam Vice-President, 35(1), Standing Order 35(1).

Madam Vice-President: Senator, continue along with the Bill, please? Thank you. *[Desk thumping]*

Sen. F. Hinds: Madam Vice-President, the implication of what you have just said would suggest to any listener that I am not dealing with the Bill.

Sen. Al-Rawi: We are squarely in the Bill.

Sen. F. Hinds: And if I become convinced that you believe, Madam Vice-President, that I am not dealing with the Bill, I will have other issues.

Madam Vice-President: Senator Hinds, please, have a seat. I would ask that you show the utmost respect in the manner of your speaking to any other Member, including this Chair. Please, continue with your contribution! *[Desk thumping]*

Sen. F. Hinds: I can assure you, Madam Vice-President, I always do and I always will, Madam Vice-President. But if I have a lurking feeling that we on this side are being subjected to more stringent rulings than those on the other side, I am duty-bound to say so.

Sen. Panday: Are you questioning the Chair?

Sen. F. Hinds: I am duty-bound to say so. I am not questioning the Chair. [*Crosstalk*] I am saying that. That is my feeling. It is subjective. [*Crosstalk*] That is my feeling.

Sen. Al-Rawi: Read Mr. Wade Mark in the Senate—[*Interruption*]

Sen. F. Hinds: That is my feeling. I do not want to debate this you know, because we will have time enough; but that is my feeling, and not for the first time. I had reason; my reputation was sullied in this Senate, by a Member of the Government, the Attorney General, who accused me of receiving part of \$84 million, part of a 10-member or a 12-member team of lawyers. I stood here to defend myself and to this day I am now responding to a Bill from the Minister of Justice, but I have not received justice in this Senate, and my friend, Sen. Al-Rawi. So I am duty-bound. This is the Parliament. “Is here we must talk about justice”, justice for one and justice for all.

Sen. Panday: According to 35(1)—[*Interruption*]

Sen. Al-Rawi: It must not only be done. It must appear to be done.

Sen. F. Hinds: And according to elder Martin Luther King—may his soul rest in perfect peace—injustice anywhere threatens justice everywhere. If I feel a sense of injustice here in my duty as a parliamentarian to ensure that there is justice everywhere, I am duty-bound to treat with it.

12.25 p.m.

Sen. Abdulah: Walk from San Fernando. [*Laughter*]

Sen. Al-Rawi: Jack walking from Zurich.

Sen. F. Hinds: So, Madam Vice-President, I wish to proceed as I discuss this Bill undisturbed, once I follow the dictates of the Standing Orders. When an irrelevant matter was raised, you ruled earlier today that I opened the debate. You said that, Madam Vice-President, and I told you at the beginning of my contribution, I would be so guided. So, let me continue unperturbed, undisturbed, by all in this Senate.

Madam Vice-President—[*Interruption*]

Sen. Panday: Are you casting aspersions on the Chair?

Hon. Senator: Why are you so wicked?

Sen. F. Hinds: What is wrong with my friend?

Sen. Panday: What do you mean I am wicked?

Sen. F. Hinds: Please have a seat.

Sen. Panday: Do not speak to me like that. Madam Vice-President, Standing Order 35(8).

Madam Vice-President: Sen. Hinds, I am going to ask that you along with all Senators—I will not allow a mockery to take place in this Senate. As far as courtesy, deportment and good parliamentary behaviour are concerned, we take our business very seriously. I think sometimes, Senator, I would say sometimes, you push a little bit out and a little bit too far. I have asked that you continue with your contribution as it relates to the contribution made thus far in this Senate in response to this Bill.

Please, confine your contribution to the arguments made in this Senate, or in your contribution, from the Lower House that is fine, in any contribution, but, please, confine your comments to the Bill at hand. [*Desk thumping*]

Sen. F. Hinds: Again, Madam Vice-President, I urge you to take cognizance of the fact that I have always and will always do that.

Sen. Panday: Oh really!

Sen. F. Hinds: Yes! Always!

Sen. Panday: “Ooooh”, thank you.

Sen. F. Hinds: Yes. Always, always, respect and uphold the honour of this Senate.

Sen. Panday: Oh really!

Sen. F. Hinds: Madam Vice-President, there are other areas that fall under the Ministry of Justice, of course, the criminal justice system reform and transformation unit—a unit that the Minister is becoming familiar with—and, as well as, all the initiatives for speedier justice. Justice is what we are speaking about. It is not just a word, you know. Justice is not just an intellectual concept. Justice is real. It implies fairness, it implies balance. As you would know, there are people in this society who feel justified in doing criminal acts and wrong

because they feel other people perpetrate injustice upon them. So, it is important as we analyze and deal with the question of justice, that we understand that we must not only talk it, we have to live it and, the citizens of Trinidad and Tobago are not foolish as some people think. Very wise, street wise, plenty wise!

So as we talk about justice, some of the other issues or areas that fall under the portfolio of my learned friend, the Minister of Justice, are the questions of parole and prisoner management. These are issues with which I am generally familiar because at one time they fell under—well they still do—the Ministry of National Security, and they have to some extent moved to the Ministry of Justice. Very, very important.

Sometime ago, the Prime Minister told this country that she had a wonderful plan to make \$5,000 available to all former inmates. That sounded rather beautiful and a lot of people were attracted to it. You would also notice, Madam Vice-President, that at the moment the Government is spending a lot of money—and they will tell us how much sometime—to advertise the work that they are doing on Channel 4 and TV6. Every time you look, you see a Minister telling the country what they are doing after one year in office. Unconvincing, but they do it at great public expense. The Prime Minister made that announcement.

Madam Vice-President, you would recall, I called the Minister of National Security to task in this Senate to tell us how far along the totem pole they had gotten in terms of putting that in place, only to discover that it was “words to the wind”. At that point, about three weeks or a month ago, when that was asked in this Senate, not even a committee was yet put in place to begin to shape that policy and to make it real, to implement it.

So this Government has the very uncanny habit of making major announcements for public consumption and attraction, when in fact nothing is done in support of it. That proposed highway to Point Fortin is a perfect example; a tunnel from Tunapuna to Maracas, another. So as we deal with this Bill—I see my friend here is becoming agitated. Reading Standing Orders over and over, trying to shut me down.

The Minister of Justice told us in his comments on these matters in the other place, that he will ensure that we have speedier justice within one year. I think that is what he said. *[Interruption]* He said so? I am being reminded by my friend that this amendment that is now coming here—30 days after he took office? *[Interruption]*

Sen. Al-Rawi: No, no, no. That was part of their manifesto.

Sen. F. Hinds: Oh yes! Yes! I am being reminded by my friend, that part of their manifesto promise was that this Ministry of Justice would have been sorted out and put in place in 30 days. [*Interruption*]

Sen. Al-Rawi: One year later.

Sen. F. Hinds: And today, we are here one year later—a very beleaguered Government, having lost one of their own a few weeks ago and now at risk of losing another—great risk—a matter to which I shall shortly—once it is relevant—return. [*Interruption*]

Sen. Al-Rawi: Hope so!

Sen. F. Hinds: I see my friend laughing mischievously. This is a serious matter. This is no fun. The Minister of Justice told us that he will establish court plants, and within one year action will be taken to establish several of them to create speedier justice in this country. So far, only words. He said a subsequent piece of the legislation will shortly be coming and it will seek to vest powers and functions, as indeed in the Bill, in the Ministry of Justice. This piece of legislation will include the Sentencing Commission Act; the Legal Aid and Advice Act; the Young Offenders Detention Act; the relevant sections of the Prisons Act and the Prison Service Act, respectively, dealing with prisoner reform and prisoner management; and also the relevant sections of the Immigration Act which deal with deportees and illegal immigrants, all of which now fall under the Ministry of Justice. He said that and, to date, absolutely nothing. Nothing! But this is the way of that Government.

Madam Vice-President, the Deoxyribonucleic Acid Act—the DNA Act as it is so called—was passed by a special majority, because it permits in some cases the taking of intimate samples from persons who are suspected of crime. Crime is one of the major challenges of most governments. Not the least this, if only because they by their ethos have encouraged it and, that is in their DNA. You will recall, as we discuss justice here today, when that Act was passed it was designed to assist law enforcement in solving crimes by way of application of the scientific method. We recognized that we could no longer depend on “I see” witnesses for obvious reasons and trying to protect them from the attacks of those against whom they gave evidence, and that perhaps is the reason why the Justice Protection Act is also one of the functions to be shifted to the Ministry of Justice today.

We recognize that if you have to have speedier justice and a more efficient system of justice, witnesses are critical to this process whether it is in civil cases

or in criminal cases, from the most minor offences to the most serious offences. Witnesses are important. Under the Ministry of National Security, the police had a unit that was responsible for witness protection, not without its imperfections, but the Justice Protection Act sought to regulate that and, the DNA Act as I said, was designed to assist us by the application of the scientific method to dealing with crime in Trinidad and Tobago. In order to deal with crime you have to have the will.

The Minister in his presentation in the other place told us that we will see, for an example, the implementation of a sex offender registry and I was struck by that because it is obvious that the Minister is not aware that one exists, or at least—I do not operate in the police service anymore—ought to exist. As far as I know, when I was in the Ministry of National Security, one was established—I do not have to call the name of the officer who had responsibility for it, as a senior officer—and they had begun to make entries and try to keep apace with the thing. I do not know what has happened. Maybe the Minister of National Security might be able to tell us. I heard the Minister of Justice say that they have to establish a sex offenders' registry, but when he becomes more familiar with the portfolios that are now with his Ministry or to go to his Ministry, he would probably find out.

The DNA legislation, as well, allows the authorities to go into the prison to take samples from inmates of certain classes therein, and to match these samples with samples that they would have taken from crime scenes over time. That was included in the DNA legislation. I want to say publicly because I have said it before to the Minister, this is an important thing, because for many years now, even before the passage of the legislation, I gathered that they were taking DNA samples from crime scenes and accumulating them in the database.

So there are many crime scene samples that are in the registry or in the database, but they need a partner, they need a criminal to match it with. So a person may have been convicted for a rape offence and is now incarcerated for same, but he may have committed 20 such offences before he was arrested and convicted on the one for which he is now incarcerated. The law allows the authority to go into the prison and there are certain classes of prisoners from whom they can take, involuntarily, samples, and the DNA unit would now match them to see whether they match with other crimes to ensure that perhaps this serial rapist stays where he is for a longer time.

So I know that the Minister of Justice has a lot on his portfolio. I know he has a lot, but these are some of the things he will have to pay attention to, as he talks

about establishment of the Ministry of Justice and, indeed, speedier trials. One of the things he will encounter, Madam Vice-President, is the need for confidentiality and the proper management of information, whether it is through DNA or otherwise by way of intelligence gathering when the State comes into possession of such material.

12.40 p.m.

And I think it is quite relevant to remind the Minister of Justice that he alarmed the national community by telling us when we were all concerned about what had become of the SIA files, that Minister of Justice—rather in the same strange manner of his outburst against the Chief Justice—told us that two Israeli men, unidentified to date, came into Trinidad, went into the SIA and destroyed the files. They did not destroy the one that the Minister of Works and Transport, Mr. Jack Warner, said he saw. Did not destroy that! They did not convince Mr. Gibbs that he was in possession of these files although the Prime Minister said so. So as it stands today, the Minister of Justice is still perhaps to complete his comments, and to tell this country what has become of those files really; and is his story about the two Israelis credible or it is just pie in the sky? All designed to create consternation on the part of those of us in this national community. All to do that!

So that the people of this country hearing today that we are moving the Criminal Injuries Compensation Act; the Justice Protection Act, the DNA Act; the Community Service Orders Act to the Ministry of Justice, they are hoping, like we are, Madam Vice-President, that this will improve the delivery of justice, improve detection and altogether deal with the crime problem that this Government finds itself grappling with.

About three weeks ago, the police service boasted and the Government echoed the boast that the murder figures were 30 short of what they were year to date in the previous year, and I was alarmed at that. I was proud in the first place because if there are 30 murders less as at the beginning of the month of June than there would have been last year, then you could say that that is a good thing, but I quickly pointed out to the Government that there are other issues that will challenge that.

Today, Madam Vice-President, I am sure that the figures are about equivalent year to date, and if not, certainly not by 30 because since then we have had, including last night, two other murders. And I am not celebrating this as they did when they were in Opposition, I am only saying this to point out that you find yourself grappling with this crime problem just as all other governments did when

they had the responsibility to manage it, and some things are to some extent outside of your control but some things are within your control, for example, demonstrating the will to deal with crime. And I will give an example.

If someone alleges that a high ranking official—say a Minister of Government—offered a bribe or requested a bribe, for whatever reason, whether it is in Trinidad and Tobago or outside, a matter that naturally is covered under the Proceeds of Crime Act and other things, because bribe-taking, Madam Vice-President, is against the laws of Trinidad and Tobago. If someone made such an allegation again, by way of example, Madam Vice-President, the Minister of Justice, what should he do, in terms of demonstrating his will to deal with crime as we are supposed to be dealing with in this Bill? What if somebody reported that to the Prime Minister rather than the Minister of Justice, what should she do? As Head of the Cabinet which would have deliberated on the measures before us today—on the measures before us—and allowed her Minister to lay these amendments in Parliament for our consideration, what should she do?

12.45 p.m.

I think you will agree with me, that the Government has a duty to demonstrate that it has the will to deal with crime. It has the responsibility to be consistent, because the Government has spoken out against crime in the past and issues. Let me, in demonstrating the fact as we are dealing with measures to deal with crime and crime management, demonstrate to you as a fact that the Government and rather the Prime Minister as Member of Parliament for Siparia expressed a strong view on crime.

I want to make reference, in this regard to a debate that took place on Wednesday, April 27, 2005, where the debate had to do with the EBC Order. The Member for Siparia, as she then was—I could only quote from *Hansard* I would not paraphrase, because I want to make sure that I get it perfectly right in keeping with your insistence that we follow the Standing Orders, so permit me to quote—was making reference to a report that she read and she had also made reference to a letter that was written to the then Prime Minister, by a fellow called Dansam Dhansook. That was on Wednesday, April 27, 2005, where serious allegations were made against two Ministers of Government by Dansam Dhansook. Hear what the Prime Minister, in a strong statement about crime, wanting our support today no doubt to pass her Minister's Bill, said. I quote:

Madam Vice-President: Senator, just for clarification, is that the statement of the Prime Minister, or is that a statement when she was in Opposition? I am not sure, just clarify.

Sen. F. Hinds: As parliamentarian, that does not really—

Madam Vice-President: I am not sure, so that you can quote it—

Sen. F. Hinds: Oh no, I had already said “as the Member for Siparia.” Okay? The Member for Siparia, in responding to it all said, I quote, because I do not want to paraphrase as I have said:

“In a report I read that the hon. Prime Minister admitted to having received letters with respect to allegations against two Ministers and he had sent them to the Integrity Commission. There is a serious allegation here that the Prime Minister felt warranted going to the Integrity Commission.”

Madam Vice-President, hear the question:

“Why did the Prime Minister not send it to the Anti-Corruption Squad? Why was it not sent to the Fraud Squad? Is there one law for the PNM and another law for the UNC? That is where it belongs. We are talking about serious breaches of the law where allegations are being made of bribe taking and election fraud. You could raid people’s homes illegally when it comes to allegations against the UNC. Here it is the Prime Minister receives correspondence; admits receiving the correspondence; did not give details of the correspondence but fails to report it to the authorities that have the jurisdiction to deal with those matters.

I am talking about the Integrity Commission. For the past several weeks we have seen not one, but two judgments against the Integrity Commission. You really wonder if those “fellas” have any integrity at all. I have written to them with respect to the obscene moneys from public funds being spent on advertisements and I have had no response. I have no hope that this allegation with respect to illegal campaign funding and bribe taking will go anywhere. This should go to the Fraud Squad and the Anti-Corruption Bureau.”

Those were the words of the hon. Member for Siparia as she then was, simpliciter. Today she is the Prime Minister; making strong statements about information that had gone to the then Prime Minister, allegations against two Ministers, and we have to wonder now, as this Government offers to us the measures proposed as we debate this today, for our consideration, with a view of passing these measures, so that the Minister of Justice would be able to carry out his portfolio and his functions and aid the citizenry in dealing with crime. Where is the consistency one may ask, if today serious allegations are being made against a Minister of the Government and we are now being told of the high court standard, innocent until proven guilty?

Many of the persons incarcerated—and prison reform and prison management fall within the portfolio of the Minister of Justice—feel that they are innocent. They say they are innocent. I have hardly met any of the incarcerated persons—I must have met one or two persons incarcerated in my years in the Ministry of National Security with the responsibility for prison reform—and having had reason to interface with prisoners as the Minister of Justice would—I cannot remember more than two cases where individuals told me: “I am guilty. I have done it.”

And this is public record— I think Mr. Bin Hammam makes it three because he said: “Yes”, in a FIFA disciplinary committee, “I have done it, but somebody else knew about it.” I would like to know, what is this Government doing about that situation? What is the Prime Minister doing, when one of her Ministers is being accused internationally, bringing Trinidad and Tobago into grave disrepute and opprobrium? What is she doing about it? Absolutely nothing! So, can we trust them? You have not demonstrated a will to deal with crime. You have not demonstrated the courage that it takes to deal with this beast. You are applying double standards. You heard the quotation from the hon. Member a while ago.

Madam Vice-President, I support any measures, like my friends, that are designed to bring relief to the people of Trinidad and Tobago. Presumably this is one. Presumably these measures represent some of that. I support that, but I think it goes beyond that. I think it is important, in the very learned society that we are now operating in, that this Government genuinely show the will. I know it is painful to face the truth, a major player in the Cabinet, a major financier. I know. But you have to bite the bullet. You have to deal with it, otherwise we cannot respect you. We cannot trust you.

I see a look of agreement upon my friends on the other side, so it does not appear—[*Interruption*]

Sen. Baptiste-Cornelis: Put on your glasses.

Sen. F. Hinds: Well no, they are now denying that they agree. They have problems, but we will come to that in another time and in another place.

One of the issues that confront us now—and I encountered it only last week—it came to my attention last week that—well, as you know most crimes are driven by the greed and the need for money, whether it is bribe taking or whether it is bribe giving. Most crimes are driven by greed and the need for more and more. Even millionaires, even people who finance political parties still want more money. But it came to my attention last week that the police were having some

difficulty in dealing with an aspect of crime, drug dealing and drug trafficking inside of Trinidad and Tobago. Very often, those who deal with drugs are prepared to spend a lot of money to win friends and to influence people. I am not speaking about any Cabinet Minister, generally. Pablo Escobar had friends, Dole Chadee had friends and there are people who had a lot of good to say about them. [Interruption]

Madam Vice-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. F. Al-Rawi]

Question put and agreed to.

Sen. F. Hinds: It does not surprise me, therefore, when some friends of someone who is accused of crime jumps out and says: Innocent until proven guilty and leave them there. It does not surprise me at all, especially when it comes from that Government. Nothing they do would surprise me. [Interruption]

Sen. Panday: Standing Order 35(5). I ask him not to point at these Members here, and he is in contravention of—

Sen. F. Hinds: Which Member I pointed at?

Sen. Panday: The Members of the Government here. Standing Order 35(4) and 35(5).

Madam Vice-President: I do not think there was the calling of any name, so Senator continue.

Sen. F. Hinds: I would like to know, why is my learned friend so jumpy? What is he trying to protect? I understand that really, there is jubilation and celebration among some Members of the Cabinet as to what has happened over the last three days internationally.

Sen. Panday: “Yuh talking nonsense!”

Sen. F. Hinds: I understand there is jubilation—

Sen. Al-Rawi: For hours yesterday.

Sen. F. Hinds:—between some of them. They are very happy.—

Sen. Panday: Nonsense!

Sen. F. Hinds: In fact, I am confident that the Prime Minister is happy.

Sen. Panday: Look!

Sen. F. Hinds:—with all of the pretence.

Sen. Panday: Okay, Madam Vice-President, Standing Order 35(5).

Sen. Al-Rawi: Tell us.

Sen. Panday: Look!

Madam Vice-President: Senator, continue.

Sen. F. Hinds: Madam Vice-President, could you rule that he remains quiet for the rest of my contribution? [*Desk thumping*]

Sen. Al-Rawi: At least he has the courage to talk. Nobody else talked.

Sen. Deyalsingh: Go on, the floor is yours.

Sen. F. Hinds: That is quite a serious matter. Even those who do the worst things, they have people who would come out in their defence. As it now stands, I call on the Prime Minister to take action against any Member of her Cabinet against whom these allegations have been made. Because, in so doing she will demonstrate her Cabinet's commitment to dealing with crime in Trinidad and Tobago. [*Interruption*]

Sen. Panday: Madam Vice-President, Standing Order 35(1) now. The Senator has not spoken about any allegations and he is calling upon the Prime Minister to take action. We are dealing with a Bill to do with justice, and in those circumstances he is totally, totally, totally irrelevant.

Madam Vice-President: Senator, I am going to concur with the opinion of the Leader of Government Business. Insofar as, if you have questions for the Prime Minister I suggest that you file them as questions on the Order Paper and she will, in due course, answer them.

Please, you have been granted 15 additional minutes and if you can kindly continue with your contribution.

Sen. F. Hinds: There is white-collar crime and there is street crime. We become alarmed in the society when someone shoots another on the streets or there is violence and bloodshed and we are not half as alarmed when there is white-collar crime, including taking of bribes and offering them and receiving them. That is the point I am making, and we are dealing with crime. That is all I am saying. [*Interruption*]

Sen. Burke: And justice.

Sen. F. Hinds: And we are dealing with justice as well.

1.00 p.m.

So the Government wants my support to pass this Bill in order that justice should flow like a mighty stream. But when I look at the Government I am not seeing them living and manifesting justice. And I did not call any name, like the Senator wants me to call a name. I told you that there are some of them who are celebrating deceptively at what has happened. If he wants me to call a name I can do so. Do you want me to call the name of the Minister of whom I spoke, tell me?

Sen. Panday: I am not as foolish as you are.

Sen. F. Hinds: Madam Vice-President, the word “foolish” I know it very well and I could use it more stridently than my friend, but I understand that that word is unparliamentary—

Sen. Panday: I withdraw it; I withdraw it.

Sen. F. Hinds:—but he is so uncouth that he does not even remember that. And, Madam Vice-President, you did not take him to task on it, you said nothing—

Madam Vice-President: You stood on your own volition and you allowed him—

Sen. F. Hinds:—after I gave you an opportunity—

Madam Vice-President: No, no, no Senator please let us not distort the course of the proceedings, please. You have a few minutes remaining could you kindly continue your contribution. [*Desk thumping*]

Sen. F. Hinds: I am just saying, Madam Vice-President, on that matter that I thought you would have made an immediate intervention to tell him that the word was unparliamentary. That is all I am saying. So let me continue. Justice is what we are talking about, I am not feeling it. You see what I am talking about? I am not feeling it.

So, Madam Vice-President, the measures before us, we have all reason, as I said, to lend support generally. I would like the Minister of Justice to explain the point that I had raised insofar as the Police Complaints Authority legislation is concerned. I have spent some moments of my time demonstrating, successfully I hope, that if this Government is serious about dealing with crime, it must deal with all manner of crime including white-collar crime. They must not turn a blind eye when one of their own comes under scrutiny for same. I was able, as I close, to quote the disposition of the hon. Member for Siparia, when she sat in that chair exclusively. Today, she wears another hat as the Prime Minister and I do not think she is bold enough to walk away from the principled position she took here.

I have little or no confidence in that Government and I will only regain some semblance of confidence, if the Government takes action—not like the Attorney General and others to protect, hide and to obfuscate when one of their own is being called into question.

We had another Senator called Mary King up to recently here. She is not here anymore. Innocent until proven guilty, but she is gone! And I see no dissimilarity between the case that I have alluded to and that which existed in Mary King's case in that regard.

So I am saying that I would want to support the Government, but I do not respect what you are doing. I do not trust a lot that you do, and you can gain my confidence, my trust and my respect again if the Government, all of you, would bring to bear some pressure on those whose responsibility it is to take action, and to cleanse the name of the Government from the view of the national community that you are protecting and nurturing someone in your Cabinet who has been accused of very, very serious offences some of which are deemed to have happened in Trinidad and Tobago.

It is a crime to offer a bribe or to take a bribe in this country, as the Prime Minister pointed out sometime ago, which I quoted. And I am calling on Mr. Gibbs, the Commissioner of Police; do not leave everything up to any international organization. I am calling on the commissioner since a crime against the law of Trinidad and Tobago may have been committed. I am calling upon the Comptroller of Customs to check the records to see whether large amounts of US currency were illegally imported into Trinidad and Tobago without declaration and, if not, where did the money come from to fund it locally?

1.05 p.m.

These are the issues I want the Minister of National Security and the Minister of Justice to address. Very current! We want to know whether there were declarations to bring hundreds of thousands of US currency into the country.

Sen. Panday: Madam Vice-President, again on a point of Standing Order 35(1). In any event, those are merely allegations and you are using allegations as truth and calling upon the Comptroller of Customs to investigate.

Sen. F. Hinds: Yes! It would help us in clarifying the matter. I am just responding to my friend. If the Comptroller of Customs could, tomorrow morning, tell this country and tell Mr. Dwayne Gibbs that hundreds of thousands of US dollars were declared imported by any one of a certain entourage, led by Mr. Bin Hammam, then it would help in the investigations. [*Interruption*]

Madam Vice-President: Senator, please, have a seat.

Sen. F. Hinds: If not, it will—

Madam Vice-President: Sen. Hinds, I am going to ask that those statements be struck from the records simply because—

Sen. F. Hinds: What?

Madam Vice-President:—these matters are not under the purview of this Bill under consideration. If you have, Sen. Hinds, questions that you would like to file for the hon. Minister of Works and Transport or the Prime Minister, certainly you can do so. I am going to ask, please, you have just four minutes remaining—

Sen. F. Hinds: Thank you. [*Crosstalk*]

Madam Vice-President:—and I am going to ask you to conclude with reference to this Bill.

Sen. F. Hinds: Thank you, but before I do, Madam Vice-President, those are my thoughts, in keeping with my right to speak and I would like to know which statements in particular you ordered expunged from the record and I would also like to know which Standing Orders justify that. [*Crosstalk*] If you, Madam Vice-President, consider it to be irrelevant, does that necessitate expunging them from the record according to the Standing Orders? I want to be so guided. [*Crosstalk*]

Sen. Al-Rawi: It has never been done here.

Sen. F. Hinds: I have never seen that before.

Sen. Al-Rawi: Not in this session! [*Crosstalk*]

Sen. F. Hinds: Never! I have been in this House for near 15 years. Madam Vice-President, I am deeply concerned. I want to be able to express my thoughts—[*Crosstalk*]

Sen. Al-Rawi: That is your privilege.

Sen. F. Hinds:—for a permanent record for all time, and for you to order that they be expunged, I want to know which words and on the basis of which Standing Order. Until that is done, Madam Vice-President—[*Crosstalk*]

Sen. Abdulah: By a point of order!

Sen. F. Hinds:—I now would again feel the lurking doubt that I have about fairness. [*Interruption*]

Sen. Abdulah: Madam Vice-President, Madam Vice-President—

Sen. F. Hinds: I hope I get injury time, Madam Vice-President.

Sen. Abdulah: Standing Order 41, if the President has ruled then the decision shall not be open to appeal—[*Crosstalk*]

Sen. Al-Rawi: That was not an appeal!

Sen. Abdulah: Well what is Sen. Hinds engaged in? What is he engaged in? [*Crosstalk*]

Sen. F. Hinds: That was not an appeal.

Sen. Abdulah: What is he engaged in? [*Crosstalk*]

Sen. F. Hinds: Madam Vice-President, may I continue?

Sen. Abdulah:—and shall not be reviewed—except—[*Interruption*]

Sen. Panday: Madam Vice-President, I want to support Sen. Abdulah and I would like to read it into the records:

“The President in the Senate and the Chairman in Committee shall be responsible for the observance of the rules of order in the Senate and Committee respectively, and their decision upon any point of order shall not be open to appeal and shall not be reviewed by the Senate except upon a substantive motion made after notice.”

[*Interruption*][*Desk thumping*]

Sen. Al-Rawi: On a point of privilege!

Sen. Panday: I am on my legs, Sir. [*Interruption*] [*Desk thumping*] I am on my legs, Sir. [*Interruption*]

Sen. Al-Rawi: On a point of privilege! [*Desk thumping*]

Sen. Panday: I am on my legs on a point of order. [*Desk thumping*]

Sen. Al-Rawi: On a point of privilege! [*Desk thumping*]

Sen. Panday: I am on my legs on a point of order. [*Desk thumping*]

Sen. Al-Rawi: On a point of privilege! [*Desk thumping*] On a point of privilege, Madam Vice-President. [*Crosstalk*]

Madam Vice-President: Sen. Al-Rawi, you cannot—[*Interruption*]

Sen. Al-Rawi: On a point of privilege?

Madam Vice-President: You cannot disregard the rules of this Senate. We have a Senator on a point of order. By standing and simply stating “point of privilege” does not give you the right to stand and override the rights of any other Senator. [*Crosstalk*]

Sen. Al-Rawi: Sen. Abdulah could do it?

Madam Vice-President: Sen. Panday was on his legs on a point of order. Kindly have regard for the Standing Orders and the rules of this noble and honourable Chamber.

Sen. Al-Rawi: On a point of privilege, Madam Vice-President— [*Interruption*]

Madam Vice-President: Yes.

Sen. Al-Rawi: Madam Vice-President—

Sen. Panday: Madam Vice-President, what Standing Order, may I kindly ask? [*Crosstalk*]

Sen. Al-Rawi: On a point of privilege. Madam Vice-President—

Madam Vice-President: Go ahead.

Sen. Al-Rawi:—if you have Erskine May’s you can pass it to my learned Senator. [*Crosstalk*] I can stand on a point of privilege, Sen. Panday.

1.10 p.m.

Madam Vice-President, privileges are recognized as a right in this Senate, and I can stand on a point of privilege without reference to a point of order. That is the first point. [*Crosstalk*] I am wrong? I am wrong?

Madam Vice-President, on a point of privilege, Sen. Hinds has not asked for an appeal in any form or fashion, and we certainly do not clarify [*Desk thumping*] or ask for explanation of the Vice-President’s ruling. We stand guided, and we shall obey. What we have simply asked for is a statement of which words are to be expunged from the record and, secondly, a statement of the reasons as based on Standing Orders as to that. We have not challenged the ruling. [*Desk thumping*] It is our right to ask for it.

Madam Vice-President, on a further point of privilege, I note that my learned friend, Sen. Abdulah can stand at the same time while Sen. Hinds is on a point of privilege and nothing is made mention of. I note that the learned Subhas Panday can stand on a point of privilege and nothing is made mention of. This is the

highest forum of this country [*Desk thumping*] where we are permitted the right of privilege to discuss issues. I am concerned not by you, Madam Vice-President, because you are always sound in your reasonings, but I am concerned that the Government is on a mission to curtail the voices of the Opposition, and I cannot allow that to stand. [*Desk thumping*]

Madam Vice-President: All right. I am going to clarify the sequence of events as they unfolded here. Sen. Hinds had four minutes remaining, and on a point of order, that was not a point of privilege, he was not standing on a motion or a point of privilege. He was simply continuing and completing his own contribution upon which Sen. Abdulah rose on a point of order, which is perfectly allowed in the Standing Orders—on a point of order. So, I do not allow that there was any breach of a point of privilege. Sen. Hinds was not speaking on a point of privilege, Sen. Al Rawi, so you can make sure—you can probably refer to your *Hansard* so you will see that Sen. Hinds was actually completing his contribution when the point of order was asked. Sen. Hinds, I am going to allow that you have two minutes of injury time.

Sen. F. Hinds: Two minutes!

Madam Vice-President: Yes, Sir.

Sen. F. Hinds: Four!

Madam Vice-President: You have two minutes remaining, because you have other Members to speak. Kindly wrap up.

Sen. Al-Rawi: Madam Vice-President, I am sorry. We did ask for which words are to be expunged, because the records are essential.

Madam Vice-President: Sure. Have a seat. The reference made to any member in a private capacity, private members who are not in this Chamber or any other Chamber in this House.

Sen. F. Hinds: I do not remember using those words.

Madam Vice-President: Yes, you did.

Sen. F. Hinds: Those words?

Madam Vice-President: You made reference to a gentleman.

Sen. F. Hinds: Are you quoting me?

Madam Vice-President: Yes. You quoted a name. No Member of this House, Lower or Upper!

Sen. Al-Rawi: Sorry, Madam Vice-President, for clarity for the record, I am just asking, is it that the names mentioned being Members of persons in this House or in the Lower House are to be struck? Is that what I understood? Is it that reference to some other name is to be struck who is not a Member of either House, some other member of the public?

Madam Vice-President: Sen. Hinds, are you going to take your two minutes to complete your contribution or should we have—you have two minutes to complete your contribution.

Sen. F. Hinds: Madam Vice-President, is it your ruling that Sen. Al-Rawi's time encroached on mine? I had four minutes when the intervention came as far as I am aware. You told me four minutes.

Madam Vice-President: Sen. Hinds, you had four minutes when a point of order was raised. A point of order does not give you extra injury time unless it goes on for an extensive period of time. I am not going to take the point of order raised by Sen. Abdulah and, subsequently, even by Sen. Panday to let you have injury time added on. Injury time is something that if it is by the consent of the assembly over an extended period of time. I have allowed two minutes of extra time, please use them or if you do not, allow any other Senator to continue. [*Desk thumping*]

Sen. F. Hinds: I will, therefore, utilize my two minutes and conclude by saying that for very good reason, I have absolutely no confidence in that Government. They lack the will to deal with issues of crime in this country and they are prepared to go to every length in order to hide the truth from the people of Trinidad and Tobago. But as long as I remain a member of this House and a citizen of Trinidad and Tobago and God, the Almighty God, gives me life and the capacity to speak, I will not rest, but expose the wile, the treachery and the obfuscation of the Government which has within its bosom, elements that to my mind generate the essence of crime, particularly white-collar crime in Trinidad and Tobago. I thank you, Madam Vice-President. [*Desk thumping*]

The Minister of Justice (Hon. Herbert Volney): Madam Vice-President, I am speechless, really. I thought I was in the Senate. You know, in the United Kingdom it is called the House of Lords, but it is certainly no reflection what is being said from this side of the House and from the Independent Bench. Really, there has been much talk, but very little to respond to and much idle rhetoric, but there are some matters that I must touch upon as I close the debate on this matter of a Bill to bring about certain changes to existing legislation to enable the Minister of Justice to perform his functions properly in the Ministry of Justice.

First of all, before I get into the actual Bill itself, I want to remind Sen. Fitzgerald Hinds that last year on May 24, the people of this country spoke, and they “re-spoke” their mandate on May 24 of this year, when 50,000 people attended the celebration at Mid Centre Mall [*Desk thumping*] and when by that statement they said that this People’s Partnership Government was doing the right thing and, having said that, I want to address some of the matters raised first by Sen. Deyalsingh.

Senator, I regret that contrary to what you have said we do not, at this time, have a functioning website for the Ministry of Justice. It will be launched in the week ahead, which will mark the first anniversary of the existence of the Ministry of Justice. [*Desk thumping*]

The hon. Senator wants to know what is the remit, what is the *raison d’être* of the ministry, and why were these Bill chosen for amendments. Very simply, I would say that the Ministry of Justice really is the creation of the People’s Partnership Government to address what has been a problem in the system of governance over the years. The ministry is created as a confluence point for delivery of a speedier justice initiative that will be accomplished in a holistic way by bringing together a transformation of the criminal justice system as presently exists.

This Bill here today really relates to certain other aspects that have been brought together under the Ministry of Justice, because together they all contribute toward the stream that is, the speedier justice initiative of the Ministry of Justice. In this way, Madam Vice-President, the Ministry is mandated to amend the law in order to speed up the process for the delivery of the criminal justice. We do not in this ministry deal with the civil justice side; we deal exclusively with the criminal justice. One of the problems of the criminal justice system—in fact, the main problem is that trials take too long to be brought to closure. The system does not deliver closure in criminal matters.

The first stage of the criminal prosecution system relates to how matters are tested as to whether they should be brought up at the higher level for trial before a judge and jury. At the moment, we have the Indictable Offences (Preliminary Enquiry) Act. Now, in this Indictable Offences (Preliminary Enquiry) Act, all the evidence is heard by a magistrate who decides whether there is sufficient evidence for the State to bring a person charged with an offence to trial by a judge and jury. This process is no longer relevant to us in this country, because it just takes too long to complete. As a result, what the Ministry of Justice has done, it has looked at different ways of this same process being carried out in different parts of the

world, and we have come up with an amendment that is ready for tabling in Parliament whereby the charge will now be brought directly to the High Court where a criminal master or a master in the criminal side of the High Court will consider the evidence, the indicative evidence, and would decide after giving every opportunity to an accused person to be heard, the master will decide whether there is sufficient evidence for the matter to be sent up for trial. The time process here will be cut from several years to a matter of weeks and, at most, a couple of months, that is provided that there is the cooperation of the criminal bar; the lawyers who are involved in the process.

This Bill, the Ministry of Justice has signed off on it since the month of February, and it has gone over for stakeholder consultation. The Judiciary has been involved. In fact, the hon. Chief Justice and myself met together with other judges and persons from my ministry, the Ministry of Justice, and what has happened is that a committee was put together, including representatives from the Office of the Director of Public Prosecutions, the Law Association and the Criminal Bar Association and, of course, the Judiciary. All stakeholders involved have now signed off and given their support to a draft Bill, which will shortly be taken before the Legislative Review Committee of the Cabinet, and thence to Cabinet. Once this is done, it will come to Parliament and I anticipate that we will have the support of those on the other side of the House. That is just one measure, Madam Vice-President.

1.25 p.m.

There are other measures that will also be taken. The Summary Courts Act, which is an old Act itself, is being reviewed at the Ministry of Justice; those parts of it that are not relevant to serving the needs of the criminal justice system at this time will be reviewed. This is an ongoing process in the Transformation Unit of the Ministry of Justice. We have also signed off in the Ministry of Justice on the DNA (Amdt.) Bill, 2011. This is a far-reaching Bill that will soon be before Parliament and in it, the legislation will be amended to incorporate the following:

- To provide for the taking of an intimate sample from an accused or a convicted person with their consent;
- To provide for the taking of an intimate sample from an accused or a convicted person without their consent;
- To extend the categories of persons from whom a qualified person may take a non-intimate and an intimate sample, to include persons who fall under the supervision of the National Youth Training Centre and the body of a deceased person whose identity is unknown;

- To provide for the taking of DNA samples from citizens of Trinidad and Tobago who have been deported from another country;
- To permit qualified persons to take a sample from stated categories of persons using the simple identity procedure;
- To provide that where a non-intimate or an intimate sample is to be taken from a child, the child shall be allowed to consult and have present an adult of his/her choice;
- To include a new provision which deals with the destruction of samples which are no longer required for the purpose of forensic DNA analysis; and
- To provide for the mandatory destruction of samples and the proposed section 32(b) would make a provision for the forensic DNA laboratory to issue a certificate confirming that the sample has been destroyed.

Madam Vice-President, there are many other significant changes that will be made to the DNA Act, and these will all be coming before the House and this Senate shortly, in the new year that is coming up—the new session of the Parliament.

We also have a number of policy amendments to be made to the Police Complaints Authority Act, 2006. In the same way that the amendment was made to the Police Complaints Authority Act in 2006, that Act is now in need of review. In the process, there has been widespread consultation with the incumbent Director and Deputy Director of the Police Complaints Authority. They have made recommendations as to policy changes that they would like to see in order to bring the Act up to mark, and the Ministry of Justice as the line Ministry responsible for setting the policy considerations for the Police Complaints Authority will bring this legislation shortly before the Parliament.

We also have the amendment to the Legal Aid and Advice Act; these have been approved by the Legislative Review Committee of the Cabinet. That Bill will address such matters as having duty counsel for persons when they are arrested on capital charges and also will address the issue of increased fees for attorneys. These matters have already gone through the process, and these are but parts of the workload of the Ministry of Justice that the hon. Sen. Deyalsingh had asked for, that he would know and ultimately the national community would know of the work of the Ministry of Justice.

Ministry of Justice Bill
[HON. H. VOLNEY]

Tuesday May 31, 2012

1.30 p.m.

But there is something more. While it is that the Ministry of Justice is responsible for bringing about systemic transformation of the system, the Ministry of Justice has also the responsibility, through its speedier justice initiative, to address the issue of the shortage of court plant for delivery and, in this regard, the Ministry has developed a template for the way forward for the construction of buildings throughout Trinidad and Tobago.

It is a little premature at this time for me to go into any further detail in that regard, but much work has been done and very shortly the country will be told of the results of that work.

I do not think I need to go into the constitutional ramifications involved in amending the Bills because Sen. the Hon. Panday has already done that. Suffice it to say that the Police Complaints Authority and, indeed, the Legal Aid and Advisory Authority under this People's Partnership Government will remain independent, and that assurance we can give from this side of the House.

I do not intend to respond to Sen. Hinds who, having said what he had to say, has conveniently retired to the lunchroom while we are here doing the business of the Senate. On the SIA statement that I made, that is a matter to which I need not respond.

There is little, really, at the end of the day to which I need to respond and, accordingly, I bring the debate to an end and respectfully 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 6 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; read the third time and passed.

Sen. Panday: Madam Vice-President, I wish to thank all Senators for their contributions on this Bill. As we indicated, today is Private Members' Day. We have gone into Private Members time by five minutes; so we are there.

PROCESS FOR CONSTITUTIONAL REFORM

[Fourth Day]

Order read for resuming adjourned debate on question [February 22, 2011]:

Be it resolved that the process of constitutional reform be pursued through a series of amendments addressing specific areas of concerns;

And be it further resolved that the rationale for, as well as the scheduling and sequencing of each series of proposed amendments to the Constitution, be effectively communicated to the citizens of Trinidad and Tobago prior to the debate in the Parliament. [*Sen. S. Ramkhelawan*]

Question again proposed.

Madam Vice-President: Hon. Senators, the debate on the following Motion, which was in progress when the Senate adjourned on March 22, 2011, will be resumed.

Those who spoke on February 22, 2011 were the mover of the Motion, Sen. Subhas Ramkhelawan, Sen. Lyndira Oudit, Sen. Helen Drayton and Sen. Rabindra Moonan. Those who spoke on Tuesday, March 22, 2011 were Sen. Prof. Harold Ramkissoon, Sen. David Abdulah, Sen. Dr. Rolph Balgobin and Sen. Embau Moheni. Those who spoke on May 10, 2011 were Sen. Embau Moheni, who continued his contribution and completed it, and Sen. Fitzgerald Hinds.

Please note that there is an amendment being circulated for your consideration as follows:

And be it further resolved that the deliberations arising from this said Motion be taken into account by Government in any initiatives on constitutional reform.

Any Senator wishing to join the debate may do so.

Sen. Dr. Victor Wheeler: Thank you, Madam Vice-President, for the opportunity to contribute. This Motion is:

Be it resolved that the process of constitutional reform be pursued through a series of amendments addressing specific areas of concerns;

And be it further resolved that the rationale for, as well as the scheduling and sequencing of each series of proposed amendments to the Constitution, be effectively communicated to the citizens of Trinidad and Tobago prior to the debate in the Parliament.

First, permit me to congratulate the People's Partnership on their one-year anniversary in government. [*Desk thumping*] I do hope that they learn from their many mistakes and missteps over the past year and strive to do better over the next four years.

In light of what is occurring in Tobago at present, this debate is timely because there are matters affecting the Tobago House of Assembly that demonstrate the need for constitutional change. I now refer to the People's Partnership manifesto regarding its promises to the people of Tobago. On page 16, it states:

“We will establish a Constitution Commission to engage in the widest possible consultation as a pre-requisite to constitutional reform. We strongly believe that the relationship between the Tobago House of Assembly and the Central Government needs to be revisited, with particular reference to the aspirations of the people of Tobago. The terms of the Constitution Commission will extend to the legislative provisions touching upon the THA as well as examination of the best way to achieve a mutually respectful and satisfying relationship between Tobago and Trinidad within the framework of a sustainable unitary state.”

[SEN. PROF. PATRICK WATSON *in the Chair*]

I just want to read the last part of that statement again, Mr. Presiding Officer. Welcome.

“...a mutually respectful and satisfying relationship between Tobago and Trinidad within the framework of a sustainable unitary state.”

Mr. Presiding Officer, with that said, I want to focus on some matters concerning Tobago that are causing no end of concern to the Tobago public.

The most recent matter is the perceived disrespect shown by the Government of the day to the Tobago House of Assembly. [*Desk thumping*] The Chief Secretary of the Tobago House of Assembly, on many occasions, has told the Tobago public of the many instances of disrespect shown by the Government of the day to the THA; the most recent occurring on Friday, May 20, 2011, during the opening of the Tobago Technology Centre in Canaan.

I was invited to that opening ceremony in my capacity as Independent Senator. I arrived just a few minutes before the ceremony was due to start as is

my custom and, as I usually do, I looked at the programme for the ceremony and what stood out to me was the total absence of anyone from the THA on the programme. Listed to speak were the Member of Parliament for Tobago West, Dr. Delmon Baker, the hon. Vernella Alleyne-Toppin, Minister for Tobago Development, the hon. Prime Minister of the Republic of Trinidad and Tobago, and Sen. The Hon. Fazal Karim.

Soon after I entered, I saw that the Chief Secretary had arrived and was seated in the front row of the audience. About half an hour later, the Prime Minister and her entourage arrived and she was placed at the head table along with the other Ministers mentioned.

The programme started with the singing of the national anthem, then the invocation. I then saw that the minority leader of the THA, who was not on the programme, was being asked to come to the podium and say a few words and he did.

What happened next caused me great concern. I then heard the MC ask the Chief Secretary to come to the podium to say a few words. Now, Mr. Presiding Officer, I sat just about eight feet from the Chief Secretary, who sat in front and to the right of me. On hearing his name called to say a few words, I saw him look up with obvious shock at this turn of events. The Chief Secretary paused for about two seconds and then he slowly rose and walked to the podium. He did bring greetings, but not before he reprimanded those responsible for this serious breach in protocol.

There is a feeling that the deficiencies in the THA Act and the Constitution are responsible for most of the problems in Tobago. I am not so sure that is the case. It is true that the Constitution and the THA Act need to be amended to give Tobago more autonomy. However, I do not believe that a new Constitution governing the relationship between Tobago and Trinidad will be enough to solve all the problems that Tobago has. A new Constitution will not guarantee that Tobago will be treated with respect by those in central government even though this is what they promised in their manifesto. A new Constitution will not guarantee that the disrespect that was shown to the THA on Friday, May 20, will not be repeated. This is because section 25(1) of the THA Act, No. 40 of 1966 states that:

“Without prejudice to section 75(1) of the Constitution, the Assembly shall, in relation to Tobago, be responsible for the formulation and implementation of policy in respect of matters set out in the Fifth Schedule.”

Now if one looks at the Fifth Schedule, one will see, on page 33, that No. 25 of those areas that the THA has responsibility for is education, including curriculum. This Tobago Technology Centre that was opened on Friday, May 20, was conceptualized and started by the current Secretary for Education, Youth Affairs and Sports, and the then Minister under the PNM Government. Therefore, I was quite flabbergasted that nowhere in the programme the THA was mentioned. The hall where the function took place did not even have the flag of the THA.

As was stated by the Chief Secretary on that day, education in Tobago, especially tertiary education, is about the THA and about the central government, which is one area where the responsibility is shared, has always been shared and will continue to be shared. It is very important that we treat one another with respect and collaborate in a meaningful manner.

Another area of concern that I want to raise is with regard to the health sector in Tobago. The question has been and is still being repeatedly asked: Who has responsibility for health care in Tobago?

The Chief Secretary has repeatedly stated that the THA has responsibility for health care in Tobago. In my contribution to the debate on the state of the economy, I had stated that, and I quote:

“Since May 24, 2010, with the coming of the People’s Partnership in central government, we now have four ‘players’ who have major roles in health care delivery in Tobago.

Madam Vice-President, the hon. Minister of Planning, Economic, Social Restructuring and Gender Affairs would need to explain to me how this state of affairs is for the benefit of health care delivery in Tobago. I now have to ask myself the question: Who is really in charge of the health sector in Tobago?”

As I have just stated, the Chief Secretary of the THA believes that the Tobago House of Assembly is responsible for health care in Tobago according to the THA Act, No. 40 of 1996. Under the Fifth Schedule, the areas of responsibility, health services is listed as No. 23; but let us actually examine this responsibility that the THA has.

The Scarborough Regional Hospital in Tobago is the main provider of secondary care for the island. This means that specialist services such as paediatrics, internal medicine, obstetrics and gynaecology, for example, are provided in that hospital. The people of Tobago have been waiting for over 30

years for a new hospital to be built. This is because the old hospital in Fort King George is over 200 years. Both the public as well as the health care workers have been clamouring for a new hospital and we have finally been told that it will be completed in 2011, after earlier completion dates of 2005 and 2007 were not met.

Just some facts about the hospital, Mr. Presiding Officer. The new hospital in Signal Hill is being built by China Railways. The project management is being done by the National Insurance Property Development Company (NIPDEC). The client for the project is the Ministry of Health; not the Tobago House of Assembly. The completion date of the hospital was provided by the Minister of Health; not the Secretary for Health of the THA. This means that the construction of one of the most important institutions in the provision of health services in Tobago is actually under the control of the Ministry of Health; not the Tobago House of Assembly. So, Mr. Presiding Officer, how does this really make the THA responsible for health care in Tobago? I have to ask.

Let us now turn to the Tobago Regional Health Authority. Under the RHA Act, section 5(2) states:

“In the exercise of its powers and functions, the Board of the Tobago Regional Health Authority is subject to the provisions of the Tobago House of Assembly Act.”

Section 6 of the RHA Act spells out the powers and functions of the Authority and section 6 says:

“The powers...of an Authority are:

(a) to provide efficient systems for the delivery of health care;”

This is the function of the THA; to provide efficient systems for the delivery of health care in Tobago. Mr. Presiding Officer, this is not in dispute. The TRHA is at present the main provider of health care on the island. This was more so since the acceptance of VSEP by most of the public servants formerly employed by the THA. Even though VSEP was offered and accepted by most of the health care workers, who were public officers in Tobago, some of the officers opted to transfer instead to the TRHA.

However, I am informed that to date, eight months after VSEP, these public officers are not yet transferred to the TRHA and are still public officers working for the THA and being paid by the THA. The VSEP was meant to have all the health care workers in the hospital under one employer. This has not yet happened and the dual track of employment which was said to be one of the problems with the provision of health care in Tobago is still in effect in Tobago at the hospital.

This dual track means there are still THA employees being paid by THA at the hospital as well as the majority of TRHA employees being paid by the TRHA. As I mentioned previously, all the THA Act says about health is that the THA is responsible for health services. Nowhere in the THA Act does it mention the TRHA. In all the years that the TRHA has been in existence, the THA has never put together a formal document that states that the TRHA provides health care to the people of Tobago on its behalf.

In fact, in 2007, there were serious discussions taking place among certain sections of the THA about whether there was any need for an RHA in Tobago at all. The argument then was that the RHAs in Trinidad were introduced to decentralize health care from the Ministry of Health. Public health workers in Tobago at that time were already decentralized from the Ministry of Health so it was felt: What was the point of further transferring these people from the THA to the TRHA when they were already decentralized from the Ministry of Health?

Eventually, however, it was agreed that the TRHA was there to stay and that may have been one of the reasons why VSEP was offered in Tobago only in 2010, a full three years after it was offered to the public health workers in Tobago.

It can be argued that, with respect to the TRHA, all the THA does is to allocate funds to the TRHA according to the budgetary allocation from the Ministry of Finance. In addition to the problems that I have mentioned, the matter has now been compounded where you have a situation where the TRHA has been placed under the Ministry for Tobago Development by the President of the Republic on the advice of the Prime Minister.

Section 5(1) of the RHA Act states that:

“...a board shall exercise its powers and functions in accordance with such specific or general directions as may be given to it by the Minister.”

The Minister referred to here is the Minister of Health. Remember the Ministry of Health has Ministry staff and employees such as the Chief Medical Officer, the Chief Nursing Officer, epidemiologists, pharmacists and other technical persons who are there to advise the Minister of Health and to provide technical advice to the Minister of Health in the performance of her duties of giving specific or general instructions to the RHAs in Trinidad.

These technical persons do not function as clinicians or health care workers in their own right. Their role is just to advise the Minister of Health in policy direction and instructions on the policies and procedures the RHAs in Trinidad will follow. These technical officers also scrutinize the various clinical programmes

that the RHAs would put forward to the Ministry of Health to be funded and the technical officers would also assist the Ministry in scrutinizing the performance of the RHAs in Trinidad. That was just the Ministry of Health.

With respect to Tobago, section 5(2) of the RHA Act states that:

“In the exercise of its powers and functions, the Board of the Tobago Regional Health Authority is subject to the provisions of the Tobago House of Assembly Act.”

This implies that whereas, in Trinidad, the Minister of Health gives directions to the RHA; in Tobago it should be the Tobago House of Assembly, through the Secretary of Health and Social Services, who should provide this general direction and oversight of the TRHA.

Let us look at the Division of Health and Social Services of the THA. This Division of Health has an administrator who functions at the level of the Permanent Secretary in the Ministry of Health. The division also has human resource officers, finance officers and other clerical officers employed in the Division of Health and Social Services. In the THA, in the Division of Health and Social Services, there is no one at a post that is similar to that of the Chief Medical Officer as in the case of the Ministry of Health. There is no one at a post similar to the Chief Nursing Officer. There is no pharmacist; there is no epidemiologist.

In effect, at present, the Division of Health and Social Services does not have the technical capability to properly supervise the TRHA and is, therefore, not able to give specific and general directions at the same level as occurs in Trinidad. In fact, what has been occurring is that the Ministry of Health has actually been carrying out these technical functions in the supervision of the TRHA in the same way it does for the RHAs in Trinidad.

Let me just mention a few areas where the Ministry of Health is involved in the TRHA. The Ministry of Health conducts meetings with all the chairmen of the boards of directors of the RHAs in Trinidad. This also includes the chairman of the board of directors of the TRHA. At these meetings health related policies are discussed and agreed upon.

There are also meetings of all the CEOs in Trinidad and Tobago and this includes the CEO of the TRHA who also attends. The Chief Executive Officers are the executive heads of all the RHAs and they are responsible for operationalizing all the plans in the provision of health care in each health authority, including the TRHA.

There are also many other meetings conducted by the Ministry of Health that the various members of the RHAs attend. As far as I am aware, the representative of the Division of Health and Social Services only attends a Quality Council Meeting of all the RHAs.

With respect to the hospital itself, interviews took place in 2007 for the Medical Chief of Staff of the TRHA. I am informed that the Chief Medical Officer of the Ministry of Health was on the interview panel. The new structure of the TRHA has the Medical Chief of Staff supervising all the health care workers of the Scarborough Hospital. At present, the Medical Chief of Staff of the TRHA takes instructions on medical matters from the Chief Medical Officer of the Ministry of Health. For example, the recent instruction where it was said that a qualified registrar needs to be present when a high-risk caesarean section is being done, which was a major bone of contention in San Fernando, came from the Chief Medical Officer. That instruction also went to the TRHA in Tobago.

The County Medical Officer of Health in Tobago takes instructions on technical matters related to public health issues from the Chief Medical Officer of the Ministry of Health and this was demonstrated during the swine flu epidemic two years ago. Instructions regarding the management of patients came from the Chief Medical Officer.

2.00 p.m.

Mr. Presiding Officer, most of Tobago's drugs and non-pharmaceutical supplies such as gloves, needles, syringes and IV fluids come from a central supply depot in Trinidad, C40, which is a division of Nipdec. Neither the THA nor the TRHA has control over this. Frequently in Tobago we have shortages of those items, not because there is none in the country, but because of a lack of receipt of supply from Trinidad.

At present, all the subspecialist services that the TRHA are unable to provide at the Scarborough Regional Hospital, are provided free of charge in public hospitals in Trinidad. These public hospitals in Trinidad are managed by the RHAs under the supervision of the Ministry of Health. For a minority of cases, it is only in instances that services are accessed by private institutions in Trinidad and Tobago that the TRHA pays.

Mr. Presiding Officer, it is actually the Ministry of Health, and not the Division of Health and Social Services of the THA that really plays a major role in the formulation and supervision of implementation of policy related to health care delivery in Tobago. This was the role played by the Ministry of Health prior to the inception of both the THA and the TRHA, and it still continues today.

Further, the Seventh Schedule of the THA Act identifies some areas where the Ministry of Health still provides services in Tobago. These are No. 18: “the Ministry of Health in respect of laboratory tests that are unable to be performed in Tobago”, and the Ministry of Health is also responsible for the Food and Drugs Division “in respect of inspection and analysis of food and drugs”. These two items further demonstrate the role played by the Ministry of Health in the health sector in Tobago.

I know that in the past the Minister of Health has repeatedly stated that she is not responsible for health in Tobago, but I do not agree with the statement. Members of her Ministry actually play a major role in the provision of health care in Tobago.

Mr. Presiding Officer, it would seem that the main role of the THA with regard to the TRHA is to provide it with funding to carry out its operations. This is because the TRHA’s budgetary allocation is placed within the allocation of that of the THA. The allocation of funds to the TRHA is actually not determined by the THA, but the Ministry of Finance, yet the THA claims that they are responsible for health in Tobago. But what does this really mean, being responsible?

The *Oxford English Dictionary* defines “responsibility” as being “the state or fact of being responsible”. “Responsible” is defined as “having an obligation to do something or having control over or care for someone”. If the THA were truly responsible for health in Tobago, then it should be responsible for the health needs of all Tobagonians. But is this really the case?

When a person involved in a motor car accident in Tobago is taken to the Scarborough Regional Hospital, and is found to have multiple fractures and brain injury, the hospital does not have a neurosurgeon, neither do we have an orthopaedic surgeon. This patient is usually transferred to the Port of Spain General Hospital where the expertise resides. If the THA were truly responsible for health care, then it would be responsible for the health needs of this particular patient, and the cost of care for this patient at the Port of Spain General Hospital should be borne by the THA. What, in fact, happens is that the North West RHA provides the care needed and the cost is borne by them, as they would for any other citizen of Trinidad and Tobago. Who provides funding for the North West RHA to operate the Port of Spain General Hospital? It is the Ministry of Health, not the THA.

Mr. Presiding Officer, I move on to another area of contention, which is the Ministry of Tobago Development. The *Trinidad and Tobago Gazette*, Volume 49, dated June 16, 2010, indicates the assignment of responsibility to Ministers. On the first page of that document it states:

Process for Constitutional Reform
[SEN. DR. WHEELER]

Tuesday May 31, 2012

“IT IS HEREBY NOTIFIED for general information that His Excellency the President, acting in accordance with the advice of the Prime Minister, under the provisions of section 79(1) of the Constitution of the Republic of Trinidad and Tobago, has assigned to the following Ministers, the responsibility for Business and Departments of Government hereinafter mentioned:”

On page 796-15 of that document under the responsibility for the hon. Vernella Eula Alleyne-Toppin, MP Ministry for Tobago Development:

“Co-ordination of matters relating to Tobago
Statutory Boards and other bodies
Tobago Regional Health Authority”

This means the Government has actually placed the Minister of Tobago Development as the coordinator of the TRHA. There is much controversy regarding what this coordination of matters related to Tobago means, and there has also been much debate, over the past year, concerning this assignment, with those in the THA stating that this assignment is wrong.

The debate has intensified over the past month because of the end of the term of the last board of directors of the TRHA. Their term ended March 31, 2011, and to date there has not been a board in place in Tobago since. The THA has stated that they alone are responsible for selecting the members to be appointed to the board of directors of the TRHA.

The Minister of Tobago Development has stated that this list of persons to be appointed to the board of directors of the TRHA must be submitted through her because of her assignment. In fact, I am informed that the Minister had invited the Chief Secretary of the THA to meet and discuss this very matter, but he refused to meet with the Minister, and instead chose to meet with the leader of the TOP.

On Mother’s Day, the Prime Minister stated very clearly that Mr. London needed to follow the procedure to have the board of directors of the TRHA appointed. The names of those proposed should go to the Minister of Tobago Development for a note to be prepared to be submitted to Cabinet. There is obvious disagreement between the THA and central government regarding the process to be used to select those members to sit on the board of directors of the TRHA. I understand the Prime Minister is awaiting legal advice on the matter. I eagerly look forward to the outcome of this deliberation.

I should say, however, that nowhere in the THA Act does it state that the THA is responsible for selecting the members of the board of the TRHA. This again demonstrates the need to amend, not only the THA Act, but also the Constitution as well as the RHA Act.

The new hospital building in Tobago is due to be completed in just over a month, and it is expected to be handed over to the THA by July 01. This is actually the worst time for there to be fighting in Tobago over the appointment of the TRHA board. As long as this fight continues, it is only the Tobago public who will suffer.

I have already shown where the THA, as currently constituted, is not truly capable of being responsible for health care delivery in Tobago. Those in the THA should accept this and act in the best interest of the people that they were elected to serve. Both the THA and central government should be working together to solve the problem. They should not be fighting each other.

There is a lot of work that needs to be done in the health sector in Tobago and, more specifically, with the old and new hospital. To date, the TRHA's organizational structure has not yet been approved by the THA. The new nursing structure that was supposed to be introduced after VSEP in 2010 has still not yet been approved by the THA. All the senior nurses in the hospital, who are on month-to-month contracts, are functioning in positions that are not approved. They are also functioning in positions that do not have approved job descriptions.

This is a very unsatisfactory state of affairs, and it cannot be allowed to continue much longer. This further demonstrates the need to address the constitutional issues related to Tobago. While the politicians in Tobago argue and posture, it is the citizens of Tobago who cannot afford to see a doctor privately, who are suffering.

There is a saying, "While elephants fight, it is the grass that gets trampled". Right now it is the poor people in Tobago, as well as the health care workers, who are getting trampled, the longer this truly disgusting fight continues. It is the health care workers in Tobago who continue to work, as best as they can, in a building that should really be condemned. The only thing that is saving the health sector in Tobago is the dedication and hard work, in the most trying circumstances, of those nurses, doctors, pharmacists, attendants and all the other categories of workers. The Prime Minister herself was able to see first-hand, the deplorable conditions of the Scarborough Regional Hospital, when she visited on Mother's Day.

There are discussions taking place, at present, regarding changes to the THA Act and the Constitution. The problem with the responsibility for health care and the role of the TRHA must be properly clarified in these discussions on constitutional reform, so we will not have a repeat of what is occurring at present.

Process for Constitutional Reform
[SEN. DR. WHEELER]

Tuesday May 31, 2012

I believe the RHA Act also needs to be amended to make it clear and to clarify who really has responsibility for health care delivery in Tobago.

With respect to the THA, if they are to play a more responsible role in the supervision of the TRHA, they need to significantly expand their capacity. They need to have included in their establishment, persons equivalent to the following posts as exist in the Ministry of Health. They need to have someone equivalent to that of the Chief Medical Officer. They need to have someone equivalent to that of the Chief Nursing Officer. They need to have someone equivalent to that of the pharmacists, epidemiologists, quality officers and other officers as may be necessary.

They also need to develop an annual services agreement with the TRHA. This is so they can determine what services are actually being provided and to determine if the funding allocated is sufficient. This would greatly assist in holding the TRHA accountable for the taxpayers' dollars that they spend.

Mr. Presiding Officer, there is just one last matter I would like to address, which strikes at the heart of the THA Act. Section 25(1) deals with the functions of the Assembly. It states:

“Without prejudice to...75(1) of the Constitution, the Assembly shall, in relation to Tobago, be responsible for the formulation and implementation of policy in respect of...matters set out in the Fifth Schedule.”

Section 75(1) of the Constitution states that:

“There shall be a Cabinet for Trinidad and Tobago which shall have the general direction and control of the government of Trinidad and Tobago and shall be collectively responsible therefore to Parliament.”

What this means is that even though the THA Act supposedly gives the THA responsibility for formulation and implementation of policy in respect of matters in the Fifth Schedule, this must have the blessing of the Cabinet. Section 75(1) effectively prevents the THA from having true responsibility for anything that is stated in the Fifth Schedule.

I have mentioned some areas of concern, mainly in the health and education sectors, that require some attention by those responsible for making amendments to the Constitution. I have focused on the THA Act, the RHA Act and some areas in the Constitution. I have pointed out that changing the Constitution and amending the THA Act will not guarantee that the THA as an institution will be treated with

respect. That is up to those persons who occupy positions in both the central government and the THA. What is clear, however, is that both the authorities in Trinidad and in Tobago need to recognize that for this twin-island State to prosper, we need to ensure that we treat one another with mutual respect and ensure that we collaborate with one another in a meaningful manner.

2.15 p.m.

These are some of the words of the current Chief Secretary of the Tobago House of Assembly, and I support him in this regard. I agree with this Motion that the process of constitutional reform be pursued by a series of amendments addressing specific areas of concern. I am aware in Tobago that discussions in this regard are taking place. There are two draft documents that have been put out for public comment in Tobago, mainly addressing the THA Act, and some aspects of the Constitution, including the ability of the THA to make laws. Many persons in Tobago want to have the capability of self-determination. I eagerly await the beginning of the process of constitutional change by the Government. Mr. Presiding Officer, I thank you.

The Minister of Food Production, Land and Marine Affairs (Sen. The Hon. Vasant Bharath): Thank you, Mr. Presiding Officer. Thank you for the opportunity to join in this debate on a most important Motion, in fact, that affects Trinidad and Tobago and can do so for a long time to come.

It is also a time, Mr. President Officer, that is somewhat propitious as well as auspicious for Trinidad and Tobago because, as we all know and it has been said before, it was only just over one year ago on May 24, that the nation breathed a collective sigh of relief, when the tyranny and oppression of one regime was replaced by the caring and compassionate hands of another, Mr. Presiding Officer. [*Desk thumping*]

Hon. Senator: When the seagulls left.

Sen. The Hon. V. Bharath: It is a day, Mr. Presiding Officer, that will be forever etched in the hearts and minds of Trinidadians and Tobagonians, as a day when a beleaguered population tasted true freedom after a very long time; freedom from interference in the Judiciary; freedom from interference in the promotion of public officers; freedom from the recklessness that promoted and cultivated gang leaders as community leaders in Trinidad and Tobago. [*Desk thumping*]

I see that Sen. Al-Rawi had a haircut over the weekend. Many barbers across the nation are probably also breathing a sigh of relief that their clients will not

“ups” and leave in the middle of a trim to rush down to any of the radio stations and take a turn and rebuke radio station journalists, Mr. Presiding Officer.

It was in fact a day when the reckless squandermania that again took place under the watch of a PNM government, where this country was perilously placed in a situation where we were on a financial precipice, on an abyss—a dark abyss—Mr. Presiding Officer, facing huge debt once again and spiralling inflation. It was a day, Mr. Presiding Officer, that again “boom and bust” economics was replaced by responsible looking after of the economy by the Minister of Finance.

Mr. Presiding Officer, I well remember, having sat in the Lower House in 2007/2008, where several warnings were issued by the then, and still, Governor of the Central Bank about the reckless expenditure undertaken by the then government. In fact, he warned that we were heading down a slippery slope, that could lead to spiralling inflation, only to be sidelined and ignored by the then government. In fact, I remember screaming headlines from the Leader of Government Business at the time, stating “full steam ahead”. I remember those headlines very well—in other words insinuating, or not insinuating, but saying very clearly and very loudly that they had no intentions of taking on the words and the advice of the Governor of the Central Bank.

[MADAM VICE-PRESIDENT *in the Chair*]

Madam Vice-President, this country was saved from the very real prospect of going down the road of Zimbabwe under Robert Mugabe; Uganda under Idi Amin; Sudan under Al Bashir, and many other dictators that have caused great destruction to their countries where lives have been lost, economies have failed, states have failed. In fact, I do remember the time that my colleague here, Dr. Tewarie, in another incarnation referred to the possibility that Trinidad and Tobago was heading towards failed nation status. Madam Vice-President, we were saved one year ago on May 24 from a regime that—

2.20 p.m.

Sen. Deyalsingh: Hon. Senator, please?

Sen. The Hon. V. Bharath: Absolutely.

Sen. Deyalsingh: If I remember correctly, the then Dr. Tewarie, and he can correct me, did not say that Trinidad and Tobago was heading to failed nation status. I think what he said, there were some characteristics and the hon. Dr. Tewarie can correct both you and me.

Sen. The Hon. V. Bharath: We would not mince words, Senator. We would not mince words. But we were saved one year ago, Madam Vice-President, from a regime that threw caution to the wind with shocking abandon, [*Interruption*] and that is why this particular debate on constitutional reform is so very important, but also exceedingly timely at this point in time.

I want to commend Sen. Ramkhelawan and to compliment him for introducing this Motion and for so lucidly pointing out a number of the issues and the fundamental constitutional areas that we must address sooner rather than later in this debate. I noted too some very valid points, Madam Vice-President, brought by your good self, indicating and cautioning, in fact, counselling that, yes, there was need to address a number of issues in the 1976 Constitution, but we should do so with a level of caution so that we would know exactly what we were going to put into the new Constitution or how we were going to revise it. And, of course, my colleagues, Sen. Abdullah and Sen. Moheni, outlined some of the commitments that the People's Partnership had made in its manifesto and on the platform. It would also be remiss of me not to also indicate the valuable input that Sen. Drayton, Sen. Prof. Ramkissoon and also, I think, Sen. Dr. Balgobin, made from the Independent Bench during the course of the debate.

But, of course, in stark contrast, [*Laughter*] Sen. Hinds, who spoke as the lone voice thus far on the Opposition Bench added nothing of any consequence, any relevance or any importance [*Interruption*] to the debate that really should help and guide Members of the Senate to chart a way forward as policymakers and as lawmakers in this honourable Senate after 50 years of Independence. But then I suspect I was expecting too much, my levels of expectation were set a little too high for a party that has been in power for 44, I guess, of the 50-odd years and really there is very little to show for it, so I guess, my expectation levels were set a little too high. But Sen. Hinds meandered mindlessly into areas that had very little to do with the Motion or concerned him very little, but I shall deal with those personal attacks a little later on, and of course the issues that he talked about with regard to collective responsibility. I will deal with those a little later on in my contribution.

I want to focus initially on the main issues that have been brought to this honourable Senate and share some of my thoughts on clearly what are provocative issues, whenever this matter of constitutional reform is discussed, and I dare say not just in Trinidad and Tobago, but in every other Parliament in the world, whenever the issue of constitutional reform is debated there are always going to be some sticky issues and some provocative ones as well. So, in arguing for

changes to the Constitution there clearly need to be reforms, whether it is a rewriting of the Constitution completely, whether it is a tweaking of the Constitution, whether it is a wholesale change that needs to take place; whatever the people of Trinidad and Tobago eventually adopt, it is clear and evident that most people think that the existing system, a first-past-the-post system, does not give the fairest possible outcome in most instances, and therefore, it has failed somewhat, not just in Trinidad but in other countries to deliver true democracy to countries.

Many of the Senators who spoke before me cited the whole issue of the failure of the first-past-the-post system whereby many parties in Trinidad and Tobago—which is relevant to our discussions today—the COP in 2007, the PNM in 1986, the ONR in 1981, actually got large numbers of votes but failed to secure parliamentary seats or large numbers of parliamentary seats to represent their constituents. Many people believe that a more just and equitable system would of course be the proportional representation system and many others believe a hybrid of the two, similar to that that was suggested by the Hugh Wooding Commission in the 1970s where you had a hybrid of the two, of the first-past-the-post and the proportional representation system.

It is no secret, Madam Vice-President, that the People's Partnership is committed and has endorsed the whole issue of constitutional reform, and this may also mean electoral reform at some point in time, but we cannot—without the benefit of widespread consultation, in my opinion, and I think the opinion of the majority of people—make a decision for the citizens of Trinidad and Tobago. What we can say however, and what we can totally reject out of hand, what we can reject emphatically, unequivocally and categorically, was the Manning draft that was proposed, I guess, two years ago, which no one seemed to want to acknowledge that they were party to and no one seemed willing to accept or acknowledge that they were the author or authors of, including the late Sir Ellis Clarke.

I think my colleague, Sen. Abdulah, exposed the machinations of the Manning draft, as it was called at the time, and I think that clearly had the PNM and Mr. Manning gotten back into government in 2010, a draft of that nature, certainly, Madam Vice-President, may have been rammed down the throats of the people of Trinidad and Tobago and led us to the kinds of dictatorship I spoke of earlier on. In fact, just about the same—well, I am sure you would have read the draft.

Sen. Al-Rawi: How are you going to achieve the majority?

Sen. The Hon. V. Bharath: Madam Vice-President, you may also remember that at the time Chief Justice Satnarine Sharma had also remarked, and it is on record as saying that in his experience the Judiciary had traditionally been treated

as a government ministry or some department of government he said. So, therefore, clearly as far as he was concerned he did not see that there was a significant amount of independence as far as the Judiciary was concerned.

So in May of last year—coming back to the point I was making—God did not save the king—

Sen. Panday: Good one! Good one! [*Desk thumping*] [*Laughter*]

Sen. The Hon. V. Bharath:—but instead it saved Trinidad and Tobago. But coming back to the issue of proportional representation, many countries across the world now use proportional representation—now use PR, I would refer to it as PR—particularly some of the European nations, they are currently using PR.

In fact, in the UK, PR is used to elect Members to the European Parliament. It is also used in the Scottish Parliament; it is also used in the Welsh National Assembly and in the Northern Ireland Assembly to elect Members. But the main criticism of this as I think many of us have recognized, is the fact that you have a situation where people are elected, Members are elected to the House of Representatives, parties are elected to the House of Representatives, but they may not have garnered the majority of votes of the people of the country. Another failure and another criticism of first-past-the-post is that a large number of votes are normally essentially wasted, because if you have two candidates or three candidates and two of them run a close second and third, the votes that they would have gotten, essentially would have been wasted because the people who would have voted for them would not have a voice in the parliamentary Chamber. So, essentially this is another criticism of the first-past-the-post system that we currently practise.

One of the other criticisms of first-past-the-post is that generally what it does, it leads to a concentration sometimes of parties that may have concentrated votes in a certain area winning seats based on the concentration of votes and excluding parties that may have a wider cross section of votes across the country. So you may have a situation where a party may have 10 or 12 seats in a certain area, and in total might get less votes than another party that has a wide cross section of votes across the country that may not get any seats at all. So that is another criticism.

And a fourth criticism is the fact that because of that very same thing you would find that a criticism levelled at first-past-the-post is that election outcome can sometimes be potentially in the hands of a very few voters in marginal swing constituencies. So they actually control the outcome of an election.

So those are the issues, and of course with regard to a PR system, a pure PR

system would essentially mean in its purest form that people vote for a particular party and depending on the number of votes that party gets the seats are allocated in the parliamentary system based on that. So if a party gets 40 per cent of the total votes they end up getting 40 per cent of the seats and so on. Generally speaking, however, what tends to happen in countries that utilize the PR system as well as first-past-the-post, they allow voters to vote for not just a candidate, but also for a party. So an elector essentially has two bites of the cherry—they vote for a representative and they also vote for a party, and therefore they have the ability to have two bites of the cherry.

Madam Vice-President, the People's Partnership manifesto—and it was referred to by Sen. Abdullah and Sen. Moheni—talks about some of the constitutional reforms that we would like to look at. We have talked about a fixed date for election, so no longer would a country be held to ransom by the contents of somebody's back pocket as has been in the past, and I think most people agree with that. We have talked about the issue of term limits and we have talked about the right of recall. Although the right of recall issue has not been specified, I would want to ensure—my personal opinion would be that in a situation like that you would have a minimum percentage of a constituency that would have to sign some form of petition—whether it is 30 per cent or 40 per cent of the constituents—otherwise you open yourself up to all sorts of frivolous actions in terms of the right of recall. Then, of course, on areas that are of major concern one would want to normally have a referendum, for example, the issue of whether we should go to the CCJ instead of the Privy Council, whether you would want to have an Executive President versus a prime minister. That type of argument, I think, we would then go out to a national referendum.

2.35 p.m.

So when we examine the 1976 Constitution we know that there are sections that need to be updated, there are sections that need to be removed, some clauses may need to be inserted. It is one reason why when one looks over the last 35-odd years, many governments have had to come back—since we became a Republic—to this Chamber to be in a position to seek special majority votes to pass legislation, because of course, our Constitution is essentially 35 years old. One can understand that a lot has changed in 35 years. A lot of our customs have changed in 35 years. A lot of how we do business has changed in 35 years. In many countries their constitutions of course are centuries old and they also have

legal hurdles and constitutional challenges to face, but as I say, they get around it and we also have to do the same.

So when our Constitution was enacted in 1976, Madam Vice-President, there are many things that did not exist then, that exist today: The World Wide Web as an example, was just an idea at that point in time; desktop computers that we currently all take for granted and laptops were not even contemplated at that point in time. And just to make mention of laptops, I mean, thanks to this Government, Madam Vice President, every child going into secondary school today is armed with a laptop to take advantage—armed and entitled with a laptop to take advantage of the information that presents itself in what is now, the global library.

Mobile telephones in 1976 were a futuristic concept. I remember when I got my first mobile phone, I guess in the early 90s, it was like a brick; now you can disguise them anyway and every way. Criminals did not have the kind of sophisticated weaponry that they have today. They did not have access to the kind of devices that they do now. So the only thing that has been constant over the last three or four decades has been this whole issue of change. So clearly there is a need for constitutional reform, maybe even a brand new Constitution, we do not know. But we start the discussion here and clearly as we proceed I am sure that all of us are intent on making sure that we put in place for the future a Constitution that will take into account all the changes that have taken place and what we expect to take place over the next few years. In fact, I do not know, quite frankly, how many people—if you went out onto the streets today, you went to Frederick Street and you asked people about constitutional reform, how many people would know what they actually wanted as far as constitutional reform is concerned.

I dare say that a number of what I will call and they may call themselves, “enlightened people”, may not even know what constitutional reform means. And I want to venture that not many people have actually read the Constitution of Trinidad and Tobago and therefore, even those who have, even those who have—Sen. Ramkhelawan is trying to lead me to say that not many people in the Chamber have, but I am not suggesting that at all. I am saying that outside of this Chamber, outside of the House of Representatives, I dare say that there are not many people in Trinidad and Tobago who may have read the Constitution of Trinidad and Tobago. Those who have, Madam Vice-President, if you asked them what sort of constitutional reform they would like to have, I suspect that very few of them would agree on the changes that are required to our Constitution.

So it is a complex area. It is something that we need, as far as I am concerned,

all hands on deck to be in a position to craft this new constitutional reform. You notice I said hands on deck, not “Hinds on deck”. [Laughter]. Because when Sen. Hinds spoke—let me just quote what he said actually, it is quite interesting. He said:

“If I had my way I would amend the Constitution now—well no, I think the Constitution is not the problem. The problem is the Government of the Republic of Trinidad and Tobago”. [Laughter]

Confusing right. But he rambled on further. He said:

“Of course we need constitutional reform and on that point I want to say that the Government has indicated that it supports constitutional reform, the Opposition has said that also, and it appeared in all our manifestos. So both sides are now working their positions.”

Madam Vice-President, Sen. Hinds is clearly a very confused man—is a very confused man attempting to confuse this Senate. The word he used in his—discombobulated state. Am I right, discombobulated state? He was hoping to spin Senators in this Senate into a kerfuffle, but fortunately for us, we are not a Chamber of fools, not totally. [Interruption]

2.40 p.m.

Hon. Senator: Not on this side.

Sen. The Hon. V. Bharath: But, clearly, he has not even learned his alphabet well because he obviously does not know his A from his E. You see, Madam Vice-President, he has made reckless assumptions without being able to explain them properly or reasonably and, instead of dwelling on the essential issues, the fundamental issues of the Constitution that we need to revisit, he spent most of his time for those of you who may recall, addressing section 75(1) of the Constitution—I know Sen. Al-Rawi would remember very well because he was nudging him on—that deals with the collective responsibility of Cabinet Ministers.

In fact, he confused himself so much, that he began to hallucinate that the PNM was still in Government [Desk thumping] and, that the head of the Government was a dictator who would not allow Members of the Cabinet to speak freely on matters that they considered to be of national importance. On that score, Madam Vice-President, on a serious note, I remember very recently at the funeral of the late, Ken Valley, that several PNM members were heaping lavish praise on their colleague for his courage and his capabilities.

I also knew Mr. Valley. I went on a trip to, I think it was, Texas with him. We

were looking at—this was before I was involved in the political arena—to encourage investors to come to Trinidad and Tobago, and I must say that I found him to be a very intelligent, articulate man, full of life and full of zeal for what he was doing. So, as I was saying, at Mr. Valley’s funeral many of the colleagues were heaping a lot of praise on him, posthumously, of course, but I do also remember his brother. His brother made a poignant statement. He gave an explanation of what his late brother stood for. He said his brother sacrificed his career because he bowed to principle and not at the feet of any sawdust Caesar. That is what his brother said—[*Interruption*]

Sen. Panday: Sawdust Caesar!

Sen. The Hon. V. Bharath: That is what his brother said, sawdust Caesar. Here is a man who came in for very high praise, posthumously, by his colleagues, but I never remember Sen. Hinds publicly endorsing Mr. Valley. I never remember him going on any platform—[*Interruption*]

Sen. Al-Rawi: Yes he did!

Sen. The Hon. V. Bharath:—supporting Mr. Valley. But there were a lot of praises heaped upon him when he passed on. He reminded me—Sen. Al-Rawi might know. There used to be a skit called “Not the nine o’clock news” many years ago and, on this skit there were two politicians and a mediator. They were ranting and raving; they were being interviewed and saying, “You is a this, and you is a that. You are the worst representative this country has ever seen”. One of them said, “And you, you, you, you”—at that stage the guy who he was speaking with clutched his heart, fell to the ground and died of a heart attack—”and you are the kind that would be sorely missed in this country.”[*Laughter*] It reminded me so much of that skit, Madam Vice-President, but herein really lies the issue that I am talking about. It probably prompted Sen. Hinds to focus on this one small, relatively insignificant section of the Constitution.

I want to tell Sen. Hinds—I am sorry he is not here today—that I know absolutely what my responsibilities are as a Cabinet Minister. I do not need Sen. Hinds to tell me what they are, or to outline them for me. In fact, all members of the People’s Partnership know what our boundaries are, as Viv Richards says in a popular—“Know your boundaries”. We all know what our boundaries are and we do not shirk nor shrink from our responsibilities. Of course, in those particular situations, we differ significantly from those on the other side. If you all remember, Madam Vice-President, in a PNM Cabinet, Members comply with the

will of the maximum leader—that is how it has always been—or faced expulsion.

In the PNM's history of government, many of those who ran afoul of the Prime Minister were sent packing. They were sent into exile. Correct? They were ostracized. Not just from the Cabinet, but they were ostracized by their own party colleagues on many occasions. Many of you will remember, many Members here will remember, that there was a time when Dr. Williams, the then leader of the party, had instructed that all Cabinet Members must sign an undated resignation, so that at any given time he wanted to get rid of them he could. That was the type of collective responsibility that was practised in those days, and I want to tell all and sundry that the Cabinet of the People's Partnership does not operate under those kinds of autocratic rules. [*Desk thumping*]

I also want to let Sen. Hinds know that collective responsibility also extends backwards to the actions of your colleagues in previous times. So when you had a situation where many Members who were around but said nothing—they were silent on a lot of the wrongdoing that took place—they really should have accepted collective responsibility for it.

When the fiasco at UDeCott was taking place, there was collective responsibility to be borne at that point in time. This is a newspaper article on May 21, 2011, very recent—"UDeCott Sunway—Tower of Horror—263 errors on Legal Affairs Ministry building". All those who sit in the PNM today, must accept some level of collective responsibility for these happenings, rather than to have stayed quiet and say nothing at that point in time and it extends to all of those things. The Waterfront project, NAPA, the Brian Lara Stadium, the Prime Minister's residence, the Scarborough Hospital, all of those things. Everyone should take collective responsibility for everything that has happened before, the Chancery Lane Complex, billions and billions of dollars that we must take responsibility for. So when we talk about collective responsibility, we must know that we are also bound by the actions of those who went before us.

I know that Sen. Hinds was not a Member of the most recent Cabinet of the PNM. Maybe the leader did not think he was fit and responsible to have offered him a position in the Cabinet. I cannot speculate on that, of course, but I do know that from 2002—2007 he was the junior Minister in the Ministry of National Security together with Sen. Martin Joseph. They were certainly not what one would call the dynamic duo. They were more the "disastrous duo" I think—that would be more appropriate—because everything they did failed. Plan after plan failed to bring any degree of relief to the people of Trinidad and Tobago:

Anaconda, Baghdad—[*Interruption*]

Sen. Al-Rawi: Kidnapping for ransom.

Sen. The Hon. V. Bharath:—Weed and Seed, Policing for People—
[*Interruption*]

Sen. Al-Rawi: Chin Lee.

Sen. The Hon. V. Bharath:—community policing, strategic crime control seminars, police reform legislation, police service transformation, gang suppression, area lockdown, mobile units, interagency task force, Ross, Mastrofski, Israeli radars, eye in the sky, the blimp, helicopters, gun boats, computers, special anti-crime unit, FBI, Scotland Yard, SIA, wiretapping, Penn State Institute of Justice and Security, George Mason University, all of those things. Hundreds of millions of dollars of taxpayers' money flushed down the drain, where was the collective responsibility exercised by Sen. Hinds? They ran through almost every letter in the alphabet, Madam Vice-President.

You know, I hate to do this, but you see, Sen. Hinds was the one who raised this subject and opened this matter up. Again, I am sorry he is not here to listen because these are all the things that when we talk and we talk out of turn, we must be in a position to defend what those before us have done, because unless we can defend it, then we should not speak out of turn. The 55-year history of the PNM is replete with many of those things. Sen. Hinds went on at length about how he was head-hunted—I think that is the word he used—by the late Morris Marshall to join the party and, of course, he was also head-hunted by Mr. Manning to join the party. But at the time he joined he would have known of the history of the PNM, he would have known about Gene Miles and, he would have known about gentlemen called Mr. Tam and Mr. O'Halloran. Did it not ring any collective bells of responsibility when he readily accepted to join the PNM? So those are the issues. When he joined did he not know of the fact that one of Dr. Williams' closest aides had accepted a commission of US \$1.9 million in 1980? What is US \$1.9 million worth today to the people of Trinidad and Tobago? So a lot of these issues would have come up.

Recently, the Prime Minister revealed in Tobago that upon investigation with regard to the Bwee slots that were sold for £5 million, that current information shows that those slots should have been valued at the time at well over £20 million, based on what other aircraft and other airlines got for similar slots during that time. So, therefore, collective responsibility also exists in accepting responsibility for the actions of those who came before.

We can talk about Labidco, Tesoro, Project Pride, and when Mr. Manning appointed his wife as Minister of Local Government and Minister of Education; where was the collective responsibility there? Sen. Hinds sat and said nothing. He said nothing at that point in time. When Minister Tesheira, only recently, ran down to Clico Investment Bank and pulled out her money before Clico collapsed—collective responsibility. The Guanapo Church—\$30 million of taxpayers' money spent on the Guanapo Church; where was the collective responsibility there? Where was the collective responsibility when the PNM treasurer transferred \$100 million worth of shares from the Home Mortgage Bank to Stone Street Capital and then re-transferred it and made a gain of \$20 million? Where was the collective responsibility?

So, those are some of the issues relating to collective responsibility, Madam Vice-President. Although it gives me, and I am sure it gives no one any significant degree of pleasure to talk about it, that is our history. That is where we have come from. Those are some of the things that have been done to the people of Trinidad and Tobago. But you see, what tends to happen is that when you are in it, it is very difficult to extricate yourself. I said, I think, in the Lower House about two years ago, that their heads and their bodies were so deep into the trough that you could just about see their waggly tails, because that is how it is. You get into a feeding frenzy and nobody wants to relinquish office.

Madam Vice-President, what we essentially saw in successive PNM regimes was the doctrine of collective irresponsibility. That is what it was, collective irresponsibility. So, Sen. Hinds is the last person who should speak about collective responsibility or knowing anything about collective responsibility.

2.55 p.m.

Up to very recently, Madam Vice-President, a PNM Senator proclaimed that: “We will take care of our own”, in the Dansam Dhansook affair; “We will take care of our own”.

So, Madam Vice-President, I do not intend to speak very long today. I just want to return to the Motion that is before us which is the whole issue that has been brought to this goodly House by Sen. Subhas Ramkhelawan—the issue of constitutional reform. I would like to address one particular aspect of the Constitution which relates to the powers of the Prime Minister or Leader of Government.

The head of government clearly and necessarily must wield more powers than any of the other ministers, but what we must guard against is such person having unbridled powers. The last Prime Minister seems to have mystically elevated

himself to demagogue status, and as a direct result, people were unable to speak with him, and when one gets to that point, what happens is that organizations like the PNM lose their way—and I am not just talking about the PNM in this instance but organizations in general. When people elevate themselves to a point where they will not listen to advice because they believe that they know more than anybody else, organizations then tend to fail, and that is exactly what, of course, happened to the PNM.

And if having been in existence for 55 years, if after 55 years, the PNM should lose its way and perish as a direct result, it would redound purely to those who did not stand up and did not say, “Look, this is wrong”, and did not speak out. Because essentially what would have happened is that those who would have been sworn to serve would have ruptured that bond and that trust between themselves and those whom they are supposed to be serving.

So we support clearly this whole issue of constitutional reform that would rectify many of the shortcomings, many of the anomalies that we have in the current system, but it must be a much larger national discussion on the way forward and on the issues that we need to discuss.

On May 24, 2010, this country did not experience only a change of government, we experienced a change of governance culture. That is what this country has experienced in the last year. I am proud to be part of a Government that is collectively responsible for this document “An Era of Caring Has Begun”, because there are a number of issues and a number of things in here which, as I said, I am proud to take collective responsibility for. Collective responsibility with my colleagues for improving the minimum wage to \$12.50; collective responsibility for establishing the Children’s Life Fund; providing the 20,000 laptops to Form I students; for increasing the old age pension; for distributing lands to farmers who had been denied their right for some seven years—we have now distributed over 1,200 of these two-acre lots, and we are committed to delivering 3,000 housing lots by the end of August.

Proud for having compensated farmers for flood relief within one month of their crops being flooded out; proud and collectively responsible for the new Navet trunkline that has brought relief and water to over 300,000 people at a cost that was 63 per cent less than what was originally estimated by the then government, the PNM; proud for the Aranguez Overpass that we have now completed; and the fact that the Prime Minister announced recently that all school children in school uniform will now be allowed to travel free on PTSC buses.

I just want to make one more point with regard to these achievements. When we came into government a year ago, in 2010, the rate of inflation in Trinidad and Tobago was running at 17 per cent. I am happy to alert the national community that the Central Bank Governor only very late last week has stated that, because of the decrease in food prices, inflation is now down to 6.4 per cent.

3.00 p.m.

So, I am proud to take collective responsibility for all of those things. After we have listened to the voice of the people and we have had an opportunity to discuss constitutional reform, both in this place and in the other, we will reproduce their will in a document that will take this country and guide us as lawmakers and policymakers for the next 50 years. It is a responsibility that we do not take lightly at all and it is indeed the legacy that we will leave for future generations.

Madam Vice-President, I thank you.

Sen. Shamfa Cudjoe: Thank you, Madam Vice-President. I thank you and the other Senators of this honourable Senate for this opportunity to speak on this matter of constitutional reform. I am not going to respond to Sen. The Hon. Bharath, I would let my colleague respond to Sen. The Hon. Bharath later. I am going to try to use my time to speak to the issues as they relate to Tobago.

We in Tobago agree that there is need for constitutional reform, but we also realize that constitutional reform, especially constitutional reform at the national level is complex. It can be contentious. It can be unpredictable, and most times the discussion starts and ends in a stalemate. We took the initiative, we took a different approach that instead of looking at constitutional reform from a national perspective, we would address the issue of constitutional reform from a Tobago perspective and look at reviewing the Tobago House of Assembly Act, No. 40 of 1996 and the sections of the Constitution that treat specifically with the relationship between Trinidad and Tobago.

This union between Trinidad and Tobago—we all know, this is not a natural development—is a human and social construct that was developed to satisfy the economic and social needs in the colonial era. Tobago was a part of a British experiment, placing Tobago with different countries to see which combination would bring the best benefit to our colonial powers.

If different colonial powers had their way, Tobago could have been paired with Grenada, Barbados, St. Vincent or even stood on its own as its own nation

state. Over the period of 200 years, Tobago alone would have changed hands at least 33 times between the Dutch, the French and the English, making Tobago one of the most fought over landfalls in the Caribbean.

Madam Vice-President, the last time you visited Tobago you might have recognized that there is a large number of colonial forts all over Tobago dotting the island. These forts remind us of the different battles and the confusion that was taking place between the European colonial powers to try to fight over Tobago and to get powers over Tobago. They battled over our resources. They battled over our people. They battled over our land and battled over us, especially also for our strategic position.

Tobago was eventually placed with Trinidad, and even in creating that British colony of Trinidad and Tobago, there were problems at that point in time in having that union.

I came across an article in the *Saturday Guardian* of April 30, 2011 written by Dr. Hamid Ghany. When you read that article—it is a very short article—you get a true sense of the atmosphere of the environment at the point in time when the colonial powers were placing Tobago with Trinidad.

Madam Vice-President, please allow me some latitude to read into the *Hansard*, some of the statements that were made by Dr. Hamid Ghany, so that we can get an understanding of what was taking place.

“The Trinidad and Tobago Act 1887 that provided the legal foundation for the union of the British colonies of Trinidad and Tobago to create a single colony of Trinidad and Tobago opened the door of disadvantage for Tobago. The island was required to take a backward step by surrendering its superior legislative arrangements when compared to Trinidad to become ultimately a ward of Trinidad and Tobago...”

This was an ultimate downgrade for the island in 1899, when it became a ward.

Dr. Hamid Ghany goes on to say:

“The final act of total unification took place during the period of the governorship of Sir Hubert Jerningham who became the Governor of Trinidad and Tobago in 1897. It was he who made the case to the Colonial Office for this first legislative act of union that would come into effect in 1899. It should be noted, however, that the Tobago’s Commissioner at the time, William Low, had his reservations before he yielded to Governor Jerningham’s view about closer union.

Writing to Jerningham on December 10, 1897, Low had this to say:

‘I must candidly confess that for the first 2 or 3 years of my residence here I was not an advocate for closer union with Trinidad; and even now the fact that an essentially English island, with such a brilliant page of history’—talking about Tobago—‘will merge its identity on being amalgamated with an island largely permeated by Franco-Spanish ideas, although a mere matter of sentiment, causes a certain amount of regret.’”

Dr. Ghany goes on to say:

“Commissioner Low’s insight was indeed valid and can help us to understand the issue of the desire by many”—people—“in Tobago for a greater level of self-government. However, Commissioner Low’s comment also helps to make the case for self-determination for Tobago...”

‘The unsatisfactory nature of the present conditions of the union...’”

This is the same Governor Low writing to the Chamberlain on December 10, 1987. He said:

“‘The unsatisfactory nature of the present conditions of the union of Tobago is in some respects considered and treated as a separate Government yet, financially,’—Tobago—‘is hampered by the Customs and Excise Laws and Regulation of Trinidad, ‘and administratively her requirements are dealt with on the advice of officials resident in Trinidad and necessarily unacquainted with her local needs...’ Commissioner Low could have written the second half of the excerpt from that letter one hundred years later, and”—today—“it would still be relevant.”

I think that article hits the issue on the head, that from the get-go, in the beginning, when this union was being formed, leaders at the time recognized that there would have been a problem in placing Trinidad with Tobago, and even as we fight for self-government, there is also great need for self-determination in putting together an island that has its own culture, its own people and its own way of life and has to treat with its own legislative and administrative issues with Trinidad, and the problems that were faced then are still being faced now as Dr. Ghany said, if this Commissioner would have written this letter 100 years later, which is now, it would still be relevant today.

These concerns continued for years, to the point that in fighting for the Tobago House of Assembly and in creating the Tobago House of Assembly Act,

Article 43 points out the inherent needs and some of the challenges that Tobago faces being a part of this union of Trinidad and Tobago. Over the years, parliamentary representatives from Tobago would have come to Trinidad and come to the Parliament and would have fought the cause for Tobago's self-government and self-determination, and we are still here today having the same discourse. I wonder how much longer. But I continue to fight because it is one of the main reasons why I stand here today.

In the public domain, there seems to be consensus that the Tobago House of Assembly must have the level of autonomy and authority that it deserves. Before May 24, 2010, the people in Tobago were in a very fortunate position. I say that because all the political parties and everybody in the community would have agreed to fighting for self-government and fighting for self-determination. We went about an approach by trying to get consensus among the political parties, the different villagers, the different stakeholders and the different community groups. The plan was to come up with a consensus in Tobago that we both can agree on and everybody can agree on and feel comfortable with, and then create a Tobago position, the basis in the Tobago House of Assembly and make sure that everybody is comfortable with that position and after we can speak with one voice, stating: "Trinidad this is our Tobago position." Then we would speak to the rest of the nation and that was the plan before May 24, 2010.

We embarked on a review of the Tobago House of Assembly Act and then we adjusted the process to review both the Tobago House of Assembly Act and sections in the Constitution that treat with the relationship between Trinidad and Tobago.

The process was sanctioned in the Tobago House of Assembly and supported by all Members in the Tobago House of Assembly. In fact, the decision to include a review of the Constitution was piloted by the minority in the Tobago House of Assembly. I think it was the minority leader, Mr. Ashworth Jack who piloted the Motion.

The House agreed unanimously and passed the Motion and went to the next step of the process, in Tobago we call it a Special Select Committee, which was created to treat with the issue. I have some of the documents from the committee's meetings over the years of this process that would have started over five years ago. The first report is dated November 21, 2005. It reads:

A report of the Special Select Committee appointed to make recommendations on the process for review of the other provisions of the Tobago House of Assembly Act of 1996.

At that point in time, we would have been responding to the Motion to treat only with the Tobago House of Assembly Act. In this report dated November 21, 2005, the committee was established and was appointed, as ordered by the Assembly at a sitting on Thursday, September 22, 2005. I will list for you the names of the people on the committee. The following members comprise the committee: Hon. Hilton Sandy, who was the Leader of Assembly Business, the Chairman; Assemblyman Oswald Williams; Councillor Tracey Davidson; Assemblyman Wendell Berkley; Assemblyman Ashworth Jack—he was the Minority Leader at the time and still is—and Councillor Hochoy Charles.

3.15 p.m.

They agreed to set up a working committee that would treat with reviewing the Tobago House of Assembly Act, and the working committee is supposed to comprise local persons whose engagement would be inclusive of drafting the new Act. It speaks about persons having a legal background, and we all agreed in November 2005.

Madam Vice-President, the second report that I have access to is dated October 23, 2008. The members of the committee at that time—well this second report would have spoken of setting up the working committee and including not just the review of the Tobago House of Assembly Act, but the review of the Act along with the review of the sections of the Constitution that triggered the relationship between Trinidad and Tobago. The members of the committee—and the members would have signed the report stating that they agreed to all of this: the same Assemblyman Hilton Sandy, Frank Roberts, Wendell Berkley, Tracy Davidson, Assemblyman Ashworth Jack, Councillor Hochoy Charles and Councillor Dr. Hughvon Des Vignes, the last three all of whom would have been in the minority position in the Tobago House of Assembly. The report speaks of implementing the recommendations of the working committee, debate on the findings of the working committee and the draft which is supposed to be developed by the working committee in the Tobago House of Assembly, so that Tobago can speak with one voice.

Madam Vice-President, I also have the document which speaks of the establishment of the terms of reference for the working committee stating exactly what the working committee is supposed to do, and I would go into that a little later.

Madam Vice-President, stemming from this whole process a working committee was established by the Tobago House of Assembly with the agreement of both sides of the House: minority and the leadership of the Tobago House of Assembly. This committee was appointed in October 2007 to review the THA Act, to review the Constitution and to prepare a comprehensive report including evaluation and recommendations to inform the process of the special select committee of the THA in its deliberations.

As we go through the document you would see the different reports that they would have pursued and the different persons they would have consulted with over the years. The committee which some persons like to refer to as the John Prince Committee was headed by Dr. John Prince, and it included Tobagonians like Sen. Dr. Eastlyn McKenzie, Dr. Rita Pemberton, Mr. Carlos Dillon, and Mr. Arthur Gray who was the final person to be added to the committee.

Madam Vice-President, this committee would have gone through the length and the breadth of Tobago, they held at least 48 village meetings across the island, and they held discussions with different special interest groups trying to get a consensus. They spoke with Mr. Felton Leid, engaging discussions with Mrs. Deborah Moore-Miggins who would have served in this Parliament, Ms. Pamela Nicholson who would have also served in this Parliament, Mr. Christo Gift, Mr. Andre Henry, Mrs. Laurette Solomon and other esteemed figures in Tobago. They would have done meetings with His Excellency Sir Ellis Clarke, former President of the Republic of Trinidad and Tobago, and consultations with His Excellency Mr. ANR Robinson, former President and Prime Minister of the Republic of Trinidad and Tobago. There were three meetings with different leaders and representatives from the following political organizations: the PNM, in the persons of Mr. Orville London, Mr. Frank Roberts and Mr. Wendell Berkley; the TOP—Mr. Ashworth Jack and Mr. Jefferson Davidson; the Republican Action Movement—Mr. Lennox Benjamin and Mr. Hubert Thomas; the COP—Mr. Hughlett Waldron; National Liberation Movement—Mr. Nigel Ramsey and Mr. Alan Steward; Fargo House—Dr. Winston Murray who would have served diligently in this Parliament and Mr. Alvaughn Murray.

3.20 p.m.

Madam Vice-President, I can go on and on, but I would like for Members of the Senate to get their hands on a copy of the draft document. I think they would have gone way past this by now because the consultations would have taken place in March.

It is important to know that this committee had the mandate to hold discussions and conduct meetings with individual organizations and committee groups throughout Tobago and a very unique initiative of the committee was that they held meetings with the leaders of the major political parties in Tobago and came up with a communiqué on the areas of agreement between both parties. It is interesting to note that this communiqué was signed by Mr. Orville London representing the People's National Movement in Tobago and Mr. Ashworth Jack, representing the Tobago Organisation of the People, endorsing the process and everything that we would have been discussing over the years.

I have a copy of the communiqué here with the signatures, including the signatures of Mr. Orville London and Mr. Ashworth Jack and, if I am not mistaken, Mr. Ashworth Jack even went as far as to date his signature. I think this says June 10, 2010.

Madam Vice-President, I hope you understood what I meant when I said that prior to May 24, 2010 Tobago was in a very fortunate position with the people on the different sides of the political fence, the community groups, the stakeholders; everybody had one plan to come up with a Tobago position; to come to consensus on this issue of constitutional reform and to speak to the nation with one voice, the Tobago voice, the Tobago position.

This highly transparent and democratic process will guarantee that the views of Tobagonians are fairly represented in the document. We were bent on making sure that what happened in 1996, when the UNC embarked on constitutional reform for the Tobago House of Assembly without consulting the Tobago House of Assembly—all the people of Tobago are trying to prevent that from happening again. However, somewhere along the line, a little after May 24, 2010, the rules of the game changed and in a strange turn of affairs this present Government, ably assisted, aided and abetted by their TOP colleagues in Tobago, embarked on a mission to hijack the process to force another THA Bill on the people of Tobago, in order to satisfy their own political expediency and personal gain.

Suddenly, the minority leader in Tobago, who would have joined in a coalition with the UNC and the COP and his other friends here in Trinidad, became suspicious of the process he endorsed for over five years and with which he has been kept up-to-date with a report. He had signed the communiqué and agreed to the process that we would engage all Tobago people in this debate, in these consultations and then speak to the nation with one voice. Suddenly the minority leader in Tobago became suspicious of the process; the same minority leader, Mr. Ashworth Jack, who signed the communiqué.

Madam Vice-President, what sent a clear signal in the very earlies—I remember when I was first appointed a Senator, in my first and second contributions, I raised the issue of talks being held in different circles about this Government trying to force an early election on the Tobago House of Assembly. What would have sent a clear signal that what I was saying was correct was that there was made, on Thursday, September 02, 2010, a statement by the Minister for Tobago Development at a press conference at Coco Reef. She said:

We have had a committee working again at it; a group of people including Reginald Dumas, including Dr. John Prince and some of the other people who are looking at all of that on behalf of the Tobago Organisation of the People, bringing forward again recommendations to the Government in respect of constitutional change or amendments for the Tobago House of Assembly in respect of a relationship with Trinidad and Tobago.

Now, at this point in time, the process that was started by the Tobago House of Assembly and agreed upon by the people of Tobago would have been in full gear, so it was very interesting for the Minister of Tobago Development to make that kind of comment. Dr. Prince came at the end of the comment and said he was not involved in anything like that and cleared his name.

On October 25, when the Tobago Organisation of the People held an event, Dr. Hughvon Des Vignes, who would have been a councillor for the TOP in the Tobago House of Assembly, made the announcement that he was resigning his position as councillor and that he was upset about plans and discussions taking place to force an early election on the Tobago House of Assembly and that the TOP was in discussion with the Attorney General and other high level Members of Government to bring an early election.

I remember only one newspaper reporting everything that had happened and that was the *Tobago News*. I do not think it was brought on the national stage. When I mentioned it in this Senate, there was uproar: What is she talking about? But the people who have been following the issues can speak to that; even newspaper reports, after I spoke to minority leader Ashworth Jack, making statements, rallying for Tobago to have an early election.

He said that the constitutional reform process that was established in the Tobago House of Assembly was taking too long. They were prepared, illegally and immorally, to force an election on the people of the Tobago House of Assembly and the people of Tobago. When I raised that in this Senate, I

remember the Member of Parliament for Tobago West came to this Senate and said that the only reason we were making a big deal about this was that we were afraid of an early election; we were afraid to go to the polls.

Let me make one thing clear. The People's National Movement in Tobago is never ever scared to go to an election, especially against this People's Partnership; this Tobago Organisation of the People, which sometimes when things go wrong in Trinidad, especially like the Reshmi and other issues, try to detach themselves and say: "Well, we only hooked up for the election; we are not really a part of them; we are standing on our own. There is no collective responsibility. Where is Sen. The Hon. Bharath to speak to that?"

Madam Vice-President, the disrespect continued. The Prime Minister refused to open, read and respond to letters from the Chief Secretary. I remember raising those issues in this Senate. The Prime Minister was stating that she was too busy to deal with the Chief Secretary. She had time to be in Sao Paolo and other places and no time for Tobago, which is right next door.

The Minister for Tobago Development claimed that she was responsible for all matters treating with Tobago; everything in Tobago, and causing an uproar; from taking the salute at the August 31 Independence Day parade in Tobago. I mean, you have now gotten into government in June and you are raising a whole lot of noise, "commesse", confusion and bacchanal; "seagullism" about taking a salute.

After that, there were reports in the media about the Attorney General undertaking a parallel process to come up with a draft Bill for our constitutional reform. This is 2011. Our process where we would have engaged the communities and the stakeholders would have started over five years ago and here is the Attorney General, who believes that he can just arrive on the scene and create a Bill to govern Tobago, telling Tobago what we can have; speaking on our self-determination and our self-government.

We had the issue of the Minister of Arts and Multiculturalism, Minister Peters, coming to Tobago and making announcements in the media saying get ready for Carnival in Tobago in October, without having proper discussions or consultations with the Tobago House of Assembly. It makes you wonder: Do these people have any idea what the Tobago House of Assembly is?

So step by step, day by day, this Government has systematically and relentlessly been trying to emasculate the Tobago House of Assembly and undermine its authority, its autonomy and its integrity. But despite all these

distractions, the PNM-led Tobago House of Assembly continues the process that was endorsed by both sides of the House and that process was to strive for consensus among all Tobagonians so that Tobago could speak with one voice.

So the draft of the review of the Act and the sections of the Constitution that treat with the relationship between Trinidad and Tobago were created and compiled into this document. This document was made available to Tobagonians and delivered by hand. There was a venue in Scarborough where you could collect the document. There were discussions on the TV and radio and Senior Counsel, Russell Martineau himself came to Tobago and got together with the committee and did at least three major consultations: one in Moriah, one in Roxborough and one in Scarborough. I attended the consultation in Scarborough and that consultation had at least 400 persons. I remember leaving that consultation after 11.00 and I left people there still discussing.

It was interesting to see that even people who were criticizing the process and who suddenly became disgruntled with the process after May 24, found themselves at the consultation, giving their views and engaging in the process because they hold this process and the whole issue of Tobago's self-government and self-determination close to their hearts. So, for that one afternoon, they were prepared to set aside political differences and personal differences and found themselves at Scarborough Secondary School to give their views.

We had people like Christo Gift and Debra Moore-Miggins, Dr. Winston Murray; all giving sterling contributions at these meetings. I remember even being at the Scarborough meeting and Mr. Reginald Dumas was there and he stated that he and some other Tobagonians were working on an independent position and he offered some of his views and extended his hands in cooperation to work with the committee so that we could put together his views from this independent body along with our views from the Tobago House of Assembly process that was endorsed by both sides of the House, so that we could come together to speak to the nation with one voice.

Madam Vice-President, I would expect that after all this was said in March, that Mr. Reginald Dumas and his committee would have met with the working committee; what some people like to call the Dr. John Prince Committee, since Dr. Prince heads the committee; and that they would have worked out their differences and collaborated, cooperated, and communicated and had their discussions and then sent their positions to Russell Martineau SC, to come up with the final draft, further consultation and for further consideration in the Tobago House of Assembly for debate to take place so that we could come up with a Tobago position that was intended in the beginning and speak to this Parliament saying this is our position.

3.35 p.m.

Now, Madam Vice-President, is there a process more transparent, more democratic, more inclusive than this where the people of Tobago can feel comfortable, that they can make their contributions, and they can really make an impact on this whole issue of constitutional reform and internal self-government and self-determination for Tobago? I cannot think about another process that can beat that.

But, Madam Vice-President, on May 9, I think it was page 7 of the *Daily Express*, in the document that says:

“Many more improvements coming for Tobago, says Kamla.”

It quotes the Prime Minister as saying that she has received a TOP document and she went on to commend Dr. Delmon Baker, who is the representative for Tobago West, and Mr. Ashworth Jack who is the minority leader in the Tobago House of Assembly. She went on to commend them for their work in coming up with this document. She went on to make the announcement that this TOP document is going to be transformed into a White Paper and then given to the public for discussions, that would take place by July, and then a Green Paper, then it is going to come to the Parliament of Trinidad and Tobago.

Now, Madam Vice-President, even after that also, there are reports in the paper speaking about this same TOP document and mentioning the people who worked on the document as Mr. Reginald Dumas, Mr. Alvern Thompson, Mr. Anslem Richards, another Mr. Bobb and another person, working on this document for the TOP.

Now, if I can recall what I said earlier and what was said at the consultations in Tobago, Mr. Dumas said that the documents that he was working on along with his committee were independent, they were developed from independent input only, there was not political input. He only received technical assistance from the Attorney General’s office in the form of a drafter, since drafting is a very technical task. And this drafter was offered to him by the AG’s office to help in putting together and drafting these independent positions into legal terms.

Now, Madam Vice-President, if both Mr. Reginald Dumas and the Prime Minister are to be believed, then I have to draw the conclusion that there are three documents in the public domain. There is the working document of the Tobago House of Assembly that was developed by Mr. John Prince, past Sen. Dr. Eastlyn McKenzie and the others; there is the Dumas independent committee document

and there is the TOP document. So, if Mr. Dumas and the Prime Minister are to be believed, Madam Vice-President, there ought to be three documents in the public domain.

Madam Vice-President, that is one question I have to ask. Are there three documents in the public domain? So far I have only heard about two and it raises another question: How independent is this independent document that was created by Mr. Reginald Dumas and his team? There are newspaper reports that claim that this “independent” document is actually the TOP document. So, there are questions in the public domain. Another question has been raised: Were the members of this so-called independent committee or these people who created this TOP document, were they paid? If so, by whom?

So, Madam Vice-President, I would go on from there, but these are things we need to consider.

3.40 p.m.

Now, the Prime Minister said the TOP leader, Mr. Ashworth Jack and Dr. Delmon Baker were instrumental in creating this document, and it is interesting to note that she did not mention the Minister of Tobago Development as being instrumental in developing the document or in bringing the document to the Cabinet. In that same interview where the Prime Minister spoke about this TOP document being turned into a White Paper and a Green Paper and then brought to Parliament, she mentioned that everything that comes from Tobago must come through the Minister. So it begs another question in my mind, Madam Vice-President, did this TOP document get to the Cabinet through the Minister? This raises another question. How did this document get to Cabinet without going through the Minister? It begs another question. Is it easier for a document from a political party to get to the Cabinet than a document from the Tobago House of Assembly; a document as important as one treating with constitutional reform and one that determines the future of us all in Tobago and the future of our children in Tobago? How does a document that was created and developed by a political party get to the Cabinet, and not the document of the Tobago House of Assembly? So, these are things that we need to look into.

In that same interview, the *Guardian* reports the Minister speaking about the list for the Tobago Regional Health Authority must be sent to the Parliament through the Minister of Tobago Development. Now, it is important to know that on April 13, 2011, the Chief Secretary reports that the document with the list of the members for the Tobago Regional Health Authority was hand delivered to the

Office of the Prime Minister. On April 14, 2011, the Permanent Secretary in the office of the Prime Minister contacted the office of the Chief Secretary and confirmed receipt of the document, but then after that the Minister of Tobago Development would say—come out into the public telling the press and the people of Tobago—that the list must go through the Minister of Tobago Development. She then sends rude letters to the Chief Secretary stating, “You must meet with me and the Minority Leader to discuss these prospective members for the Tobago Regional Health Authority, and if you do not meet with me, the Minister of Tobago Development by Good Friday, I would submit my own list.”

Now, this is supposed to be taken into consideration against the backdrop—it is my information that the Minister was already having conversations with eight other persons as prospective members for the same Tobago Regional Health Authority. It begs another issue, because the Prime Minister came to Tobago and said to the media that the Chief Secretary must send this list through the Minister of Tobago Development. Now, Madam Vice-President, if the document is already at the Office of the Prime Minister—the Permanent Secretary had already confirmed that she had received this list—then why are we sending the same document to the same destination through another route?

So, Madam Vice-President, allow me to place on record that the Tobago House of Assembly Act speaks to the Chief Secretary having conversations with the Prime Minister and the Minister of Finance at budget time. The intent of the Act is to speak of the Tobago House of Assembly as an institution that is superior to local government, and even so a government ministry. So, it is not unreasonable to expect for constant communication and collaboration to take place between the Chief Secretary and the Prime Minister.

Madam Vice-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. F. Al-Rawi*]

Question put and agreed to.

Sen. S. Cudjoe: Thank you, Madam Vice-President, and thank you colleagues. Now, Madam Vice-President, I was on the point that they were now asking the Tobago House of Assembly to address the Prime Minister, through a line Minister, I think that is taking a retrograde step, because over the past years—the Tobago House of Assembly has been in existence for 30 years and, at least,

for the past 10 years, the Chief Secretary had been in constant direct communication with the Prime Minister on issues relating to Tobago. It was not intended for the Tobago House of Assembly to go through any line Minister or to have a supervisor or anything like that. This is what is stated in the law.

Now, the Prime Minister cannot just get up one day and say, “Don’t speak to me anymore, speak to the line Minister.” It does not work like that. What sense is there in having the law if the Prime Minister feels she could wake up one day and say, “Don’t speak to me anymore, speak to a line Minister or speak to somebody else.” The Act does not place Tobago under the jurisdiction of any ministry or any minister.

As a matter of fact, the Act in Articles 30 and 31 speak to the Chief Secretary and the Prime Minister being in constant communication on issues that relate to Tobago, and even the Cabinet inviting the Chief Secretary to meetings to speak on Tobago issues and present Tobago’s position.

Now, the Act also speaks to Secretaries within the Tobago House of Assembly collaborating with line Ministers. So, Madam Vice-President, nowhere in the Act speaks to the Tobago House of Assembly falling under any Ministry of Tobago Affairs or any Minister of Tobago Development or whatever you want to call it. If the law does not say that, now all this talk is just creating confusion. Madam Vice-President, I think that the Act was created in such a way to foster relationships between the Chief Secretary and the Prime Minister and relationships between the Secretaries and the line Ministers as they relate to treating with Tobago issues.

Now, I bring up the issue of relationship, because I think this whole issue of constitutional reform is based on law, protection, relationships and respect. As Sen. Dr. Wheeler rightly said earlier, you tweak the law how much you want, if you do not have that relationship, and if we do not have that respect, then we are wasting time, and this whole issue of constitutional reform would end up in a stalemate.

Now, Madam Vice-President, constitutional reform, I believe, is primarily about relationship; the relationship between a government and its people and, in this case, the relationship between these two islands. Now, the principal reason for having the law is to protect the weak from the strong. Now, Madam Vice-President, past president ANR Robinson always said that the fundamental element in the relationship between Trinidad and Tobago is respect. And the comfort of the weak lies in having the confidence that the strong would respect the law,

respect the people and respect our space. You see, what is surprising about this People's Partnership Government, this UNC-led coalition, is the kind of disrespect meted out to the Tobago House of Assembly over the years, and the problem today is not that it has just continued, but it has intensified.

Madam Vice-President, I would speak quickly on the ANR Robinson Airport, a Motion that was raised in the Tobago House of Assembly by the minority. We set up the committee and we started the process. We were getting clearance from the Civil Aviation Authority and the Ministry of Works and Transport, but up comes the Prime Minister, "hot and sweaty—she will be coming to Tobago to rename the ANR Robinson Airport." I am happy that Minister Warner was man enough to step in and say, "I apologize that this was done in the wrong way. I apologize on behalf of the Prime Minister."

Now, Madam Vice-President, what is interesting is that minority leader, Ashworth Jack then said, "Minister Warner did not need to apologize to the Tobago House of Assembly, because the Motion was piloted by the minority". Now, this is somebody who is vying for the position of Chief Secretary in the Tobago House of Assembly, saying that you do not have to apologize to the Tobago House of Assembly, because it is the minority that piloted the Motion.

Madam Vice-President, when the Prime Minister said that she could make an announcement anywhere whenever she wants, because she is the leader of the Cabinet—No regard whatsoever to Tobago, the Tobago House of Assembly, the Tobago people or our space.

Now, Sen. Dr. Wheeler raised the issue of the MIC where he said he received an invitation. I am hurt, because I did not even receive one. I am yet to receive an invitation to that event, but that is to tell you the kind of respect that this People's Partnership has for the Tobago House of Assembly, Tobago people and our space, and when they came to Tobago, had the Minister of Science, Technology and Tertiary Education, the representative for Tobago East, the representative for Tobago West and the Prime Minister to speak and did not have the Secretary Claudia Groom-Duke, the Secretary of Education and Youth Affairs and Sports, who masterminded the project; they did not even have her down to speak. They did not even have the Chief Secretary on the programme to speak, but somewhere in the midst of the programme, the announcer called the Chief Secretary to say a couple of words, like he was in a birthnight or a christening, "Come say something nah." Madam Vice-President, that is not how it is supposed to work.

The same thing with the turning of the sod in Tobago for this university, that central government does not have jurisdiction over any land in Tobago. The only jurisdiction they have over land in Tobago is where the President's house is. So, I do not know if they had plans to build a university there, but plans to turn sod in Tobago without having any conversation or consultation with the Tobago House of Assembly, it is interesting, coming from a Government that says more autonomy for Tobago.

Madam Vice-President, this disrespect also comes in the form of misinformation and feeding the public with news that is not true. Now, there was a media report saying Tobago had four buses, and we are going to bring buses to Tobago, and then they are going to have 40. Now, Madam Vice-President, as of May 2010 Tobago had at least 26 buses. [*Desk thumping*] When I moved back home in 2008, I had no vehicle. I only got a vehicle in December of 2010, and I was using the bus to go to work on several occasions. I get my bus ticket and I go to work and I get the bus and I come back home. I was at the bus station several times seeing the buses running up and down. Even last year at the motorcades and so forth around election time, one political party alone had at least six buses on their motorcade. So to say that Tobago had four buses, and now you are bringing more buses to Tobago and Tobago will now have 40, that is disingenuous, because they brought only four buses. Now, the 26 that were there plus four still do not add up to 40, so something is terribly wrong. [*Desk thumping*]

Now, Madam Vice-President, the same thing with the birth certificate saying that we now have electronic birth certificates, and Tobagonians do not have to come to Trinidad anymore to get a birth certificate. As I said before, my family has eight children and my parents never had to come to Trinidad to get a birth paper for any of us. As a matter of fact, I was out of the country when my mother got my birth certificate right in Tobago. So where is this information coming from? Who is sitting in a little room generating and creating all these little lies? It is terrible; they need to stop. [*Desk thumping*]

3.55 p.m.

What was interesting is that on May 24, 2010, the same Ashworth Jack got on the platform and told the nation, thanks to this Government Tobago has never seen development like this. What has this Government done for Tobago? Over those four days that they came to Tobago? All these things that I listed out these are the things that they did and all of them were PNM projects, or some lie, some sort of deceitful thing that would have happened when you get down into the nitty-gritty of it. So piece by piece, bit by bit, this Government is bent on chipping

Process for Constitutional Reform
[SEN. CUDJOE]

Tuesday May 31, 2012

away the autonomy and the integrity of the Tobago House of Assembly and disrespecting us—disrespecting the dignity of the Tobago House of Assembly and Tobago and its people, and is saying every time they come with something, with hampers or computers or four buses, they say it is no big deal, it is nothing if your Chief Secretary does not speak. Oh, we made a mistake, but what is the point of speaking about more authority or even getting goodies from this Government if it is going to cost you your dignity—every minute a chipping away of your dignity, and this is the Government that speaks about more autonomy and authority for Tobago.

So whilst they are in the headline saying, more autonomy for Tobago, Tobago gets to do this, Tobago gets—you are chipping away the authority of the Tobago House of Assembly. I wonder, Madam Vice-President, if this is the same Ashworth Jack that, prior to May 24, 2010, was speaking on those platforms, talking about Tobago and more autonomy for Tobago, we are going to have our way in Tobago, the PNM has too many Trinidad links. The TOP was created out of the belief that Tobago was under a grip, being advantaged by Trinidad, they did not want to see those Trinidad Ministers over there doing anything. They say PNM sell out because every time these Trinidadians over there—and it is the same TOP that I see on TV up under the Prime Minister’s bosom singing “She’s Royal”. “Madam Vice-President, dat is not how de thing does work”.

Madam Vice-President, Tobagonians, even TOP Tobagonians would tell you that they did not sign up for that. As a matter of fact, when the TOP joined up with the People’s Partnership Government, the UNC-led coalition, many of the ground members, the foot soldiers, the people that are really the engine of the organization, did not even know that that transaction, and I call it a transaction, took place to join up with the UNC-led coalition.

Madam Vice-President, these are the people who say they are about more autonomy for Tobago and Tobagonians are beginning to believe that they are not concerned about us; this is about land, house, car and business opportunities for their family members, their relatives and their friends. But we as Tobagonians would not sit by sheepishly and be raped and advantaged by an advantageous government—we will continue to fight for our self-government and for self-determination. The Tobago House of Assembly is the only buffer between the foolishness that happened in Trinidad and Tobago, because if it were not for the Tobago House of Assembly, people’s crops in Tobago would have been bulldozed, CEPEP workers would have been losing their work left and right, but the Tobago House of Assembly protected us from the foolishness of this People’s

Partnership UNC-led coalition. So I say, more autonomy and more authority to the Tobago House of Assembly and I call on this nation to support our process, our fair, our transparent, our highly democratic process, the only process that guarantees proper results and fair results for the people of Tobago.

The last time I checked there were some contentious issues about what is a Tobagonian, what is Tobago and that kind of thing. Before my time runs out—you hear constant talk about, Tobago wants the autonomy, how are they going to pay for it?—We have oil and gas, we finance them, but I want to make the point that the oilfields and the resources that are north-east Trinidad are south-west Tobago, so this whole issue of maritime boundaries comes into play, and the question is raised as to whose oil is it? Because north-east Trinidad is south-west Tobago, and that is where the whole issue of maritime boundaries comes in, the whole issue of tax collection, the whole issue; all these things.

4.00 p.m.

Madam Vice-President, you read the headlines of this Tobago draft Bill and it says, “More power for Tobago”, and that kind of thing, but this Bill has not dealt with the issues. It speaks to a concurrent list. Some of the areas that fell under the jurisdiction of the Tobago House of Assembly are now under this concurrent list or under this national list, and that is taking away autonomy for the people of Tobago. People in Tobago are saying this document by this People’s Partnership, this TOP document, is a trick. *[Interruption]*

Madam Vice-President: Senator, I am afraid your time is up, please.

Sen. S. Cudjoe: As I said before, this is about collaboration, this is about relationship, this is about respect. You cannot have any meaningful constitutional reform if every “four-day mornin” the People’s Partnership and its people find different ways of circumventing the laws. So I say, let us join hands, put aside political differences, so that at the end the people of Tobago could have the autonomy they deserve. There is no price tag to this, and I ask the nation to join with us as we give Tobagonians what they truly deserve, a more authoritative and autonomous Tobago House of Assembly.

Thank you, Madam Vice-President.

Sen. Dr. James Armstrong: Madam Vice-President, I am very happy to join this debate on this Motion, which has been going on for quite some time. In fact, I am quite happy that I came in on the tail end, because quite a bit had been said before that would have somewhat influenced some of the things that I need to say.

The Motion calls for a series of amendments to address specific areas of concern, for a more just and equitable society. That is what I would like to focus on, the aspect of the Constitution as it deals with equity in a society.

Why do we really need a Constitution? We need a Constitution really for proper governance, for authority, for providing for those who are at a lower level in the society to be protected. It is the instrument from which the Government gets its authority to really govern. It is an agreement or a plan that really seeks to shape a society. For that reason, it is extremely important.

I think also that the question as to whether we should amend the Constitution in its totality, in one go, or whether we should do a series of amendments is something that is also very important. Clearly, from what has been happening for the past three years, I think it is very timely. Whether we do it in one go or not, there is urgent need for amending the Constitution.

I went back to the document from the Government, its manifesto, and I realize that reference is made in several parts to amendments to the Constitution. It is mentioned, in fact, as one of the seven pillars. I think it is No. 6 which mentions that there is a need to amend the Constitution. In terms of the actions that were suggested, it is Action No. 28 for the first 120 days. On page 15 of that document, it sets out a range of concerns, many of which were mentioned by colleagues who went before me.

It talks about participatory culture; campaign financing; election dates; overhauling parliamentary oversight; proportional representation; whether we should have an executive President; powers of recall; relationships with Tobago; a free press and so on; so a number of things have been mentioned that we need to look at. I think they are all quite justified.

There are four areas that I am particularly interested in. I have been really deliberating, really wondering, to what extent we can address some of these things within the Constitution itself, or whether following the Constitution we need to have specific legislation, and if even we have legislation, whether we need to have an understanding as a people.

The first issue that I would like to address is the business of ethnic diversity, this question of race. It is something that everybody gets very, "Woh, race," and I do not think we have dealt with it properly over the years. I noticed that Sen. Bharath, for instance, mentioned a while ago that for reasons he outlined, we may very well be heading in the way of Zimbabwe. He mentioned Uganda; he also mentioned Bashir, which is Sudan.

Madam Vice-President, I have had the opportunity of working in those three countries. I spent about three years in Sudan. I had the opportunity to work on a plan for Zimbabwe, as well as in Uganda, under both Obote and Idi Amin. It was interesting he mentioned that, because it is a concern I have that we could very well be heading in that direction. I will tell you why I say that.

This business of ethnic diversity is something that for too long politicians have been exploiting, rather than, in fact, using it to unite and to empower. I lived in Kenya for 15 years, and the environment in which I worked was one in which I would think almost every culture, every ethnicity in the world, was sort of represented. It was a very, very rich experience, but that was an artificial environment. It was the environment of an international organization in which we had different cultures. What happened with this experience was that the interaction we had, the sharing of experiences we had, the respect that we had, the knowledge that we gained of each other, was very important.

I heard on the television, I think it was yesterday or the day before yesterday, on the Morning Edition, they were interviewing someone from Canada of Indian descent who said that he had to go to Canada, because he was discriminated against, and he went on and on. I heard Mr. Sat Maharaj complaining yesterday, "The Minister of Multiculturalism did not come because...", and I have no doubt that come Emancipation Day, somebody on the other side would complain of the same thing. This is going on and on. That has to stop.

It does not matter what we have in a Constitution or as legislation, if we do not seek to address that, we are going to have a serious problem. As I have said before, legislation is simply an input to something else. It is not an output in the way that we say, "Yeah, done, done." Please, stop that. The Constitution is not an end in itself. It is an input; it is an instrument that should serve to allow us to live in a certain way in this environment. Therefore, as we amend that Constitution, we have to think in terms of who we want to be as a people; where are we going as a people; where are we going as a nation. That is not happening, because we are being exploited.

Yesterday was Indian Arrival Day. Talking about the Minister being invited and he did not attend, well, I was not invited anywhere either. What is important is that it would have been nice to have been invited. I remember very well, when I lived in Nairobi, and we fought on weekends for who was going to have what, so that we could celebrate whatever festivity it was. I also used to travel to Asia quite a bit, because I covered India, Bangladesh, Pakistan and so on.

I do not think I mentioned it before, that there was someone from Colombia, a very cultured fellow, who lived in India, and another colleague who also lived in Dakar. Every time I went there, he would say, "Let us go and listen to the music. Let us go and see the dance," and I would go. What came to mind was that I grew up hearing that, but did not appreciate it. And I want you to listen carefully to what I am saying. I said to him, "But I know this music." I said to myself, "I know that music," but at the time, I did not appreciate it. I would like us to try to address that as early as possible.

There was talk some time ago about the teaching of religion in school. I am not so sure about that. I do not know. Fine, if people are interested in that, go ahead, but I am not too keen on that. I think we need to understand the history of the peoples of this land, the cultures. Once we are able to do that, then we will begin, despite what we have in our Constitution, despite what we have in the legislation, to actually appreciate ourselves as a nation, decide where we want to go and then, perhaps, that would also inform what we do in a Constitution. So let us put some of these things into the curriculum.

4.15 p.m.

The other thing that I want to address has to do with the fact that we are a twin-island State, and that is very important. Sometime in 1994, I think it was, there was a major conference on small island developing States, and the reason that we had that conference was because there were peculiarities about a small-island State. I mentioned some of these in the past and I do not want to dwell on it too much now but I want to talk about Tobago a little later, and I will get back to that, but we have to keep in mind that we are a twin-island State and that there are the peculiarities within that arrangement that we have to keep in mind when we talk about constitutional reform.

The other thing I want us to keep in mind as we talk about constitutional reform has to do really with future generations, and I think that we are acting in this country as if we are the last people that are going to be here. Future generations are not here to represent themselves, and we have to take some responsibility for the future generations, and if we are discriminating against anybody it is the future generation, and that we have to address.

I also want to mention as I have always done, the whole business of the poor and disadvantaged. How can we deal with that within a Constitution and within our legislation? There is a particular case that comes to mind that would underpin some of the things that I want to address here, and this has to do with a meeting that Trinidad and Tobago had a very spirited delegation attending a UN meeting in

Istanbul—I think it was in 1996—and at the time the discussion really had to do with access to land and housing. And this is important because what was mentioned at the time with respect to access to land—and I think this is important for what Sen. Bharath said a while ago—because a lot of the problems in the countries that he referred to, had to do with land and differences in terms of ethnic groups or tribes, if you want to call it that. And I said sometime ago that we are being very loose and fast with how we alienate land in this country. I want us to pay specific attention to that because at the time Trinidad and Tobago argued, you know what, we should regularize our squatters and people who are building on state lands or lands that they do not own because it is enshrined in the Constitution, and I could not figure that out.

4.20 p.m.

I was not aware that that is anywhere in the Constitution. In fact, the leader of the delegation at the time was Minister John Humphrey, and the delegation made a very, very valid contribution, very spirited contribution to the debate and a number of countries opposed it and the Minister said, “No, no, no”; not in the meeting but after, we sat down and we talked; he said, “No, it is in the Constitution”. For quite some time I have been trying to find out where in the Constitution this entitlement is mentioned and I then realized that I was directed by someone to a case and I want to mention it here. It was a case in a matter of *Prakash Singh and others v the Attorney General*. I was very interested in that particular case which was heard before Justice Deyalsingh, that reference was made to sections 4 and, I believe, 14 of the Constitution. In fact, the outcome supported what the Minister was saying, that there is a right to land or for squatters to have access to this land and that was upheld.

That still puzzled me because, again, as I said, I really could not see that in the Constitution, section 4 which talks about entitlements and so on, that it specifically addressed that issue. Later on, however, I was then told that there was a subsequent case which, in fact—well, I do not know if it overturned it, but certainly there was a different opinion, and that case was in 2003 in *Vashti Sampson v the NHA*, and that case said, “No, no, no; the Constitution or your interpretation of the Constitution of the earlier judge was not quite correct”, and gave a totally different opinion which I agreed with.

Now, what has happened since, is that in spite of those two cases we now have a situation in which we have the Government saying, “Look, you know what, you are squatting here; we got to move you for housing, and therefore, we would give you some land somewhere else. That is going to create some serious

problems in the future. We have a situation where—for instance, I heard the Prime Minister saying “campus in the south”. I think it is for law, 100 acres. Now, I do not have a problem with that specifically, I am not saying, look, do not have a campus in the south. What I am saying is, you cannot jump up one Monday morning and say, “Look, you know what, a campus 100 acres.”

I heard the Prime Minister saying, “We want to do a feasibility study for an airport”, and I agree with the Prime Minister when she said these institutions will create jobs and so on. I agree with all of that. I appreciate that. What I am saying, we cannot just jump up one morning and say, “This is what we are going to do”, because, if you are going to do an airport, there is a sphere of influence with respect to the land that you are going to use. So that what I am questioning really is the process, how do you really get from an idea to, say, “Well look, do this.”

We have a situation in which the housing development, the HDC—we want land to build houses. We have a waiting list of 130,000. Now, that has to be nonsense. It has to be nonsense, because you have 1.3 million people, if you divide that by 4.5 families, you cannot come up with a realistic list of 130,000 persons. That does not make any sense. So, now you are going and start to build a whole set of houses and that is part of the problem. We are building cubicles for people to live in, but not building communities, not building settlements. If we keep going down that road, those are the same problems that we were faced with in the communities that Sen. The Hon. Bharath mentioned. So, not for the same reasons that he mentioned, but that is where we are going, because we are going to get up one morning and realize that, oops somebody else got all the land or some particular sector; if it is the HDC, Sen. The Hon. Bharath is going to say, “Well, what is happening with agriculture?” And that is going to be a serious problem. The next generation is going to say, “Why did you all do that to us?”

So, we have to stop that approach of just, by “vaps”. Look at what we did to Port of Spain. Look at it! Nobody was able to stop it, and to correct that it is going to take millions and millions—I am not saying it cannot do, but once you pour concrete that is it. So, we have to be very, very careful how we alienate land in this country, and the mere fact that the Constitution or reference was made to the Constitution at one time to justify what is happening now means that there are some problems or, in fact, that the Constitution is open to certain types of interpretation that we need to be very, very careful about. And if we can go back and amend the Constitution in such a way that these discretionary interpretations are not possible, I think that is something that we need to do. But I am not very happy with how we are going with this business of land: land use, land tenure; that is going to cause serious, serious fight, because that is what they have been fighting for in a number of the countries that we are talking about.

How much time do I have, Madam Vice-President? Are we going to continue after this? I would like to talk a bit about Tobago and I would take, probably, maybe about 10 minutes to do that when I get back, so I would appreciate that.

Madam Vice-President: Hon. Senators, it is 4.30 p.m. and we would take the tea break and resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Madam Vice-President: Hon. Members, Sen. Dr. Armstrong was on his legs and by my calculation you have 15 minutes of your first 45 minutes of contribution. Continue.

Sen. Dr. J. Armstrong: Madam Vice-President, to just finish off the point that I was making, as I said, my concern really as suggested in the Motion, that we look at constitutional reform and, as I said, particularly, with respect to equity and I got to the point of saying that the direction in which we are going all indications are that we are not really paying sufficient attention to that, and particularly, with respect to our resources.

I am also glad that Dr. Sen. Tewarie is back now and I should take the opportunity to welcome you, because I was out of the Senate at that time when you joined us, but I want to just quickly reiterate that before you joined us in this Senate I had been raising with your predecessor the need for proper planning, planning not only with respect to land use—that is a traditional approach—but land use in the context of land and natural resources supporting most of our economic activities. That has been outstanding for a very, very long time and that is why we had the problem really between the Minister of Food Production, Land and Marine Affairs and the Minister of Housing and the Environment and the fact that the Prime Minister said, well, they would both talk, and that scares me as well, because if they divide it up between both of them, we are going to have another problem again. Because I mentioned earlier that Minister George is going to say, “But, I need land for my water resources” and so on, and Minister Warner is going to say, “Well, I want to develop A, B, C, D”; so that is really a very haphazard approach that is causing me great concern.

As I said, I do not know whether it is that I was quite unlucky, but a number of countries in which I have worked have come to war, they have come to war. In Sudan I was sent there to try to prevent it and it happened; Zimbabwe, war; Uganda, war; so please, I would really like us to look at this business of equity and when we are looking at the Constitution, recognize who we are, where we are and where we need to go as a people.

Now, I want to get on to the business of—I want to conclude by making some comments with respect to Tobago.

5.05 p.m.

My colleague, Sen. Dr. Wheeler, explained an issue which disturbs me greatly. I was not there, but I certainly would trust the account and the discretion of my colleague. I would have to agree that the incident to which he referred in my view also amounts to, not just disrespect but great disrespect. [*Desk thumping*] And again, it is something that we have to address, because we are really living in one country and if we continue the way that we are going, it is going to lead us down a road of no return and serious pain.

Now, there are certain peculiarities about Tobago, some of which Sen. Cudjoe mentioned. But apart from that, I want us to keep in mind that Tobago is a very small island, relatively small, limited land mass. It is because of these peculiarities that Tobago has to be given special consideration within the context of a twin-island state. Because there is a limited land mass, we have a limited natural resource space. So whereas there are certain things that can be done in Trinidad, for instance, maybe large industrial estates, you know, we really cannot do that in Tobago. So that really limits the kinds of things that can be done there, and the natural resource base that you have, is different.

Environmental sensitivity: In relation to Trinidad—a limited internal market. And then we can look at Trinidad and Tobago in terms of our relationship to let us say, the region and then to the world. Because very often we talk about the peculiarities of small-island States, such as Trinidad and Tobago. So when we look at it in that context we would say well, we can export to Caricom, Central America, US and so on, because we have a limited internal market and there are constraints of our relationship as a nation to the region and to the rest of the world. If however, you were to look only at the two countries, you would see that that kind of relationship is even more severe with respect to Tobago in relation to Trinidad.

So for instance, we might talk about Trinidad and Tobago experiencing external shocks, so to speak. If something happens in the economy, in the Americas—Central America—or even in the region, we are affected. We are affected because of these external shocks over which we have very little control. Similarly, if we were to reduce that to just the twin-island State we also have a situation in which again, in terms of that relationship, Tobago is at a disadvantage.

Let me give you an example.

Over the Easter weekend or just after Easter as well, there were a lot of activities taking place in Tobago and it is a place that a lot of people would go to for their holidays. Because of a decision made from what I understand, not by the THA which had no control over this situation, the ferry was not running. And because the ferry was not running, you had a problem. People started to cancel, “We are not going again” because you know—.

5.10 p.m.

Let me give you another example. The other day NP said they were going on strike. Shortage of fuel, the ferry said they cannot run. For four hours they could not move because NP said that they were giving priority to taxis and so on and so on. So you come down from Tobago, you are here for four hours and you cannot get home. You cannot jump in your car and drive. If you go and say, “Look, I want to buy a bag of cement”, it is a whole different price that you will have to pay.

So these kinds of things really put Tobago in a situation where their peculiarities must be managed, and must be managed with some authority and some predictability. How do you really ensure predictability? It means that you have to have some control or a certain relationship in which you can anticipate what is going to happen, and these are the difficulties that are faced by Tobago, which necessitated in the wisdom of Tobagonians and the Government that there would be a THA governed by certain legislation.

Therefore, that legislation or that institution has to be respected, because the THA is on the spot and has been mandated with a certain responsibility to deal with those peculiarities that necessitated the creation of that institution and, therefore, it is not about an individual or individuals. It is about an office, it is about an institution, and it is about legislative or statutory provisions. I do not think we can sit here and listen to what has happened and condone it in any way.

The other thing that I am little concerned about is something that Sen. Cudjoe also raised, having to do with the necessity for looking at the THA Act and, of necessity, provisions in the Constitution having to deal with that. She highlighted some concerns that I had, because I have been trying to follow that process for some time now. In fact, I was present at the consultations that were held with respect to the John Prince meeting. I found it to be very interesting, very engaging, and what struck me really was that you also had what I will call adversaries in the audience.

Process for Constitutional Reform
[SEN. DR. ARMSTRONG]

Tuesday May 31, 2012

So the information that there is now additional documentation that is being prepared—I do not know if it is being circulated because I have not seen anything—gives me some concern—I do not know. Maybe there could be 10 documents. It could be 15 documents. The only thing that I would urge is that we keep in mind the process. [*Interruption*] [*Sen. Cudjoe shows Sen. Dr. Armstrong a copy of a document*] I have that one, but that one does not look familiar. What is important here is, process. Not the document itself, but the process and the fact that whatever comes out of that—

Madam Vice-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. [*Hon. E. George*]

Question put and agreed to.

Sen. Dr. J. Armstrong: Thank you, colleagues. So what I am interested in really is the process. What do I mean by that? I do not think that any document having to deal with revisions to the Act or revisions to the Constitution in relation to Tobago is something that can come from the TOP or the UNC or the PNM. It has to come from the people, and [*Desk thumping*] that is the process I am talking about.

I do not know if there are several documents. The people would have to look at them and comment on them. The only fear that I have, is that knowing that this thing has gone a certain distance already, with the advent of additional documentation, it now sort of complicates the issue, but I am not too perturbed about that. The point that I want to make is that the people must participate in that.

So, Madam Vice-President, in closing, I would like to thank my colleague, Sen. Ramkhelawan, for putting this Motion on the Table, and to remind us all that we have a long way to go. We are going to be 50 years old pretty soon, and when we look around in the world today, it is not a pretty picture. I think that we have the resources in this country. We have the intelligence and what we need is the will to really make this one of the best countries in the world. As we proceed, I am again going to plead that we keep in mind those people that we are leaving behind because if we leave sufficient people behind we are going to have a problem. We are definitely going to have a problem. As I said, I think there are some early indications that that is the direction in which we are heading, and in this Chamber, in this place, I think we have the interest, the will, to really pull us back from the direction that we have been heading for the past few years.

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

ADJOURNMENT

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Madam Vice-President, I beg to move that this Senate do now adjourn to Tuesday, June 07, 2011 at 10.30 a.m., when we will be debating the Supplementary Appropriation Bill. I think I have the name correctly, I hope.

Sen. Beckles-Robinson: Madam Vice-President, before you put the question, I would like to say that I am really taken by shock and surprise, because a while ago, together with the Independent Senator, we agreed that we were going to dispose of this matter today and finish around 6.30 p.m. I do not know that the present hon. Minister sitting in the chair was so advised, but it makes things a little difficult and embarrassing because people plan accordingly, especially our colleague from Tobago; and Sen. Ramkhelawan was there. So I must say I am really surprised.

Sen. Ramkhelawan: Madam Vice-President, if I may? I want to endorse the sentiments of Sen. Beckles-Robinson because throughout the day we have been having discussions as to the completion of this matter which is Private Members' Day. It was on this basis that we had certain agreements with the Leader of Government Business for the ceding of certain of the time earlier today for private members.

I think the matter was made very clear the last time around that because of arrangement for private members, we are only going to end up with a situation where we have one matter on Private Members' Day, one Motion was dealt with and, that was Evaluation of Efficiency and Effectiveness (Parliament). We have now come to the second Motion; the clock is winding down in terms of this session of Parliament and, shall I say, we had some tacit agreements as to the way forward and I am indeed shocked. I am indeed very shocked, and I think all of us here in the Parliament Chamber, or most of us, are dismayed with what is happening here. What it would mean is that we would not have the completion of an exercise which has run for over four months. We would not have had a determination and a decision on this matter despite undertakings given. It is shocking and it is actually embarrassing, and it is disrespectful. [*Desk thumping*]

Sen. The Hon. E. George: Madam Vice-President, my instructions are that, and I repeat, I beg to move that this Senate do now adjourn to Tuesday, June 07, 2011 at 10.30 a.m., when we will be debating the Supplementary Appropriation Bill.

Sen. Beckles-Robinson: Madam Vice-President, even the time, 10.30 a.m. Hon. Minister, I know you have your instructions, but there are some of us who are also employed otherwise, and when you put it to 10.30 a.m. it means you put

Process for Constitutional Reform
[SEN. BECKLES-ROBINSON]

Tuesday May 31, 2012

us at a difficulty because we have organized our business for 1.30 p.m. We sat behind there and agreed on 11.00 a.m. This is just a question of trying to arrive at things where we could cooperate and, at the end of day, we do not appear to be criticizing and antagonizing. It is a little difficult when we agree on things and they change like that.

Sen. The Hon. E. George: Well, Madam Vice-President, we could adjust the time to 11.00 a.m.

Sen. Baptiste-Mc Knight: No, 1.30 p.m.

Sen. The Hon. E. George: 11.00 a.m.

Sen. Al-Rawi: To do what?

Madam Vice-President: The Supplementary Appropriation Bill.

Sen. Beckles-Robinson: We have not even gotten the Bill.

Madam Vice-President: My understanding is that you will get the Bill.

Sen. Beckles-Robinson: Anytime when?

Madam Vice-President: Soon. By today or tomorrow.

Sen. Al-Rawi: It will be laid tomorrow in the Lower House. [*Crosstalk*]

Question put.

Sen. Al-Rawi: Call for a division.

The Senate divided: Ayes 14 Noes 11

AYES

George, Hon. E.

Sandy, Hon. Brig. J.

Tewarie, Hon. Dr. B.

Gosine-Ramgoolam, Hon. R.

Ramnarine, K.

Karim, Hon. F.

Bharath, Hon. V.

Abdulah, D.

Adjournment

Tuesday 31 May, 2011

Watson, Prof. P.

Maharaj, D.

Moheni, E.

Burke, Archbishop B.

Panday, Hon. S.

Ramlogan, Hon. A.

NOES

Beckles-Robinson, Mrs. P.

Henry, Dr. L.

Cudjoe, Miss S.

Al-Raw, F.

Deyalsingh, T.

Ramkhelawan, S.

Baptiste-Mc Knight, Mrs. C.

Ramkissoo, Prof. H.

Wheeler, Prof. V.

Prescott SC, E.

Armstrong, Dr. J

Question agreed to.

Senate adjourned accordingly.

Adjourned at 5.26 p.m.