

HOUSE OF REPRESENTATIVES

Wednesday, November 01, 2023

The House met at 1.30 p.m.

PRAYERS



[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have received communication from the hon. Terrence Deyalsingh MP, Member for St. Joseph, who has requested leave of absence for the period November 1st to 3rd 2023 and from the hon. Shamfa Cudjoe-Lewis MP, Member for Tobago West, the hon. Ayanna Webster-Roy MP, Member for Tobago East, and Mrs. Anita Haynes-Alleyne MP, Member for Tabaquite, who have requested leave of absence from today's sitting of the House. The leave which the Members seek is granted.

JOINT SELECT COMMITTEES

(CHANGE OF MEMBERSHIP)

Madam Speaker: Hon. Members, correspondence has been received from the President of the Senate dated October, 24 2023, which states as follows:

“Dear Madam Speaker,

Re: Change in Membership of Joint Select Committees

Reference is made to the subject at caption.

At a sitting held on Tuesday October 24, 2023, the Senate agreed to the following resolution:

‘BE IT RESOLVED that the Senate agree to the following appointments to Joint Select Committees:

1. On the Local Authorities, Service Commissions and Statutory Authorities including the THA:

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- Ms. Sunity Maharaj in lieu of Dr. Varma Deyalsingh;
2. On the Human Rights, Equality & Diversity:
 - Mr. Helon Francis in lieu of Mrs. Hazel Thompson-Ahye;
 3. On the Public Accounts Committee:
 - Mrs. Hazel Thompson-Ahye in lieu of Mrs. Charrise Seepersad;
 4. On the Public Accounts (Enterprises) Committee:
 - Mrs. Hazel Thompson-Ahye in lieu of Ms. Amrita Deonarine;
 5. On the Public Administration and Appropriations Committee:
 - Dr. Sharda Patasar in lieu of Ms. Amrita Deonarine; and
 6. On the Joint Select Committee on Energy Affairs:
 - Prof. Gerard Hutchinson in lieu of Mrs. Charrise Seepersad.’

Accordingly, I respectfully request that the House of Representatives be informed of this decision at the earliest convenience please.

Thank you.

Respectfully,

/s/Nigel de Freitas

President of the Senate”.

SESSIONAL SELECT COMMITTEES (APPOINTMENT OF)

Madam Speaker: Hon. Members, pursuant to Standing Order 89 (2), I have appointed the following Members to serve on the sessional select committees of the House of Representatives for the Fourth Session Twelfth Parliament.

Standing Orders Committee

Mrs. Bridgid Annisette-George	Chairman
Mr. Faris Al-Rawi	Member
Dr. Nyan Gadsby-Dolly	Member

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Sessional Select Committees
(Appointment of) (cont'd)

Mr. Keith Scotland	Member
Mr. Dinesh Rambally	Member
Dr. Rishad Seecheran	Member

House Committee

Mrs. Camille Robinson-Regis	Chairman
Mr. Colm Imbert	Member
Mrs. Ayanna Webster-Roy	Member
Mr. Brian Manning	Member
Mr. David Lee	Member
Mr. Barry Padarath	Member

Committee of Privileges

Mrs. Bridgid Annisette-George	Chairman
Mrs. Camille Robinson-Regis	Member
Mr. Fitzgerald Hinds	Member
Mr. Stuart Young	Member
Dr. Roodal Moonilal	Member
Mr. Saddam Hosein	Member

Statutory Instruments Committee

Mrs. Bridgid Annisette-George	Chairman
Mr. Stuart Young	Member
Mr. Keith Scotland	Member
Mr. Kennedy Richards	Member
Mr. Rudranath Indarsingh	Member
Mr. Dinesh Rambally	Member

Business Committee

Mrs. Bridgid Annisette-George	Chairman
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Mrs. Camille Robinson-Regis	Member
Mr. Colm Imbert	Member
Mr. Stephen Mc Clashie	Member
Dr. Rai Ragbir	Member
Mr. Ravi Ratiram	Member

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2015. [*The Minister of Finance (Hon. Colm Imbert)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2016. [*Hon. C. Imbert*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Criminal Injuries Compensation Board for the year ended September 30, 2010. [*Hon. C. Imbert*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the College of Science, Technology and Applied Arts of Trinidad and Tobago for the year ended September 30, 2007. [*Hon. C. Imbert*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Sangre Grande Civic Centre for the year ended September 30, 2008. [*Hon. C. Imbert*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Sangre Grande Civic Centre for the year ended September 30, 2009. [*Hon. C. Imbert*]

7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Sangre Grande Civic Centre for the year ended September 30, 2010. [*Hon. C. Imbert*]
8. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of Sangre Grande Civic Centre for the year ended September 30, 2011. [*Hon. C. Imbert*]
9. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Sangre Grande Civic Centre for the year ended September 30, 2012. [*Hon. C. Imbert*]
10. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Sangre Grande Civic Centre for the year ended September 30, 2013. [*Hon. C. Imbert*]
11. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Sangre Grande Civic Centre for the year ended September 30, 2014. [*Hon. C. Imbert*]
12. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Sangre Grande Civic Centre for the year ended September 30, 2015. [*Hon. C. Imbert*]
13. Third Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Borough Corporation for the year ended September 30, 2001. [*Hon. C. Imbert*]
14. Third Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Borough Corporation for the year ended September 30, 2002. [*Hon. C. Imbert*]
15. Report of the Auditor General of the Republic of Trinidad and Tobago on the Non-Receipt of Financial Statements of the Agricultural Society of

- Trinidad and Tobago for the year ended December 31, 2009. [*Hon. C. Imbert*]
16. Report of the Auditor General of the Republic of Trinidad and Tobago on the Non-Receipt of Financial Statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 2010.
 17. Report of the Auditor General of the Republic of Trinidad and Tobago on the Non-Receipt of Financial Statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 2011.
 18. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Institute of Marine Affairs for the year ended September 30, 2010. [*Hon. C. Imbert*]
 19. Audited Financial Statements of the Trinidad and Tobago Housing Development Corporation for the fiscal year ending September 30, 2016. [*Hon. C. Imbert*]
 20. Audited Financial Statements of the Trinidad and Tobago Housing Development Corporation for the fiscal year ending September 30, 2017. [*Hon. C. Imbert*]
- Papers 1 to 20 to be referred to the Public Accounts Committee.*
21. Annual Report of the Police Service Commission for the period January 01, 2022 to December 31, 2022. [*The Deputy Speaker (Mr. Esmond Forde)*]
 22. Annual Report of the Statutory Authorities Service Commission for the period October 01, 2021 to December 31, 2022. [*The Minister of Housing and Urban Development (Hon. Camille Robinson-Regis)*].
 23. Annual Report of the Telecommunications Authority of Trinidad and Tobago for the fiscal year 2020/2021. [*Hon. C. Robinson-Regis*]

24. Administrative Report of the Ministry of Housing and Urban Development for fiscal year 2017/2018. [*Hon. C. Robinson-Regis*]
25. Administrative Report of the Ministry of Housing and Urban Development for fiscal year 2018/2019. [*Hon. C. Robinson-Regis*]
26. Response of the Office of the Prime Minister to the Fourteenth Report of the Public Administration and Appropriations Committee on an examination of the Implementation of the Recommendations contained in the Twenty-Fourth Report of the Public Administration and Appropriations Committee from the Eleventh Parliament on the Processing of the Payment of Pensions and Gratuities of Retired Public Officers and Contracted Employees. [*Hon. C. Robinson-Regis*]
27. Ministerial Response of the Ministry of National Security to the Fourteenth Report of the Public Administration and Appropriations Committee on an examination of the Implementation of the Recommendations contained in the Twenty-Fourth Report of the Public Administration and Appropriations Committee from the Eleventh Parliament on the Processing of the Payment of Pensions and Gratuities of Retired Public Officers and Contracted Employees. [*Hon. C. Robinson-Regis*]
28. Response of the Personnel Department to the Fourteenth Report of the Public Administration and Appropriations Committee on an examination of the Implementation of the Recommendations contained in the Twenty-Fourth Report of the Public Administration and Appropriations Committee from the Eleventh Parliament on the Processing of the Payment of Pensions and Gratuities of Retired Public Officers and Contracted Employees. [*Hon. C. Robinson-Regis*]

29. Saga of the Sir Solomon Hochoy Highway Extension to Point Fortin Project: From 2010 to 2023 – An Account of the Development and Execution of the Largest Infrastructure Development Project Implemented in Trinidad and Tobago. [*Hon. C. Robinson-Regis*]
To be referred to the Joint Select Committee for Land and Physical Infrastructure.

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Social Services and Public Administration

Technical or Vocational Programmes

(Examination of)

Ms. Vandana Mohit (*Chaguanas East*): Thank you Madam Speaker. Madam Speaker, I have the honour to present the following report:

Sixth Report of the Joint Select Committee on Social Services and Public Administration on an examination of the state of technical or vocational programmes and their contribution to achieving the developmental goals of Trinidad and Tobago, Third Session (2022/2023), Twelfth Parliament.

Public Procurement System

(Implementation of)

The Minister of Public Utilities (Hon. Marvin Gonzales): Thank you very much, Madam Speaker. Madam Speaker, I have the honour to present the following reports:

Sixth Report of the Joint Select Committee on Finance and Legal Affairs on a follow-up Inquiry into the implementation of the new Public Procurement System, Third Session (2022/2023), Twelfth Parliament.

**Legal Aid and Advisory Authority and the
Public Defenders' Office
(Accessibility and Quality of Legal Representation)**

Seventh Report of the Joint Select Committee on Finance and Legal Affairs on an Inquiry into the accessibility and quality of legal representation provided by the State with specific focus on the Legal Aid and Advisory Authority and the Public Defenders' Office, Third Session (2022/2023), Twelfth Parliament.

URGENT QUESTIONS

**Prevention of Fatal Accidents in Open Trenches
(Measures taken by WASA)**

Mr. Rudranath Indarsingh (*Couva South*): Given that employees of the Water and Sewerage Authority (WASA) continue to work in open trenches, will the Minister inform this House of the measures put in place by WASA to prevent fatal accidents in open trenches?

The Minister of Public Utilities (Hon. Marvin Gonzales): Thank you very much, Madam Speaker. Madam Speaker, I take this opportunity to express deep condolences on behalf of the Water and Sewerage Authority, the Government of Trinidad and Tobago and on my own behalf, to the family of deceased worker Kern Etienne, who met an untimely death while on a WASA's worksite.

I wish to assure this, Madam Speaker, that it is standard operating practice in keeping with the Occupational Safety and Health Regulations, that a safety officer is assigned and is present at all our work sites, including those where work is being undertaken in open trenches. In the case of open trenches, the trenches are protected systems and are inspected daily to ensure compliance with safety standards. These requirements are stringently enforced.

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With respect to the unfortunate incident which resulted in the death of the WASA employee recently, Madam Speaker, investigations have been launched by WASA and also by OSHA and it would be premature of me to comment on the findings at this stage. I can assure this House that the findings of the report would be made public and if any negligence is found on the part of WASA, we would allow the chips to fall where they may.

1.45 p.m.

Madam Speaker: Member for Couva South

Mr. Indarsingh: Thank you, Minister. Minister, given your line of responsibility, could you inform this House, when did WASA preserve the accident site in keeping with Section 47 of the Occupational Safety and Health Act?

Madam Speaker: Minister.

Hon. M. Gonzales: Madam Speaker, I am advised by the management and the board of WASA that as soon as this incident occurred, WASA triggered its safety protocols, including its responsibility under the OSH Act, and I am satisfied that this has been complied with.

Madam Speaker: Member for Couva South.

Mr. Indarsingh: Minister, could you confirm or deny whether the accident site was covered up by employees of the Water and Sewerage Authority shortly after the accident, based on the pronouncement of the President General of the National Union of Government and Federated Workers, James Lambert?

Madam Speaker: Minister.

Hon. M. Gonzales: Madam Speaker, I have said in my opening statement, this investigation is well on the way and I am not prepared to comment on statements made by uninformed persons in the national media. I will await the outcome of the investigation and it will be made public.

Hon. Members: [*Desk thumping*]

Madam Speaker: Member for Couva North.

Safe/Efficiently Run Fleet of PTSC Buses

(Steps Taken to Ensure)

Mr. Ravi Ratiram (*Couva North*): Thank you most kindly, Madam Speaker. To the Minister of Works and Transport: Given recent protest action by PTSC workers, will the Minister indicate what steps are being taken by PTSC's management to ensure a safe and efficiently run fleet of buses for the traveling public?

Madam Speaker: Minister of Works and Transport.

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. PTSC, in conjunction with the Licensing Division, conducts annual inspection of its buses. Additionally, PTSC's Engineering Department conducts a daily check of its buses. After every trip, a first-line checklist is carried out by the mechanics and electricians, which includes brakes, fuel, suspension, et cetera. Once the buses are cleared, it is dispatched. If not, it is taken out of service and sent for repairs, prior to being placed back on line. Thank you.

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: To the hon. Minister: Could the Minister indicate, at this time, how many routes are not being serviced as a result of the lack of maintenance of the PTSC fleet?

Madam Speaker: Minister.

Sen. The Hon. R. Sinanan: Madam Speaker, the amount of routes that are being serviced and not being serviced has nothing to do with the lack of maintenance, it has to do with the lack of buses on the route. Thank you.

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Minister, therefore, are you suggesting that the problem is the lack of buses, not the maintenance of the fleet, so at this time you do not have any buses now that are down and due for maintenance that could be on the road?

Sen. The Hon. R. Sinanan: Madam Speaker, maintenance of buses is an ongoing exercise. At all points in time, you will have buses down for maintenance. The problem that PTSC is faced with is the amount of buses and that is why the Cabinet of the country took a decision a year ago to increase the fleet by 300 buses. That will give the adequate number of buses to ensure that all the routes are properly attended to. Thank you.

Madam Speaker: Member for Couva North.

Cyberattacks on TSTT

(Measures to Prevent)

Mr. Ravi Ratiram (*Couva North*): Thank you most kindly, Madam Speaker. To the hon. Minister of Public Utilities: Given the recent confirmation of a cyberattack on TSTT, will the Minister state, what measures have been put in place to prevent further attacks?

Madam Speaker: Minister of Public Utilities

The Minister of Public Utilities (Hon. Marvin Gonzales): Thank you very much, Madam Speaker. TSTT is committed to safeguarding the safety and security of its customers' information. As stated by the company in its media release on Monday the 30th of October, 2023, cyber attackers attempted to gain unauthorized access to its systems. TSTT has continuously invested millions of dollars in resources, in its processes and ICT infrastructure to protect the terabytes of data it produces and stores.

As you are aware, Madam Speaker, cyberattacks have become increasingly

sophisticated and their frequency has increased significantly. TSTT's immediate response was to isolate the threat and launch a comprehensive investigation to ascertain the full impact of the incident. The company enlisted the support of internationally recognized cybersecurity experts and partners in investigating the attempted breach and advising on the implementation of appropriate additional security measures and protocols. Some of these recommendations have already been implemented.

1.50 p.m.

Services to customers, Madam Speaker, were not impacted, save for a few hours, customers were not able to call other networks. For a longer period, customers were unable to pay bills online, or through the bmobileGo app. Communication was made to customers about payment options through the banks and NLCB outlets.

Madam Speaker: Member for Couva North. Member for Couva South.

Mr. Indarsingh: Mr. Minister, in March of 2022, you stated that there was a malware incursion at TSTT and that at no time, no data was compromised. Could you inform this House based on this recent cyber-attack, if any of TSTT's data and so on, was compromised?

Madam Speaker: Minister.

Hon. M. Gonzales: Thank you very much, Madam Speaker. Madam Speaker, I can advise the hon. Member that based on the safety protocols that were triggered when the incursion was detected, that TSTT's data and the data of its customers were not in any way compromised.

Madam Speaker: Member for Couva South.

Mr. Indarsingh: Minister could you indicate to this House whether *Newsday* wrongly misquoted you when you indicated claims of a ransomware attack on

TSTT were not true?

Madam Speaker: Member is that—the *Newsday* report, is it related to this question?

Mr. Indarsingh: Yes. Certainly.

Madam Speaker: Okay. Because you did not quote a date.

Dr. Moonilal: He is saying something else now.

Hon. Member: He is saying the opposite now.

Madam Speaker: You did not quote a date of that report. So it could have been 1990 or 2000, I do not know. So if you could put it in context, please.

Mr. Indarsingh: Madam Speaker, *Newsday* article, written two days ago by Narissa Fraser:

“Gonzales: Ransomware attack on TSTT ‘not true.’”

I am simply seeking clarification from the line Minister whether he was wrongly misquoted by the *Newsday* newspaper.

Madam Speaker: Minister.

Hon. M. Gonzales: Madam Speaker, I will not respond to that report by the *Newsday*. I have not read it and therefore I am prepared to provide—

Mr. Indarsingh: But you responded—

Hon. M. Gonzales:—any clarification, but I am not responding to this report. I did not make that statement.

Hon. Members: [*Desk thumping*]

ORAL ANSWERS TO QUESTIONS

The Minister of Housing and Urban Development (Hon. Camille Robinson-Regis): Thank you, Madam Speaker. There are five questions for oral response, we will be answering all five. There are no questions for written response.

Madam Speaker: Member for Oropouche East.

Hon. Members: [*Desk thumping*]

Ramai Trace Hindu School

(Opening of)

1. **Dr. Roodal Moonilal** (*Oropouche East*) asked the hon. Minister of Education: Will the Minister state the expected date for the formal opening of the Ramai Trace Hindu School?

Madam Speaker: Minister of Education.

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam Speaker. The expected date for the completion of works at Ramai Trace Hindu School is November 2023, as provided by our project managers The National Maintenance Training and Security Company Limited. A snagging exercise was conducted on October 18th, 2023 to ensure that works are completed to the expected standard. The date for the formal opening will be advised subsequently.

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Madam Speaker, thank you for the clarity. After eight years of waiting, Madam Minister, can you indicate whether the children and the parents at Ramai Trace Hindu School can expect the school opening as a gift for Divali?

Madam Speaker: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam Speaker. Madam Speaker, I said November and of course, we would love for it to be open for Divali, but we cannot confirm that. We want to ensure that it is finished up to the expected standard and if it is before that, then we all win.

Hon. Members: [*Desk thumping*]

Madam Speaker: Member for Oropouche East.

UWI Debe/Penal Campus

(Update on)

2. Dr. Roodal Moonilal (*Oropouche East*) asked the hon. Minister of Education: Will the Minister provide an update on the future use of the Debe-Penal Campus of the University of the West Indies?

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam Speaker. Madam Speaker, the University of the West Indies has proposed the repurposing of the Debe/Penal Campus to establish a global school of medicine and offshore medical school within the Faculty of Medical Sciences, University of the West Indies, St. Augustine Campus located at The UWI South Campus.

The UWI's proposal involves the university raising financing for the project via a public bond of \$335 million and financing from the Government for recurrent expenditure until the proposed offshore medical school becomes profitable and generates positive cash flow.

We are awaiting further details from UWI, St. Augustine on what is required from the Government for the \$335 million bond financing and whether this bond has received all of the requisite internal approvals within the UWI system.

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Thank you very much. Madam Minister, thank you for the response. Can you indicate whether or not there is a timeframe for the implementation of this strategic proposal for an offshore medical school at the Debe Campus?

Madam Speaker: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: In terms of a timeframe, once we have completed our discussions with UWI and we are sure that everything is above board and the way it is supposed to be then, we will proceed. So I do not want to tie it to a timeframe at this time because the discussions are not advanced to that stage just yet.

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Thank you. Minister of Education can you indicate whether or not the Ministry is in possession of any report that deals with the incurring of new costs at that campus due to the campus being abandoned for the last eight years or so, a cost of reconstruction, outfitting, retrofitting, and so on.

Madam Speaker: Member, I rule that out of order—

Dr. Moonilal: Sure.

Madam Speaker: —having regard to the initial question of the responses thus far. Member for Couva South.

**Caroni (1975) Limited Operations
(Decision on)**

5. Mr. Rudranath Indarsingh (*Couva South*) asked the hon. Minister of Finance:

Will the Minister state whether a decision has been taken by the Board of Directors of the Caroni (1975) Limited to formally wind-up its operations?

The Minister of Finance (Hon. Colm Imbert): Thank you very much, Madam Speaker. Madam Speaker, given the hon. Member's former position as Minister in the Ministry of Finance in the 2010—2015 period, the Member would be aware that in July of 2003, the Cabinet made a decision that Caroni (1975) Limited will be a non-trading company or an inactive company.

Madam Speaker: Member for Couva South.

Mr. Indarsingh: Madam Speaker, in the context of the Industrial Relations Offence number nine of 2003 which is registered between the *All Trinidad Sugar and General Workers' Trade Union and Caroni (1975) Limited* as it relates to entitlements for the former workers of the Caroni (1975) Limited, I am simply asking the Minister to indicate whether there has been a formal decision to dissolve the operations of what is left of Caroni (1975) Limited.

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Madam Speaker, the precise wording of the question is for the record because Members opposite have a tendency to misquote, the question posed was:

“...whether a decision has been taken by the Board of Directors of Caroni (1975) to formally wind-up its operations?”

I have just been asked about whether a decision was taken to dissolve the company. I can deal with this question if the Member will recite it properly.

Madam Speaker: Member for Couva South.

Mr. Indarsingh: Madam Speaker, this is not a question of semantics.

Hon. Members: [*Desk thumping*]

Mr. Indarsingh: This is a question—

Madam Speaker: Member, if it is a supplemental question, you are not allowed statements, okay? You have exactly two seconds—15 seconds to ask the question so if you have a supplemental go ahead.

Mr. Indarsingh: Thank you. Given the entitlements that are due to former workers of Caroni (1975) Limited as it relates to agricultural and housing lots. Could the Minister indicate whether the Government has taken a formal decision to dissolve the operations of Caroni (1975) Limited?

Hon. Members: [*Desk thumping*]

2.00 p.m.

Madam Speaker: Member, I have to rule that question out of order having regard to the first question and the response, the supplemental and the response. Member for Couva South.

**Former Caroni (1975) Limited Workers
(Distribution of Leases/Deeds)**

6. Mr. Rudranath Indarsingh (*Couva South*) asked the hon. Minister of Agriculture, Land and Fisheries:

Further to the response provided to the House of Representatives to Question No. 64 on January 23, 2023, will the Minister provide an update on the number of agricultural leases and residential deeds yet to be distributed to former Caroni (1975) Limited workers?

Madam Speaker: The Minister in the Ministry of Agriculture, Land and Fisheries.

The Minister in the Ministry of Agriculture, Land and Fisheries (Sen. The Hon. Avinash Singh): Thank you, Madam Speaker. Madam Speaker, this Government continues to distribute leases to former workers of Caroni (1975) Limited. It is to be noted that the distribution of leases falls under the ambit of the following agencies: Caroni (1975) Limited, responsible for the distribution of all residential deeds; the Estate Management and Business Development Company Limited, EMBD, responsible for the distribution of all two-acre agricultural leases in seven agricultural estates, namely Caroni, Edinburgh, Felicity, Jerningham Junction, La Fortune, Picton and La Gloria; and the Commissioner of State Lands, responsible for the distribution of two-acre agricultural leases in 10 agricultural estates, Exchange 1, Exchange 2, Waterloo 1 and 2, Montserrat 1 and 2, Cedar Hill, Reform, Orange Grove and Petit Morne.

To date, Madam Speaker, a total of 11,151 residential deeds and agricultural leases have been distributed as follows: 4,778 residential leases by Caroni (1975) Limited; 2,767 agricultural leases by the EMBD; 3,597 agricultural leases by the Commissioner of State Lands.

Madam Speaker, I also wish to provide an update to this honourable House on the number of outstanding residential deeds and agricultural leases as at September 30,

2023: 3,806 residential leases under Caroni (1975) Limited; 108 agricultural leases under the Estate Management and Business Development Company; and 612 agricultural leases under the Commissioner of State Lands. That brings you a total of 4,526 leases outstanding to be delivered. Thank you, Madam Speaker.

Madam Speaker: Member for Couva North.

Mr. Ratiram: Thank you most kindly, Madam Speaker. Madam Speaker, to the hon. Minister: Minister, can you give us a timeline for the completion of the distribution of these deeds to the former Caroni workers?

Madam Speaker: The Minister in the Ministry of Agriculture, Land and Fisheries.

Sen. The Hon. A. Singh: Madam Speaker, it must be also noted that there are many litigation matters involving contractors. A number of sites have not been handed over by the EMBD to Caroni for residential leases to be completed. We have cases of incorrect contact information and/or the inability to communicate with some of these recipients. Many of the agricultural leases are outstanding. Attempts have been made to contact persons with no success. There are also litigation matters related to letters of administration, letters of the estate matters and so on. So it will be legally impossible for me to give a time frame to adjudicate on the issue at hand.

Madam Speaker: Member for Couva South.

Mr. Indarsingh: Thank you very much, Madam Speaker. Taking into consideration the Minister just stated to this House that there are a number of persons that Caroni (1975) Limited has been trying to get in contact with, is he willing to put that in writing, in terms of the names and those persons that they have been unable to get in contact with?

Madam Speaker: Minister.

Sen. The Hon. A. Singh: Madam Speaker, I want to also place on record that that

list of those names that the hon. Member is seeking has been published in all daily newspapers over the course of the last 10 years. And I want to also state that out of that list, the original list of 1,751 names, 1,100-plus persons would have approached the Ministry and now there are 500-plus persons that are still missing in action and these persons, Madam Speaker, some may have migrated, some are actually in prison and there are various reasons as to why we cannot deal with those—the balance of those. Thank you.

Madam Speaker: Member for Couva South.

Brechin Castle in Couva

(Status of Rehabilitation Works)

7. **Mr. Rudranath Indarsingh** (*Couva South*) asked the hon. Minister of Works and Transport:

Will the Minister state when Factory Road, Brechin Castle in Couva (referred to as ‘UTT Roadway’) will be formally rehabilitated?

Madam Speaker: Minister of Works and Transport.

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):

Thank you. Thank you again, Madam Speaker. Madam Speaker, Factory Road does not fall under the purview of the Ministry of Works and Transport. Rather it falls under the Couva/Tabaquite/Talparo Regional Corporation. However, this road is earmarked for rehabilitation under our new programme where, in collaboration with Ministry of Rural Development and Local Government, all roads in Trinidad are being addressed on a phased basis. In that respect, two contracts were awarded for sectional road rehabilitation of Factory Road, Esperanza, including the UTT Roadway. Following the execution of the contracts and other mandatory submissions, it is anticipated that work will commence shortly. Thank you.

Madam Speaker: Member for Couva South.

Mr. Indarsingh: Taking into consideration the timeline of “shortly”, work will begin shortly, could the Minister inform this House whether the rehabilitation works will be undertaken by the PURE division of the Ministry of Works and Transport or the Secondary Road Rehabilitation and Improvement Company Limited?

Madam Speaker: Minister of Works and Transport.

Sen. The Hon. R. Sinanan: Madam Speaker, I actually wanted the Member to fall into the trap. The work had actually started this morning. If you pass there, you will see a contractor has been mobilized and the work has started—

Hon. Members: [*Desk thumping*]

Sen. The Hon. R. Sinanan:—and it is being done under the purview of the PURE Unit. So, Member, when you are going back home this afternoon, you will be driving on a new road. Thank you.

Mr. Indarsingh: Thank you. I will file the question—[*Inaudible*]

SUSPENSION OF STANDING ORDER 24(3)

Madam Speaker: Leader of the House.

The Minister of Housing and Urban Development (Hon. Camille Robinson-Regis): Thank you, Madam Speaker. Madam Speaker, I seek your leave in accordance with Standing Order 122(1) to move a Motion for the suspension of Standing Order 24(3) which provides the time limit for Statements by Ministers.

Madam Speaker: Hon. Members, leave is granted. Leader of the House.

Hon. Members: [*Interruption*]

Hon. C. Robinson-Regis: Oh gosh. Would you all ever know your Standing Orders? Learn your Standing Orders, “nah”. Madam Speaker, I beg to move that

Standing Order 24(3) be suspended to permit the Prime Minister to speak until the conclusion of his statement.

Question put.

Hon. C. Robinson-Regis: Division.

The House divided: Ayes 18 Noes 16

AYES

Robinson Regis, Hon. C.

Rowley, Hon. Dr. K.

Imbert, Hon. C.

Young, Hon. S.

Hinds, Hon. F.

Beckles, Hon. P.

Gadsby-Dolly, Hon. Dr. N.

Gonzales, Hon. M.

Mc Clashie, Hon. S.

Cummings, Hon. F.

Forde, E.

de Nobriga, Hon. S.

Leonce, Hon. A.

Manning, Hon. B.

Morris-Julian, Hon. L.

Scotland, K.

Richards, K.

Munroe, R.

NOES

Lee, D.

Charles, R.

Ameen, Ms. K.

Indarsingh, R.

Padarath, B.

Moonilal, Dr. R.

Hosein, S.

Paray, R.

Ratiram, R.

Bodoe, Dr. L.

Rambally, D.

Ram, A.

Ragbir, Dr. R.

Tancoo, D.

Mohit, Ms. V.

Seecheran, Dr. R.

Question agreed to.

Hon. Members: [*Desk thumping*]

STATEMENT BY MINISTER

Sir Solomon Hochoy Highway Saga

(Extension to Point Fortin)

Madam Speaker: Prime Minister.

Hon. Members: [*Desk thumping*]

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, I have been authorized by the Cabinet to make the following statement. Madam Speaker, the national multi-learning international standard high network dates back to the '60s in the post-independence era in Beetham, Port of Spain. This major ambitious

infrastructure development was undertaken in stages and in phases over the various decades. In all instances, Madam Speaker, these major projects have been advanced through the expenditure of substantial sums of money and usually included a not insignificant portion of many annual development budgets.

The process for the construction of this highway, Madam Speaker, from San Fernando to Point Fortin, was initiated by a previous PNM Government, the Manning administration of 2007 to 2010. The north-south highway artery had reached Golconda by 2010. The next leg was to be onwards from there to Point Fortin. Finally, Point Fortin was going to get this highway, its modern-day connection to San Fernando.

Madam Speaker, the Point Fortin highway exercise was initiated through the process of invitation of tenders in early 2010. However, although tenders were received in April 2010, the contract was not awarded by the PNM prior to the May 24th general election since the bids received were significantly higher than the engineer's estimate of \$3.6 billion. A proper review and revision was called for and was anticipated. Madam Speaker, this did not happen.

On March 4th, 2011, the UNC Government, through NIDCO, awarded a design-build contract to a Brazilian firm, Construtora OAS, simply called OAS, for the lump sum of approximately \$5.2 billion. This was \$1.6 billion more than the original engineer's estimate.

Madam Speaker, a few weeks after the UNC came into office and met this project on the table for consideration of an award of a contract for the continuation of construction, an interested group of known high-levelled Brazilian executives of OAS flew by Dassault private jet from Rio de Janeiro to Durban in South Africa in pursuit of this said contract.

2.15 p.m.

Those executives then traveled by car to Johannesburg for the singular purpose, Madam Speaker, of meeting a Member of the Cabinet of Trinidad and Tobago, a Minister responsible for and involved in the decision of this project. Madam Speaker, this secret meeting between the UNC Minister, responsible for the project and the OAS, took place at the Michelangelo Towers in Johannesburg, during the FIFA World Cup in South Africa. No Member of the UNC Government has ever acknowledged that this meeting took place, nor has anyone of them ever attempted to explain what was the purpose and outcome of this transatlantic secret meeting, on the eve of an award of this multibillion-dollar contract which was hurriedly wrapped up here in Trinidad and Tobago after the World Cup. Madam Speaker, this contract was governed by the FIDIC Yellow Book. One of the major benefits of utilizing FIDIC—

Mr. Ratiram: [*Inaudible*]

Madam Speaker: Member for Couva North, you are distracting me, please. Prime Minister.

Hon. Dr. Rowley: Madam Speaker, this contract was governed by the FIDIC Yellow Book. One of the major benefits of utilizing FIDIC terms and conditions is that these terms and conditions are standard and internationally recognized. A party should only with very good reason, amend the terms and conditions of FIDIC. Despite this, Madam Speaker, the former UNC Government, upon initiating the contract changed the standard and accepted advance payment terms from 10 per cent to 20 per cent of the contract sum. This upward amendment immediately resulted in OAS receiving approximately TT \$856 million, as opposed to \$428 million as an advance. Another major issue, Madam Speaker, at inception was that all payments made to OAS for activities under the letter of intent, which totaled \$236.4million, should have been deducted from the advance

payment. However, these sums were not deducted.

So, even before the construction began, Madam Speaker, before the ground was scratched, the former Government provided OAS with over \$1billion of taxpayer funds. Madam Speaker, this contract, the project, should have been completed in March 2015, it was a four-year contract to provide a four-lane divided highway with full grade separation and separate interchanges. It included eight such interchanges, as well as eight river bridges. It was far from being completed, Madam Speaker, when the UNC demitted office in early September 2015, work had come to a virtual halt and unpaid local contractors were bawling and turning to the new Government for help.

Madam Speaker, the UNC Government chose to pay OAS and others via cash transfers from the Ministry of Finance up to 2014, putting a strain on the country's available cash. This method of funding of the largest contract ever awarded in this country also ensured that there was to be no oversight in payment and procedure. Madam Speaker, when the PNM came into office in September 2015, over \$5billion had already been spent with only 49 per cent of the construction being completed by OAS. This, despite the then government officials telling the population over and over that it was on budget and on time.

Madam Speaker, the contract was in trouble from the start and OAS began to run into serious difficulties early in 2015. They defaulted on paying sub-contractors, and were late in paying the workers. Their difficulties continued with worsening effect, and they subsequently demobilized in December 2015, with the site being almost completely abandoned. There were protests by workers for non-payment of salaries, lawsuits by third parties, and repossessions of equipment. Against this backdrop, Madam Speaker, the International Newsreel, confirmed that OAS had filed for judicial reorganization in Brazil, on the 31st of March, 2015, whereby it

sought bankruptcy protection. In law and under the contract OAS was considered to be bankrupt from March 31st, 2015.

2.20 p.m.

By March 2015, therefore, Madam Speaker, the project was in dire difficulties and the former Government should have been pursuing ways and means to terminate the contract with OAS to protect the public interest. Under FIDIC, there are various ways to terminate, with varying degrees of complication and potential litigation. However, Madam Speaker, virtually all commercial contracts allow for automatic termination upon a party becoming and declaring bankruptcy. The relevant clause existed in our contract here. Under the FIDIC contract, the UNC Government could have and was required to immediately invoke clause 15(2)(e) and terminate OAS on the ground that it was bankrupt. This was probably the simplest—

Mr. Hosein: Madam Speaker, I am sorry to disturb the Prime Minister but I have to rise on Standing Order 49 on matters of sub judice. This matter has been appealed to the Court of Appeal of Trinidad and Tobago involving OAS.

Madam Speaker: Overruled.

Hon. Dr. K. Rowley: Thank you, Madam Speaker. Madam Speaker, this is probably the simplest and least contentious form of termination under FIDIC, and OAS would not have been able to make any justifiable claim against the Government for wrongful termination. The public money and the public interest would have been easily protected.

However, Madam Speaker, what was discovered upon review was that on September 04, 2015, that being the last working day before the general election of September 07, 2015, the UNC Government, rather than use this opportunity to terminate the contract in a clean, cost-effective, responsible and non-contentious

manner, secretly entered into a written agreement with OAS, whereby the Government waived the ability to terminate the contract on the grounds of OAS' bankruptcy. Instead, on September 04, 2015, the UNC Government reaffirmed in writing their desire to keep a company that was bankrupt in Brazil as their preferred contractor for the Point Fortin Highway.

Madam Speaker, this was done against the advice of NIDCO's consultants. On September 04, 2015, the former Government entered into a written agreement with OAS called Addendum No. 2, whereby they expressly recognized that OAS was bankrupt and stated that they could invoke clause 15(2)(e) of the FIDIC contract, immediately terminating the contract. However, despite this, they proceeded secretly to give up this right of termination and waived all claims against OAS, thus releasing and discharging OAS from any liability to Trinidad and Tobago. This curious action, Madam Speaker, paved the way for the Government of Trinidad and Tobago to stand to lose over \$900 million in bonds that secured the State's interest in the event of bankruptcy of the contractor.

Madam Speaker, this action by the UNC Government, on the day before a general election, was very questionable and they have never explained their conduct. Not one of them has ever attempted to provide a plausible explanation as to why they were so generous and protective of a disgraced Brazilian contractor. Additionally, they removed from OAS' responsibility substantial sections of the highway, with an intention to award the construction of these unbuilt parts of the highway to other contractors at an additional cost to the taxpayer.

Madam Speaker, they removed 26 per cent of the highway works worth \$1.5 billion from OAS' contract but surprisingly, still agreed to pay OAS the full \$5 billion for the reduced scope of work that remained with OAS. Further, Madam Speaker, in a curious attempt at what they have described as something called

“value engineering”, they also removed four interchanges and replaced them with roundabouts, and reduced four lanes to two lanes on the Siparia to Mon Desir segment of the highway. So whilst the value of the product was being significantly reduced by the removal of interchanges and lanes, the costs were escalating. The estimated cost to complete the highway was in excess of \$8 billion by the time the new Government was elected in office. Madam Speaker, they also agreed to a new completion date of May 28, 2016, one year after the original completion date, with no known penalty applied.

To summarize, Madam Speaker, on September 04, 2015, when OAS was in bankruptcy and was experiencing severe difficulty in meeting its obligations to local suppliers, subcontractors and its workers, rather than terminate OAS, the former Government agreed to allow OAS to continue with the contract for roughly the same sum they were originally contracted for, that is \$5 billion. The UNC Government went further and burdened taxpayers with additional expenses of over \$2 billion to pay new contractors to complete the portion of the highway excised from OAS’ contract.

Madam Speaker, against this background, the new PNM Government in September 2015, moved to have OAS properly terminated despite all that was done by the UNC to jeopardize the ability of NIDCO to terminate OAS. NIDCO was eventually able to terminate OAS on July 06, 2016, 15 months after the bankruptcy protection clause was triggered. In the period leading up to this termination, OAS had effectively and openly abandoned the project. It was selling off equipment. It had informed NIDCO that it was scaling down its workforce, workers were protesting for unpaid wages, subcontractors were claiming hundreds of millions of dollars from OAS, work was not taking place in any meaningful way, and OAS and NIDCO had substantial disagreements as to moneys being owed, delays and

quality of work.

Madam Speaker, NIDCO terminated OAS based on the advice of the engineer that OAS was unable to proceed with the works required by the contract. NIDCO immediately commenced drawing down the advance payment and performance securities in the total sum of US \$139,572,877—that is US \$139,572,000. It is irrefutable that had clause 15(2)(e) not been removed, the termination of OAS would have been clean and simple on the basis that OAS was subject to judicial re-organization. The PNM Government took action in courts in many parts of the world, including in the UK and in New York, to pursue the various bonds and letters of credit that had been taken out by OAS in favour of NIDCO to secure the taxpayers' interest. The Government was able to successfully recover approximately \$970 million via these bonds and letters of credit, and we utilized this money in the completion of the Point Fortin Highway.

Hon. Members: [*Desk thumping*]

Hon. Dr. K. Rowley: Madam Speaker, we fought for the return of public money, we won in the courts and we built the highway.

Hon. Members: [*Desk thumping*]

Hon. Dr. K. Rowley: Madam Speaker, the indelible and undisputed question remains, what was the benefit to be gained by the people of Trinidad and Tobago by annulling a clause designed to protect us from bankruptcy or judicial management when dealing with a contract which had gone bankrupt or under judicial management? The question remains, Madam Speaker, why? Why the secrecy, especially coming from people who now from the Opposition Benches want total openness and instant public accounting and public reporting on any and all events, sometimes even before they occur?

The drawing down on the advance payment and performance securities was met

with resistance by some of the institutions that had issued them and by OAS. NIDCO pursued these matters in courts in various jurisdictions abroad. NIDCO was successful by order of the courts, including the Supreme Court of England and Wales. The court even directed that the money recovered in the interim must only be used to carry on the project.

Madam Speaker, unfortunately, along the way there was a decision delivered by a tribunal of arbitrators in a London Court of International Arbitration, LCIA, an arbitration matter between OAS and NIDCO on April 16, 2022, that went against NIDCO. Fortunately, we did not give up and NIDCO appealed the arbitration to our High Court and on December 14, 2022, Justice Seepersad upheld NIDCO's argument that the arbitration tribunal had got it wrong and he set aside the award issued by the tribunal and remitted the matter back to the panel for reconsideration. In his judgement, Madam Speaker, the judge indicated that NIDCO had properly terminated the contract with OAS. It was our view that the public needs to know a number of things:

1. By what process, advice and documentation was it determined that the billion-dollar contract must be amended to grant an \$852million waiver to OAS?
2. Who authorized the amendment of the contract?
3. What was the specific purpose and benefit to be had and by whom?
4. Who actually carried out these instructions?
5. What was the role of the Ministry of Works and Transport and the board of NIDCO, the consultant and the management in effecting the amendment and its consequent waiver?

Madam Speaker, with these questions and more to be answered, it follows that the public, through its representatives in this House, must seek and obtain answers

from all persons involved or associated with this scandal.

Hon. Members: [*Desk thumping*]

Hon. Dr. K. Rowley: Madam Speaker, this is even more necessary since, in recent times, attempts have been made to give opportunity to persons to put misinformation on the parliamentary record. Today, as I make this statement, a Paper entitled: “The Saga of the Sir Solomon Hochoy Extension to Point Fortin Project: From 2010 to 2023 – An Account of the Development and Execution of the Largest Infrastructure Development Project Implemented in Trinidad and Tobago” has been laid in this House and referred to the Joint Select Committee on Land and Physical Infrastructure.

Hon. Members: [*Desk thumping*]

Hon. Dr. K. Rowley: These documents have been laid for the Committee on Land and Physical Infrastructure for urgent detailed examination. Madam Speaker, I thank you and my colleagues for your attention.

Hon. Members: [*Desk thumping*]

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Thank you very much, Madam Speaker. Madam Speaker, pursuant to Standing Order 24(4), one question to the Prime Minister. Prime Minister, in light of your statement, are you aware that a 15-member committee comprising PNM Government officials met on May 20, 2010, four days before a general election, and recommended that the contract be awarded to OAS, which had the lowest bid of \$5.2 billion, and in addition, the very NIDCO board appointed by the then PNM Government hosted NIDCO on the 25th of May, 2010, hours after a general election to indicate that they were the preferred bidder of the People’s National Movement Government?

Mr. Hosein: Oh my God.

2.35 p.m.

Madam Speaker: Prime Minister.

Mr. Hosein: Destroy him with one question.

Hon. Dr. K. Rowley: Thou doth protest too much. Tell that to the committee of the Parliament.

Hon. Members: [*Desk thumping*]

JOINT SELECT COMMITTEE

(APPOINTMENT OF)

Madam Speaker: Leader of the House.

The Minister of Housing and Urban Development (Hon. Camille Robinson-Regis): Thank you very much, Madam Speaker. Madam Speaker, having regard to the decision of the House on Friday, September 08, 2023, made pursuant to Standing Order 79(3) regarding the resumption of proceedings on the Representation of the People (Amdt.) (No. 2) Bill, 2020, I beg to move that the Bill be referred to a Joint Select Committee hereby established.

Be it resolved that this committee be mandated to adopt the work of the Joint Select Committee in the Third Session and report by March 29, 2024.

And be it further resolved that subject to the concurrence of the Senate on the establishment of the Joint Select Committee on the Representation of the People (Amdt.) (No. 2) Bill, 2020, that this House appoint the following six Members to sit with an equal number from the Senate on this Committee:

Mrs. Camille Robinson-Regis	Chairman
Mr. Colm Imbert	Member
Mr. Fitzgerald Hinds	Member
Mrs. Shamfa Cudjoe-Lewis	Member

UNREVISED

Mr. Davendranath Tancoo Member

Mr. Saddam Hosein Member

Thank you Madam Speaker.

Question put and agreed to.

MISCELLANEOUS PROVISIONS

(TESTING AND IDENTIFICATION) BILL, 2022

The Minister of National Security (Hon. Fitzgerald Hinds): Madam Speaker, I beg to move:

That a Bill to amend the Judicial and Legal Service Act, Chap. 6:01, the Prison Service Act, Chap. 13:02, the Defence Act, Chap. 14:01, the Police Service Act, Chap. 15:01, the Civil Service Act, Chap. 23:01, the Fire Service Act, Chap. 35:50 and the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01, to provide a regulatory framework for polygraph and drug testing and biometric identification for members of the Protective Services and certain offices in the Judicial and Legal Service and the Civil Service and for other related matters, be now read a second time.

Madam Speaker, I would like to begin with a quotation from a son of the Caribbean soil, a brother I enjoyed so much and still enjoy, Robert Nesta Marley. In the song “*Crisis*” Bob Marley is quoted as singing:

“...so much been said...”—but—“so little”—has—“(been done)...

They still killing...the people

And...havin’...lots”—and lots—“of fun...”—all—

“They just want to”—do is—“be the leader”—of—

“...the house”—in—“the rising sun.”

Madam Speaker, today these measures are before our Parliament and at the end of this day or the decision that we take it will not be so much about what we have

said, but rather what we would have done. Madam Speaker, I would like as well to quote, because one of the objections that may flow in these discussions would be the constitutional application or implications for the measures in front of us, and those matters I will deal with more thoroughly going forward. But I would like immediately, for the benefit of this House, to quote the words of Baroness Hale in a well-known matter to every parliamentarian by virtue of those offices. In the case of *Suratt v The Attorney General*, 2008, one, Appeal Court, at page 655. When discussing the constitutionality of the proposed measures Baroness Hale is quoted as saying:

“It cannot be the case that every Act of Parliament which impinges in any way upon the rights protected in...”—sections—“4 and 5 of the Constitution”—of the Republic of Trinidad and Tobago—“is for that reason alone unconstitutional. Legislation frequently affects rights such as freedom of thought and expression and the enjoyment of property. These are both qualified rights which may be limited, either by general legislation or in the particular case, provided that the limitation pursues a legitimate aim and is proportionate to it. It is for Parliament in the first instance to strike the balance between individual rights and the general interest.”

Madam Speaker, I ran that quotation to remind this House that there are many pieces of legislation since the establishment of the very Constitution in which sections 4 and 5 are to be found. There are many pieces of legislation that infringed those pronounced constitutional rights, and the latest position I have just expressed by Baroness Hale, is that there must be, for that reason, an understanding that it does not make it unconstitutional once you can demonstrate that it is for a legitimate aim and the measures that you bring are proportionate to

achieving that legitimate aim.

Madam Speaker, I am pleased to present for the consideration of the hon. Members of this House, the Miscellaneous Provisions (Testing and Identification) Bill, 2022, which seeks to bring the laws governing the protective services, the judicial and legal service and certain departments in the civil service in line with the 21st Century and in line with our current experiences and expectations to alleviate the pain that we suffer, well-known to all of us.

The Bill seeks to give the relevant heads of the various protective services, and specific branches of the civil service, a discretionary power to order that the current officers and those seeking to be employed be subjected to integrity testing, drug testing and the collection of their biometric information. However, this discretionary power may only be exercised, only be exercised, in specified circumstances, and that is designed so as to make sure that it is proportionate.

Work towards this Bill commenced as far back as in 2018, when in my then capacity as Minister in the Ministry of the Attorney General and Legal Affairs, I engaged the Law Reform Commission to consider the introduction of this integrity testing, drug testing and other measures, to ensure that members of the protective services, from whence I came, and certain other office holders in the civil service are held to the highest standard of integrity.

The Commission conducted the necessary, admirably so, research, and subsequently prepared a policy paper which guided the LRC, the Office of the Attorney General and later the Cabinet. This policy paper was entitled: “Introducing a system of lie detector tests, drug tests and biometric identification within the protective service and certain departments in the Public Service”, in which certain recommendations were put forward. The Commission also prepared

the Bill currently before the House, which seeks to implement the recommendations put forward in that policy paper.

In Trinidad and Tobago, Madam Speaker, lie detector tests are not utilized in criminal investigations, as its use is limited to evaluating the suitability of applicants to the police service. This reform has become necessary because of the allegations that members of the protective services, generally and officers of certain departments of the public service, have been involved in criminal conduct and activity. It is imperative that a system of integrity testing be introduced to ensure that employees and prospective employees in those arms of the State possess a high standard of integrity which is expected of persons holding such offices. The existence of a system of such test, itself, will act as a deterrent to those officers who may be inclined to engage in criminal activity and other forms of misconduct.

Madam Speaker, at this juncture I would want to say:

“An integrity test is a specific type of...test designed to assess...”—a person’s—“tendency to be honest, trustworthy, and dependable.”

One of the most popular types of integrity test is the polygraph test.

“A polygraph...”—test is—“commonly referred to as a lie detector”—test. It is simply—“a machine...used by law enforcement”—and others who are skilled in it—“to test the physiological responses of individuals to certain questions. Despite”—the—“colloquial name, the polygraph”—test—“does not detect lies...”

Theoretically polygraph is used under the assumption that most people do not lie or deceive without some feelings of nervousness and anxiousness and this equipment measures that nervousness, measures that anxiousness. So what happens is that

once that is detected more potent questions are put to determine whether the person is speaking some truth or otherwise.

The use of pre-employment integrity polygraph screening can significantly safeguard against dishonest activities by guiding employers and potential employers in the interview stage before they hire new people. These are widely used internationally. The FBI of the United States, every single member of the FBI, apart from the director, is so tested. The New York Police Department, NYPD, this is routine for them. A police officer could get up Saturday morning on his private business, get a call, down to the precinct for a polygraph and other tests. This ensures that the position is offered, as well, to trustworthy individuals.

2.50 p.m.

There is also post-employment testing for people who may have been suspected of not telling the truth after an incident has occurred in the workplace. While there are units in the Ministry of National Security that requires polygraph testing, many services within the public and private sector do not require these. As such, there are many reports annually of breaches of integrity by persons employed in these organizations.

A quick example: A couple of years ago, in 2019, an elderly couple was murdered in Tobago and it turned out from the investigations that her murderers were after a Unit Trust account that she had in the sum of \$400,000. They murdered her and her husband in a very unfortunate event in Tobago, and my condolences reach out to the family members again. It should be critically noted that two of the accused—because they were eventually arrested and charged, one of Buccoo in Tobago and the another one of Scarborough—were former employees in the Unit Trust Corporation. So they were the ones who may have, according to the police,

shared that very vital information which led to the horrific circumstances as I have just described.

Madam Speaker, only the Trinidad and Tobago Police Service makes provision for drug testing at the recruitment stage and randomly during employment. The laws governing the other arms of the protective services do not require members to undergo testing, neither as an entry requirement nor during employment. In several jurisdictions, as I indicated earlier, the UK, Australia, the US and Canada, members of their police services, armed forces, customs, immigration departments are subject to drug testing prior to and during employment. In these jurisdictions, testing for cause and random testing are provided for in legislation governing the respective departments and can also be required after the occurrence of a critical incident which resulted in the death, injury or damage to property, which is why we are here today, Madam Speaker. We are asking this Parliament to use its parliamentary privilege and authority and power to create the laws that are necessary so that we too, in Trinidad and Tobago, could enjoy the benefits of the protection of it like the countries that I have just named.

Biometrics, not new to the world: When you enter the United States, you put your thumb in there or you look into that machine, it is about biometrics, and every one of us have subjected ourselves to that in very many occasions in our life, in terms of the ease of doing our business and travelling hither, to and yon; is not new to the world. We want to introduce it for the protection of people of Trinidad and Tobago from today, which is why we are here.

Biometrics allow for persons to be identified based on a set of recognizable and verifiable data which is unique and specific to them, such as fingerprints, vein patterns, eye patterns, facial signatures and voice recognition. You know how

many times somebody is trying to tell the police, I called X and he answered, or she answered, or she called me, and the question the accused or suspect simply asked is: “How you could prove that?” It is the technology that we offer and the application of same that allows law enforcement, allows potential employers, allows employers, allows the public, allows men and women of these services to feel comfortable with each other.

The introduction of a biometric identification system within the protective services and certain departments of the public service will assist investigations into alleged employee misconduct. A facial recognition system will enable investigators to identify with greater certainty—no mistake about it, using the science like we did in COVID-19 responses—employees who may have acted in a manner that amounted to misconduct from photographs and video recordings captured on closed-circuit television, which we already use. This may also assist the Trinidad and Tobago Police Service in prosecuting such employees where their conduct constitutes a criminal offence. Thus, the existence of a modern biometric identification system, as proposed in the Bill, will serve as a deterrent to employees’ misconduct as they stand the risk of being more easily identified. Therefore, biometric identification system is critical to promoting greater responsibility and accountability within the protective services and some arms of the public service.

You would have seen videos, Madam Speaker, people cover their heads, and cover their noses and their mouths. All that is out there are their eyes; hard to identify them in normal circumstances but facial recognition will easily do that, Madam Speaker. Madam Speaker, these techniques, as I said, are routinely used in other jurisdictions to great effect. We see it, we know it. In our existing DNA law,

members of the protective services, every one of them, are mandated in that law, which we passed in this House, to give a sample which is kept on the DNA database in order to exclude them as suspects from crime scenes and that kind of application. So we have been in in there, nothing new.

“Clause 1...”—of the Bill—“...provides...”

—in this nine-clause legislation:

“Clause 1...”—provides—“...for the short title and the commencement provision.

Clause 2...”—provides—“...for the Act to be inconsistent with the Constitution.”

The measures proposed in clauses 3 to 9 would involve subjecting members of the protective services and certain members of the public service to a number of intrusive processes or procedures. These include having electronic device attached to their persons for the purpose of monitoring and recording psychological reactions during polygraph examinations. Many do this routinely as we speak because they use it on entry into the police service—though not the others—and they use it for specialist kinds of work, vetted sections, vetted persons for specialist units in all of the services when that occasion arises. It is known to us.

Secondly, it requires the persons to provide a bit of hair, urine, blood—as we take even for blood sugar tests—saliva samples, buccal swabs and drug tests. Having their faces and their eyes scan for biometric identification and unique identification data stored in a database, as I indicated earlier, we do that routinely when “we want visa” to go hither, thither and yon. Preparing voice samples to be stored in a voice recognition database—and if you speak as well as some of my colleagues in this House, Madam Speaker, that should be a bonus rather than any other difficulty.

These measures raise important constitutionally issues and infringe on the following constitutional rights. Let me name them:

“the right...’—to—“...protection of the law;”—under section 4(b).

The right to private life under section 4(c), which provides for:

“...the right of the individual to respect for his private and family life;”

And the right to equal treatment under section 4(d), which provides for:

“the right of the individual to equality of treatment from any public authority in the exercise of any functions;”

For me, Madam Speaker, once we are noble and purposeful as we come to you today, with honourable intention to protect the people of Trinidad and Tobago against crime and criminality and terror, there is a reality of terrorist attacks every minute, everywhere, every day in this world for those who follow that. And once we acknowledge that the fact that some public officials do commit and/or support efforts to steal from us or to harm us, for me, this is easy but we must scrupulously follow the law and follow the Constitution.

Madam Speaker, clauses 3 to 9 seeks to insert a few new sections in the Judicial and Legal Service Act, the Prison Service Act, the Defence Act, the Police Service Act, the Civil Service Act, the Fire Service Act, the Financial Intelligence Unit of Trinidad and Tobago Act:

“...to confer on the relevant Heads of...”—these services—“...the Judicial and Legal Service and...”—public service—“...and express power to mandate the officers under their purview submit to polygraph or...other...”—such—“...tests, drug tests and the collection of their biometric information for the purposes of integrity testing.”

—simpliciter.

Clause 3 amends the Judicial and Legal Service Act by inserting a new section 11A which provides that the various heads of departments, in this case the Comptroller of Customs and Excise, the Chief Immigration Officer, the Chairman of the Board of Inland Revenue and the Registrar General:

“...may order a law officer”—meaning someone appointed by the Judicial and Legal Service Commission—“to submit...

polygraph or lie-detecting tests;

drug tests...”—or—

“the collection of”—their—“biometric information.”

A law officer, in this instance, relates to both permanent and contract lawyers employed by the State.

Clause 4 amends the Prison Service Act, inserting a new subsection 29A to provide that:

“...the Commissioner of Prison may order an officer to submit to...

polygraph or...lie-detecting tests;”—and—

“drug tests...”

This section applies to officers, whether or not they are on duty.

A term and a concept and a situation we came across, coming out of the Vishal Singh matter, when we had to determine whether officers of the prison service could carry firearms, whether they are on duty or not, and we, this Parliament, resolved that and that matter is now well behind us; whether they are on duty or not.

Clause 5 amends the Defence Force Act by inserting a new section 243A to provide that:

“...the Chief of the Defence Staff may order an officer to submit to...

polygraph or...lie-detecting tests;
 drug tests...”—or—

“...collection of biometric information.”

Similarly, clause 6 amends the Police Service Act by inserting a new section 77A for the same reasons. The Civil Service Act as well—clause 7 amends the Civil Service Act, inserting a new section 11A to provide that various heads of specified departments in the civil service:

“...may order an officer...

to submit to...

“polygraph or...lie-detecting tests;

“drug tests;”—or—

“the collection of their biometric information.”

And these, as I indicated earlier, are the Customs and Excise Division, the Immigration Division, the Board of Inland Revenue, the Registrar General’s office and the Transport Division. This proposed amendment applies to those officers who hold substantive posts in these departments as well as those on contract, because contract or substantive, they have the authority, they have the power and they can hurt us if they are not possessed of high levels of integrity, and what I produce and provide and propose to this House today is a way to measure their integrity in the public protection.

And this clause acknowledges that the threats that we face do not only come from the police service as folk law now has it. Everything is police corruption. Yes, it exists but I submit to this House, it comes from across the spectrum, everywhere in the world because human beings are possessed of the tendency to be lacking integrity.

The Fire Service Act: Clause 8 amends the Fire Service Act with a new section 15A. And, of course, the Financial Intelligence Unit of Trinidad and Tobago Act, clause 9, amends that Act by inserting a new 7A, allowing the Director of the Financial Intelligence Unit to act in the way I have described throughout my last few moments.

Madam Speaker, the measures would incorporate safeguards—and this is important for the Parliament to record. The measures would incorporate safeguards to protect the fundamental rights of the persons to ensure proportionality, which Baroness Hale flagged as critical, having identified that there is a legitimate purpose to protect the public from miscreance and lack of integrity, exposing us to murder, mayhem, loss of the revenue, loss of money, and death, but we have measures here to ensure proportionality.

3.05 p.m.

One of those safeguards would be that the proposed measures would only apply to persons holding posts whose duties involve access to confidential, secret or top secret information, or where there is a reasonable suspicion that the officer has committed an act of misconduct, a serious criminal offence or was involved in a serious incident resulting in death or serious injury to a person.

When these things happen, it raises alarum in the national community, people want answers. The investigators who are pursuing those answers are often limited because they cannot apply the best standards, the best practice, the best science that exist in the world. I come to you today, Parliament of the Republic of Trinidad and Tobago, to gain your acquiescence, to support the introduction of these techniques in order to assist investigators; to assist employers, private or public. Because I know a private firm in Trinidad and Tobago that uses integrity testing

measures before it hires individuals and it tests individuals working in their firm. They do not fire them but they put them far from the cash register once they detect any untoward motions or notions or conduct.

One of these safeguards would be that the proposed measures would only apply to persons holding posts, whose duties involve, as I said earlier, confidential, secret or top information. And here is where we must try to find the balance of the right of individuals and the public interest as was so uniquely and wonderfully expressed and espoused by Baroness Hale in the quotation that I began my presentation with. Madam Speaker, the powers of which I spoke, given to those heads, are only exercisable in specific circumstance. So it only affects certain groups of people and then it must only apply as well in certain specific circumstances. Those are the proportionate measures that we offer this House to ensure that the concerns about constitutional rights are answered and met. So that:

“...where,

the...officer performs any intelligence or counter-intelligence functions;”

Where:

“the...officer...”—works in an office that deals with secret—“...top secret...confidential or sensitive information...”

Where:

“the...officer is...involved in an...investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;”

Where:

“the...officer has...access to property...that is the subject of an investigation;”

A firearm is an issue and then the firearm goes missing. We had a story years ago in this country where they said rats eat cocaine. All of these things and we make folklore and laugh over it. This is why, as I quoted Bob Marley:

“...so much been said...”—but—“so little”—has—“(been done)...

They still killing...the people

And...havin’...lots”—and lots—“of fun...”—

, But this is an opportunity for us as a Parliament to do. And I continue, where:

“...the...officer was involved in a serious incident under investigation;”

We want to know who did it, why is he lying, is he covering up something. Where:

“...the...officer is suspected of being involved in...”—serious—
 “misconduct...”

—or has close ties:

“...to a person charged or convicted of a serious offence
 under...the...

Dangerous Drugs Act;

Anti-Terrorism Act; or

Traffic in Persons Act.”

With respect to members of the protective services and certain other offices in the civil service, where:

“a person is killed or injured as a result of the discharge of a firearm by the officer or the use of physical force by the officer or while in

lawful detention or custody...”

Madam Speaker, the power to order the officer to be tested is only exercisable in these limited circumstances.

3.10 p.m.

So I would have introduced a few terms that I would now like to define according to the measures that are in front of the House for your consideration today and these serve as further limitations. For example, confidential or sensitive information, this is information that could damage national security. Secret information is information that could cause serious damage to national security. Serious criminal offence is an offence punishable with a term of imprisonment of five years or more. Serious incident is one which results in death or injury to a person or damage or destruction to property. Top secret information is information which could cause exceptionally great damage to the national security and the courts are very comfortable in sorting these concepts out as it has done over many years since our Independence and before.

As information obtained from a polygraph test, drug test or persons biometric information is considered to be personal information and as such it would fall within the ambit of the right to private life, there are further safeguards in the Bill which are in place to protect the personal and sensitive information that is collected and stored under the proposed measures from security breaches or disclosure to third parties. In this regard, all amendments to the various Acts are provided for amendments in their respective regulation provisions by inserting new paragraphs to provide for the President or the Minister, as the case may be, to make regulations concerning the conduct of the polygraph lie detection and drug test and the collection of biometric information both for the persons applying for and

holding various posts.

The amendment also provides for regulations to govern the storage, maintenance, disclosure and destruction of the results of the tests and information collected. These regulations will be subject to affirmative resolution, another safeguard. And yet another safeguard, Madam Speaker, is that the results of the tests and the biometric information shall be treated as confidential and exempted from disclosure under the Freedom of Information Act, Chap. 22:01.

Constitutionality. In *de Freitas*—well the proposed measures in this Bill must be reasonably justifiable under section 13 of the Constitution, and the Bill must be enacted by a special majority as I alluded to earlier. In *de Freitas v the Permanent Secretary of the Ministry of Agriculture, Fisheries, Lands and Housing and Others* [1999], the tests applied by the Privy Council for determining whether infringement of a statute was reasonably justifiable was:

“whether i) the legislative objective is sufficiently important to justify limiting a fundamental right;...”

I submit on this occasion that it clearly is.

“ii) the measures designed to meet the legislative objective are rationally connected to it;...”

I submit on this occasion that they are. And:

“iii) and the means to impair the right or freedom are no more than is necessary to accomplish...”—that limited—“objective”

I submit that the measures I offer this House also satisfy that requirement in *de Freitas*. And therefore, the words of Baroness Hale which I began my presentation with cannot be underscored, cannot be sufficiently underscored, where she said:

“It cannot be the case that every Act of Parliament which impinges in any

way upon the rights protected in...4 and 5 of the Constitution is for that reason alone unconstitutional.”

Nothing is inherently wrong with it. Laws are amorphous, laws evolve with social circumstances, changes and needs and clearly we have issues so we have to react to them.

“These are both qualified rights...”

All of these rights are qualified and they:

“...may be limited, either by general legislation or in the particular case, provided that the limitation pursues a legitimate aim and is proportionate to it.”

What then are the legitimate aims? They are, one, to bolster our national security and our crime resistance efforts, because you cannot fight crime—and the Opposition Leader said so—you cannot fight crime when you have corrupt elements working inside of these organizations protecting it. Another legitimate aim is to reduce crime, to identify rogue elements in the protective services and certain government departments, to as well tackle corruption in these services, to promote public confidence in the national security arms and to promote confidence between their personnel and among them. Because I can tell you there are officers of all of these organizations who worry sick about what their colleague will do if they are not satisfied and confident that the colleague will act as a matter of integrity.

And let me in that regard very quickly say individual integrity is critical, especially in crucial areas such as national security, Judiciary and criminal investigation, security screening, recruitment and employee/staff. Recently we had a defence force young man, young soldier, now passed out, best recruit, he was involved in

the Pennywise scandal. I do not want to go too much into it because the matter is before the court but that is what we are talking about, the need to be able to test.

In criminal investigations, for example, whether someone was instigating, if the teams, the police investigating teams fail to uncover the truth, it may aid several genuine criminals in deceiving law enforcement system and avoiding punishment, while putting many innocent people at danger, continue to be a danger at their hands if you get them and you cannot keep them. Crime suspects will face punishment if the evidence is not in their favour, Madam Speaker.

Madam Speaker, the Prime Minister, recently speaking, is quoted as saying:

“We have agreed to accept it, to create within our police service what we call vetted units. Vetted units, meaning groups of special police...to ensure that their integrity is intact...”

Because one of the problems that we have is that there are too many criminals in the Police Service.”

And I would like to add to that correct statement across the board, in all of the services that I have proposed here for some amendments today.

“We have those. We have to get rid of them because they put our lives in danger. The ones that have integrity that you want...”

—and you keep and the others, we have to find them and get them out.

The Leader of the Opposition on April 30th, 2010, is quoted as saying in the *Guardian* newspaper, having unveiled her crime plan, as far back as then “eh”, to a public meeting of the UNCcoalition at that time in the “Croisee” in San Juan on a Wednesday night. She said:

“...crime was the most serious problem affecting...”—Trinidad and Tobago—“...We will deal boldly and strongly with criminals. We will

make no bones about that. We will not fraternise with the criminals posing as community leaders, ‘We will not do that and if there are corrupt officers in the Police Force, we will weed them out.

We cannot have corrupt officers enforcing the law. We shall weed out and rule out...rogue officers. They will only compromise the entire Police Service.’, Persad-Bissessar said. She said if the Police Service was compromised it would be impossible to deal effectively with crime...She said there remained a need to establish a credible justice system in...”—Trinidad and Tobago—“if the fight against crime must be won. She said her Government, if elected, would launch a multi-pronged attack on crime...”

That was Kamla Persad-Bissessar.

On July 31st, 2023, more recently, the Leader of the Opposition, the rubric in a UNC press conference said:

“The CoP, PCA and PSB must act against corrupt police officers, fete organisers, bars and club owners”

She said:

“The proliferation of noise pollution emanating from...”—these—“fetes”—and—“bars...”—are destroying—“the mental health of citizens.”

She outlined a number of things that the police are doing and she said the:

“...country is fed up with these perennially disgusting noise polluters and the equally...”—fed up of the—“disgusting corruption...”—of—“members of the TTPS who”—will—“allow it. When the UNC returns to government, I guarantee that these revolting and repulsive noise polluters

will be severely dealt with along with their cohorts in the TTPS and the Magistracy.”

You heard that? That is the Leader of the Opposition and she said she had:

“...information on corrupt TTPS officers and license applicants...”

And told the people to:

“...contact your MPs...councillors and...make complaints to the PCA and PSB.”

Madam Speaker, I say to you today, to this House, that it is these techniques that will allow the PSB and the PCA and the police to be able to identify corrupt officers as identified by her and deal with them.

Hon. Members: [*Desk thumping*]

Hon. F. Hinds: Madam Speaker, I make these measures and offer them for consideration of my colleagues in this House. I thank you and of course, I beg to move.

Hon. Members: [*Desk thumping*]

Question proposed.

Mr. Saddam Hosein (*Barataria/San Juan*): Thank you very much, Madam Speaker, for recognizing me to join this very important debate on a matter involving areas of law enforcement and the departments of the civil service. When you read the tenor of this Bill, Madam Speaker, it is really who will guard the guards because this is a Bill about policing law enforcement. It is a Bill about causing deterrent activities so that law enforcement do not involve themselves in matters of criminal conduct and dishonest conduct.

I listened to the Minister of National Security pilot this Bill and ideally, Madam Speaker, he really said nothing new because I had cause to go back into the

Hansard of last year February when this Bill was also piloted and it was almost a repeat of that entire *Hansard* presentation.

Mr. Hinds: There is only one version of the truth.

Mr. S. Hosein: He basically repeated his *Hansard* presentation from last year and you would hear, Madam Speaker, that he boastfully comes to this House with new measures for us to support. Madam Speaker, this Bill was in the Second Session, this Bill was in the Third Session and it was not completed, this Bill is in the Fourth Session and we do not know if it will be completed again.

Hon. Members: [*Desk thumping*]

Mr. S. Hosein: Because the Government has a habit of starting the debate on this Bill when the session starts and they do nothing, the Bill is saved for the next session and carried over.

Dr. Moonilal: “Doh want it pass.”

Mr. S. Hosein: So I do not understand the urgency that they come with now in terms of the passing of this Bill because this is on the Parliament’s record in this Twelfth Parliament since the Second Session, we are now in the Fourth Session. So we are not accepting what the Minister is telling us in that regard. So—

Hon. Member: [*Interruption*]

Mr. S. Hosein: Madam Speaker, I am being disturbed by Arouca/Maloney.

Madam Speaker: Members, while you know and we understand and appreciate a little crosstalk, please, let us be tolerant. I would like to hear the Member for Barataria/San Juan please. Please exercise Standing Order 53.

Mr. S. Hosein: Thank you very much, Madam Speaker. This Bill from the outset, the Government has indicated that this Bill requires a special majority and what that means is that this Bill has been deemed from the onset to be in breach of

various sections 4 and 5 of the Constitution, and the Minister outlined the various enshrined constitutional rights that this Bill will touch and concern and be inconsistent with: the protection of the law rights, the right to privacy, the constitutional right to equal treatment from a public authority, and I also want to include in this list, Madam Speaker, section 5(2)(d) which is the right against self-incrimination and that is very important.

Because when we pass special majority legislation in the House and you get the required majority, it does not mean that the Bill is insulated from challenge.

3:25 p.m.

When you read section 13 of the Constitution, it says that:

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

What does that mean? It means that the legislative aim must be proportional to the measures that are being enacted. And, Madam Speaker, I will go through various clauses of the Bill to indicate that the Bill may not be achieving a legislative aim at all. And I will explain that when we go into the entire context of the Bill. Because, Madam Speaker, what this means for, especially the persons who are listening to us in this Parliament, is that you cannot take a sledgehammer to kill an ant. You cannot do that. The means and the measures must be proportional to the legislative aim.

So let us examine what the Bill does. The Bill is now introducing three sets of measures when we deal with law enforcement officers and persons in the civil

service department. We are going to introduce polygraph testing or lie detector testing. Madam Speaker, I know it is an unparliamentary word but it is included in the Bill, and I seek to your leave to have use of that word.

Madam Speaker: Okay, and that is understood. The word is not in itself, it is a composite word.

Mr. S. Hosein: [*Laughter*] Thank you very much, Madam Speaker. The second is the introduction of drug testing and the third is the collection of biometric information. So we understand what the Government wants to do. These are the three scientific tests and/or collection of data that the Government wants to subject public officers to. So who does the Bill apply to? Let us look at the first category of persons. It applies to legal officers. Who is a legal officer? It is an attorney at law in various departments that fall under the Judicial and Legal Service Commission. First, legal officers under the Customs and Excise Division, under the Immigration Division, under the Board of Inland Revenue, and under the Registrar General's Department.

Let us look at law enforcement officers that it also applies to. It applies to members of the prison service, it applies to the officers of the defence force and also, the police service.

Let us look at the civil service now, the civilians. It applies to members of the Customs and Excise Division, immigration, Board of Inland Revenue, Registrar General, and this one goes further with respect to the Transport Division. It applies to the fire services and also, the Financial Intelligence Unit.

So you have a host of various Ministries, departments, offices in which this Bill will apply to. And why do we want this to apply to them? The Minister explained that it is part of the integrity testing of these officers who discharge, as we know,

very important duties, in terms of the national security framework and apparatus of Trinidad and Tobago. But, Madam Speaker, on reading this Bill, we have seen and identified areas in which there may be lacuna or there may be some level of inconsistency or lack of information with regard to the definition of officers. So let us go into the granular details of the Bill now. We had the overview, the general overview, let us go into the granular details of the Bill.

When we look at the definition of officer—so that is being included in each of the Acts that we are amending. So when we look at the second Act that we are going to be amending, outside of the Judicial and Legal Service Act, it is the prison service. The prison service—this is found at clause 4. And the definition here of the term “officer” would mean, Madam Speaker, the following:

“‘officer’ includes—

- (i) an expert or consultant on contract or an employee of such expert or consultant on that particular job with the Prison Service;”

So it says the “officer includes”. What does that mean? It means that, of course, we would want to include the prison officers. If we are going to be breaching such important constitutional rights, should we import the definition or refer specifically to the prison officer definition at clause—this particular subsection (c) here, Madam Speaker.

And then the strange definition is this thing of the expert and the consultant. It now means that a person who is not part of the public service, it means that this is a person who is hired on maybe a short-term contact for a particular project, a person who is hired to—maybe an international expert will now be subject to polygraph testing, drug testing and also, the collection of biometric information. And that

now we have to examine closely with respect to—the Minister, maybe in the winding up, can give us the rationale for including this group of persons with respect to the experts, consultants, and the employees of those experts and/or consultants. This definition is found also in the FIU amendment, it is found in the police service amendment and it is also found in the fire services amendment. So that is the first issue I have with respect to the definition of an officer. Let us move on quickly, Madam Speaker.

When we look at the definition of “officer” under the Defence Force—now, the Minister will well appreciate that under the Defence Act, there are several categories of officers. You have the commissioned officers and you have the non-commissioned officers. In the Act, there are clear distinctions between the both, the commissioned officers and the non-commissioned officers. In the Act, “other rank” is the definition of those non-commissioned officers. Should we now import that particular definition of “other rank” within this? Because it seems as though this particular definition of officer may not capture those individuals within that particular framework, which the legislation is intended to capture. And that is something we have to look at with respect to definition under the Defence Act.

Let us look at the Police Service Act now, Madam Speaker. In the Police Service Act, it deals with, again:

“‘officer’ includes—

an expert...”—the—“...consultant on contract or an employee of such expert or consultant...”—in—“...the Police Service;”

Now, Madam Speaker, if you remember, a particular Bill was brought to this Parliament previously which caused amendments to be made to the Police Complaints Authority Act, so that that will explicitly capture SRP officers and

municipal officers. This definition here defines officer. When you look at the Police Service Act, it may only capture regular officers. So therefore, we may now have some other officers not being captured by this definition, such as the SRP officers and the municipal police officers. The Minister can probably provide some further guidance on the definition of officer under the Police Service Act within the Bill.

If you look at the amendment—and I will probably refer you, Minister, to Act No. 11 of 2021, where we would have explicitly—this was a previous Bill that was passed, in terms of including the SRP under the jurisdiction and ambit of the PC and we had to make an explicit amendment to that particular Bill in order to include them to fall under this particular ambit. Because I know and we all know very well that SRP officers are found in almost every division, department of the Trinidad and Tobago Police Service, and they play very critical and important roles within them. And they may in fact be exposed to the secret information, the top secret information, or may themselves be engaging in some conduct that may trip one of these circumstances in which they may be subject to a polygraph drug test or the collection of biometric information. So let us leave that as it is with respect to the definition of officers and who this particular Bill will in fact capture, Madam Speaker.

Now, let us look at why we are testing persons. The Minister indicated that there is corruption within certain arms of national security. We hear about it, it is reported in the news. There are certain departments, divisions, set up within these particular organizations that will deal with issues of discipline. Some matters may in fact engage the attention of the criminal courts also. So this Bill really is to test the honesty, to test the integrity of a person by means of science, and scientific and

sophisticated apparatus and measures. So let us look at the circumstances in which a person will be involved or be captured under this Bill. So, for example, let us look at those attorneys-at-law who may have to subject themselves to polygraph testing, biometric and drug testing. And I do not know if the Law Association of Trinidad and Tobago was in fact consulted on this particular piece of legislation, in terms of subjecting attorneys at law to certain testing who perform functions within the State.

3.35 p.m.

So, once an officer performs any intelligence or counterintelligence function, they are subjected to this. If they are exposed to top secret, secret, confidential, sensitive information involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud, an act of sabotage or espionage, or money-laundering, or if they had access to information or files that were the subject of an investigation, if themselves were the subject of an investigation, whether or not they have reasonable suspicion to suspect that they were involved in criminal conduct, and also if the officer is in proximity to a person who is charged or convicted for a serious criminal offence under the Dangerous Drugs Act, Anti-Terrorism Act and Trafficking in Persons.

Now, let me stick a pin there, Madam Speaker. I understand the other categories because the person has a direct interest in the matter. They may be the subject of an investigation. There may be reasonable suspicion that they engage in criminal conduct. But when you look at this other clause here, Madam Speaker, the officer is in proximity to a person charged or convicted of any serious or criminal offence. Now, what does that mean? Is it a relative? Is it a friend? Is it the person who I sit next to in work? Who is in close proximity? What does this mean? And in no

way I am speaking about my friend next to me. But, Madam Speaker, that in itself leaves a lot of vagueness.

Mr. Hinds: Wow!

Dr. Moonilal: Please, please.

Mr. S. Hosein: That leaves a lot of vagueness. Because this section only applies to the Dangerous Drugs Act, the Anti-Terrorism Act and the Trafficking in Persons, Madam Speaker. And there are persons who sit opposite me also, Madam Speaker, and I do not want to be in proximity to them if they are convicted of an offence under the Dangerous Drugs Act, Madam Speaker. So that raises a very serious issue. What does in close proximity mean? If your head of department says you are in close proximity to someone, where is the challenge? What is the standard that they are using to adopt what that means, Madam Speaker? In terms—

Hon. Member: *[Interruption]*

Mr. S. Hosein: —you are my neighbour right now and you are probably in close proximity to me. And I do not want to be subject—

Madam Speaker: Member for Barataria/San Juan, please proceed.

Mr. S. Hosein: Thank you very much, Madam Speaker. So that raises a lot of issues with respect to that particular definition of “in close proximity”.

And let us go back to the reasonable suspicion standard now. Because you will have a head of department who is not a law enforcement officer—let us, for example, the Registrar General. The Registrar General is a civilian, but they now have to determine what is a reasonable suspicion. They are not trained to determine that. Police officers are trained to determine what can amount to reasonable suspicion. This Bill now imposes an onus on a civilian head of

department to determine what can be a reasonable suspicion of the commission of a serious criminal offence, Madam Speaker.

With respect to one particular matter that has engaged the national attention, with respect to what took place at the FIU, Madam Speaker. There was a matter that came out of the High Court recently, where a whistleblower would have provided information that the FIU undertook an investigation without the triggering of an investigation through an STR, which is a suspicious transaction report or a suspicious activity report, and that was found to be unlawful.

Mr. Hinds: Madam Speaker, as far as I am aware—

Dr. Moonilal: On what Standing Order?

Mr. Hinds: The matter has been appealed.

Dr. Moonilal: Madam Speaker, what Standing Order?

Mr. Hinds: Standing Order 49. Standing Order 49. The matter has been appealed and therefore it is gaining the attention of the court. Thank you very much, Madam Speaker, and tell this—Madam Speaker—

Madam Speaker: Please sit, please sit. Minister, Minister, please sit. Please sit. Right, the difficulties we find ourselves in is that many times people do not observe the Standing Orders. Okay? And many times people arrogate unto themselves the function of the Presiding Officer. Okay? So, Minister, you have a Standing Order to raise?

Mr. Hinds: Yes, please.

Madam Speaker: Please raise it.

Mr. Hinds: I raise Standing Order 49, Madam Speaker, on the sub judice principle. The matter is definitely under appeal.

Madam Speaker: So Member, while you have mentioned the matter, I am not

letting you go into details of the matter, okay, so, please, proceed.

Mr. S. Hosein: Thank you very much, Madam Speaker. And I will move on. I will press on with respect to the business of the House, Madam Speaker. Just on an indication, can you just tell me when my time will be expired?

Madam Speaker: So, your original speaking time will be 3.51, and you will have an additional 15 minutes.

Mr. S. Hosein: Thank you very much, Madam Speaker. So, let us press on. Let us look at the vagueness of the legislation now, because this is a very important point. We have had judicial pronouncements on when you are passing laws that are inconsistent with the Constitution, that there must be a level of certainty when you pass the laws in terms of tripping of these rights.

Now, Madam Speaker, what does a polygraph test entail? No one here knows, because the Bill did not define what is a polygraph test. There is no definition of the drug test and there is no definition of the biometric collection—the data. I asked the—

Mr. Hinds: *[Interruption]*

Madam Speaker: Minister, you will have an opportunity in the wrapping up.

Mr. S. Hosein: Thank you very much. And Madam Speaker, biometric data can range various things. When one hears biometric, the first thing we will think of is fingerprints. But it could be the patterns of the eye, but Madam Speaker, it could range from various things like blood pressure testing. It could range to glucose testing, various things. But the Bill does not confine what is the collection of biometric data, and that is something very important.

Because I had cause to ask some Members about the polygraph testing and yes it is introduced in the TTPS at the recruitment stage, that recruits must undergo

the polygraph testing. What it is, is a booklet. They fill out the booklet and they will have a series of questions on it. They will ask them if they ever did drugs, they would put an answer. And then after that, they connect the machine onto to them and ask them whether or not the contents of the booklet are true and correct. If a positive reading is given or a negative reading, well that determines whether the person was truthful or not in the booklet. So, it is not what we see on television, where they place a machine on a person and they cross-examine them, they interrogate them and it is intense, Madam Speaker. What applies now, is not really that with the recruits.

With respect to the drug test, what drug tests are they going to administer? What drugs are you going to look for? Because the Act speaks of drug testing. And we know the prohibitor that control drugs under the Dangerous Drugs Act. Again, this Bill is specific to the various services and that also has to be included.

For example, the Metropolitan police, they also test for alcohol levels. And I will tell you the reason why they test sobriety in these circumstances. Police officers, prison officers, they discharge a very important duty and they carry around firearms. And, therefore, you would ensure that persons want to be at a level of alertness, so that they do not discharge these firearms or whatever other dangerous weapons in their possession in an indiscriminate manner, Madam Speaker. So, that is why it is important whether or not—we need to understand this Bill; what it is going to subject persons to.

Now, all of that being said, let us get to the brass tacks of the Bill. The Government's policy is to collect all of this data. We collect the polygraph results of the polygraph test, we collect the results of the drug test, we collect the biometric data. What do we do with it? The Bill does not address what we are

going to do with this evidence, what we are going to do with this information. Because there is no nexus in the Bill and the use of the evidence at the end of the day. And I will explain why I made that statement, Madam Speaker. Because polygraph testing and drug testing as it stands now, is not admissible in court. So are we going to use this information for purposes of criminal prosecution or are we going to use it for disciplinary action?

Because we need to start there first to understand why we are collecting this data. Because if you are going to use it for criminal prosecution, there must be amendments being made to the Evidence Act to include this particular evidence to be admissible in court. And there are many issues with respect to the admissibility of polygraph testing in court. Because there is about a 60 to 90 per cent accuracy and we all know, Madam Speaker, that evidence must be both relevant and reliable in court.

The issue of expert evidence, and I will explain why I say that there must be an explicit amendment to the Evidence Act. In criminal matters, the Evidence Act at section 14D indicates that in any criminal proceeding or inquest, any record kept by a government expert relating to anything submitted to him for examination, analysis, or report, shall be prima facie evidence of the particulars recorded therein. And then we look at Section 19 of the Evidence Act, it also goes on to the admissibility of the Government expert's report and findings. And there is an exhaustive list of who the government experts are: Senior Pathologist, Pathologist, Government Chemist, Armourer, Forensic Document Examiner, Forensic Biologist, Scientific Examiner, Fingerprint Technician, Firearm and Tool-mark Examiner, the Forensic DNA Analyst. Madam Speaker, there is nothing there to suggest who is the designated officer to conduct the polygraph test. Let us go

there.

When we passed a previous piece of legislation in this Parliament, and that is the motor vehicle (Amdt.) with respect to the introduction of breathalyzer in Trinidad and Tobago, that law was very robust. It told you who will be the expert, it told you about the calibration of the machines, who will administer the test, what are the sanctions for failing to submit yourself to the test. So there were a whole host of details of how this thing is going to work. We have a bare-bones Bill here, Madam Speaker, that is breaching several fundamental constitutional rights—

Hon. Members: [*Desk thumping*]

Mr. S. Hosein:—and it really does not tell us what is the legislative aim. Because the Minister in his piloting, and I think this is the second time he piloted the same Bill, did not tell us why we are going to use this information. Where are we going to use it? Are we going to use it in disciplinary tribunals? Are we going to use it in criminal courts for prosecution? Tell us. Simply tell us where that information is going to be used.

And, Madam Speaker, if we are going—you see, there are a lot of issues. If we are going to determine whether it is going to be in disciplinary proceedings, the police service has three areas. You have the PSB, you have the Police Complaints Division, you have the PCA. When you look at the defence force, there are your senior officers, you have the defence force, you have the Council. Madam Speaker, when you look at the fire service, there disciplinary procedures under the Public Service Commission. So there are a whole host of various matters with respect to discipline.

Let us look at the failure and the sanctions attached to this. I am an attorney-at-law attached to a particular division that this Bill applies to, I failed to submit myself to

a polygraph test, what is the sanction? The Bill does not provide a sanction. So if someone fails to submit themselves to this, what happens?

In the Metropolitan Police, Madam Speaker, if they fail to submit themselves to a drug test, that is considered to be gross misconduct. And, therefore, if the person then subsequently submits themselves to the testing, there is an avenue to appeal that particular finding, through independent testing. Because we all know that there could be contamination with respect to these particular scientific matters.

So, Madam Speaker, I want to just also go back to this issue of discipline, and I want to look at an article that came out of New Zealand. And, Madam Speaker, forgive me, the article is entitled:

“Liar, liar, pants on fire—Polygraph Test and Disciplinary Proceedings”

and it is written by Meagan Ready. And what this is saying is that the mere fact that an employee fails a polygraph test, is not in itself sufficient to find an employee guilty of dishonesty. And this was confirmed by the Labour Appeal Court, *DHL Supply Chain (Pty) Ltd v. De Beer NO and Others (2014) 35 ILJ 2379*, where the Court made clear that the onus rests with the employer to lead expert evidence to prove the accuracy of the polygraph test.

And that goes back to the evidence issues. Before an expert comes to give evidence in any tribunal or any court, they must establish that they are an expert. They establish this through their qualifications, through their training. In this case, we have to understand who is going to be the designated officer to administer these tests.

Hon. Members: [*Desk thumping*]

Mr. S. Hosein: Are these tests going to be farmed out, in terms of contract

employment, or are we going to train persons within the particular services to administer these tests? Is somebody going to get a contract to administer the polygraph testing or the drug testing, or whether or not they can, in fact, be from within the service?

3.50 p.m.

We are not talking about a court that deals with beyond a reasonable doubt, in terms of the standard of proof.

And if you look—I want to resurrect a report here, Madam Speaker, because when this Government came into power, they boasted about a police manpower audit report. I have a copy of it in my hand, “Now is the Time, No Sacred Cows”. This report was presented to the hon. Prime Minister on the 17th of October, 2017, and this report identified issue of discipline within the Trinidad and Tobago Police Service. I have not heard this Government speak about this report in the last, what?—five years since this report was ever presented. And this report really tells us of what takes place at disciplinary issues in the TTPS, and I want to give you an example of one.

Madam Speaker, this is what happens at the TTPS. At page 174 of the report, it says:

“It was noted that too often, prosecutors are sourced from departments external to the Complaints Division which results in poor attendance in many cases thus leading to many delays.”

Hear this:

“In fact, there is a current case where a matter was called 55 times, the Officer was not served 41 times, there was not a quorum on 30 times and the matter was fixed for trial 2 times and it has not been resolved to date.”

And this was in 2017. And now we are going to introduce this sophisticated lie detection testing and polygraph testing, and they cannot even determine properly one disciplinary matter having had that matter called 55 times. So we have to fix the root of the problem before we introduce the scientific matters.

Madam Speaker, let me give you an example. We want to introduce biometric testing. “Leh we” just assume that the Government said it would be for fingerprinting. Madam Speaker, if you had to ever go for a certificate of character, you have to walk with a bottle of Squezy in your pocket, you know, because you have to wash off your hands after because it is black. They make you take black ink and press it on paper physically. Madam Speaker, when you go to any airport in the world, you will do 10 prints through the glass. In Trinidad and Tobago, you have to now go and get manual rollers and black ink to get a certificate of character. And they are now going to talk about the collection of what?—biometric testing. They could have barely buy some wooden ladders for the Trinidad and Tobago Police Service, Madam Speaker—

Hon. Members: [*Desk thumping*]

Mr. S. Hosein:—but talking about sophisticated polygraph testing and lie detection. Madam Speaker, could you imagine that? This Government is very incompetent, Madam Speaker. I am being very kind to them today.

Dr. Moonilal: Do not.

Hon. Member: Do not be kind.

Madam Speaker: So, Member, your original speaking time is spent. You have left 15 minutes to wind up your contribution, if you so wish.

Mr. S. Hosein: Thank you very much, Madam Speaker.

Madam Speaker: You may proceed.

Mr. S. Hosein: Thank you very much. I am very kind to them, Madam Speaker, with respect to this Bill because it has a lot of complex legal issues and I think we need to ventilate these issues properly at this place so that we can get this Bill right, if this Bill has to be passed, Madam Speaker.

I want to let you know also that the TTPS has already introduced polygraph testing. This is nothing new. When Captain Gary Griffith was the Commissioner of Police—I have a media release dated the 8th of July, 2019:

“TTPS to begin Polygraph Testing of Police Officers”

And this media release would have indicated:

“For the period January 1st to December 31st, 2018 the South Western Division recorded the fourth lowest number of Serious Reported Crimes among all policing...”—agencies.

Fewer issues of policing discipline and so on, Madam Speaker. So this was already a project that was implemented by the former Commissioner of Police that they got rid of.

Hon. Members: [*Desk thumping*]

3.55 p.m.

Mr. S. Hosein: And while I am on this point, Madam Speaker, under the leadership of Kamla Persad-Bissessar and the UNC Government, we brought serious crimes down to the lowest level for the period 2010 to 2015.

Hon. Members: [*Desk thumping*]

Mr. S. Hosein: We did that, and we did that without the use of polygraph, drug testing, and/or the collection of biometric information. So you have to understand the concepts and the environment in which we operate in, Madam Speaker, in terms of the accountability and the competency in terms of the management of the

resources of police service. And within the Police Manpower Audit Report, they spoke of accountability, and this particular report spoke of the establishment of a police inspectorate.

I know the Government has now said that they want to introduce special vetting units within the TTPS, Madam Speaker, this has now superseded or overridden the decision or the recommendations of the Police Manpower Audit Report, which says that you must establish a police inspectorate in order to monitor behaviour and also disciplinary matters with respect to the TTPS.

The prison service has a prison inspectorate also, but I am subject to be corrected in terms of the resources being given to that particular department.

Madam Speaker, another way for accountability of police officers, especially, are through body cameras. My friend from Oropouche East would have raised this matter previously. They bought the body cameras but they forgot to buy the chargers for the body cameras. So I can imagine when they get these sophisticated polygraph testing machines, what might occur with that, Madam Speaker. I do not want to imagine what might happen with those particular sophisticated equipment.

Madam Speaker, I want to move on to another point with respect to polygraphs and how the courts view this in Trinidad and Tobago. And this is very important because there was one decision and this matter, I do not believe it is under appeal, it is *Christopher Stanislaus v The Chief of Defence Staff*, dated the 21st of June 2023, CV 2023 01042, and this matter dealt with a recruit challenging the decision of the Chief of Defence Staff to impose a polygraph testing with respect to the recruits of members of the defence force, and ideally what the judge held was that there are no equivalent provisions in terms of the defence force recruitment process as the police service where they require the polygraph, but the defence force does

not, but through a policy they try to introduce it, Madam Speaker. And what the judge had said in this matter, and I look at paragraph 37 of the judgment, and I want to quote from it, the judge said:

“Polygraph tests are not fool proof and factors such as nervousness and anxiety may affect the outcome and lead to a failed result.”

So this is the judge explaining the polygraph testing. He said:

“Given the manner in which the Defendant states that a failed test result is used and the impact same can have on the future of potential recruits, information as to the accuracy of the test and some measure of certainty as to the relevance and applicability of the questions asked should be provided to the TTDF.

If the CDS holds the view that polygraph testing would assist in the vetting exercise so as to determine the suitability of recruits, then amendments should be effected to the applicable Defence Force legislative framework so as to include a provision similar to...the Police Service Regulations...”

So let me make the point clear. The Police Service Regulation says that that you must have polygraph testing for recruits, the defence force does not. If the Chief of Defence Staff thinks that is his policy there must be a specific amendment to the Defence Force Regulations, not the Defence Act, you know, so I see the Minister is getting excited but he does not understand the point I am making. And the quote went on to give the dangers with respect to the polygraph testing. He said:

“The fact that a failed TTPS polygraph test is to be used to disqualify a potential recruit should not be clothed in secrecy, to be sprung upon potential recruits after they have been selected to undergo Basic Training. In addition, the TTDF should have all the relevant information so as to be able

to satisfy itself as to the accuracy and parameters of the TTPS polygraph test results inclusive of information as to the possible margins of error.

In the circumstances, the Court holds the view that the decision to rely on the ‘standard policy’ that a failed TTPS polygraph test would generate an adverse report and that same would result in disqualification, is arbitrary, unfair and unreasonable.”

Because it talks about the potential that if a young recruit fails the test because of something he may have done in the past may not qualify him to ever hold the position within law enforcement departments, Madam Speaker.

And that is a very important decision, and I commend this decision to be read by Members of the House, *Christopher Stanislaus v The Chief of Defence Staff* because it provides some level of clarity with respect to this particular issue.

Madam Speaker, let us look at defences. If a person, for example, fails a polygraph test with respect to the administration of a drug test, it comes back positive that they have been detected for drugs, Madam Speaker. We now have to determine just like within the breathalyzer law, whether we need to include a defence based on medical reasons. Let me give you the example, if a person fails to submit to a breathalyzer, that is an offence. A person may fail to submit to a breathalyzer because they do not have the capacity, the lung capacity to give a proper breath sample.

In this case let us assume the polygraph testing, you look at blood pressure, heart rate, perspiration, levels of anxiety, Madam Speaker, to determine whether or not the person is speaking the truth or not. If that person is operating under some medical condition, we may get false negatives or false positives, and that is something we have to look at because that can invariably trap an innocent person,

Madam Speaker.

There are inaccuracies with these tests and that is why I am suggesting that the law must be proportional, there must be additional safeguards of defenses on which a person can, in fact, raise with respect to being subject to these tests, Madam Speaker. So these are some of the issues that I wish to just raise before this Hon. House in terms of the polygraph testing. I raise issues of the definition of officer. I raise the issues with respect to the vagueness and the lack of definition of the testing, of the reasons that we may have to amend the Evidence Act if we determine the purpose on which the evidence collected is to be used. We have to look at the reliability of the polygraph testing based on judicial pronouncements and the scientific data provided to us. We have to look at the sanctions that can be imposed for a person failing to subject themselves to these testings. And now we have to look at whether or not we have to include defenses for those particular matters, Madam Speaker. So with these few words, I thank you very much.

Dr. Moonilal: Well said, well said, well said.

Hon. Members: [*Desk thumping*]

Madam Speaker: Member for Port of Spain North/St. Ann's West.

Hon. Members: [*Desk thumping*]

The Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, today we are called upon as Members of this House, as elected Members of this House, to take very serious decisions as to whether we support the Bill that has been put before us, and having listened quite carefully to the Member for Barataria/San Juan, the compelling question that has remained unanswered at the end of his contribution is, is the Opposition willing to support

this piece of legislation that has been put before the House?

Hon. Members: [*Desk thumping*]

Hon. S. Young: Because you see, what we heard—and I must say the Member for Barataria/San Juan has developed some level of skill—for the last 45 minutes, I believe, is a rambling of points, none of which say whether the policy that is before this House today is a commendable one, whether the policy that is before this House today that I will spend some time on is a legitimate one, and one that they are prepared to support.

So through you, Madam Speaker, to the population, what we are here today—because you would not have picked it up previously from the previous speaker, is we are here today to take a decision to provide certain elements of the public service. And in particular, those in charged with responsibility of law enforcement and other areas that effect national security in particular, with the power and the ability to perform certain testing in very specific circumstances. It is not for every police officer, it is not for every prisons officer, every fire officer, every attorney, legal officer in specific positions, but very carefully considered positions where you are exposed to information that will affect not only national security, but possibly ongoing operations, the planning of operations, et cetera. This whole Bill is to facilitate with one pillar, a fight against crust corruption that, unfortunately—

Hon. Members: [*Desk thumping*]

Hon. S. Young:—unfortunately, has become a cancer rooted in our society.

Madam Speaker, what we are seeking to do today is merely to provide the legal authority and ability for heads of department, for example, in the defence force, in the prison service, in the police service, in the BIR, in Immigration, and in Customs, to request that officers who have an ability to see specific intelligence

reports and other very sensitive information be subjected, for example, to polygraph testing. So when we heard quite the submissions on the evidential value and whether it could be used for evidence, that does not arise, quite simply.

Hon. Members: [*Desk thumping*]

Hon. S. Young: All we are seeking to do here today is to give, for example, the Commissioner of Police the authority to request that an officer undergo polygraph testing in specific circumstances. Right now they have persuasive powers, so the example that he referred to, my friend from Barataria/San Juan, of a former Commissioner of Police quoting from a newspaper report saying that he wanted to polygraph officers and I believe it was in the:

“...south western division...”

—at the time and that they refused. “Ahhh” the critical point that was very quickly skimmed over is that they refused. This now is the legislation being put in place to compel them to undergo the polygraph testing.

Hon. Members: [*Desk thumping*]

Hon. S. Young: And that is what we are seeking to do, because when they refuse, all you do is you transfer them. Those who were subjected and allowed themselves to be polygraphed when they passed it they were allowed to continue in post. And that is a good example to give to the country as to why this legislation is necessary. You see, in that particular instance, the southwestern peninsula, unfortunately, has become—

Mr. Hinds: A gateway.

Hon. S. Young:—a gateway, thank you, a gateway for a lot of illicit narcotics, firearms, even animals, human trafficking, and these types of things. So the Commissioner of Police at the time wanted to make sure that the officers there

were properly vetted and were not part of the problem.

You see, I can say as a former Minister of National Security, very often you are provided with intelligence reports, and these intelligence reports whilst not evidential will point at certain corrupt activities taking place, and included very often in these, may be officers in Customs, in Immigration, in prison service, in the police service, in the BIR, and other areas, in a manner that is skirting on illegality and has the ability to compromise what is required to be done legally. So in that instance, you do not want officers who are part of the criminal organization, because it happens. The vast majority of the services are not corrupt, but all it takes is a couple corrupt persons in key and critical positions to undermine a whole operation.

So for example, the police, Customs, Immigration, planning an operation, all it takes is one officer to provide that information to the criminals and it would have undermined the whole operation and ensured that it would not be successful. So to the population who is interested, because the population is interested, the vast majority of us anyway, in finding ways to combat corruption, in finding ways to allow the Commissioner of Police, the Commissioner of Prisons, the Chief Fire Officer, the head of Immigration, the CIO, the Chief Immigration Officer, the head of the BIR, and these officers to weed out corrupt persons.

4.10 p.m.

Another point I would like to make at this stage, as I listened to the Member for Barataria/San Juan, you would have believed that these are not amendments to the parent legislation. So, for example, when he spent a lot of time talking about, “Well, here, you refer to an officer, but should you not define the prison officer,” it is actually an amendment to the Prison Service Act and in the Prison Service Act—

Mr. Hinds: Oh yes.

Hon. Members: [*Desk thumping*]

Hon. S. Young:—it will list exactly who it is referring to, and I will get to some of the specific points that were raised in a short while. But just to tell the population at this stage that this is a Bill that is seeking to amend certain specific pieces of legislation to give the authority, the people in charge, the ability to require polygraph testing, the use of biometrics and the use of drug testing. All three of which it must be accepted by any sensible person with knowledge are necessary if you are going to have officers dealing in vetted areas, in areas that there are extra levels of sensitivity.

So at the outset, just for those who are listening, through you, Madam Speaker, this Bill is dealing with legal officers who fall under the Judicial and Legal Service Act in very specific positions and very specific departments, it is not for all. Because it defines the departments—at clause 3 of the Bill, it defines department as meaning:

“...Customs and Excise...Immigration...Board of Inland Revenue and the Registrar General’s Department;”

And for the population to understand why would the Government want to provide the heads of these departments with the ability to require and to call upon a legal officer in any of those entities to be subjected to polygraph testing, drug testing, or biometrics, let us use, for example, the Registrar General’s Department. The population is well aware that unfortunately, there have been instances—and it would have taken place in the Registrar General’s Department—of land deeds being interfered with, or birth certificates being created, or death certificates being

created because all of these things have legal purposes. And if they are fraudulently or corruptly interfered with, they are going to affect other transactions.

Similarly, in the Board of Inland Revenue, if you have officers who are deciding a person owes \$35 million in tax, but I will just give you an opportunity to pay a \$1 million and you get a certificate of compliance, that is something we, as a population, and in particular this Government, does not want to encourage. And what we are doing here today is we are trying to provide—it is not the panacea, it is not going to miraculously wipe corruption off of the face of all of these departments but it is going to provide the heads of the departments who are charged with the responsibility in very specific circumstances to require legal officers, in the first instance, in those departments to be subjected to certain testing. And just to give the assurance, it is for:

“...the Head of Department...”—to—“...order a law officer to submit to...
“...polygraph or any other lie-detecting tests;”

Another point that was made, which is a ruse, is a red herring, if I may say so respectfully, is it does not identify what kind of polygraph test or what kind of biometrics. That is not for the parent legislation. This parent legislation that we are passing here today, which is an amendment to parent Acts, is really, as I said, and it is worth repeating, to give you the ability to call upon certain persons to undergo these tests.

Hon. Members: [*Desk thumping*]

Hon. S. Young: Obviously now, in the implementation and the administration of it, there will be regulations, or as happens in the police service, there will be orders issued, standing orders, et cetera, that will determine those things. No one is trying

to avoid due process of law. This is to give persons the ability to require the testing.

The next thing that needs to be said, these—Madam Speaker, through you, for all of the various organizations, the prisons, the fire, the police service, the Defence Force that we are referring to—are the instances for all of them where the particular officer can be called upon to undergo such a test. One, where:

“the law officer”—in this instance—“performs any intelligence or counter-intelligence function;”

Very, very specific. It is not going to be every legal officer, every police officer, every Defence Force officer. It is going to be very few fire officers, very few prison officers, but it is specific and one can immediately understand why. Because when you are dealing with intelligence and counter-intelligence, there must be an element of secrecy, there must be an element of protection. And if you are running one of these organizations and you have a fear, an apprehension, a suspicion that any one of your officers who are subject to that type of information has any shakiness, any element of potential corruption, why should you not give the head of the department the ability to say, “Member for Port of Spain North/St. Ann’s West undergo a polygraph test,” in those instances.

And you know what is frightening? We sat down and we listened for 45 minutes and there was not a single—I cannot even say a single good reason because there was not a single reason given as to why this legislation should not be—

Hon. Members: [*Desk thumping*]

Hon. S. Young:—supported today; not one. But you come here and you throw this and you throw that, as I am sure—well, hopefully, we would not hear any

more of. Hopefully, the submissions to come would be, yes, we are willing to support this. Because, you see, in the whole PR exercise that takes place on that side, very often they come out and say, “Yes, we want to fight crime. If we were in power, these are the things we would do,” et cetera, et cetera. Well, now you have the opportunity here today because we, as the Government, are not the ones asking for this. It is those in the police service who are charged with the responsibility. It is those in the defence force who are charged with the responsibility.

And I would like to put on record as a point of law—because I have given this advice previously and I can say so without breaching it, for example, a Cabinet level or National Security Council level—anyone entering into the service can be subjected to polygraph testing because the principle in law is you have a choice. If it is now that you are going to enter into a contract, I am offering you that, yes, you can be employed by me but subject to these conditions, subject to undergoing a drug test, subject to undergoing a polygraph test. So any recruit coming into any of these organizations, it is—the State has the right to ask them, subject yourself to one of these tests. But what we are doing here today is we are providing for those who are already in the service. Because, you see, times have changed, the risks have changed, the temptations have changed, the criminal network has gotten a lot more sophisticated.

Hon. Members: [*Desk thumping*]

Hon. S. Young: I support, 100 per cent, what the Member, my colleague for Laventille West, said a few months ago and he was wrongly attacked and criticized, both roundly, R-O-U-N-D-L-Y, and as well as wrongly, W-R-O-N-G-L-Y, when he said that, corruption has seeped every part of the society—

Hon. Members: [*Desk thumping*]

Hon. S. Young:—and he named certain institutions. And the truth is he knows, because he gets the intelligence reports that are provided to him by professionals who are vetted. And to let the population know as well, there are already units, for example, in the police service, where you are required to be polygraph tested every few months to remain in the unit—

Hon. Members: [*Desk thumping*]

Hon. S. Young:—the Special Branch, the MOPS and other areas. There was a particular unit that was set up under a former Commission of Police not too long ago, an operational unit, and you had to be vetted to enter that. And you know, the best of the best who want to enter these units do not mind subjecting themselves to a polygraph test—

Hon. Members: [*Desk thumping*]

Hon. S. Young:—getting in and to stay in the unit. And the effectiveness of the units depend on the ability to trust, the ability to know they are operating with integrity and unfortunately, from a human point of view, very often a big stick is required, and if you know you are going to be polygraph tested, you know you are going to be drug tested, you are less likely to go down the wrong path.

Mr. Hinds: Deterrent.

Hon. S. Young: It is a deterrent, as the Minister for National Security reminds me.

The second instance where any one of these officers—and it is not all, I repeat, who would be subject to polygraph testing, drug testing or the collection of their biometric information, is, in this instance:

“the law officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;”

Again, you heard no one deal with that because it is recognized immediately that if that is an area that you are operating in, secret sensitive information, well then, you should be subjected to these things. It is not every day you come in and even if it is, so what? If you are operating above board and you are operating without fear of contradiction that you are doing anything corrupt or lacking integrity, you would subject yourself to it.

The next area that you can be subjected to and called upon, once these heads of department are given the ability to call for polygraph test, drug testing or that you provide your biometric data, is:

“the law officer who is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;”

Madam Speaker, I pause there because I am certain that all of our citizens who are listening understand, again, immediately in this third category, why it is that you would want the highest levels of integrity of people to be operating in that arena, if you have an:

“...officer...involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;”

Is it that there are certain people that do not want to support this legislation because they are concerned and worried about ongoing investigations in those areas? Because I cannot, for the life of me, understand—I have not heard any good reason because, as I said, not a single reason has been proffered thus far as to why this legislation should not be supported.

The fourth area where a person could be submitted to any of these testing is if:

“the law officer has or had access to property, information or files that is the subject of an investigation;”

Again, it is immediately understandable why you would want that category of persons subject to. If I am part of an investigation into very sensitive areas, and then I am transferred out of the unit for one reason or the other, and then there is a suspicion by the head of the department that I am now providing the information that I was privy to during that period of time to persons I should not, obviously, the head of department would want the ability to have me tested as to whether I have done so or not. And to hear the submission by the Member for Barataria/San Juan that “Oh, well, there are no sanctions,” it is not for the parent Act to provide a sanction as to whether you do or you do not do this test. This is giving the head of the department the ability to call upon you to do the test. If you fail to take the test, you fail to do the drug test, obviously, there will be consequences that flow from that.

Hon. Members: [*Desk thumping*]

Hon. S. Young: I have never heard—I was about to define the type of lawyer. I have never heard a lawyer make such a submission that legislation has to provide, in an employment circumstance and situation, the consequences if you fail to act on something.

Mr. Charles: Why not?

Hon. S. Young: Well, you are not a lawyer, so you would not know. So—

Mrs. Persad-Bissessar SC: But he is a better lawyer than you.

Miscellaneous Provisions
(Testing and Identification) Bill, 2022
Hon. S. Young (cont'd)

Hon. S. Young: I am glad to see that the Member for Siparia has joined. And, of course, as she joins, in her normal and typical fashion, the Member for Siparia—

Mr. Hinds: [*Desk thumping*]

Hon. S. Young:—she has to make it known—

Mr. Hinds: Oh yes.

Hon. S. Young:—and to disrupt.

Mrs. Persad-Bissessar SC: Exactly—[*Inaudible*]

Hon. S. Young: So the next one.

Hon. Member: [*Inaudible*]

Hon. S. Young: Yeah, it is always PR. She would have taken a photograph on the corridor coming in here. So one, two, three, four—the fifth area that someone can be subject to—

Mrs. Persad-Bissessar SC: [*Inaudible*]

Hon. S. Young: You know, it will be useful—maybe I am going to propose an amendment, Madam Speaker, at the committee stage that maybe parliamentarians should also be subject to this.

Hon. Members: [*Desk thumping*]

4.25 p.m.

Hon. S. Young: And the first one I will call upon, the first one I will call upon for the testing of is the drug testing. So the next one is:

“There is a reasonable suspicion that the law officer was involved in a serious incident under investigation;”

Again that is obviously, having said it, a good reason as to why you will want to have the ability to test in those instances. The next specific circumstance is:

“There is a reasonable suspicion that the law officer”—let us just change

that out—“officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence.”

Again these are persons who are subject to very confidential information, operating in very specialized areas, if this is happening and you have a reasonable suspicion. I then heard the Member for Barataria/San Juan make a ridiculous submission that the Registrar General who is operating in a civil arena—by definition the Registrar General has to be a lawyer. Even if you are senior counsel as some who has given themselves senior counsel, the first thing you will do is you will seek independent legal advice. No head of department, if they have a reasonable suspicion and they think there is going to be some element of questioning as to whether they are utilizing their power properly, will not go to an attorney-at-law and say, “Listen, I have a reason to suspect employee x, who is conducting an investigation, is providing information to those he or she is investigating. Can I ask him or her to undergo a polygraph test?” So you cannot say, well unless you are a lawyer you cannot apply the law, for example, the Chief Immigration Officer or Commissioner of the Board of Inland Revenue, obviously they will seek legal advice. The next instance is:

“The duties performed by the law officer in relation to his office post or activities involves having access to or dealing with top secret, secret confidential or sensitive information;”

It is obvious. Madam Speaker, why it is that these are the instances, and the very limited instances so let them not create this fear that it is every police officer or every legal officer who is at the Board of Inland Revenue or operating in Customs and Excise who will be subject to this. No, these are the very specific instances.

The next submission I heard is this one:

“The law officer is in proximity to a person charged or convicted of a serious criminal offence under any of the following Acts:”

Any layperson reading that—because the first principle of interpretation of legislation is literal. You take a literal reading of it, there is no magic in that word. And it goes on, Madam Speaker, to have certain definitions as to what it is and this continues, it is the same wording, practically the same wording with a few changes for the prison service, for the police service and for the defence force.

Madam Speaker, this legislation is absolutely necessary and to have heard a submission at the outset that this is the third time, the fourth time that we have come here to debate this. It comes down to the question I asked at the start of my contribution and a question that I expect whoever is the speaker on the next side that gets up to enter the debate will immediately answer because the population wants to know. The public wants to know, is the Opposition prepared to provide their support for the policy and the principle that in these very specific instances, heads of department, to Commissioner of Police, the prison service—

Hon. Members: [*Desk thumping*]

Hon. S. Young:—can call upon certain officers to be subject in very specific circumstances that I have just taken the time to go through and call upon them to have a polygraph test, or a drug test, or to provide their biometric information. That is the question that we want answered because that is what will then lead—if there are changes that you think are necessary from a drafting point of view, we have done this a hundred times before, we can deal with those issues at the committee stage. But we need to hear are you going to support it, are you really prepared to do what you can as a Parliamentarian in the fight against corruption?

Or is it only lip service on a platform or otherwise to say, “If I were” or “When I get back in power,” which will not happen.

Hon. Members: [*Desk thumping*]

Hon. S. Young: Which will not happen, because there are enough problems in the camp as to who will be leading.

Mr. Hinds: That is right.

Hon. Members: [*Desk thumping*]

[MR. DEPUTY SPEAKER *IN THE CHAIR*]

Hon. S. Young: So answer those questions for us. So now, Mr. Deputy Speaker, this Bill does require a special majority and the answer for that is obvious and it does fulfil the test of Suratt and the test of Section 13 of the Constitution.

Hon. Members: [*Desk thumping*]

Hon. S. Young: This—

Mr. Deputy Speaker: Member, please before you proceed you have just about two more minutes of your initial speaking time. You have an additional 15, care to avail yourself?

Hon. S. Young: Yes, please, Mr. Deputy Speaker.

Mr. Deputy Speaker: Proceed.

Hon. S. Young: Thank you very much. If this Bill did not require a special majority it would have already been implemented and been utilized by those who have asked for it and it is worth repeating at this stage, Mr. Deputy Speaker, that this is not the Government asking for it. I want the population to understand and to know that it is those who have the responsibility for the police service, those who have the responsibility for the prison service, for the defence force, for the Board of Inland Revenue, for the immigration and officers in these very, very sensitive

areas to give them the power and ability to ask the officers in those sensitive areas in very specific circumstances to undergo a polygraph test.

Let me put on the record here, there is no one on this side of the Government who has said or will say that a polygraph test is foolproof. But it is a pillar, it is an opportunity, it is a tool to provide those who are the heads of the department for an assurance of integrity in a department. That is all it is, it is a tool, and it is utilized worldwide and there is no element whatsoever of this entering into evidence and this being—this is a tool to be used in ensuring that persons are acting with integrity in very, very sensitive offices.

Hon. Members: [*Desk thumping*]

Hon. S. Young: The Member for Barataria/San Juan in going under clause 4 of the Bill and going straight to “officer” started to make submissions, well who is a prison officer, should we not define here who is a prison officer? I have dealt with that already. The parent legislation that this is a simple amendment to the Prison Service Act in this instance already sets out who are prison officers.

He then said, well show where it is. It is not found in the definition section, the Prison Service Act makes it very clear, because we have all been operating in that instance for decades as to who is a prisons officer to now come and say to add that:

“(c) ‘officer’ includes—

- (i) an expert or consultant on contract or an employee of such expert or consultant on that particular job with the Prison Service;”

Just shows the obstructionist approach that is being taken.

Hon. Member: [*Desk thumping*]

Hon. S. Young: Because, Mr. Deputy Speaker, it is obvious as to why you would

want to include in the various instances that I have already outlined which are very specific, why you will want to include a contract officer or a consultant that is brought in to work in that area.

So let me give an example, very often, for example, you may need a forensic electronic expert. Someone who can come in and can interrogate electronic devices that expertise may lie outside of the service. So if you have an officer, a contractor who can provide that type of service and you want to bring them in, obviously you want to subject them because you are now bringing them into a sanitized area, a vetted unit—

Hon. Member: [*Desk thumping*]

Hon. S. Young:—an area where there is intelligence, an area where you are planning operations and you will want them—and they will now have access to very sensitive information. So you will want that person coming in, you will want to have a sense of assurance that that person is safe to bring in.

I heard the Member for Barataria/San Juan talk about when you are being vetted now to enter the police service and you fill out a booklet and then they ask you, if everything in the booklet was true and correct. It is a scientific test, the questions are very, very carefully chosen and if the person answers yes they are, the machinery will pick up if they are telling a lie or not.

4.35 p.m.

So, Mr. Deputy Speaker, to hear some of the submissions being made, which are really red herring submissions, without the answering of the critical question, leaves the population to wonder—or maybe they should not wonder too much anymore, they are enlightened as to whether those on the opposite side are really interested in making Trinidad and Tobago a safer, less corrupt place. And until we

hear the definitive answer to that question, are you prepared to support this principle?

Hon. Members: [*Desk thumping*]

Hon. S. Young: The answer is, no, they are not in support of a better Trinidad and Tobago.

Hon. Members: [*Desk thumping*]

Hon. S. Young: The next point is when they talked about the Defence Act and if you have a certain—sorry, the Registrar General and the head of department, whether they can determine reasonable suspicion. I have answered that already. They then threw out these concepts that they obviously picked up in law 101 somewhere or the back room.

Hon. Members: [*Laughter*]

Hon. S. Young: Vagueness of legislation. What vagueness of legislation, Mr. Deputy Speaker? They said they Bill does not define what is biometric testing. As I have said at the outset, and I will repeat here for those who are “awing” and “oohing” and “ahhing” on the other side, this Bill is simply to give those in charge the ability, in very, very specific circumstances, the power and authority to call on certain officers to undergo these types of testing. And the types of testing will be defined by administrative instructions, by orders, by regulations, by standing orders in the police, in the defence force. It is obvious they do not understand how national security operates and these areas.

No nexus between what we do with the results of tests for. That was actually a submission? That this legislation must set out these tests are to be used for circumstance A, B, C, D or E? These tests are to be used to determine the integrity of the person who is being subjected to the test in very specific

circumstances and it will then be for the head of the department to determine what the next steps are, and this is not something that is foreign in least. Right now, you have those who are in charge of the police service, when they have problems with certain officers, they transfer them away from where the problem may be. You have the same thing happening in the prison service. The same thing may happen in the defence force. There is less of it there.

So, Mr. Deputy Speaker, another point. If you are going to use it for prosecution, it cannot be used as evidence. There is nowhere in this legislation, nowhere in the submission of the Minister of National Security who piloted it, there is no suggestion whatsoever that any of this is to be used for charges, criminal charges, and as evidence towards criminal charges. No. It is to be used in the proper administration, the proper running of these various departments.

Hon. Members: [*Desk thumping*]

Hon. S. Young: The Bill does not provide for sanctions. It does not—if you do not submit to drug testing. The Bill does not need to provide for the sanctions in those instances. This Bill is to permit the State via the heads of the department to request the testing, which is what I have spent great lengths trying to explain.

Mr. Deputy Speaker, to begin summing up, there is policy behind this, there is research behind this. I want to assure the population, through you, Mr. Deputy Speaker, that this legislation is not an invention of a wheel. This legislation is being applied all over the world. This legislation is utilized in developed countries throughout in these particular areas. We are playing catch up. Because, you see, the fight against crime, criminality and corruption is one that requires you to be—and it is a concept in law always speaking, it is one that the law must always be evolving.

So we look for the support of those on the other side for this legislation because, you see, this is not for the Government. This is for those who are given the constitutional responsibility to keep us safe; the constitutional responsibility to plan operations, to make sure that proper investigations are ongoing, et cetera, with the ability to have officers who have passed the test of integrity and who are continuing to be subject to it, and that is all that this legislation is about here today. It is applying to certain legal officers in instances of Customs and Excise, immigration, the Registrar General's Department and the Board of Inland Revenue. It is applying to certain prison officers, certain defence force officers, certain police officers, certain officers in the Civil Service Act outside of the lawyers in the BIR, the Customs and Excise, immigration, and the Registrar General's office, and the Financial Intelligence Unit as well.

The Financial Intelligence Unit legislation already has very, very tight secrecy legislation, sanctions, et cetera, in the legislation, the parent legislation. But what this—

Mr. Hinds: [*Inaudible*]

Hon. S. Young: Correct. But what this is now providing for is the heads of departments in that body to call upon people—and it is understandable to call upon people to do a polygraph test in specific instances. So, for example, if an officer is conducting an investigation and you have a reason to suspect he or she may be compromised and providing information to whom they should not, to call upon that officer—and it works as a protection, you know. Because the protection is, if you have done no wrong, you pass your polygraph test and you continue to work, as opposed to somebody just having a suspicion and moving you out of the position, or firing you, or transferring you. So, you see, when you do no wrong and when

you operate with integrity, that is how you see it. That is how you understand the legislation.

So sometimes when I sit here and I listen, and I hear the “jumbies”, and I hear “de ghosts round de corner”, and watch for this, and watch for that, it takes me a little while to understand, but why would that person suggest that. Because, you see, if you are operating above board and you are operating in an environment where you have nothing to fear about being accused rightly and legitimately of wrongdoing, then you have no problem. You have no problem in be subjected to a polygraph test. You have no problem in doing a drug test. You have no problem in providing your biometric data and information. It is those who have a problem with that, have a problem with providing any of these things, are the ones that we must watch.

And what we are being called upon here today as elected Members of Parliament, Mr. Deputy Speaker, is to provide that tool to the persons who are in charge of those persons to be able to provide and protect those environments. That is as simple as it is, and there is enough and sufficient case law to provide for this. As I say, in the employment arena and world, you can make this a condition. But what you cannot do is change it in the middle of a person’s employment, and that is what this legislation is seeking to do. It is seeking to now introduce this as a condition in persons who are already employed. Because you could take a simple approach, that everybody now entering any of these services, this is a condition going forward, you will be subjected to it, and that is good employment law. But what we are doing here is we are providing a tool to clean up and to fight corruption. It is going to be the panacea? The answer is, no. But it is a good tool.

Hon. Members: [*Desk thumping*]

Hon. S. Young: Mr. Deputy Speaker, I have absolutely no hesitation, as the Member for Port of Spain North/St. Ann's West and as a responsible Member of this Government, and more so as a citizen who cares about the Trinidad and Tobago, for indicating and putting on record now, at this point, I fully support this legislation and to say it is absolutely necessary at this point in time in Trinidad and Tobago's history. Thank you.

Hon. Members: [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Member for Naparima.

Hon. Members: [*Desk thumping*]

Mr. Rodney Charles (Naparima): Thank you very much, Mr. Deputy Speaker. I listened patiently to the Member for Port of Spain North/St. Ann's West. And as I listened, I got a feel for why Trinidad and Tobago is in the predicament that it is today because what we have is the Member for Port of Spain North/St. Ann's West asking us the key question today, is the UNC going to support the Bill?

Ms. Ameen: That is not the key question.

Mr. R. Charles: That is not the key question.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: The key question is that we are here to share ideas to improve your Bill—

Hon. Members: [*Desk thumping*]

Mr. R. Charles:—and to hope that you would listen, so at the end of the day, Trinidad and Tobago will have good law. We will—

Hon. Members: [*Desk thumping*]

Mrs. Persad-Bissessar SC: Talk and run.

Mr. R. Charles: And, Mr. Deputy Speaker, we talk and run. Listen and learn.

Miscellaneous Provisions
(Testing and Identification) Bill, 2022
Mr. R. Charles (cont'd)

This—**Hon. Members:** [*Desk thumping*]

Mr. Deputy Speaker: Address the Chair. Address the Chair.

Mr. R. Charles: This is law class 204, Mr. Deputy Speaker.

Mr. Deputy Speaker: Address the Chair. Address the Chair.

Mr. R. Charles: If he sits down and learn—if the Member sits and learn, he will become a senior counsel. But he does not learn, he talks. The hon. Member said that, you know, we are here to support the Bill but he himself suggested an amendment.

Mrs. Persad-Bissessar SC: That is right.

Mr. R. Charles: That law should be applicable to MPs. And we say it should be applicable to Cabinet Ministers and all on that side.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: And I will deal with that later. We have some questions that will make this law better. We have valid questions. What we want to know, for example, who will conduct these tests and are they qualified so to do? Where will it be stored? Which agency will do it? Is it—no. Will it be a centralized agency that will conduct these tests, or each department, or each—the Defence Force, the police service, the prisons will conduct separate tests? We wish to know.

[*Minister Hinds stands*]

Because, you see, Mr. Deputy Speaker—please sit down.

Mr. Hinds: Will you give way?

Mr. R. Charles: No. Please sit down.

Ms. Ameen: No, no, no, you will have your chance.

Mr. Deputy Speaker: Member, please.

Mrs. Persad-Bissessar SC: You will have your winding up.

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2023.01.11

Dr. Moonilal: And he is not in his seat.

Mr. Deputy Speaker: Okay. You have not given way? Proceed.

Mr. R. Charles: Yes. We have valid questions about the capacity of the Government to implement and operationalize this piece of legislation.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: Mr. Deputy Speaker, you know why we are on the EU blacklist? It is because the EU has said we have passed the laws but they have no faith in Trinidad and Tobago to operationalize it.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: And we have valid questions. The Member for—the Minister of National Security indicated that there is a DNA databank and we are already collecting DNA tests from—well, let us ask the custodian. Let me ask, the Parliament prepared, in 2011, when there was debate on the DNA Act, the administration of justice—big word—acid Bill, 2011—hear the questions that were asked in 2011. Where are we now?—2023. They gave the parliamentarians then this question:

“• Has the Trinidad and Tobago Forensic Science Centre received Laboratory Accreditation from the international body to ensure that the management,”—

Hon. Members: [*Desk thumping*]

Mr. R. Charles:

“personnel, procedures, instruments, physical plant, security and personnel safety procedures of the laboratory meet the required standards of a recognized accreditation body?”

Hon. Members: [*Desk thumping*]

Miscellaneous Provisions
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Mr. R. Charles: They asked that in 2011, and we ask it today. Do we have an accredited Forensic Science Centre that will be the repository of this sensitive information on individuals and citizens in our society?

Mr. Indarsingh: You are sounding like a director of—[*Inaudible*]

Mr. R. Charles: The question was asked:

“• Is the Forensic Science Centre”—this is 2011—“equipped to handle the increasing influx of DNA samples and evidence that will result from the passage of this legislation?

The problems of backlogs and lack of up-to-date technology will likely result in significant delays in the administration of justice?”

Who will collect this information and do we have the capacity, the technology, the equipment, the resources to ensure that this thing operates expeditiously?

Hon. Members: [*Desk thumping*]

Mr. R. Charles: But, you see, we have on that side a lazy Government, if truth be said.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: A lazy Government.

4.50 p.m.

I said, Mr. Deputy Speaker, in February last year when this Bill was discussed, I made certain comments, if they had listened, if they had incorporated it into the legislation today we would have been much better off, but laziness. The same Bill that we discussed 22 months ago is the exact same nonsense that they have brought before us today.

Hon. Members: [*Desk thumping*]

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Mr. R. Charles (cont'd)

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Mr. R. Charles: One would have thought that after 22 months one would have seen major improvements to what was and still is very unimpressive legislative drafting, and I will show when you compare it with where they copied this legislation. I know exactly where they copied it from and I will give you word for word where they copied, but you see they cannot copy and paste. If you are copying, copy intelligently and broadly.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: So they want us to come, according to the Member for Port of Spain North/ St. Ann's West, "Come and support. I want the UNC to tell us whether they are supporting". We will not support bad legislation and you cannot compel us because we are the alternative government in waiting to rescue Trinidad and Tobago from the morass that exists. So they want us to accept legislation cat in bag. We will not accept cat in bag, and you know why? You know what?

Hon. Members: [*Interruption*]

Mr. Deputy Speaker: Please! Please Members.

Mr. R. Charles: We want the regulations with this Bill. Madam Speaker, we see in clause 3(b)—

Dr. Gadsby-Dolly: Mr. Deputy Speaker.

Mr. R. Charles: Mr. Deputy Speaker, I apologize—and I quote:

“...by inserting after the renumbered subsection (1) the following new subsection:

‘(2) Regulations made under subsection (1)(j) and (k) shall be subject to the affirmative resolution of Parliament...’”

This wording appears throughout the Bill. You know what is the mischief here, Mr. Deputy Speaker? The mischief is they want us to support and give the Bill a

three-fifths majority support to the Bill and then they are coming with regulations that are subject only to a simple majority. You see the mischief? The framers of our Constitution saw that this legislation infringed on the rights, fundamental rights of the citizens, and they said you know what? We need a three-fifths majority in both Houses. The Members opposite, in order to get around that—and this is not the first time, eh—Mr. Deputy Speaker, legislation requires a three-fifths majority. But all kinds of “simi-dimi” they have in the past done away with the three-fifths majority.

Mrs. Persad-Bissessar SC: That is contortion.

Mr. R. Charles: Contort—

Mrs. Persad-Bissessar SC: Contortions.

Mr. R. Charles: Contortions. Political contortions. Correct Senior Counsel. Political contortions to escape the requirement of the founding fathers for a three-fifths majority, and this is another example. If we pass this today and we give it the support, who is to say that the regulations that are necessary to give us a fulsome understanding of the legislation before us, how are we so sure that this will not infringe the rights of the citizens and those subject to the test? So the sting in the tail is that resolutions which will come after like a thief in the night—

Mrs. Persad-Bissessar SC: Regulations.

Mr. R. Charles: Sorry, regulations, and these will only be debated in Parliament and will therefore be subject only to a simple majority. It has now become—

Hon. Members: [*Interruption*]

Mr. Deputy Speaker: Again!

Mrs. Persad-Bissessar SC: Mr. Deputy Speaker, I want to listen to my colleague please? I hear the mumbling—

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Mr. Deputy Speaker: Hon. Minister of Energy and Energy Industries you will have the opportunity to respond at the closure of the debate. So please Members only Naparima is recognized at this time.

Mr. Lee: [*Inaudible*]

Mr. Deputy Speaker: Chief Whip I just spoke.

Mr. R. Charles: It has now become a very distasteful, bad habit on the part of that administration.

Hon. Members: [*Desk thumping*]

Mr. Deputy Speaker: No. Again, I have ruled, address the Chair please.

Mr. R. Charles: They did it with the Public Procurement and Disposal of Public Property Act.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: They did it with Revenue Authority Act and the Anti-Gang Act. But, Mr. Deputy Speaker, scripture tells us in James 4:17—

Mr. Indarsingh: Oh yes.

Mr. R. Charles:—and I quote:

“So whoever knows the right thing to do and fails to do it, for him it is sin”.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: If you know that you must bring the regulations together with the legislation so we could have a fulsome review of what is before us. If you know and we tell you repeatedly but “yuh too harden”, you would not listen and therefore you have sinned—the grace of God. “Stick break in their ears.” Mr. Deputy Speaker, the legislation, the Bill is littered with sloppy language. Sloppy language! Sometimes I wonder—anyhow let me not say that about law school.

In clause 3(f):

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“secret information”—definition—“means information which reasonably could be expected to cause serious damage to national security if disclosed without prior written authorization;”.

So that is secret information. Hear the definition for:

“top secret information ‘means information which reasonably could be expected to cause exceptionally grave damage to national security if disclosed without prior written authorization.’”

So what is the difference between secret and top secret?

Mrs. Persad-Bissessar SC: None.

Mr. R. Charles: The only difference is essentially that secret information causes serious damage while top secret information causes grave damage.

Hon. Members: [*Laughter*]

Mr. R. Charles: I asked some serious men—

Mrs. Persad-Bissessar SC: You should google it.

Mr. R. Charles:—and I say what is the difference between top secret and secret information? Well they say one top up. One is top, one leave out the—they do not know. We do not know and we demand full disclosure.

Hon. Members: [*Desk thumping*]

Mrs. Persad-Bissessar SC: What is the difference between grave and serious?

Mr. R. Charles: Yes, what is the difference between grave and serious? You do not know because I know where this was copied from, point, point blank, and I would refer to that legislation shortly. They have not defined the difference. You see they have copied straight from the US classification system. Cut and paste. But when the classification legislation was brought to the US Congress, these terms were defined with examples.

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Hon. Members: [*Desk thumping*]

Mr. R. Charles: They even defined what is meant by reasonable. This is to ensure that US legislators know precisely what they were talk about when they were deciding on the legislation. It was not cat in bag. And if the US legislators do not accept cat in bag, why should we?

Hon. Members: [*Desk thumping*]

Mr. R. Charles: We demand respect, and we do so on behalf of the citizens who we represent, the 300,000.

Mr. Indarsingh: And nine.

Mr. R. Charles: In the US system “exceptionally grave damage” was defined with examples. They gave examples, so it eh no in the air, and you have Port of Spain North/St. Ann’s West saying, even if “yuh doh” understand the difference support it. The reason why you are here today is solely to support it. “Well ah telling yuh, fass and outta place”. We will not do so.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: In the United States when the term “exceptionally grave damage” was given to the legislators, hear what they were given. The examples, they said it included armed hostilities against the US or its allies, disruption of foreign relations vitally affecting national security. They defined “grave” with examples. We are given, “here, take it. Take it and vote and support us”.

They talked about the compromise of vital defence plans or complex cryptological and communication intelligence systems, the revolution of sensitive intelligent systems, the revolution of sensitive intelligence operations, and the disclosure of scientific or technical developments sensitive to national security. That is the United States, where they copied—you know where they copied this from? They

copied this from the US specific legislation which I will refer to shortly. Copied. What examples are provided given our circumstances? So we are clear about the difference between secret and top secret. You want to copy and paste from the US legislation? Copy everything. So we legislators in Trinidad would know the whole story. So US legislators knew the difference with the secret and top secret. For example, they say the three levels: confidential, secret and top secret differ from each other by order of magnitude. A factor of 10. That is disclosure of top secret information would cause 10 times as much damage as disclosure of secret information. You see what my US congressmen have compared to what is given to us? Stingy, mean, limited language. They even defined “reasonable”, and reasonable—all over the Bill is littered with reasonable, reasonable. Where he is reasonably suspicious. Right? “Secret information...which reasonably could be expected to cause...” Which reasonably—15 times we have the word “reasonably” with no definition. They say, eh, you must know what reasonable is. What is reasonable to me may not be reasonable to someone else. I may think that the UNC is the government for Trinidad and Tobago at this time. That is a reasonable decision.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: You may not think so, wrongly of course.

Mrs. Persad-Bissessar SC: That is unreasonable.

Mr. R. Charles: And that is unreasonable. But in the United States they define, hear what? The US congressman, the congressman from North Carolina, from the 4th Congressional District in Alabama, this is what we have reasonable is:

“Being in agreement with right thinking or right judgement, not conflicting with reasons, not absurd, well balanced, sensible”.

Where are the supporting documents that provide the proper explanations so that we in this House can make informed decisions? In this Bill everything is—in this Bill everything is about reasonable. It has been used 15 times in this Bill. Mr. Deputy Speaker, 15 times, but it is too subjective if it is not defined, it is too imprecise and it is not measurable. In short, it lacks specificity. Sometimes I get the impression, Mr. Deputy Speaker, that language in these, what I call “force-ripe” Bills that are presented to us, are deliberately defined loosely so that their legal financiers can get briefs to disentangle the obfuscation.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: And I have no doubt that some of the moneys end up in a place which we shall not call, but which I had privy to in my earlier days when I sinned against God and was a member of the PNM.

Hon. Members: [*Laughter*]

Hon. Members: “Aaah”.

Mrs. Persad-Bissessar SC: Rodney you are on a roll.

Mr. R. Charles: The law, this law is only applicable to the small fries.

Mr. Indarsingh: The original—[*Inaudible*]

Mr. R. Charles: The British has a very specific Official Secrets Act, the US has the “Es-pie-onage” Act.

Hon. Member: Espionage.

Mr. R. Charles: The Espionage Act of 1917, thanks my colleague. The Atomic Energy Act of 1954 and the Intelligence Protection Act of 1982, and these Acts similar to finding out who is giving out sensitive information, national security, we talked about reasonably suspicious that they are involved in money laundering, et cetera. These Acts in the United States apply to everybody who breaks the law

regarding the disclosure of secrets. And you know what? Even President Trump is now realizing that with respect to classified information, he is not above the law. In Trinidad, this law says, “underlings” people beneath the level of heads of departments”.

Mrs. Persad-Bissessar SC: But who will guard the heads?

Mr. R. Charles: Right. The Bill applies only to underlings, and there is a valid question. Not the big boys, not the Ministers, not the Permanent Secretaries, not the heads of departments. But in the United States it applies to everybody, Trinidad and Tobago, small fish. We are told, for example, in Explanatory Notes, clause 3 to 9 would insert new sections and subsections in the Act specified above to confer on the relevant heads of departments of the protective services, the judicial and legal service and the civil service an express power to mandate the officers under their purview to submit to polygraph or any other lie detecting test, drug test and the collection of their biometric information for purposes of integrity testing. But the big boys should be checked also, not only the small fries.

Clearly, this Government has supreme faith in the respective heads of departments, and I do and there is no reason. But what is good for the goose must be good for the gander. The PNM has this way of the big boys and it will trickle down. We say no, all of us are created in God’s image and likeness, and we are all mirrors of the great God. Whether it be Bhagwan—

Hon. Members: [*Desk thumping*]

Mr. R. Charles:—whether it be Jehovah, whether it be Jah Rastafari Selassie I, Olodumare in the Orisha religion, but it was the Prime Minister himself, the hon. Keith Christopher Rowley who said publicly that he had no faith whatsoever in a previous Commissioner of Police.

Mrs. Persad-Bissessar SC: “Hm mm”.

Mr. R. Charles: Ah telling ah untruth anybody? He said the Prime Minister—well if the Prime Minister had no faith in a commissioner, why are you giving a commissioner power, and the commissioner is not subject to the same test?

5.05 p.m.

You see why—they are not scriptural; they are not scriptural. All of us are created equal, the image of—the Preamble to our Constitution speaks to—the Constitution recognizes the supremacy of God and the rights of—it goes on. The rights that we all possess, and where to protect those rights, they put a three-fifths majority, the same three-fifth majority that they run fast and loose with in this Parliament. Clause 8, section 15(A) states:

“(1) Subject to subsection (2), the Chief Fire Officer may order an officer to submit to the following:

- (a) polygraph or...lie-detecting tests;
- (b) drug tests...
- (c) ...biometric...”—test.

Mr. Deputy Speaker, for obvious reasons, I will not dwell on this. But I can think of circumstances, not excluding wooden ladders, where a chief fire officer may be required to do some of the tests mentioned above.

Another problem I have with this legislation is the fact that it takes sensitive information on employed officers within the protective services, contract officers and legal officers. Some are liable to be tested on duty, and some, on and off duty. But what about the sanctity of this information? What happens if one of these officers gets sensitive information on a senior officer in the protective services and he retires? Does he forget that information? Does the law remain silent on that

information? So he is leaving with sensitive information, the FIU, et cetera, that somebody has a bank account and is involved in this and he leaves today, and we expect—this law is silent on whether or not he is subjected to confidentiality as indicated by these tests.

The US Intelligence Identities Protection Act of 1982—and that is where they lifted—cut and paste, straight, secret information, top secret information. When you read the document, you see why. If you are copying, be smart. The exact wording, not a change, not a comma, exact, they lifted it out of the US legislation. The US Intelligence Identities Protection Act of 1982 applies to present or retired members of the armed forces assigned to any intelligence agency. In Trinidad and Tobago, you could be in the intelligence service, you gather information and you retire, you go home, and we ask, why is this provision not included in this legislation to protect the information?

The Bill—I heard the Minister said that the Bill, it is—the sole purpose of the Bill is to empower the heads of departments to command people, to compel people to take test. That cannot be the sole purpose of a Bill of this magnitude that is getting sensitive information on citizens of this country. There must be protections, there must be punitive measures that are specific to the Bill.

In the United States, under the same Bill that I referred to, the US Intelligence Identities Protection Act of 1982, in 1985, three years after the Bill was passed in Congress and approved in the Senate, a secretary in the CIA office in Accra, Ghana, was sentenced to five years for leaking sensitive information. Trinidad and Tobago says—we have no word; no word on—we would say, okay, you are not going to be employed if—okay. But if you are working in the system and you are accused of leaking sensitive information, what?—we have to rely on secondary

legislation to deal with you? It must be specific, it must be all clear. As I said, it must be comprehensive so we can see what we are talking about.

And we asked about secrecy and privacy issues. We are told in the Explanatory Note of this Bill:

“...the clauses provides for the results of the tests and the biometric information to be treated as confidential and to be exempt from disclosure under the Freedom of Information Act, Chap. 22:02.”

And I say, big deal.

So the information is there somewhere in the nether regions, somebody's head or wherever, stored in the—we “doh” know, the Bill does not tell us, but let us assume it is stored somewhere. The only provisions in this Bill for secrecy are that they are exempt from disclosure under the Freedom of Information Act and that they will be treated as confidential. This is Trinidad; this is Trinidad. What if the information is leaked? How will the results of these test be stored? Is it going to be electronic? Is it going to be hard copy? Who is going to have access to this data? You have to tell us. You cannot take sensitive information about citizens of this country and treat it like how Trump treated classified data, throw it anywhere. We want to know, we demand information. Who will be the custodian of sensitive information of citizens? How long will it be stored? We have—

Mrs. Persad-Bissessar SC: Private information.

Mr. R. Charles:—and this is private information. We have witnessed significant breaches of cyber security in recent times. As we speak, Mr. Deputy Speaker, even in today's *Newsday* editorial, today, the headline is:

“Cyber threat is real”

I quote:

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“Cyber threats of this nature are a continuous feature of modern digital operating systems...”

Mrs. Persad-Bissessar SC: They hacked into the AG’s Office.

Mr. R. Charles: I saw this week that hackers tried to get into the TSTT cyber systems and failed. What makes them think that this would not occur again and be successful in Trinidad and Tobago? I want guarantees from the Minister of National Security that there are sufficient provisions to ensure that the information collected on citizens are secured and properly stored.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: Can you imagine that type of sensitive data getting in the wrong hands? Just last week, Republic Bank credit card holders had a major issue where card transactions were being processed as United States denominated transactions instead of TT dollars. Whilst we know it was a mistake, we need to think about the affected customers and merchants who face reputational damage as a result of the error.

So, Mr. Deputy Speaker, cybersecurity in the times we live in now is very crucial. We have to ensure that we have proper safeguards for every process, especially biometric data.

Mr. Deputy Speaker: Hon. Member, your initial speaking time has elapsed, you have an additional 15 minutes. Care to avail yourself?

Mr. R. Charles: Yes, Sir.

Mr. Deputy Speaker: Proceed.

Mr. R. Charles: Thank you very much.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: So, Mr. Deputy Speaker, take time to listen to some of these

instances. *Biometric Update*, March 02, 2023:

“TransUnion has published a report claiming that at least 22 million people in the United States were victims of data breaches exposing personally identifiable information...”

In—“...2019, the U.S. Marshals Service has had to report an attack. ...the personally identifiable data of people who are part of service investigations...and some service employees...”—were affected.

“Almost 400,000 prisoners had their personal data stolen from the Marshals Service in 2019.”

We come here, this hallowed place, to decide on legislation and not a word, not a funeral note—

Mrs. Persad-Bissessar SC: Not a drum was played.

Mr. R. Charles: Not a drum—thank you very much. I was trying to remember it, it is many years. “Not a drum was heard, not a funeral note”, total silence, but support the legislation. The Opposition is here today to support the legislation. I say no way, no way, until you treat with some of the concerns that we have raised.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: March, *TechCrunch*:

“Samsung has confirmed a security breach...”—et cetera.

The Conversation:

The Taliban in Afghanistan seized the US military biometric collection and identification devices in 2021. The US collected and used this data to track terrorists and other potential insurgents.

Now, if we know that we have people brighter than the PNM outside, hacking—and let us face it, “dey brighter than all yuh”, it does not take much.

Mrs. Persad-Bissessar SC: They hacked into the AG's Office.

Mr. R. Charles: They hacked into the AG's Office, I am reminded. You, we must have some assurance of the integrity of the legislation that you bring for us.

Mr. Deputy Speaker, I will not go much into the reliability and accuracy and validity of polygraph testing. *Washington Post*, January 02, 2023:

“Polygraph protocols have evolved, but the devices’ detractors say they measure only anxiety, not truthfulness.”

You see, when you want to copy and paste, and you copy Third World legislation, they are moving away from it as a reliable source and we are moving into it. And what they tell us? “Fools rush in where angels fear to tread.”

The *Daily Mail*, UK, September 02, 2023, Dr. Sohom Das is a forensic psychiatrist based in London, said:

“...‘The main problem with the polygraph test is that they are not accurate and they only measure anxiety as opposed to measuring people actually lying.

This therefore means that physiological changes are not necessarily a reliable marker of deception.

As a result...”—we know, it was said, it—“...cannot be used as evidence.”

And there are others.

“Canadian courts have refused to admit...polygraph tests as evidence in criminal trials.”

Let us go to polygraphs, drug testing and biometric identification. Biometrics are unique physical characteristics, such as fingerprints, that can be used as automated recognition. According to the Biometrics Institute of Australia, there can be at least 15 types of biometrics, including DNA, ear shape, eyes, facial recognition,

fingerprints. How many types of biometric will be collected as identification from relevant personnel? Will it be fingerprint or DNA or facial or all or some of these? Again, storage becomes an issue.

But you know what is frightening? Fingerprinting, Mr. Deputy Speaker. Just last year, we had the Trinidad And Tobago Police Service Automated Fingerprint Identification System going down, shut down. Apparently, it was repaired, then went down again, and then experts had to be called in to fix the technological issue. That is the *Guardian*, the 9th, 2022. Brings up the question on whether we can truly rely on these systems. In a situation like this, what will be in place if the system breaks down?

Mrs. Persad-Bissessar SC: I do not think we have enough money to start with.

Mr. R. Charles: Why do we have to bring experts to address the issue? Why not train professionals? Is there a reservoir of trained professionals with expertise in this area, with backup? Are scholarships given so that we could rely on our own expertise to deal with these issues? Not a word, not a funeral note, but we must support the Bill. Will all these things be an issue with biometric data and polygraph testing? Will the Government create one body who oversees all tests or will there with be a department within each national security arm named in this Bill?

If that is the case, that is a whole grappe, new people with new expertise coming in to the Ministry of National Security. They already do not know how to spend money, re: the ladders. They do not know how to—how are they going to—where are they going to get the finances to employ all these people? How are they going to be trained? How are you going to show standardization across all departments of the service? Was it included—

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Mrs. Persad-Bissessar SC: Was it included in the Estimates of Expenditure?

Mr. R. Charles: Correct. Was it included in the Estimates of Expenditure? So you are coming, “Ay, support the legislation, it is crucial, you have to support,” but then, no money. And when you talk to them—

Mr. Hinds: [*Inaudible*]

Mrs. Persad-Bissessar SC: Oh, please.

Mr. R. Charles: When you talk to them—

Mr. Deputy Speaker: Again, please, hon. Minister.

Mr. R. Charles: Sorry. Mr. Deputy Speaker, “dey say doh worry about that, we go vire it from one way to the next, we go get it somehow.” We do not have faith in them. They are too incompetent.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: Drug tests—“government by vaps”. Drug tests. Which medical labs will be contracted out to conduct these tests?

Hon. Members: [*Desk thumping*]

Mr. R. Charles: The scope of this legislation can cover thousands of officers and civil servants. Just the police service alone, 10,000; 7,000 sanctioned, 3,000 SRPs. Not all will be tested, we know. But even if one in 10 is tested, we are still talking about 1,000 officers.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: We are not saying all 10,000. We are saying one in 10, which is a sample if you want to get reliability, and that is mathematics. You would not understand that.

Hon. Members: [*Laughter and desk thumping*]

5.20 p.m.

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Will the Government utilize public health officials to prevent exorbitant bills given that most drug tests are rapid tests done via urine samples? Will our already overwhelmed health service—as Dr. Bodoie will tell us—as well as the forensic science centre, be overburdened by this requirement? We have all these officers in every aspect of national security, do we have the capability to do testing? I want to say that we are not against polygraph or drug testing of officers. Get that clear. I do not want anybody to come here and say that we are against. All we are about on this side is in fulfilling our constitutional remit to ensure that the legislation that you bring before this House, that that legislation addresses—

Hon. Members: [*Desk thumping*]

Mr. R. Charles:—concerns that are relevant and we do not have to wait for the EU to tell us that you pass legislation but you cannot operationalize it. You cannot get to a situation where you pass law and it is proclaimed 10 years after in parts. That is not acceptable.

The last question I have is—we are told that all these individuals, the head of department in Customs and Excise, the Board of Inland Revenue and the Registrar General's Department, Department of the Judicial and Legal Services Commission respectively, Commissioner of Prisons, et cetera, et cetera, will be responsible for doing this. The question we ask is: Where is the oversight to ensure that there is integrity in the system, that there is responsible applicability of the intent of the legislation, and that the sensitive information of citizens the information is protected?

The Minister said he had no problem with testing Members of Parliament, MPs. We have no problem with that. We have nothing to hide.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: We have nothing to fear. We are all honourable men and women on this side. Are we not all honourable men?

Hon. Members: [*Desk thumping*]

Mr. R. Charles: “So don’t gimme de ting that anybody who is saved and dey ha’ nutten to worry about, ha’ nutten to worry about the legislation.” We have to worry about it because you have a reputation for passing bad, bad law.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: And if the EU does not want to tell you that that is why we are on the blacklist, I, Rodney Arthurson Desmond Charles, will tell you—

Hon. Members: [*Desk thumping*]

Mr. R. Charles:—that you are incompetent when it comes to operationalizing law, when it comes to thinking fulsomely about a Bill that is before us. So that when I read this, I came to the conclusion that it is a waste of time. If after 22 months you could not learn, you did not listen to us on this side, you did not “listen to we”, have you contacted the Law Association? Who are you consulting? You do not—let me explain to you. All wisdom in Trinidad and Tobago does not reside in Balisier House.

Hon. Members: [*Desk thumping*]

Mr. Deputy Speaker: Member, again, I would like you to address the Chair please.

Mr. R. Charles: I will address the Chair.

Mr. Deputy Speaker: You have been doing it a couple of times.

Mr. R. Charles: Yes, Sir.

Mr. Deputy Speaker: Please address the Chair.

Mr. R. Charles: Yes, Sir. I want to repeat since I said it there and I did not say it

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here.

Hon. Members: [*Crosstalk*]

Mr. Deputy Speaker: Silence. Silence.

Mr. R. Charles: All wisdom in Trinidad and Tobago does not rely on Balisier House or in the Cabinet of Trinidad and Tobago.

Hon. Members: [*Desk thumping*]

Mr. Hinds: Mr. Deputy Speaker—

Mr. Indarsingh: Standing Order.

Mr. Deputy Speaker: Standing Order?

Hon. Member: Sit down!

Hon. Member: Take a seat!

Mr. Deputy Speaker: Member please. Have your seat. Have your seat, Minister. Again—

Ms. Ameen: Stop behaving like a child.

Mr. Deputy Speaker: Members, I need no assistance please.

Mr. Indarsingh: We need to know the Standing Order.

Mr. Deputy Speaker: Again, he has no Standing Order. He does not have the ear of the Chair. Proceed. Naparima, proceed.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: I do not know why on that side they get jittery when you give them the truth.

Mr. Deputy Speaker: Silence.

Mr. R. Charles: Scripture says, “The truth...”—shall—“...set you free.”

Hon. Members: [*Desk thumping*]

Mr. R. Charles: And we on this side shall free you from you burden, your

addiction to incompetence, and slothfulness, and lack of thought, comprehensiveness of ideas.

Hon. Members: [*Desk thumping*]

Mr. R. Charles: And the Minister—I am talking to you, Sir.

Mr. Deputy Speaker: Member, do not get personal. Address the Chair and let us stick to the Bill. You just have a couple more minutes. Proceed.

Mr. R. Charles: I would not take all my time, Mr. Deputy Speaker.

Mrs. Persad-Bissessar SC: After having taken it.

Mr. R. Charles: All I would like to tell my hon. friend on that side—

Mrs. Persad-Bissessar SC: Which one?

Mr. R. Charles: I will be specific—the Minister of National Security, while he questions, while he gets flustered, there are simple things you can do to get credibility and one of the things you can do is subject yourself to all the tests that we have here so that we will know for sure that you had nothing to do with the ladders in the Trinidad and Tobago Fire Service. I thank you.

Hon. Members: [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Member for Port of Spain South.

Hon. Members: [*Desk thumping*]

Mr. Keith Scotland (*Port of Spain South*): Mr. Deputy Speaker, the contribution by the hon. Member for Naparima and how he beat his chest reminded me of the scripture, where the man went up to the altar and said, “Oh, how great and how holy I am” and he aggrandized himself. I want to start by referring to the hon. Member. He quoted the book of Mark, but what about the book of Ecclesiastes, Chap. 3:

“To everything there is a season, and a time to every purpose under the

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heavens;”

This is a time in Trinidad and Tobago to be serious with the fight against crime.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: This is not a time to come to Parliament and pappy show yourself and take serious business and make it into a joke.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: I am appalled I must say, because for a seniority I am very disappointed, Mr. Deputy Speaker—

Hon. Members: [*Desk thumping*]

Mr. K. Scotland:—in that paltry contribution, and that bringing of this House, this honourable House, into disrepute as if we are in a comedy show. Because that is all that was.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: It was devoid of substance. It was devoid of content. Up to now it did not address the issue.

Hon. Members: [*Desk thumping*]

Mr. Deputy Speaker: Members please. Colleagues, each Member, rest assured would the opportunity to enter the debate. You see the running commentary on both sides, please, I only recognize the Member for Port of Spain South. Couva South, I do not recognize you. Proceed.

Mr. Indarsingh: Mr. Deputy Speaker, I am standing—

Mr. Deputy Speaker: I do not recognize you.

Mr. Indarsingh:—on a Standing Order.

Mr. Deputy Speaker: What is the Standing Order?

Mr. Indarsingh: 48(6). The Member insinuated that my colleague, the MP for

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Naparima, during his contribution brought the House into disrepute.

Mr. Deputy Speaker: Okay. Thank you. Overruled. Proceed.

Mr. K. Scotland: Thank you, Mr. Deputy Speaker. And—

Mr. Deputy Speaker: Member for St. Augustine. Member for St. Augustine, I do not need any assistance. I do not need any assistance. Proceed.

Mr. K. Scotland: Mr. Deputy Speaker, on this day, at this time in Trinidad and Tobago, when I heard the contribution of the hon. Member for Barataria/San Juan, when he said what is the urgency of bringing this legislation, he is living under a rock. Is he not seeing and experiencing the urgency of bringing confidence in the criminal justice system, and in the administration of justice, and persons and operatives in that area in order to combat the scourge of criminality in Trinidad and Tobago? That is the urgency, and that is why this Bill has been brought back at this time because this Bill is about, Mr. Deputy Speaker, the improvement in the administration of justice and in assisting in the fight against crime.

The Bill provides a regulatory framework for the conduct of lie detection, drug testing, the collection of biometric data, personal information, for critical officeholders in this country, officeholders who are responsible mainly for the fight against crime. Up to now I have heard two speakers and not one of them has addressed that issue, and they expect the electorate and the citizens to take them serious. Mr. Deputy Speaker, we are about serious business in Trinidad and Tobago at this time.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: And hon. Minister of National Security, we commend you taking this course of action in trying to arrest the criminality in Trinidad and Tobago at this time.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: Mr. Deputy Speaker, the Bill, in sum, seeks to give the relevant heads of the protective services in special and very limited circumstances the ability to subject officers to testing, for drugs, for polygraph.

The Bill will ensure that the members of the protective services as well as certain officers in the civil service are held to the highest standards of integrity. What is wrong with that, Mr. Deputy Speaker? What is wrong with holding the persons who we entrust, who the citizenry entrust in operating our systems of justice, our systems of law and order, upholding them to a higher standard? The legislation ultimately in our view, if passed, will increase the public confidence in those who hold critical positions in the administration of justice.

I heard a submission, it was—Mr. Deputy Speaker, sometimes if it is not your area of specialty maybe you should leave it alone. There was a submission by the hon. Member for Naparima, that there is a discrepancy in the definition of secret information or top secret information. Obviously, it is in distinction of degrees and the legislation itself deals with it. Because secret information means information which reasonably could be expected to cause serious damage to national security if disclosed without prior authorization, and top secret information means information which reasonably could be expected to cause exceptionally grave damage to national security if disclosed without prior written authorization. What they want to do here—what their submission is, is you must put what is exceptionally grave damage and then you must put what is serious damage.

Mr. Deputy Speaker, in the operationalization of the legislation, all of that will come out. You do not have to define or give an example of that in a legislation. I

do not know where they get that from. And then I heard an even more astounding submission that the regulations, not the parent Act you know, but the regulations would need a passage by a three-fifth majority. Where in law? Come on Members, let us get serious. Let us get serious. Come on. Regulations—and if you look under this you will see which office has the power to pass the regulations, the Office of the President. Mr. Deputy Speaker, I am astounded by that submission, and I am not surprised that the hon. Member for Naparima has left the Chamber to go elsewhere, where that submission belongs.

I will continue, Mr. Deputy Speaker, and say that there—when you look at the headlines, when you look at the perception that pervades in Trinidad and Tobago, you would see, Mr. Deputy Speaker, that there is suspicion and a perception that certain officeholders who are entrusted with responsibility of keeping law and order are not trusted. Just a glance of the headlines over the past couple of years will tell you:

“Officers charged with corruption, misbehaviour in public office”, *Loop News*, December 01, 2020.

“T&T a corrupt society”, *Daily Express*, January 28, 2021.

“Three held for corruption, fraud at the Licensing Division”, *Newsday*, 05 October, 2023.

That and these are the headlines, Mr. Deputy Speaker, that we are regaled with in this country and, therefore, we say that these are crippling allegations. These are—
Mr. Deputy Speaker.

Mr. Deputy Speaker: Member.

Mr. K. Scotland: Thank you. These are crippling, crippling allegations. These are the members of the critical arms of our criminal justice system entrusted by the

people to serve, and protect, or/and to provide us with a just peace. That is what they are.

Hon. Members: [*Desk thumping*]

5.35 p.m.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: And in order to stop and to stymie, to stem that breakdown and the weakening of public confidence in key law enforcement personnel and agency, we have brought this Bill at this time in this Parliament today. And what we intend to do, Mr. Deputy Speaker, is to strike a blow against the perception of corruption and actual corruption because sometimes the lines are blurred.

As a reasonable Government, we will not countenance the blurred lines of corruption. We stand committed to ensure that we will do all in our power to ensure that that does not continue under our watch, and we invite those who are serious about the oath they took to join us in supporting the passage of this Bill.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: And the means we say to achieve it, Mr. Deputy Speaker, is this piece of legislation; one of the means to achieve it. It will not provide a cure-all, but it certainly will be a great step, a giant step in the keeping or in the enhancement of public confidence in office-holders in Trinidad and Tobago. So people can feel confident when they go and they make a report or when they give confidential information, that it is treated with the respect and with the seriousness that it deserves, and not what has passed for a debate in this House over the past 45 minutes.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: This is why we are debating this Bill today. It requires a three-

fifths majority. It requires a three-fifths majority to be passed. Consequently, it needs the support of the hon. Members on the other side. The hon. Member, the hon. Minister of Energy and Energy Industries, asked the other side: Will you support it? Mr. Deputy Speaker, they danced like Fred Astaire and up to now, they have not told us if they will support it. Because what you heard coming from them really is, well, if you include the senior officers, we will support it; if you tell us what top secret, as opposed to secret means, we will support it. So can we take it that if we do a division and we say let us go into session and we include that, that they will support it, Mr. Deputy Speaker? I wonder if by their words, they will be held to account if we do that? I think not. But we must do what we have to on this side and we will invite them to let their conscience be their guide and support it.

Mr. Deputy Speaker, we say that the time for the passage of this Bill is now.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: Now is the time, not 12 months ago when it was issued or 22 months ago when it passed. Now is the time and we are now in the here and now. And to show that you are serious about individual honesty and integrity in crucial areas, such as national security, the Judiciary, those involved in criminal investigations, if you are serious about integrity in these areas, you will support this Bill today.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: Do not hold candlelight vigils or hold meaningless press conferences if you do not support this Bill. Put your vote where your candle is. Do not just give us vacuous promises, words that mean nothing and when the time comes to support legislation that will help to stem this tide that is facing this country, you sit down and you make a mockery of it instead of being serious about

what is before this Parliament this afternoon. So I say to the hon. Members on the other side, and I see Oropouche East is well in tune, “choose ye this day.”

Dr. Moonilal: Leave me alone.

Mr. K. Scotland: “Choose ye this day,” Mr. Deputy Speaker, and serve what is right, do the right thing and support this piece of legislation. But we will see and time will tell.

What this piece of legislation also tries to achieve, Mr. Deputy Speaker, is to have built-in mechanisms that will ensure integrity in critical areas of the administration of justice. So, for example, the Defence Force. Mr. Deputy Speaker, it does not take great imagination to make a submission that personnel of the Defence Force in Trinidad and Tobago needs to be of the highest integrity and honesty. The police service, it does not take a submission that is far-fetched to say to the country that it is important that persons who are entrusted to protect and serve are of the highest integrity and will withstand any polygraph test, any biometric data collection, any lie detector, any drug test. How is that so alien to the proper administration of the police service?

The Fire Service, they talk about things that are serious, they talk about the wooden ladders as if that is something to be happy about. That is not something to be happy about. If your house is on fire and you do not have ladders, you think that that is something to have great joy about? That is the sort of “kicks” that the other side is on. They are not serious, Mr. Deputy Speaker. That is why I started with Ecclesiastes 3 because there is a time and purpose for everything under the sun, and this is the time to be serious about Trinidad and Tobago in order to take us into the next decade, and to take us into the next decade with a good governance, which is PNM governance. That is what I say, Mr. Deputy Speaker.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: The legislation seeks to ensure that these office-holders are not engaged in any activity whatsoever that is contrary to public duty; a public duty that they took an oath to perform. Mr. Deputy Speaker, these are high principles.

The proposed legislation also empowers the office-holders to collect biometric information, and this is the purpose that I want to address you on. Mr. Deputy Speaker, the first is an:

- “(a)...officer”—who—“performs any intelligence or counter-intelligence functions;
- (b) the...officer is assigned to a section, unit or department...where top secret, confidential or sensitive information is accessed, processed or stored;
- (c) the...officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;
- (d) the...officer has or had access to property, information or files that is the subject of an investigation;”

Or:

- “(e) there is a reasonable suspicion that the...officer was involved in a serious incident under investigation;”

Or:

- “(f) there is a reasonable suspicion that the...officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence;”

Mr. Deputy Speaker, these instances that permit the heads of department to conduct these tests are serious instances. We have condescended in this Bill to particulars. Why it is the other side has not said “well done” because we have the particulars that address or they attached themselves to the conduct which attracts these sanctions or these tests? And what we also say in Trinidad and Tobago is that this Bill, this current Bill, it will be a first and it will be transformative.

But when I say it is a first, Mr. Deputy Speaker, it is a first here in Trinidad and Tobago, but it is by no means a first piece of legislation in the world. Similar legislation exists around the Commonwealth and particularly—and there were a lot of quotations from the jurisdiction of the United States, but it also exists in the United Kingdom, the laws of Australia, the laws of Canada and the laws of South Africa. All these countries and in all of these countries, the courts have considered the issue of biometrics, drug testing, lie detection and the constitutionality that attends to them.

In United Kingdom, the legal system, polygraph testing is recognized as a valuable tool by many organizations and it is not considered for expansion. It is not on the way out, Mr. Deputy Speaker. It is being now considered to expand in various fields. So then we also say that we are now— and we are getting with the times and we are making laws to govern Trinidad and Tobago that brings us into the century that we live in. Why is it that we are not having the support that is required? Why?

Mr. Deputy Speaker, the introduction of biometric collection and identification, including fingerprints, vein patterns, eye patterns, facial signatures and voice recognition will also assist in investigations vis- à-vis employee misconduct. But it is not just employee misconduct, look at the areas that I have mentioned: employee

misconduct in critical areas of state agencies which are responsible for the administration of justice.

Hon. Members: [*Desk thumping*]

Mr. K. Scotland: Therefore, we say that this requires serious consideration. For example, a facial recognition system will enable investigators internally to identify, with greater certainty, employees who would have acted in a manner that is inimical to the interest of the organization, and that could also lead to an act that is inimical to the interest of the proper administration of justice because these are the institutions that are targeted. We are targeting fundamental pillars: the defence force, the police force, financial institutions, the fire services. This is an attempt to bring the standards up to a level where the public can say these people are persons of integrity, I have faith in time. So you did not support the whistleblower; you did not. All right, well, you say under the common law, persons will make reports and will know that the officers who they make these serious reports to are of the highest integrity and nothing will be leaked, and that is one of the reasons that this Bill is supported by me—

Hon. Members: [*Desk thumping*]

Mr. K. Scotland:—and brought by the Minister of National Security.

Mr. Deputy Speaker, this Bill will serve as a deterrent. It will serve as a deterrent to employees who are minded—and not just employees, I harken back, employees in critical areas of the administration of justice in Trinidad and Tobago who may be minded to engage in misconduct. They would know, Mr. Deputy Speaker, that if this happens, there is a consequence because more than likely than not, they will be found out. And Mr. Deputy Speaker, you know what it will do? It may put a dent sometimes because it will mean less criminality in these areas; less criminality

because there will be a deterrent from persons who are minded to engage in criminal activity.

Mr. Deputy Speaker: I recognize the Leader of the House.

ADJOURNMENT

The Minister of Housing and Urban Development (Hon. Camille Robinson-

Regis): Thank you very much, Mr. Deputy Speaker. I beg to move that this

House do now adjourn to a date to be fixed.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 5.49 p.m.