

SENATE*Tuesday, June 20, 2017*

The Senate met at 1.30 p.m.

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

Madam President: Hon. Senators, I have granted leave of absence to Sen. Nigel De Freitas, Sen. Dr. Dhanayshar Mahabir and Sen. David Small, who are all out of the country.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona O.R.T.T., S.C.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C.,
President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.

President.

TO: MR. NDALE YOUNG

WHEREAS Senator Nigel De Freitas is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

UNREVISED

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MR. NDALE YOUNG, to be temporarily a member of the Senate with effect from 20th June, 2017 and continuing during the absence from Trinidad and Tobago of the said Senator Nigel De Freitas.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 20th day of June, 2017.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

By His Excellency ANTHONY THOMAS
AQUINAS CARMONA, O.R.T.T., S.C.,
President of the Republic of Trinidad and
Tobago and Commander-in-Chief of the Armed
Forces.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.

President.

TO: PASTOR CLIVE DOTTIN

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me

UNREVISED

by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, PASTOR CLIVE DOTTIN, to be temporarily a member of the Senate with effect from 20th June, 2017 and continuing during the absence from Trinidad and Tobago of the said Senator Dhanayshar Mahabir.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 20th day of June, 2017.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.
President.

TO: MR. JOHN HEATH

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOHN HEATH, to be temporarily a member of the Senate with effect from 20th June, 2017 and continuing during the absence from Trinidad and Tobago of the said Senator David Small.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 20th day of June, 2017.”

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Pastor Clive Dottin, John Heath and Ndale Young.

PAPERS LAID

1. Ministerial Response of the Ministry of Finance to the First Report of the Public Accounts Committee, First Session (2015/2016), Eleventh Parliament, on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial years 2014 and 2015 with specific reference to the Auditor General's Department. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
2. Annual Audited Financial Statements of Point Lisas Industrial Port Development Corporation Limited, for the financial year ended December 31, 2016. [*Sen. The Hon. F. Khan*]
3. Response of the Auditor General's Department to the Fourth Report of the Public Accounts (Enterprises) Committee, Second Session (2016/2017), Eleventh Parliament, on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Community Based Environmental Protection and Enhancement Programme for the financial years 2009 to 2014. [*Sen. The Hon. F. Khan*]

4. Annual Audited Financial Statements of EXIMBANK for the financial year ended December 31, 2016. [*Sen. The Hon. F. Khan*]
5. Trinidad and Tobago Housing Development Corporation (Vesting) (Amendment to the First Schedule) Order, 2017. [*Sen. The Hon. F. Khan*]
6. Trinidad and Tobago Housing Development Corporation (Vesting) (Amendment to the First Schedule) (No. 2) Order, 2017. [*Sen. The Hon. F. Khan*]
7. Trinidad and Tobago Housing Development Corporation (Vesting) (Amendment to the First Schedule) (No. 3) Order, 2017. [*Sen. The Hon. F. Khan*]
8. Trinidad and Tobago Gas Master Plan – Final Report. [*Sen. The Hon. F. Khan*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Land and Physical Infrastructure

(Allocation and Utilization of State Lands)

Sen. Stephen Creese: Madam President, I have the honour to present the following report as listed on the Order Paper in my name:

Second Report of the Joint Select Committee on Land and Physical Infrastructure, Second Session (2016/2017), Eleventh Parliament, on an inquiry into the allocation and utilization of State lands for food production.

Miscellaneous Provisions (Trial by Judge Alone) Bill, 2017

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I have the honour to present the following report as listed on the Supplemental Order Paper in my name:

Report of the Special Select Committee of the Senate Appointed to Consider

and Report on a Bill entitled “An Act to amend the Offences Against the Person Act, Chap 11:08 and the Criminal Procedure Act, Chap. 12:02 and for related matters.”

URGENT QUESTIONS

Tropical Storm Bret

(Relief Action Taken)

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister Rural Development and Local Government: Can the Minister state what action is being taken to bring relief to persons adversely affected by Tropical Storm Bret?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the Government is taking all an all-Government approach to dealing with the fallout of tropical storm Bret last night which, thankfully to the Lord, we were spared its full wrath. [*Interruption*]

Sen. Baptiste-Primus: Amen.

Sen. The Hon. F. Khan: We operate at three levels, at the ODPM level, where we deal with disaster management issues; at the infrastructure level where the Ministry of Works and Transport through the clearing of major watercourses and the clearing of roads where there were felled trees, and the Ministry of Rural Development and Local Government as the first respondent in the disaster management situation.

But with regards the way the question is phrased “to bring relief to persons adversely affected by the tropical storm Bret”, we allot a series social services programmes that the Government has initiated over time. It starts with emergency grants for building that is coming through the Ministry of Housing and Urban Development which is a maximum of \$15,000 for people so qualified under the

disaster management issue.

Also, from the Ministry of Social Development and Family Services, there are a series of grants which, when disaster strikes, people so affected can apply and if they so qualify they would be granted various sums.

The more important one of these includes minor house repairs for disaster that has been struck to various households, like if your roof has been blown off or if you were flood hit, and that reaches a maximum of \$20,000. All those who are affected by the flood can easily access this facility through the required application.

Also, there is a household appliances grant which, I think, it is \$7,000, where if your appliances have been damaged, stove, fridge what have you, you can also access that grant. There is also the schools books and school uniform grants which, if your children's books and their uniforms have been water damaged or what have you, if they are lost—[*Interruption*]

Madam President: Minister, your time is up.

Sen. The Hon. F. Khan:—all that could be easily accessed. There are a series of social services programme.

Madam President: Sen. Mark.

Sen. Mark: Thank you very much, Madam President. Could the hon. Minister indicate to us whether there has been any preliminary estimates on the number of persons or citizens who have been affected or adversely affected by this tropical storm thus far?

Sen. The Hon. F. Khan: Again, no preliminary estimates to name. But under the disaster management plan, the regional corporations are the first respondents. So that data would be collated through the 14 regional corporations. They are still in the process of assessing the extent of damage and the reports and hopefully within

the next 48 or so hours, we should be in a better position to so indicate.

Sen. Ameen: Can the Minister inform the Senate whether any lives were lost during tropical storm Bret? And if so, what kind of assistance the Government would be prepared to render to the families?

Sen. The Hon. F. Khan: Well, based on my knowledge today, no life has been lost. If you have information, I will be willing to accept it and be so briefed, but as I prepared this statement I was not aware of any deaths.

CT Machines

(Steps Taken by Government)

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister of Health: In light of the technical problems affecting the computerized tomography (CT) machines at the San Fernando General Hospital, how is the Ministry addressing the delays being experienced by patients?

The Minister of Health (Hon. Terrence Deyalsingh): [*Desk thumping*] Thank you. In order to understand the situation one must go back, Madam President, back to 2010. This machine arrived in Trinidad at taxpayers' expense in May 2010. It lay in its original packaging for two years until April 2012. It was never installed, never used for two years. Installation then started in April 2012. During the installation phase, serious errors were made by the last board of SWRHA and there was significant condensation on the machine. That happened in 2011. Due to that significant condensation in 2011, the warranty was voided. The machine was then commissioned and handed over to SWRHA under the chairmanship of the current Member for Parliament for Fyzabad, Dr. Lackram Bodoie, in April 2013 without a warranty and already defective.

The machine since its commissioning in April 2013 has been problematic because of its less than optimal storage for two years and the total negligence in its

installation where there was condensation.

There are two machines at San Fernando, one is fully operational and patients are utilizing that machine and we are using that machine on a 24-hour basis. Cancer patients, outpatients are being treated during the day and in-patients during the night. Those are the facts. [*Desk thumping*]

Sen. Mark: Madam President, given that there are some 300 patients being affected by the breakdown of the CT machine, could the hon. Minister indicate whether his Government is prepared to utilize this state-of-the-art scanners lying idle at the Couva Children's Hospital to bring relief those 300 patients?

Hon. T. Deyalsingh: Madam President, relief has already been brought because we are using the other CT machine on a 24-hour basis and no patient is being disadvantaged.

Madam President, I may also state when we had the shutdown of the Port of Spain CT scanner coincidentally with the south scanner, do you know what the reason was? Under the last administration, the Port of Spain scanner lay in its box for two years. They did not install it for two years. It is only when I came into office and asked: "Why is a CT scanner left in a container at Port of Spain for two years?", I rushed the installation, because the last board did not see it fit to put into their scope of works a UPS for that machine.

This board under this administration had to spend a half a million dollars to purchase a UPS because of negligence which left another CT scanner laid up for two years. So we had a CT scanner laid up for two years in Port of Spain and three years in San Fernando. So therefore, the machines would deteriorate, and we are on this side accepting full responsibility for solving the problems. Thank you, Madam President. [*Desk thumping*]

Sen. Mark: Madam President, in light of the fact that hundreds of cancer patients'

lives are now at risk under the watch of this hon. Minister, could the hon. Minister indicate, Madam President, when will he take action, urgent action to have this CT scan machine that is currently down for the last six months, urgently repaired.

Madam President: Sen. Mark, no. I would not allow that question. Sen. Mark. Sen. Ramdeen, my apologies.

Death by Hanging of a 14-year-old Child
(Action Taken by the Children's Authority)

Sen. Gerald Ramdeen: Thank you, Madam President. Madam President, through you to the hon. Minister in the Office Prime Minister: What steps are being taken by the Children's Authority to investigate the circumstances surrounding the death by hanging of a 14-year-old child who was in the custody of the Children's Authority?

The Minister in the Office of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): [*Desk thumping*] Thank you very much, Madam President. Madam President, this Government is deeply saddened by the unfortunate death of a child by suicide at the Children's Authority Child Support Centre on Saturday, June 17th. This Government extend its deepest and sincerest condolences to his family. The Child Protection Unit of the police service is conducting the official investigation surrounding this death. The Children's Authority of Trinidad and Tobago has also launched its own investigation.

Madam President: Minister, just a second. Hon. Senators, the time for Urgent Questions has expired. Will the hon. Members allow the Minister to finish his answer?

Assent indicated.

Madam President: Yes. Continue, Minister.

Hon. S. Young: Thank you very much, Madam President, and to the Members.

The Child Protection Unit of the Trinidad and Tobago Police Service is conducting the official investigation surrounding the death of this child. The Children's Authority of Trinidad and Tobago has also launched its own investigation to determine whether any of its protocols for the care and protection of children were compromised in any way. The Prime Minister and the Minister of State in the Office of the Prime Minister will receive official reports shortly.

Madam President: Sen. Mark.

Sen. Mark: Thank you. Question No. 82.

Madam President: You have no supplementary questions?

Sen. Mark: No. I think it is the gentleman—[*Interruption*] Sorry, sorry.

Madam President: Sen. Ramdeen, any supplementary questions?

Sen. Ramdeen: I just wanted to ask, Madam President, am I allowed to ask?—because the time has expired.

Madam President: Yes.

Sen. Ramdeen: As you please.

Madam President: Yeah.

Sen. Ramdeen: To hon. Minister in the Office of the Prime Minister: Have any steps been taken by either the Children's Authority or any other authority to ensure that the other children who would be in this home at that time are given any counselling as a result of what has transpired there on Saturday night?

Hon. S. Young: Madam President, I do not have the specific answers to that, but I would imagine that this is what has happened already.

Sen. Ramdeen: To the hon. Minister, I understand that this is one home of a number of homes that is under the jurisdiction of the Children's Authority. Has anything been put in place in relation to the other homes where children are held or

kept and protected to ensure that they do not fall into this position as this 14-year-old child?

Hon. S. Young: Madam President, as I had answered a question a few weeks ago in the Senate, there are policies, procedures and protocols in place by the Children's Authority of Trinidad and Tobago for the various children's homes, residences, et cetera, and those continue to be in place.

ORAL ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, the Government pleased to announced that it will be answering all questions on notice save and except the final question, question 99 to the Minister of National Security. In this case, we seek a deferral of two weeks.

The following question stood on the Order Paper in the name of Sen. Paul Richards:

Pornographic Photographs of Minors

(Investigation into Reports)

99. With regard to reports that pornographic photographs of minors are being posted on a local website, can the hon. Minister of National Security inform the Senate:

- a) whether the TTPS has conducted an investigation into these reports, and if so;
- b) is the investigation completed; and
- c) has anyone been charged as a result of the investigation?

Question, by leave, deferred.

Photographs of Children at Camp Cumuto

(Investigation by Children's Authority)

82. Sen. Wade Mark asked the hon. Prime Minister:

In light of photographs of two children posing with high-powered weapons at Camp Cumuto, can the Prime Minister advise the Senate whether an investigation by the Children's Authority of Trinidad and Tobago will be launched into this matter?

The Minister in the Office of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): [*Desk thumping*] Thank you very much, Madam President. The Children's Authority of Trinidad and Tobago will not be launching any investigation into this matter.

Sen. Mark: Madam President, could the hon. Minister in the Office of the Prime Minister, could he proffer any rationale or reasons for that decision taken by the Government of the Republic of Trinidad and Tobago?

Hon. S. Young: Thank you very much. Madam President, the Government of Trinidad and Tobago has taken no decision, as I said very clearly in my answer in response to a very specific question. It is Children's Authority of Trinidad and Tobago that has taken this decision, and they are a statutory authority. [*Desk thumping*]

Sen. Mark: Madam President, is the hon. Minister indicating that in light of the protocols and mandates given to this very important authority and in light of the fact that teenagers are involved in this exercise that that authority has unilaterally decided not to launch an investigation in such a serious matter?

Madam President: Sen. Mark, I would not allow that question. Sen. Sturge.

Sen. Sturge: Through you, Madam President, has the authority given any reason why they have decided not to?

Hon. S. Young: Madam President, as I have said before in answer to the very specific question, the Children's Authority will not be launching an investigation. That was the answer prepared and provided for this question.

Madam President: Sen. Mark, next question.

2.00 p.m.

**Permanent Secretaries
(Independent Recruitment)**

90. Sen. Wade Mark asked the hon. Minister of Public Administration and Communications:

With respect to the decision to allow Permanent Secretaries to recruit independently, what measures and criteria will be implemented to ensure transparency in the recruitment process at the five (5) Ministries identified?

The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus): Thank you kindly, Madam President. Before I can state the measures put in place, permit me please to remind this honourable House of the hon. Minister of Public Administration and Communications in his response on June 08, 2017, in which he shared that in 2007 the Public Service Commission Regulations were amended to include regulations to provide Ministries and Departments to issue notices of vacancies, and also to set up Selection Boards to interview candidates by way of amendments to the regulations with the consent of the hon. Prime Minister, and not by way of delegation.

Secondly, Madam President, I would like to cite the following regulations in order to lay a framework to respond to the question asked:

Regulation 13(5) states:

“Notwithstanding subregulation (4), a Permanent Secretary or Head of Department may with the consent of the Public Service Commission and in consultation with the Director of Public Administration by—

- (a) circular memorandum; and
- (b) publication in the *Gazette*,

give notice of vacancies which exist in offices specific to the particular Ministry or Department, to which any eligible officer may apply.”

Regulation 13(6):

“An application to fill a vacancy as advertised pursuant to subregulation (5) shall be made directly to the Permanent Secretary or Head of Department.”

Regulation 13(7):

“The failure of an eligible officer to apply for a vacancy as advertised pursuant to subregulation (5) shall not prejudice the Commission’s consideration of the claims by that officer.”

And Regulation 16(3):

“Where a Permanent Secretary or Head of Department has issued a notice of vacancy pursuant to regulation 13(5), that Permanent Secretary or Head of Department shall appoint a Selection Board to assist in the selection of a candidate for appointment to the vacancy.”

And Regulation 16(4):

“The Selection Board appointed under subregulation (3) shall include the Director or his representative and shall be constituted in accordance with guidelines issued by the Public Service Commission.”

Madam President, I will now provide the measures which will ensure transparency in keeping with the foregoing stated regulations as decided by the Public Service Commission.

- (1) The Permanent Secretary or Head of Department would be required to prepare and submit a report to the Director of Personnel Administration, popularly called DPA, for the information of the Public Service Commission within one week of completion of the screening process with detailed information;

- (2) A representative from Service Commissions Department would be required to serve as a member of the Selection Board;
- (3) The Selection Board report must be submitted to the DPA for consideration by the Commission; and
- (4) Representations received are to be submitted to the Public Service Commission.

Finally, I wish to remind this honourable House that while the Public Service Commission has given consent to Ministries and Departments to advertise, shortlist, assess candidates within the guidelines and specifications of the Public Service Commission, all appointments and promotions can only be made by the Public Service Commission. I thank you, Madam President. [*Desk thumping*]

Sen. Mark: Thank you, Madam President, could the hon. Minister indicate to this House what mechanisms are in place to ensure that when persons apply through advertisements, all of the applications would be considered, all personnel would be screened, and there would not be any room for favouritism? Could the hon. Minister indicate what mechanism is there in place to ensure?

Sen. The Hon. J. Baptiste-Primus: Thank you kindly, Madam President. This administration is an administration that will work very closely with the Public Service Commission in ensuring fair play and transparency. I wish to draw attention to Regulation 16(5), which talks about the Selection Board appointed under subregulation (3):

Shall follow the procedures outlined by the Public Service Commission in its document Guidelines for the Selection of Candidates, which it would issue from time to time.

So, this is not any adhococracy taking place. This process follows a clearly stipulated guideline as laid down by the Public Service Commission. And,

sub-regulation (6) states:

The report of a Selection Board, appointed under subregulation (3), shall be submitted to the Public Service Commission for consideration and the Commission may, in its discretion, summon for interview any of the candidates recommended by the Selection Board, and that Selection Board must have a representative of the Public Service Commission.

And, Madam President, the rest would be left up to the principles of fairness.

Sen. Ramdeen: To the hon. Minister, through you, Madam President. Could the hon. Minister indicate to this honourable Senate when was the Selection Board appointed under Regulation 13 and Regulation 16?

Sen. The Hon. J. Baptiste-Primus: Madam President, that is a completely new question, and I am quite sure, through the hon. Minister responsible, an answer can be provided subsequent to this session.

Sen. Mark: Could the hon. Minister indicate to this House if she has any knowledge of the number of persons comprising the Selection Board? And, in the case of any of the Ministries—Energy and Energy Industries, as an example—who would be the members of the panel outside of the one representative from the Public Service Commission/DPA?

Sen. The Hon. J. Baptiste-Primus: Madam President, that process is left up to the particular Ministry. One thing that remains constant is that, in all cases, a member of the Selection Board would sit, the Permanent Secretary within the specific Ministry would determine the rest of the composition of the panel.

Sen. Mark: Could the hon. Minister indicate where, in instances citizens feel that they have been unfairly dealt with by the particular Ministry through the selection panel, would those citizens be able to appeal directly to the Public Service Commission for justice, for fair play, and equity?

Sen. The Hon. J. Baptiste-Primus: Thank you, Madam President. All my years in the public service, I am aware that once a public officer or any official within the public sector feels aggrieved over an appointment or promotion, that person always has the wherewithal to appeal to the Public Service Commission, place their case, and the Public Service Commission will consider it in terms of having the matter investigated to ensure that those persons were not treated unfairly.

Sen. Mark: Could the hon. Minister indicate to us how often would the Ministry be called upon to submit reports to the Public Service Commission on this whole recruitment process so that transparency and accountability can be assured or be ensured?

Sen. The Hon. J. Baptiste-Primus: Madam President, for each one of the positions for which the Public Service Commission would have conveyed, would have delegated its authority to the line Ministry, in each case the Permanent Secretary must submit a report to the Public Service Commission, so in the event that the Public Service Commission may have given its approval for four/five positions to be filled by the Ministry, in each case a report will have to be submitted to the Public Service Commission.

Sen. Mark: How often?

Sen. The Hon. J. Baptiste-Primus: Pardon me?

Sen. Mark: How often?

Sen. The Hon. J. Baptiste-Primus: It depends on the positions that the Public Service Commission has approved, and when the Ministry is filling those positions.

TSTT/Massy Communications

(Details of Transaction)

91. Sen. Wade Mark asked the hon. Minister of Public Utilities:

Having regard to the disclosure by the Chairman of the Massy Group on extensive losses suffered by Massy Communications prior to exiting the telecommunications sector, can the Minister advise whether the Government intends to disclose all of the details of the TSTT/Massy Communications transaction?

The Minister of Public Utilities (Hon. Fitzgerald Hinds): Thank you very much, Madam President. The acquisition of Massy Communications Limited by TSTT is part of a well-thought-out plan to improve and develop this country's telecommunications sector. TSTT, as the country's foremost telecommunications provider, has always sought opportunities to advance and expand this sector. It is against this background that in 2016, TSTT presented its current five-year strategic plan which sought to achieve the following objectives.

- To expand the country's fibre access to 200,000 homes.
- To roll out the LTE high-speed wireless data network to key parts of the country and a complete overhaul of its broadband network technology and the introduction of a suite of first-world business operations support system.

This five-year strategic plan which sought to improve the telecommunications and broadcast services of Trinidad and Tobago was presented to the Cabinet by TSTT and subsequently to the Minister of Finance. TSTT also saw the approval of the Minister of Finance to raise \$1.9 billion to finance this strategic plan which was approved by a letter of non-objection on October 14, 2016 by the said Minister of Finance. TSTT, through its acquisition of Massy Communications, has grasped a strategic opportunity to enhance its operational efficiency and improve its quality of service, in addition to expanding its infrastructure and widening its customer base. The decision of TSTT's management to acquire Massy Communications

Limited was subject to a thorough technical, financial, legal and operational examination by industry experts and consultants over an extended period of time. TSTT's board of directors is confident that the acquisition of Massy Communications Limited is a sound business decision that will benefit not only TSTT and its shareholders, but its customers and the wider public.

The details of the Massy Communications acquisition have been shared with this Parliament on numerous occasions in the recent past, given consideration to the operational parameters within which TSTT functions. On Tuesday, May 02, 2017, the share purchase agreement to acquire 100 per cent shares of Massy Communications Limited was signed for the sum of \$255 million. The decision to acquire Massy Communications was based on tangible benefits to be gained, and actually gained:

1. Acquiring Massy Communications' new state-of-the-art 900-kilometre broadband fibre network passing approximately 34,000 households and businesses, thereby reducing the need to spend approximately US \$20 million in foreign exchange capital expenditure for this infrastructure. TSTT's ability to speed up the deployment of its fibre network by an additional 3,000 homes passed per month, obtaining Massy Communications' service-delivery technology and processes that allows the delivery of service to customers within two days of order.
2. Accessing Massy Communications' sales team that has successfully commercialized in excess of 6,000 residential customers; gaining Massy's 6,000 residential customer base and upsell its portfolio of voice and security services. Direct access to 100,000 Massy Loyalty Card holders, and provide them with incentives to purchase

communications services from TSTT. Significant reduction in acquisition cost, economies of scale when combined with TSTT's existing entertainment customers; reducing TSTT's level of planned investment in automation by approximately US \$20 million and improvement in the efficiency and effectiveness of its customer service.

3. Acquiring Massy Communications' robust enterprise business and its entire business support systems.

Madam President, as a well-established communications provider, TSTT was poised to undertake its own expansion that would have cost the company a considerable sum. By taking advantage of Massy Communications investment in infrastructure, technology and systems, the company has saved significant expenditure, inclusive of that which would otherwise have been utilized foreign currency. Altogether, Madam Chairman, this was quite a successful enterprise out of which only good has so far come and out of which only good is expected to come. You could not get more details than this. Thank you very warmly, Madam President. [*Desk thumping*]

Sen. Mark: Madam President, given the optimism displayed by my hon. friend, would he be so kind in terms of transparency to provide this Parliament with an undertaking to make available the following documents: the due diligence report? The shareholder agreement? And there are two other reports that I do not recall at this time, that would have informed the decision of that company, TSTT, to arrive at its final decision. Would the hon. Minister, in the interest of transparency and accountability, make these reports available to the Parliament?

Hon. F. Hinds: Madam President, as I indicated in my reply, the transaction has not been fully consummated. A share purchase agreement was signed on the date I

specified a while ago. In addition to that, I would have thought that my learned friend, the very experienced Sen. Mark, would have easily understood that this is a competitive environment and that there are certain parameters—in addition to which TSTT signed off on a confidential arrangement with Massy pending the consummation of this, which is quite normal in the industry. So, I find the question coming—the supplemental from my friend, Mr. Mark—rather flabbergasting and would ask him further to desist, in the interest of Trinidad and Tobago. Thank you.

Sen. Mark: Well, I decline your offer. [*Laughter*] Madam President, through you, may I ask the hon. Member, given the fact that he has indicated that thorough examination was executed by experts and consultants before this decision was arrived at, could the hon. Minister provide us with the names of the experts and consultants which examined this particular transaction before a decision was taken?

Hon. F. Hinds: Madam President, I want to spare this Parliament the time to repeat that which I have said a while ago, and as such, all that I said in relation to the first supplemental is equally apposite and applicable to this second supplemental. Thank you.

Sen. Richards: Thank you, Madam President, through you, to the hon. Minister. Minister, in this acquisition of Massy Communications, has the TSTT board indicated to the Government, or has the TSTT board indicated if there are expected job losses usually associated with acquisitions in terms of redundancies, of human resources, et cetera?

Hon. F. Hinds: As far as I am aware, that matter has not been given—it has not arisen so far; it has not been contemplated so far, and therefore I could say no more on it. Except to say, of course, in the spirit of business, in matters such as these, all of these things are possibility, but since it was contemplated then it does not arise.

Sen. Mark: Madam President, given the close relation between this company, Massy, through its chairman, Mr. Robert Bermudez, and one of his directors, Mr. Richard Young, could the hon. Minister indicate to us whether this company, Massy Communications experienced tremendous losses in last two years? And, if this is so, could he explain to us what was the rationale for this decision?

Madam President: Sen. Mark, I would not allow those questions, okay? Sen. Richards.

Sen. Richards: Thank you, Madam President, through you. Mr. Minister, most acquisitions, market analyses, HR analyses and strategic plans would usually project some sort of HR rationalization, has this information been provided through the board of TSTT to the Government in any way, in terms of justifying this acquisition?

Hon. F. Hinds: The swift answer to that is no, but I would also add that the Government is only one shareholder in that company, and under the laws of Trinidad and Tobago there is a duty of care to be strictly observed in relation to all shareholders. Thank you.

[Sen. Mark raises hand]

Madam President: You have no more.

Sen. Mark: No more?

Madam President: No more.

Sen. Mark: I am sorry.

Madam President: It is all right.

Sandals Resorts International

(Status of Negotiations)

92. Sen. Wade Mark asked the hon. Minister of Tourism:

In light of reports that Sandals Resorts International is exploring strategic alternatives including the possible sale of the company, can the Minister indicate the status of the negotiations between Sandals and the T&T Government on the Sandals Hotel Project in Tobago?

The Minister in the Ministry of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. The negotiations between Sandals Resorts Inc. and the Government-appointed negotiation team, with respect to a possible Sandals and Beaches Resort Project in Tobago are continuing.

Sen. Mark: Madam President, we know that it is continuing, and that was not the purpose of the question. We wanted to get from the hon. Minister of Tourism, could this honourable Senate, in the interest of transparency, be informed of what is the status of those negotiations at this point in time, Madam President?

Madam President: Sen. Mark, you will have to ask another supplementary—that has been asked and answered.

Sen. Mark: Madam President, we understand that there was a meeting held some time ago between the Prime Minister and a number of other officials from that organization called Sandals, in Tobago; could the hon. Minister provide this Senate with information surrounding that meeting, as well as the personnel involved in that meeting?

Madam President: Sen. Mark, I would not allow that supplementary. It does not arise. Sen. Ramdeen.

Sen. Ramdeen: Madam President, through you, to the hon. Minister: Having regard to the fact that the negotiations are ongoing and have been ongoing, can the hon. Minister tell us how long he expects the negotiations to be ongoing for?

Hon. S. Young: Until conclusion. [*Laughter*]

Sen. Ramdeen: Is there any estimate as to when these negotiations will be concluded.

Madam President: That was asked in the preceding question. Sen. Mark, any more supplementary?

Sen. Mark: No more, Madam President.

Pharmaceuticals and Medical Paraphernalia

(Measures to Address Shortage)

93. Sen. Khadijah Ameen asked the hon. Minister of Health:

Can the Minister state whether there is a shortage of pharmaceuticals and medical paraphernalia at the nation's hospitals and, if so, what measures are being taken to correct same?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam President, and I thank Sen. Ameen for the question. There has traditionally been over the years a shortage of pharmaceuticals—and, Madam President, it stated here in the question “medical paraphernalia”, I interpret that to mean non-pharmaceuticals.

Sen. Ameen: Like gauze and stuff.

Hon. T. Deyalsingh: Right, but that is not really paraphernalia. So there has traditionally been over the years a shortage of pharmaceuticals and non-pharmaceuticals in the public health sector, and the Ministry of Health has adopted the following measures to address this chronic and perennial problem:

1. Development of prescribing protocols with the assistance of the Trinidad and Tobago Medical Association and the Pan American Health Organization;
2. The rationalization of the national drug formulary with the assistance of the Pan American Health Organization;

3. The piloting of an IT solution for needs analysis and the development of a supply chain management by UNFPA; and
4. Greater use of the PAHO strategic fund.

Those are the measures we intend to introduce from this year's procurement cycle.

Sen. Ameen: Can the Minister indicate, in the short term, what measures have been taken to alleviate the shortage of simple things like antibiotics and anaesthesia which would prevent surgeries from being done and so on?

Hon. T. Deyalsingh: Madam President, if one follows, as I do, the global shortage of drugs, you would see that there is a global shortage of certain antibiotics and certain anaesthetic medications for a variety of reasons. What we have done in the short term is source alternate suppliers. So, for example, when I came into office there was a shortage of morphine. What we did was source an alternate supplier, so we are now trying to spread the risk amongst more suppliers in the short term, and we have been doing that.

But, Madam President, when one looks at the global shortage of pharmaceuticals they always point to the following areas: oncology, antibiotics, anaesthesia, chemotherapy. So, we are at the mercy of the international drug supply chain—and let me just say, in 20 years, from 1995 to now, the global pharmaceutical industry has consolidated itself from 60 global players to—you know how many now?—10. With that comes lack of competition, lack of R&D and closure of certain markets, but we are pursuing this aggressively by looking for other suppliers of key pharmaceuticals.

Sen. Ameen: Madam President, given that a number of the drugs that are not available in the hospitals and the public health facilities, but are available privately, can the Minister indicate whether suggestions that there is somehow a pharmaceutical cartel, whether that is a matter that is receiving his attention?

Hon. T. Deyalsingh: Any indication of a pharmaceutical cartel for the private sector is out of the remit of the Minister of Health. What I will tell you is that the private sector works with us whenever we have a shortage in the public sector we draw down on their supplies meant for the private sector. Additionally, what we are doing is fast-tracking the approval of certain pharmaceuticals through a special licence which can be granted by the Chief Medical Officer. So, as we try to cast our net wider, we are adopting many strategies to source drugs for Trinidad and Tobago from a wider global market instead of our traditional suppliers, and one of the success areas was in the case of morphine.

And let me just explain something else here, there is a drug called Modecate, which is used as an antipsychotic. I had to answer a question last year, and when one goes onto the website again, Modecate through Phenazine, there is a global shortage again, and it is your major antipsychotic drug to treat schizophrenia—a total global shortage—because you only have two major companies in the world producing this drug, and we are now looking for other non-traditional suppliers. I thank you, Madam President.

Sen. Ramdeen: Madam President, through you, to the hon. Minister. The Minister has indicated, in answer to a question that these measures that have been outlined are going to be put in place from the next procurement cycle. What I wish to ask, through you, Madam President, to the hon. Minister, is what has been put in place, or what had been put in place for the last 20 months before the next procurement cycle to solve these problems?

Hon. T. Deyalsingh: Thank you. As I indicated, in the case of morphine, we did that within one month of my coming into office. One month! So that people on palliative care for pain management got that relief. So, we did a lot of things in the past 20 months, but the crux of matter is solving the procurement, and for the first

time the procurement system is going to put the patient at the centre of the procurement cycle and no other interest.

One of the things we are banning from this procurement cycle, after the tenders go out, is banning the use of advocates who then come to the different committees—so, we have an antibiotic committee, we have an oncology committee, you then have advocates in the past who used to come to get a drug that they have a horse in the race for. We are banning that from now on. Everything is going to be done objectively and without favour for any person, any advocate, any distributor. That is the major reason why this country has had a perennial problem with drugs and non-pharmaceuticals.

Sen. Mark: Madam President, can I ask the hon. Minister, when will the next procurement cycle commence?

Hon. T. Deyalsingh: The procurement cycle has already begun. The notices from NIPDEC actually appeared in the newspapers, I think, last week or week before. So, that procurement cycle is under way now to purchase drugs for the 2018 financial year. Also, for the first time ever, we are now getting the Ministry of Finance to back NIPDEC with funding for the last quarter of this financial year so that, tenders approved now, the orders can be placed before the end of this financial year.

What used to happen before is that even though you agree to your tenders now, you had to wait for the reading of the budget, you had to wait for funds to be made available to the Ministry of Health and NIPDEC after the budget, before you could place orders, so traditionally, orders will be placed by October, November and December. We are now working with the Ministry of Finance, and we are getting backing to place orders—for the first time in this country—in the fourth quarter of this financial year, so that the orders could be placed and drugs could

start to come in from as early as November. In the past, the drugs would start to arrive in this country by January and February the following year. We are cutting that out. Thank you.

2.30p.m.

Sen. Ameen: Madam President, the system of procurement described by the Minister involving NIPDEC had been the source of supply issues for many years over several governments. That system was changed under the previous Government and this Government reverted to that system using NIPDEC.

Madam President: Sen. Ameen, please ask the question.

Sen. Ameen: The question, Madam President, to the Minister, is it that the Minister could provide information as to when the Government would start using the guidelines in the procurement legislation—well, the guidelines provided until the procurement is fully implemented? I am sure the Minister understands what I am asking because he is familiar with the issues with regard to procurement of pharmaceuticals.

Hon. T. Deyalsingh: Thank you. Madam President, it is my pleasure to respond and Sen. Ameen is partially correct. The UNC administration did set up something called the National Health Services Company Limited to take over the functions of NIPDEC, but you never did it. The company was never operationalized. So NIPDEC, even under your administration, continued to be the drug procurement agency.

The new procurement legislation gives us an opportunity to revisit all of these arrangements and we are revisiting those arrangements to see if in fact NIPDEC is the proper agency to be procuring both pharmaceuticals and non-pharmaceuticals. But I want to reiterate, the plan that the last administration had, the company was set up, a board of directors was set up, \$8 million was

allocated for administrative fees, but you never went the way of giving them the authority to procure. You still maintained NIPDEC. We have still maintained NIPDEC even with its shortcomings and with the new procurement legislation I think we would take your advice and we have already taken aboard to relook at the whole procurement issue. I thank you very much.

Owners of the Drill Ships and the Government

(Details of Financial Arrangements)

94. Sen. Rodger Samuel asked the hon. Minister of Works and Transport:

Can the Minister state the following:

- a. what are the financial arrangements between the Government and the owners of the nine (9) drill ships anchored in the territorial waters of Trinidad and Tobago for the storage and presence of said drill ships in our waters;
- b. what is the total sum collected by the Government for these ships to date;
- c. how long are these ships expected to remain in our waters?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam President. Madam President, in August 2015, Cabinet granted approval for Transocean Offshore Deepwater Drilling Incorporated of Huston, Texas, United States of America, to stack six deepwater drill ships in the Gulf of Paria on behalf of the owners for a period of five years, at an estimated cost of US \$80,000 per ship, per annum, approximately US \$220 per ship per day.

After the general election in 2015, the Ministry of Works and Transport renegotiated with Transocean Offshore Deep Water Drilling Incorporated to stack the six deepwater drill ships in the Gulf of Paria for a period of three years, in the first instance, at a cost of US \$750 per vessel, per day, with the option for a fourth

and fifth year at a cost of, US \$1,000 per ship, per day.

In March 2016 an additional three drill ships were given permission to anchor in the Gulf of Paria. The Ministry of Works and Transport once again negotiated increased fees as follows: US \$1,000 per ship, per day for three years with the option to renew for a fourth and fifth year at a cost of US \$1,250 per ship, per day.

To date, no funds have been collected. A decision has been taken for the development of a framework for the expansion of layups before further action is taken on this matter. The framework for this have been completed and is expected to be submitted to Cabinet soon.

The initial renegotiation period for the six vessels is three years from October 2015 with an option for a fourth and fifth year. The period for the last three vessels is three years from March 2016 with the option for a fourth and fifth year. Thank you, Madam President.

Sen. Ramdeen: Madam President, through you to the hon. Minister. Hon. Minister, could you state why or what is the reason for the non-collection of the fees that were due from these vessels over this extended period of time?

Sen. The Hon. R. Sinanan: Sure. Madam President, the Government has to be very careful as to what we allow and what we do not allow in the Gulf of Paria. What this Government is faced with is a lot of wrecks that people would come in and they are willing to pay up front, \$250 and then these wrecks remain here and we have to pay millions of dollars to remove them. We are faced with that situation right now. So this Government has taken a decision to have a proper policy in place before we finalize on the collection of any foreign company here. Right now we have about 30 wrecks outside that we have to spend millions of dollars to remove. What we do not want to have in Trinidad and Tobago is a graveyard for

ships. Thank you.

Sen. Ramdeen: Thank you very much, Minister. Through you, Madam President, could the hon. Minister inform this Senate how much has been outstanding to date with respect to these entire transactions that the Government has to collect?

Sen. The Hon. R. Sinanan: Thank you. Madam President, I do not have the exact figure with me. However, I would like to communicate that we are in contact with the owners of the vessels and they are willing to pay all the outstanding money. We are expecting to have the contract and the framework signed in the shortest possible time. Thank you.

Sen. Mark: Madam President, could the Hon. Minister indicate, given the fact that we do not want the Gulf to become a graveyard for ships that are unwanted, buried there. Could the hon. Minister indicate whether the Government has taken a definitive policy to discontinue ships from coming into the Gulf and offering us US \$250, US \$1,000 to allow those ships to be buried there? Has a policy been determined and therefore a halt brought to this arrangement?

Sen. The Hon. R. Sinanan: Thank you. Madam President, as I said, the Government is looking at a policy framework and in that policy framework we will tell you the age of the ship that will come here, the type of ships that will come here and where we will actually park the ships out into the ocean. What we do not want is that people just coming in here, like what happened before, drop anchor anywhere in the Gulf and if I may go further to say, Madam President, the policy we want to put in place is that you do not have to know the Minister to decide how much money you are paying, which seems to be [*Desk thumping*] what had happened in the past. Thank you.

Sen. Samuel: To the hon. Minister. You mentioned that policy is being put in place. Can you give us an idea as to when this policy will be in place, when it will

be completed?

Sen. The Hon. R. Sinanan: Thank you. Madam President, I can assure this Senate that the policy has been drafted and it will be taken to the Cabinet in the shortest possible time. Thank you.

Sen. Ramdeen: To the hon. Minister, Madam President. Could the hon. Minister tell us what steps have been taken by the Government to clean-up those vessels that have been lying there in the Gulf for so many years without the Government getting any income from them and as the Minister has described, turning the Gulf into a virtual shipping graveyard?

Madam President: Sen. Ramdeen, I would not allow that question.

Sen. Richards, question No. 98. Hon. Senators, Sen. Richards has deferred question No. 97 to the next sitting and now will pose question No. 98.

The following question stood on the Order Paper in the name of Sen. Paul Richards:

Energy Drinks

(Importation Restrictions)

97. In light of the adverse health effects resulting from the use of energy drinks, can the hon. Minister of Health indicate whether the Government intends to place a ban on the importation of said drinks?

Question, by leave, deferred.

Sen. Richards: Thank you, Madam President, I appreciate that in light of what the country has faced in the last 24 hours. Question No. 98, to the Minister of Rural Development and Local Government.

Regional Corporations

(Preparedness for the Rainy Season)

98. **Sen. Paul Richards** asked the hon. Minister of Rural Development and

Local Government:

Can the Minister advise on the level of preparedness of the Regional Corporations to respond to reports of flooding that may arise in their respective regions during this rainy season?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the Ministry of Works and Transport, Drainage Division, has the mandate to develop and maintain main watercourses and drains throughout the country and to identify critical blockages at major watercourses to be cleared and de-silted. However, the role of the municipal corporation is very important because they are responsible for maintaining smaller drains which will impact on the main watercourses. The corporation sometimes cleans and clears some main watercourses when the need arises, even though this is the mandate of the drainage division. The corporation will periodically remove silt and debris, brush cut and cutlass roads, bridges and sweep streets with the aim of reducing and preventing flooding and stagnation.

The Regional Coordinating Committee meeting at the corporation coordinates requests for work to be undertaken by the Ministry of Works and Transport, Drainage Division. Requests for the cleaning of major watercourses are addressed at the monthly Regional Coordinating Committee meeting. The officers of the Disaster Management Unit of each regional corporation have been trained to follow a strict incident command system outlined by the DMU protocols. There are also Community Emergency Response Team, CERT, members to assist in times of need in rural communities and other remote areas within the region.

Communication resources have been installed in those areas to assist with the flow of information in response to reports. Sub offices have been set up to assist in the pre-positioning and distribution of relief items. The Disaster

Management Unit of each corporation, which I must say works extremely well, together with the road and health department, are poised and ready to assist when called upon by the burgesses of their region.

I am happy to be able to respond so positively, that during the national clean-up campaign, we had the opportunity to clear and de-silt numerous main watercourses in flood prone areas which served as a preparatory work for the rainy season. Also, steps were taken by the regional corporation to mitigate flooding in vulnerable areas—[*Interruption*]

Madam President: Minister, Minister. Hon. Senators, the time for answering Oral Questions on notice has expired. Would the Senators agree to allow the Minister to complete his response?

Hon. Senators: Yes.

Madam President: Minister.

Sen. The Hon. F. Khan: Thank you, Madam President. Madam President, as I said, I am happy to be able to respond so positively that during the national clean-up campaign, we had the opportunity to clear and de-silt numerous main watercourses in flood prone areas which had served as preparatory work for the rainy season. Also, steps were taken by the regional corporation to mitigate flooding in vulnerable areas which involved routine cleaning with manual and mechanical labour.

The clean-up campaign was a national initiative which had tremendous local impact. And I want to thank every corporation without exception, for all their efforts, PNM and UNC alike. We had great buy-in from the public, especially the corporation workers, with the support of their respective unions. They all came out on weekends free of charge and also came out voluntarily to improve their regions, boroughs and cities. This augurs well for local government reform, if I should say

so, and we can already see the local government practitioners and the people working together and taking up the mantle of greater responsibilities in their community.

Sen. Richards: Thank you, Madam President. Minister, in light of your answer, but we still see significant flooding in the Fyzabad Anglican School, Oropune Gardens, Sangre Grande and other areas. What is the response of the municipal authorities and city corporations in terms of mitigating the slowly receding water which is posing quite a threat and the inconvenience and a safety issue to many of the burgesses?

Sen. The Hon. F. Khan: Well, there is disaster management and there is river clearing. But I just want to go on record to say, a river overflows its bank when the carrying capacity of the river is insufficient to meet the run-off. This invariably happens no matter what you do, in periods of intense torrential rainfall. What we had last night was a unique situation. It was tropical storm condition. So under normal circumstances, you would not expect the rivers to have the capacity to distribute that water on a timely basis.

In circumstances like these, you have overflowing of the banks, but it quickly subsides and the clean-up campaign is more a health issue now than an infrastructural issue. As I said, it is a whole of government approach we are taking and I want to say, I want to go on record, Madam President, through you, to compliment all the agencies of the State of how that storm was handled last night.
[Desk thumping]

Sen. Richards: Thank you, Madam President. Mr. Minister, even in light of that and the schedule you outlined for de-silting, et cetera, in many of the water ways. There are some that were not adequately addressed; Maraval being one of them, where there was quite a significant overgrowth of flora which put residents and

burgesses at risk. So obviously it was not as effective as it should be. What are the corporations doing to address those that would not have been effectively addressed?

Sen. The Hon. F. Khan: Well, obviously pending the release of funding and in coordination with the Ministry of Works and Transport, Drainage Division there has to be a more coordinated effort at river clearing.

Unfortunately, we do not capitalize enough in the dry season to clear the watercourses and then we go on a scramble as the rainy season starts. Again, I want to say what happened last night, I think it shows that there was some level of preparation by the Government in this regard and we will continue to give it our best effort in the future.

Sen. Richards: Have the municipal corporations done any assessment of the hilly areas, given the fact that this excessive rainfall that we experienced has also in some areas where development has not been authorized, put some burgesses at increased risk for soil integrity, et cetera?

Sen. The Hon. F. Khan: Well, obviously that is an inaccurate statement. We have always lamented the unplanned development that is taking place especially on the foothills of the Northern Range along the East-West Corridor. Strictly speaking, that falls under the Ministry of Planning and Development. It is a major challenge. The Minister of Agriculture, Land and Fisheries is now—he said that recently, with the Prime Minister, there were one million trees that we have started replanting on the slopes in a way of reforestation programme. Hopefully, that will assist in time and then we are making now a stringent effort to curtail unplanned development on the slopes.

Sen. Ameen: Thank you. Madam President, to the Minister. Having regard to the widespread flooding, particularly in south and central Trinidad and the after effects

of tropical storm Bret, can you indicate whether additional resources or what additional resources will be provided to regional corporations that are hard hit, such as, Princes Town, Mayaro/Rio Claro, Penal/Debe, Couva and so on?

Madam President: Sen. Ameen, that question does not arise, okay.

Sen. Ramkissoon: Thank you, Madam President. Hon. Minister, in your answer you spoke about the clean-up actions and the clean-up campaign. What is the Ministry doing at this time about citizens who continue to dump rubbish or old tyres into rivers? That means you are reducing the capacity of rivers and now creating areas of flooding.

Sen. The Hon. F. Khan: Obviously that is a matter at its highest level, is about civic responsibility. All we can do is enforce the laws through the police service and in particular, what the regional corporation has jurisdiction over which are the litter wardens. When I was the Minister of Rural Development and Local Government and the current Minister we are making a renewed effort to re-energize the litter warder system and to make it more effective. But beyond that, I want to call on the nation to be civic-minded and we cannot police you 24 hours a day. People have to step up to the plate now in Trinidad and Tobago and understand their action can have grave consequences to this nation.

Sen. Mark: Thank you, Madam President. Could the hon. Minister indicate to us, in terms of the clean-up campaign that he mentioned earlier, whether this campaign will be an annual activity or whether it is a one-off exercise that we would have witnessed in 2017?

Sen. The Hon. F. Khan: Well, I am not quite certain. Initially, it was carded to be a one-off campaign, if it can morph into an annual event, I see nothing wrong with that. But what we need at the level of the regional corporation—that is why we are going so strongly into local government reform, there has to be continuity of

projects and continuity of policy and action and each regional corporation, once empowered under the local government reform system which will be coming to Parliament in the next term, I see a bright future for the regional corporation, empowered regional corporation, to handle their own municipal affairs.

Sen. Ramkissoon: Thank you, Madam President. In relation to the litter officers, I am not sure that is the correct name—

Hon. Senators: Wardens.

Sen. Ramkissoon: Wardens, the litter wardens. How many are there in Trinidad right now and if you do not know the answer, because I have never really seen anyone because of the braveness of the citizens, can you share with us if there would be a new policy for these litter wardens to operate at? I know want to revitalize it.

Madam President: Sen. Ramkissoon, you have asked two questions.

Sen. Ramkissoon: Oh, I apologize.

Madam President: You have asked about the number and you have asked about the policy. Minister.

Sen. The Hon. F. Khan: I cannot recall the exact figure. Strange enough I knew that last year, but we are—it is all about management and I think somewhere along the line the regional corporation management allowed it to slip through the crack and I think with renewed management and a renewed effort, while the numbers will always not be sufficient, we can really get more out of them in the shortest possible time.

DEFINITE URGENT MATTER

(LEAVE)

Children's Authority

(Failure to Protect Children)

UNREVISED

Sen. Gerald Ramdeen: Thank you, Madam President, and thank you for this opportunity. Madam President, I hereby seek your leave to move the adjournment of the Senate today under Standing Order 16 for the purpose of discussing a definite matter of urgent public importance. That is, the failure of the Children's Authority to carry out its responsibility and good law to protect our children, the latest failure resulting on Sunday night in a 14-year-old child taking his own life while in a safe house in Valsayn under the care and protection of the Children's Authority.

The matter is definite because pertains specifically to the failure of the Authority to discharge its functions as defined under section 5 of the Children's Authority Act, Chap. 46:10, to protect and care for our most vulnerable children. The failure of the Authority to discharge its functions under the Act places all our vulnerable children at risk.

The matter is urgent because on Sunday night, a child in the care and under the control of the Authority in a safe house at Valsayn took his own life by hanging himself. There may be other children in that safe house in the same position as that child and their lives may be at risk as well.

The matter is of public importance because the Children's Authority Act, Chap. 14:10 states, that this body was established to act as the guardian of the children of Trinidad and Tobago. Whatever has gone wrong needs to be addressed urgently and whoever is responsible for this unfortunate event needs to be held accountable for their actions or inactions.

I thank you, Madam President.

Madam President: Hon. Senators, I have considered the Motion, but I am not satisfied that this matter qualifies under this Standing Order. Hon. Senators, you will recall, though, that an Urgent Question was allowed on this issue.

CRIMINAL PROCEDURE
(PLEA DISCUSSION AND PLEA AGREEMENT) BILL, 2017

[Second Day]

Order read for resuming adjourned debate on question [June 13, 2017]:

That the Bill be now read a second time.

Question again proposed.

Madam President: Those Senators who have spoken on this Bill are: the Hon. Faris Al-Rawi, Attorney General, mover of the Motion; Sen. Sean Sobers. Sen. Chote.

Sen. Sophia Chote SC: Thank you, Madam President, for the opportunity to speak on this Bill. There is nothing objectionable about what is contained in this Bill, because plea bargaining has existed in the common law for a very long time and prosecutors and defence attorneys have engaged in what we would describe as plea bargaining arrangements which have worked well before the courts of Trinidad and Tobago. So, the fact that this is a statutory regime, I suppose, will just be an addition to the existing powers which are already used in the courts.

My contribution is focused on seeking to align this piece of legislation with other pieces of legislations and with the Criminal Procedure Rules which is the subject of a Legal Notice. So, through you, Madam President, I will ask your permission to simply run through the sections and to give my brief comments on these sections.

In clause 2, I would respectfully ask the hon. Attorney General to consider the possibility of, in 2(b), at the end of it, including the words, “and includes a defendant’, simply because, that is how an accused person is described in the Criminal Procedure Rules. Under “court”, may I respectfully suggest that instead

Criminal Procedure
(Plea Discussion and Plea Agreement)
Bill, 2017 (cont'd)
Sen. Chote. SC (cont'd)

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of “Magistrate’s Court”, “Summary Court” is used because that is how all of criminal legislation describes Magistrates’ Courts.

I know that I may—I do not know if the honourable—Madam President, I do not know if the honourable Chamber thinks that perhaps I am being presumptuous about making these submissions in my contribution because I know that we will probably be going into committee stage when people can put forward their suggestions. But I think that perhaps we might save a little bit of time if I sort of outline some of these suggestions. So unless you stop me, Madam President—

Madam President: Continue.

Sen. S. Chote SC: Thank you. If we look at page 3 of the legislation, under “improper inducement”, if you look at subsection (c), we talk about an improper inducement being:

“the coercion of an accused person or suspect to enter into a plea discussion including a threat—”—and so on.

May I respectfully suggest that after the word “suspect” we include the words “by any person”. And similarly in (c)(i), I am respectfully suggesting that after the words “to lay a charge” we include the words “or cause a charge to be laid”. The reason I have asked for the hon. Attorney General, through you, Madam President, to consider these possible amendments to what is here is because very often before an accused person or a suspect is charged or has any sort of interaction with the prosecutor in the matter, that person comes into contact in the criminal justice system with a variety of police officers. And those police officers may not appear in the actual prosecution because sometimes charges are laid by complainants who are directed to lay the charges by senior officers. So we want to ensure that there is

Criminal Procedure
(Plea Discussion and Plea Agreement)
Bill, 2017 (cont'd)
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nobody faceless or nameless in this arrangement, this statutory arrangement.

If I may go down the page, to (d), which talks about:

“the misrepresentation of a material fact by the prosecutor...”

I am respectfully suggesting that we include—“or anyone acting on his behalf or anyone involved in the investigation of the matter” for the very same reason that I advanced earlier up.

In (e), which talks about:

“an offer or promise, the fulfillment of which is not...”,

And I am suggesting that after the “not”, we consider inserting the words “capable of being fulfilled”.

I just want to make sure I do not repeat myself. So if I can move on, may I respectfully suggest that in (f), we consider the inclusion of the words “by any person” after the words “accused person or suspect”.

Now, I pause here to make the comment before I go on to the next point that this piece of legislation does not seem to contemplate the kind of situation where we have private prosecutions.

And while private prosecutions are generally speaking rare, in terms of the number of informations and complaints laid in Magistrates’ Courts throughout the country, I think some of them can be very significant and very consuming for the judicial officer involved in the matter. So I would respectfully ask the Attorney General to consider how private prosecutions fit into this statutory framework, or whether it fits into this statutory framework at all.

3.00 p.m.

Now prosecutor, if we may go on to page 4, “prosecutor” is defined there as:

Criminal Procedure
(Plea Discussion and Plea Agreement)
Bill, 2017 (cont'd)
Sen. Chote. SC (cont'd)

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“the”—DPP—“or an Attorney-at-law authorized, in writing, by the”—
DPP—“to engage in a plea discussion or conclude a plea agreement;”

Now, I am a little unclear about this because the DPP has certain powers to allow other persons to prosecute and to take certain decisions within the course of the prosecution. These powers are usually given on the condition that before anything is concluded, the Director has to give his sign off on it. For example, if you get a fiat to prosecute a matter, you can ask that the Director of Public Prosecutions be notified—let us say that the person wants to enter into a plea agreement arrangement and get his blessings for whatever the arrangement is. So I do not know if this really widens the powers, or whether it narrows the powers, because the Director also has a variety of other things that he can permit a private attorney to do, apart from giving a fiat to prosecute. So I do not have a suggestion as to how that may be reworded. I am just thinking that perhaps, Madam President, consideration should be given to rewording it, so that it is clear.

In this interpretation section, we have a definition of “relative” in relation to the victim. Now, we are a society where many persons live, or have relationships with, persons who may not be connected to them by blood, so what I was going to suggest is that wherever “relative” is used in the legislation that perhaps consideration could be given to use of the words “appropriate persons” instead and I will just use an example. The (a)(i) talks about the person’s “parent, step-parent or guardian”. I think that these definitions sort of narrow down the people who might be available to advise and assist within the context of the legislation. So you want to make it so that as many people who wish to engage in the plea bargaining exercise under the statutory scheme are able to do so, and you want to make sure

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that they are not debarred from doing so because of the definitions of the Act. So perhaps thought could be given, Madam President, to opening it up a bit to include “appropriate persons”.

Now, if we may go to page 5 where we talk about who is a victim under this piece of legislation. Three persons are identified here, but I ask myself, well what becomes of the position where the State, or the people of Trinidad and Tobago, are the victim, as is the case in some corruption offences, in the case of some proceeds of crime offences and so on. I think some thought should be given to that because some of the offences included in those pieces of legislation are very serious and attract serious penalties, and I think a policy decision ought to be taken, if it has not already been taken, as to whether the State of Trinidad and Tobago should be included into this category, and if not, why not?

I am moving along. If we may go to page 7—I beg your pardon. Let us go back to page 6. I am looking at clause 4(b)(iii). I am a little afraid, Madam President, that this sub clause is capable of abuse because the sub clause says:

“the prosecutor agrees to take a particular course of action including—
an undertaking not to institute charges of family members or friends of the
accused person or suspect;”

Now, this brings me to the very real issues that we have in the prosecution of narcotics offences or firearm offences where officers go to a house, they conduct a search and they find narcotics, or firearms, and/or firearms, and maybe money. Now, I have had the experience, and I think I have spoken of this experience in this honourable House already, where despite the fact that the law says that you ought not to roundup the whole lot of people including grandmother right down to child

and take them to the police station and keep them there under arrest, what you should be doing is, you should be looking to see who is the person you are going to be able to charge as a result of your investigations.

I had the actual unfortunate experience of being involved in a matter where exactly the same thing happened. Police went to a particular home, arrested three children, two of whom were Canadian-born children visiting their father here, who had been separated from their mother, and the third was an autistic child. That child was taken to the police station, kept there, police looked on while the child had seizures and so on, and had it not been for the gumption of a young attorney-at-law who simply walked into the station and walked out with the child, that child may have been kept in custody along with the mother. So I have seen that these situations allow for abuse because not every cop is a good cop. So I am respectfully suggesting that words along the lines of “where there is evidence to sustain a charge” should be included to make sure that an officer simply does not roundup everybody in an attempt to force the father of the house, or whoever it is, or the son, to plead guilty to the charge saying, “Well, if you plead guilty, I will let the rest of you go”.

If I may move on to page 7. Again, this one is just a question of language, Roman numeral (viii). May I respectfully suggest, Madam President, “a promise to proceed summarily” rather than indictably. Now, there is something that I thought about today which is missing from this piece of legislation. Now, the way plea bargaining operates in the common law, it usually takes place if the prosecution has a witness who may be unwilling to testify, time having passed, especially where you have sexual offences, or it may take place simply because so much time

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has passed that the prosecutor is willing to accept a plea to a lesser count. So instead of the attempted murder for which the person may be indicted, the prosecutor may be willing to accept a plea of guilty to an offence under the section 14, Offences Against the Person Act—wounding, unlawful wounding.

So I thought that the statutory scheme was basically going to be putting out conditions where there would be new reasons for there to be agreements. So let us have a narcotics case. If it were that the person was willing to give information about those—let us say it is a women who has been sent to take narcotics to the United Kingdom. I thought that inclusion of these circumstances would have made the statutory framework different from the existing common law framework, and I do not know if consideration at this stage can still be given to that. So you identify certain situations where the State gets something in exchange for the plea bargain because, as it is, this is a plea bargain but I am not quite sure what is being exchanged, and certainly if there is an incentive for law enforcement to get useful information through this scheme, then I respectfully suggest that that ought to be considered in the wording of the drafting.

Now—[*Interruption*]

Hon. Al-Rawi: Senator?

Sen. S. Chote SC: Certainly.

Hon. Al-Rawi: Thank you for allowing me to interrupt, and thank you for the suggestions. Are you thinking along the lines of a statutory discount expressed so that there is an incentive based position for that which is to be exchanged?

Sen. S. Chote SC: No. Through you, Madam President, I am simply thinking about, let us say fact situations, specific fact situations, or scenarios which could be

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specifically addressed and which might make the legislation more pointed, and more useful, and more likely to be used, because the fact is we have or had plea bargaining legislation in existence for many years. It was never used. In fact, I remember once being in the Magistrates' Court in Arima before a very experienced magistrate and the prosecutor and the defence attorney were saying that they were working out an arrangement under the legislation and it was the first time that the magistrate had had parties seek to use the legislation. So I would respectfully suggest that, as it stands, we need to have something to make this legislation something more than an Act sitting on the books, as was its predecessor, and I am respectfully suggesting that this may be one of the ways that we can do so.

Clause 5. With respect to 5(b), I was going to suggest “during the enquiry stage” because we do not have committal proceedings as yet. Persons are committed to stand trial, but committal proceedings unfortunately are not here yet. What we have are preliminary enquiries where witness statements are filed and persons may be cross-examined on that. So the lingo, I think, perhaps should be different.

If I may move on to page 8, clause 7? To bring this in line with other legislation, in particular, the trial by judge alone legislation which we have very recently been looking at: “No improper inducement” offer, threat or promise, I respectfully suggest is how that first line should be read. Subclause (8)—sorry. I beg your pardon. Clause 8 says:

“A prosecutor shall not initiate or participate in a plea discussion or conclude a plea agreement that requires the accused person or suspect to plead guilty to an offence that—

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(a) is not disclosed by the evidence;”

I think we have to have a look, or keep an eye on the Criminal Procedure Rules, in particular 7.3(1) on the issue of disclosure and marry that into our discussions about disclosure under this piece of legislation because you do not want to have confusion by having the rules set out certain guidelines for disclosure to be done in the case management process and a statute which permits, or which is ambiguous about when disclosure should be made, what is “disclosable” and so on, because it would mean that the statute which you would like to have people use to speed up the system would not be used at all.

If we may go on to clause 10. Now, I am not seeing in this piece of legislation—perhaps I am missing it. Clause 10 says:

“(1) A prosecutor shall not initiate a plea discussion with an accused person who is not represented by an Attorney-at-law...”

I am not seeing any specific references to vulnerable suspects or accused persons, children, mentally subnormal people and that sort of thing. I do not know if that is included here. As well, when we are talking about people who are not represented by an attorney-at-law and we have a nice certificate at the end which they can sign off on, perhaps some consideration could be given to making it mandatory for a psychological and psychiatric evaluation to be done on the person who is unrepresented before we have him or her sign off on that certificate. Because I have seen too many cases in our criminal justice system, where persons who are mentally challenged for one reason or another, whether because of inherited problems, trauma, whatever it is, they are convicted and then time and money is spent in the judicial system through the appellate procedure where these tests are

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done. So if you want to have this piece of legislation, expedite the process, you do not want to set it up in such a way that you simply appeal it and then the expedition which you have gained at the lower level is totally nullified because fresh evidence is adduced at the Court of Appeal and the matter is sent back to the lower level.

If we may go to page 9, Roman numeral (ii), may I respectfully suggest there as well, instead of “third party of his choice” that we use the words “an appropriate adult of his choice”. The reason for this actually came about during discussions I was participating in with respect to amendments to the children legislation, and one of the things you do not want to have happen—let us say you have a young who is in custody and who is unrepresented, the paternal figure for that young person, or the person who might be called might be the gang leader of the area where you have street gangs. So you want to ensure that when you allow an adult to come to give advice, or to be there to protect the interest of the young person, that that person is an appropriate adult.

Now if we may go to page 10 and we are looking, Madam President, at clause 11, it is talking about plea discussions being initiated before charges are laid. I would respectfully suggest that plea discussions should not take place unless full disclosure has been made to the suspect, or to the accused person. One of the few things that we pride our criminal justice system is the fact we constantly strive to ensure that there is equality of arms when somebody is brought before a court as an individual by the State. So our legislation, even though it sounds liberal minded and we are referred to as “bleeding hearts” when we talk about taking steps to ensure that balance, it is actually a fundamental principle of the rule of law, that you must have equality of arms in any case which comes before the court. And for

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that reason, I would respectfully submit that a person who pleads not guilty is entitled to full disclosure under the Criminal Procedure Rules. So we want to ensure that someone who pleads guilty has the same sort of protection by being able to appreciate and understand the case that he has been charged with and that he is pleading guilty to.

Clause 12 on that same page, 12(b), which talks about the situation where the accused person is advised “of his right to apply for” an attorney-at-law “under the Legal Aid and Advice” system “for the purpose of entering into a plea discussion”. In a sense, accused persons are always advised that they are entitled to have an attorney-at-law from the Legal Aid and Advisory Authority. In fact, there is a system, the Duty Counsel system, where from the time persons are arrested and kept in custody, police officers are mandated to source, or to contact the Legal Aid and Advisory Authority to have persons on the Duty Counsel list attend at the station where the person is being held, and I do not think that this clause really takes that into account.

And another point that I wish to make with respect to legal aid representation is if the magistrate explains to the person that you are entitled to have an attorney from the Legal Aid and Advisory Authority to help you enter into these plea discussions, the reality is that it often takes several months before an attorney is appointed. In the High Court, it is much quicker, not so in the Magistrates’ Court because what happens, the procedure is that a form is filled out, it is then sent off by the Clerk of the Peace, after it is signed by the magistrate, to the Office of the Legal Aid and Advisory Authority, and this can take considerable time. When, I think what you want to have happen, is that where somebody is

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willing to enter into plea bargaining under this legislation, you want to make sure that it happens quickly and that he does not change his mind presumably.

Now, I must say the part of this piece of legislation that caused me some concern was Part III, which talks about victim impact statement. It is clause 13. Now, let me start by saying that the Criminal Procedure Rules, in particular 17.9(3)(a), says that:

“The prosecution must—

- (a) provide information relevant to sentence, including any statement of the effect of the offence on the victim, the victim’s family or persons connected to the victims of the offence;”

Now, this section is worded in such a way that it goes far beyond that. It is giving a victim a right which in law victims do not have. In a sense, it is a legal concession that is now being worked into our legal system where victims are being allowed not to give victim statements in the way in which we see on American TV, that is to say you come to the microphone and there is just an outburst of pain and sometimes vitriol against the person who is about to be sentenced. I not think that is contemplated in our jurisdiction and it certainly finds no place in any of the legislation that exists. So I would respectfully suggest, through you, Madam President, that the word “right” not be used. And this whole clause is disjointed when you—[*Interruption*]

Madam President: Sen. Chote, you have five more minutes.

Sen. S. Chote SC: Oh dear, how time flies when you are having fun. So I will just try to speed through the remainder of it.

This whole clause and I think this is particularly important, you actually put

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a person at a disadvantage by having this clause in and by having it worded in this way, because it means somebody who wants to plead under the statutory scheme basically is not going to know what the victim impact statement is going to contain until after he has pleaded guilty and, at that stage, of course, if he is unrepresented it may be difficult for him to consider all the material and to make an appropriate response. If he has an attorney-at-law, there may be contentious matters then raised and the attorney-at-law may very well want to now cross-examine the victim, which was the thing you were trying to avoid in the first place, ending cross-examinations of victims particularly in sexual offences matters, or where children were involved and this kind of the thing. So I would respectfully suggest that this whole clause be looked at very carefully.

If we may go to 18, which is on page 13, I think perhaps we can insert at 2(e), the word “information”. If we go—*[Interruption]*

Hon. Al-Rawi: That is on page 14.

3.30 p.m.

Sen. S. Chote SC: Oh, I beg your pardon. That is my mistake. Oh yes, it is page 14 and I was looking at clause 19:

“the complaint or draft indictment in the case of committal proceedings.”

So I have already spoken about my difficulty with respect to committal proceedings but since you talking about a draft indictment, which is the piece of paper that lays the charge, what I respectfully suggest is that you replace “committal proceedings” with the word “information”.

Let me see, just to round up. In the forms at the back, Madam President, I would respectfully suggest that the declarations that have to be made by the

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accused person should include the fact that the accused person has not only been not induced, but that he has not been promised, forced or threatened. So I am respectfully seeking that that be amended.

Clause 24(2)(d), I am not sure of the purpose for this. The reading of the Victim Impact Statement, based on the principles that I have referred to, generally speaking, when I spoke about clause 13. And I make the point that too much importance is being placed on the Victim Impact Statement at a stage where you may actually contradict or stop the expeditious process that you wish to have.

So, Madam President, thank you very much for the opportunity to make this contribution. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, thank you very much for the opportunity to contribute to this Bill. I must say, Madam President, I enjoyed Sen. Chote's contribution because I do not think anywhere else in this country we will get 40 minutes of a senior counsel's time at the price we are paying. [*Desk thumping and laughter*] Madam President, the reality is that I do not think any one of us in here could seriously dispute the importance of a system of plea bargaining or plea discussion. I do not think we could dispute that. What the Attorney General has brought is not brand-new legislation, we have legislation already, and what he has brought is a Bill to improve what we have, and I think the most we can do on this Bill is to propose amendments or improvements to the Bill, but I do not think any one of us could seriously argue against the need for plea discussion legislation and an improvement on what we have.

Madam President, the plea discussion legislation cannot stand on its own

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and it is very important that we understand how it fits into what has to be done. Let me just reflect a little bit because when I saw the image in March 2017, I said if ever I am given the opportunity to speak in the Senate on anything relating to crime, I would tell my colleagues in the Senate how I felt when I saw the image in early March, it was the *Newsday* newspaper. On the front page of the newspaper, I believe it might have been March 04, 2017, there was a young lady, who I, upon reading discovered, was Kerry Edwards, age 14, and she was consumed—just from the photo, you could see that she was consumed with grief, overwhelmed as she bent over her father, Terry Edwards who had just been shot and killed. I believe it was in Debe. A 14 year old losing her father in any circumstances, but in particular those circumstances.

And one of the things that we missed, Madam President, is that as the numbers add up, we miss the real victims of the failures of our criminal justice system and that is all those children who have been left behind without one and in some cases, both parents. When I looked at Kerry Edwards on the *Newsday*, I felt as a legislator in my own right but as a Parliament, we ought to really do better as we debate this thing called the criminal justice system and let me tell you why. Because the reality is this, Madam President, the chances of the person who killed the father of Kerry Edwards, the chances of that person being apprehended is very small. The data tells us that. It is under 15 per cent where the police service referred to as a detection rate, it is under 15 per cent.

And if that person was to be found, it would be on average about eight years before an indictment could be preferred against that person, on average. And assuming that that indictment takes place, the chances of a successful prosecution

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is going to be less than 15 per cent and that is the reality. And every time we bring a piece of legislation dealing with the criminal justice system, that is the reality we must face first, that our level, our frequency of apprehending and charging an indictment is very low, and our success rate in prosecutions is also very low.

And, in fact, when the Director of Public Prosecutions was invited in 2014 to the now famous workshop to discuss this Bill, he made a very, very valid point which I agree with, and that is that the driving force behind plea bargaining and the reason why, in the United States, for example, plea bargaining is used in 95 per cent of the disposition of matters, is that there is a real risk, a real chance, that an accused would be convicted.

And what we are up against is not the fact that some of us may disagree or agree with plea bargaining, we all agree with it. What we are up against is the fact that a reality that the reason why plea bargaining has not worked and has not been used as much as we would have liked it to be used in Trinidad and Tobago is because there is no real fear on the part of criminal accused of a conviction, and in order for plea bargaining, notwithstanding anything that is written in the Bill, in order for plea discussion or plea bargaining to actually work, we have upon us a bigger task and a bigger task is to fix the criminal justice system, and that is the reality.

In a criminal justice trial, there are a number of things that are required and there are several pieces of legislation dealing with the various things in a criminal trial. I have made this point before, as legislators, it is very important that we always remind ourselves that we can sit here and frame legislation and pass legislation, but outside this Parliament, there are a series of institutions charged

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with the implementation of what we create and the real failure in our society is not within the walls of the Parliament but outside these walls in the institutions. I just want to bring our attention back, as we discuss plea discussion and plea bargaining, I just want to bring our minds back as an example of how good legislation and good legislative intention could go to waste in the hands of the bureaucrats we have outside the walls of this Parliament.

DNA, Madam President, there is no question in the minds of any criminal law practitioner, or non-practitioner like me, that DNA is vital. A system which allows us to use DNA evidence is vital to any criminal prosecution in 2017. In fact, Madam President, when we go back to 2001, it was vital 16 years ago, and in 2001, then Attorney General, Ramesh Lawrence Maharaj, brought to the Parliament DNA legislation and it was passed and it was enacted into law, Act No. 27 of 2000.

And Madam President, not long after, on May 07, 2001, then Attorney General Ramesh Lawrence Maharaj was asked a question by the then MP for Laventille East/Morvant, Mr. Hinds, and the question was related to the implementation of that piece of legislation and in his answer, Mr. Maharaj sets out why. Having been passed by Parliament, debated and agreed amongst legislators in both Houses, that legislation could not, even in that form, be enacted and he listed eight things that I would refer to. The regulations had not been prepared; the database had not been put in place; the equipment and facilities had not been; the DNA board had not been appointed; the scientific staff had not been trained; cold storage facilities at each police station had not been put into place, 2001 and thereafter, DNA, as part of our criminal justice system, languished.

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Then, in 2011, the then Minister of Justice, Mr. Volney, himself a former judge and someone who practised criminal law and was very versed in it, brought legislation seeking to improve the 2001 legislation that had merely been used and again, advocated and regaled the Parliament with the need for improvements in DNA, against which nobody could argue. Nobody could argue and in dealing with the 2011 Bill that he brought, Mr. Volney talked about the failure, 10 years at that time, of this country to have appropriate DNA evidence legislation in place. And, Madam President, I think the whole country, notwithstanding the passage of that piece of legislation, I am sure the whole country was surprised on June 04, 2017, when Ria Taitt, writing in the *Express* under the headline:

“No DNA tests on deportees”

—reported on the work of the Joint Select Committee on National Security which had tabled its report a couple of days before. And I am sure to everybody’s surprise, Ria Taitt, the journalist, told the country that of the 13 requirements for the full implementation of the DNA legislation, only four had been met. The issue of the DNA databank had not been resolved and several of the things required to give effect to the use of DNA evidence in this country, as part of the criminal justice system had not been put in place notwithstanding the passage of six years.

And the point I am making, Madam President, is that there is no single piece of legislation that would act as a magic wand when brought and passed in this House that would reverse or curtail what we face out there in relation to criminal justice. I have said it before. I enjoy no special facilities and many of us and most of us do not. Madam President, look at the last few days. Looking at the video of a couple pulling in front of their home to go to the fourth floor apartment that they

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lived in and being gunned down in a form and fashion in a way that could happen to any one of us. Somebody so brazen to be able to fire shots and go twice and reload and return.

And then yesterday, I myself made the remark that the one thing that Bret would stop for a few hours is crime and within a few minutes, I heard about not one, not two, but three bodies lying on a basketball court in Laventille shoeless. And I do not know about anybody else, I have three children: 23, 19 and 11 and I am extremely worried. I am extremely worried about where we are and the urgency of fixing this thing we constantly talk about, the criminal justice system.

And Madam President, I know that there is a temptation and you know, as politicians, politicians on these two Benches, we have to engage in political combat, but you know what. When we go back to 2001, for example, with Ramesh Lawrence Maharaj as Attorney General and I think in 1999, he may have set a record, in that one parliamentary year, treating with 101 pieces of legislation before the House, 30 per cent of those dealing directly with crime, in one year. When you go back to the *Hansard*, for example, and every AG brings one of these Administration of Justice, miscellaneous Bills. When you go back to the *Hansard*, for example—I am using one example—of May 07, 2001 and you see the opening words of Mr. Maharaj, at the time, the:

“...Government...”—has come in to pursue—“an aggressive legislative agenda...to reform...the criminal justice system.”

Every Attorney General says that. And then he goes through what he has to do and he goes through, not one, not two, not three but 14 pieces of legislation relating to the reform of the criminal justice system, 14, because not one single Bill, not this

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Bill before us today or any single Bill will fix the system.

And when you look at, for example, my former classmate, Mr. Ramlogan, in his time as Attorney General, in 2014, for example, April 11, 2014, come into this House with a Miscellaneous Provisions Bill 2014, like every other Attorney General before him and every one after. A Miscellaneous Provisions Bill dealing with several things that he wants to do in the criminal justice system. And in his contribution on that miscellaneous Bill, Mr. Ramlogan—and this is 2014—referred to work that he had already done and he referred to the Anti-Gang Act, very controversial eventually, the Anti-Terrorism Amendment Act, the Bail Amendment Act, the DNA Act, the Administration of Justice (Electronic Monitoring) Act, the Data Protection Act, the FIU Act, Firearms (Amdt.) Act, Interception of Communications Act, Miscellaneous Provisions (Kidnapping and Bail) Act, Trafficking in Persons Act, Bacteriological (Biological) and Toxin Weapons Act, Securities Act, and then at the end, he says there will be three new laws I would bring: one would deal with cybercrime; one will deal with cyber security agency and the third one will deal with plea bargaining.

So having referred to 14 or 15 pieces of legislation already in place, Sen. Ramlogan as he was then, as the Attorney General talked about and forecasted three more, and in this single contribution, Madam President, Mr. Ramlogan referred to 17 pieces of legislation and still in 2017, notwithstanding countless hours of debate in both Houses and hundreds of pieces of legislation or things that impact pieces of legislation, in early May, young Kerry Edwards was uncontrollable in her grief crying over the murder of her father, and I can say that I felt powerless because I could not offer any assurance to her. If I met her, I could

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not offer any assurance as a legislator that anything I do would have the impact on the criminal justice system and I will tell you again why.

Because what we do in here is only part of the work and the real work falls outside there in the implementation and a bureaucracy that over time has failed to step up to give effect to what the Parliament has done and that is the true failing. Whether it is in court, whether it is in the police service that more and more when you look at that—and I am on record, Madam President, I am not a fan of the Trinidad and Tobago Police Service. I am not a fan of the Trinidad and Tobago Police Service and every time I pass police officers in the police canteen, every time I pass down by the barracks and I see the police vehicles parked up there—used, unused, salvaged, destroyed, whatever—I know that the Trinidad and Tobago Police Service forms part of a critical failing of the criminal justice system.
[*Desk thumping*]

And that is where we are. It is not about agreeing or disagreeing with the plea bargaining, the plea discussion Bill, it is not about disagreeing with it, I do not think there is much to disagree with, but it is important that as a Parliament, we work together to ensure that what we create as legislation is given life outside the walls of this place. That is where the real problem is.

Because, Madam President, before I go into the Bill, let me just use one piece of data which, from the moment I wrote about years ago, it was convincing then and it is convincing now. Toronto is a city known to all of us and there was a time in Toronto's history that murders had reached 500 and the Canadian Government focused on that figure of 500, noticed that the cause of most homicides in Toronto were caused by firearms and focused on firearm legislation

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and legislation to make sure that people would not be inclined to carry firearms or to use firearms. And over a period of time, not only by doing that, by doing the several things that were required, Toronto was able to bring its murder rate to a far lower level.

For example, Madam President, the most startling thing is that in the last five years, for Toronto, which has a significantly greater population than ours, the number of murders for the last five years in total is lower than our average number of murders for the last five years. In other words, there are more persons killed in Trinidad in one year than in the last five years in Toronto. A big city with immigrants from all over the world, a melting pot, bringing in all sorts of cultural and religious differences into a society and a justice system including a police system that manages, in a real way, to keep law and order.

And that is where you start to understand that there is an urgency, not just in this Bill that is before us, but in the entire criminal justice system, the various pieces of legislation, including this thing called the criminal enquiry Act. This move to get away from the wastage of time with PIs and get along to faster trials. This Bill proposes to improve what already exists and I would leave it to the Attorney General to respond to Sen. Chote's suggestions but I open with a caution that we would not get that quality of advice at the price we have gotten today. So I am sure we would pay close attention to what Sen. Chote has said.

Madam President, as I go into the Bill, let me just respond to two things, two points made by Sen. Sobers in his contribution on the last day. At the first, I will dismiss right away his statement or his concern that in the last 20 months, this Government has not been able to fix the problems in the Magistracy. Well, the

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reality is that in the last 20 years, no Government has been able to fix the problems in the Magistracy, none. None of us have been able to do that and the second point is his reference to an academic paper which he used in support of his argument against the system of plea bargaining. I just want to say one thing and that is that Sen. Sobers did not—he left out an important part of that academic paper. The writer analyzed both the pros and cons and concluded that she was not in support of a system of plea bargaining. But it was on one premise that he did not mention and that is a system of plea bargaining would not work where you had an opportunity to waive a jury trial. In other words, the writer was saying a system of plea bargaining should not be used where you have the opportunity for a judge-only trial.

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And that was the argument the writer was making. The writer did not make an argument solely against plea bargaining, but it was against plea bargaining in the context of the waiver of a jury trial. [*Crosstalk*]

Hon. Senator: Who said that?

Sen. Ameen: He said that.

Sen. The Hon. C. Rambharat: No, he did not. Madam President, the Bill before us has a very simple purpose and the purpose is to allow a prosecutor and an accused to enter into discussions with the intention of arriving at a plea agreement. That is the simple purpose of the Bill.

And a plea agreement, if it is struck between the parties, essentially involves the accused agreeing to plead guilty to a specific offence, or to perform obligations which are set out in the agreement, in exchange for an undertaking of the

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prosecutor. That is essentially what the agreement is. It is based on a discussion between the prosecutor and the accused, with the intention of arriving at an agreement, and the agreement requires the accused to plead guilty to a specific offence or to perform specified obligations in exchange for an undertaking by the prosecutor.

The Bill covers, in its construct from clause 5 to clause 12, the nature of the plea discussions. As Sen. Chote has pointed out, the Bill then goes into, in clauses 13 to 18, the victim impact statements, and the victim impact statements in this Bill, Madam President, are a significant expansion on what is contained in the existing legislation.

Madam President, as I go into the Bill, let me just say when this Bill was debated in the other place, there was, it was very clear from the Opposition Leader that she was in support of the Bill and she supported the Bill and she set out why she was in support of the Bill, with one exception. She felt at that time that there should be an opportunity to cross-examine the person who has given the victim impact statement. That was the one difficulty the Opposition Leader had with the Bill.

I would also say that I think Mr. Ramadhar is surely the most experienced member of the Criminal Bar in the other place, and in the Opposition Bench he may be the only one with experience in the other place. [*Laughter*] I know Sen. Sturge is a star in this place [*Laughter*] and in other place—[*Interruption*]

Sen. Sturge: And in the court.

Sen. The Hon. C. Rambharat:—and again, Mr. Ramadhar in his contribution was in full support, as far as I understood it, of the Bill, but the single difference or

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difficulty the Opposition Leader had related to the issue of cross-examination of the victim, in relation to dissection of the victim impact statement.

Madam President, the Bill also goes on to provide for plea hearings; a process of a hearing to deal with the agreement. It provides that, clauses 28 and 29, for an appeal, and this appeal is broken into two areas. The first is that clause 28 provides for an accused person to appeal to the Court of Appeal in an event where the plea agreement has been rejected. Because, of course, Madam President, as it is in the current legislation and as it is in this Bill and in various forms of this piece of legislation that appears around the world, it is not for the prosecutor and the accused to arrive and finalize this agreement. It is for the court ultimately preserving its jurisdiction to finally approve or disapprove of a plea agreement. And clause 28 provides for the accused person to appeal to the Court of Appeal in the event the court has rejected a plea agreement.

And alongside that, Madam President, clause 29 provides for the Director of Public Prosecutions to have a similar right in the event a plea agreement is rejected by the court; a right to appeal to the Court of Appeal.

Madam President, clause 30 provides a very important provision, and that is, for an accused to withdraw from a plea agreement before sentence; an important provision for an accused who has already entered into a plea agreement to withdraw from that agreement. Towards the end, Madam President, the Bill provides a savings clause which is standard, given the fact that we have an existing piece of legislation. The Bill—[*Interruption*]

Madam President: Minister, you have five more minutes.

Sen. The Hon. C. Rambharat: Thank you. The Bill provides, in clause 36, that

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any actions, proceedings and decisions taken in respect of plea discussions or plea agreements commenced or taken under the former Act, would be preserved.

So, Madam President, subject to what those who come after me may say, I think the merits of this Bill are rooted in a few things. The first is that none of us could argue against the importance of an opportunity for a prosecutor and an accused, in well-demarcated circumstances, to enter into a plea agreement. None of us could argue against that.

The second thing is that very few of us, subject to what I have said, in relation to what DPP Gaspard said in 2014, that the attractiveness or the desire for a plea agreement is lost where an accused does not feel that he is at risk, or she is at risk and does not have a fear of a conviction. And that is something that only a comprehensive criminal justice system, reformed through the work of this Parliament and reformed through the implementation of what we have agreed to in legislation by persons outside these walls, that is a fear only to be created by that type of reform. I do not think we could argue against it.

In this Senate, based on the work of Attorney General, as he then was, Ramesh Lawrence Maharaj, and work undertaken by then Attorney General, Anand Ramlogan and work now undertaken by Attorney General, Faris Al-Rawi, it is something that, as political parties, we have subscribed to and we have grappled with from 1999, when the legislation was first brought in the form of a Bill. We have grappled with it and none of us could seriously dispute the desire to have it enacted into legislation.

This is important legislation, Madam President, but we must not lose sight of the fact that its importance is only as good as the way in which it fits into a

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criminal justice system that requires more than just this Bill. It requires a series of reforms, all of which must be implemented by persons outside of here. There is no reason for us not to support. We can argue on improvements of this Bill, Madam President, but we cannot argue seriously that it is not an important piece of legislation that needs improvement. I thank you.

Sen. Gerald Ramdeen: Thank you, Madam President, for the opportunity to join in this debate on a Bill:

“to establish a system of plea discussions and plea agreements and for matters incidental thereto.”

I want to follow suit from the last Government speaker, Madam President, and join Sen. Rambharat in saying that this piece—[*Interruption*] the hon. Minister, in endorsing the comment that this piece of legislation is a piece of legislation that has spanned different administrations. We have already been given the history by the hon. Minister of Agriculture, Land and Fisheries from the then Attorney General, Mr. Ramesh Lawrence Maharaj, to the present Attorney General and what steps were taken by different administrations to put in place a system of plea agreement and plea discussions.

I would like to start my contribution, Madam President, by thanking the Attorney General for listening to the comments that were made in the other place, because the Bill, as presented here in the Senate, has taken on board a number of comments and a number of suggestions that were made, and I think the Attorney General has done well in listening to some of those comments. And I think over the past two debates that we have had here, I think that the way in which the Government and the Opposition have worked together to ensure that good

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legislation is passed is something that we should all be thankful for. [*Desk thumping*]

I think it endorses what we have said as an Opposition, Madam President, that the Opposition will assist the Government in passing good legislation that secures the rights of citizens in this country and will advance the aims of bettering the criminal justice system, which I think no one can challenge is the aim of any administration, whether it be on that side or on this side.

I also would like to thank, Madam President, and join the Attorney General in thanking the late Miss Dana Seetahal, Senior Counsel and the contribution that has been made by Miss Pamela Elder to the final work product that has been produced by the Attorney General for us to debate here. And having said that on one side, Madam President, I want to also level a certain degree of criticism. Because it cannot be right for an Attorney General to indicate to the Senate that in passing and having consultations with respect to this piece of legislation, that the Attorney General sought the views of the Law Association and was not provided with any assistance by a body that is statutorily—statutorily—mandated to advance the public interest in legal matters, and that cannot be right, and I hope that the experience of the Attorney General, with respect to this piece of legislation, is not repeated in any attempt to pass any other piece of legislation and have consultation with a body such as the Law Association. It is something that we should deprecate to the highest degree.

Now, Madam President, the purpose of my contribution this afternoon is to join all of the speakers in saying that this is a piece of legislation that no one can deny can have the impact of assisting and advancing the aims of the criminal

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justice system. And in saying that, I think we should all recognize that the aim of the criminal justice system is not simply to prosecute persons but it is also to provide justice to the victims of crime. And I think a certain part of the legislation aims at satisfying that aim of providing justice to the victims, and I will demonstrate, by reference, to real-life examples as to how the criminal justice system, in using plea bargaining, can impose a certain degree of injustice to members of the criminal justice system.

But I want to go back to a point that the hon. Minister of Agriculture, Land and Fisheries made in reference to the Terry Edwards example that he gave, a very real example to all of us, because I think all of us as a society felt a certain degree of worry, hurt, anger, when one saw that incident that the hon. Minister referred to where the lives of three citizens were snuffed out and the children of those victims, not a criticism of the Government, Madam President, but the victims. They needed counselling and were crying out for counselling in the aftermath of losing their parents.

Now, the hon. Minister of Agriculture, Land and Fisheries made reference to the reality of what we have to deal with. And in answer to that, is it that as a Parliament that we must just accept that reality and pass legislation to fit into a reality that does not meet the aims of the criminal justice system? And I submit, Madam President, that we cannot do that. We cannot accept the reality as it is now. We have to change that reality and whether that change of the reality is by virtue of legislation or fixing all of the things that are broken in the criminal justice system, the point is we have to get hold of it and as a society make an attempt to fix it.

Now, I think that a good starting point to determine how we move forward

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with this piece of legislation is to really centre on what the main driver in this piece of legislation has said about this piece of legislation and about plea discussion and plea agreement, and that is the Director of Public Prosecutions, Mr. Roger Gaspard, a man who I think we all have great respect for and has performed the duty of Director of Public Prosecutions, in a most honourable way. And if I may reference, Madam President, to the way in which the Director of Public Prosecutions, only a few weeks ago, dealt with a very critical issue that arose in our criminal justice system, with respect to those 53 matters that were sent back to the Magistrates' Court, I think we must all compliment Mr. Roger Gaspard for the way in which he discharges his public functions as the Director of Public Prosecutions. [*Desk thumping*]

And, Madam President, I really want to carefully make reference to what Mr. Gaspard has said about this plea bargaining and plea discussion matter, because I think, from his own words, we as a Senate, both on the Government side, on the Independent side and on the Opposition side, can really understand the task that we have embarked upon and how this piece of legislation can fit or can work in the criminal justice system.

Madam President, the comments of Mr. Gaspard, Senior Counsel, were echoed when certain questions were asked to him in public by a member of the Opposition, Mr. Ramadhar, on the 7th of April, 2017. And this is what Mr. Gaspard had to say, Madam President, and if you would allow me, I think it is very, very important. This is Mr. Gaspard:

“I know you have...”—[*Interruption*]

Madam President: Sen. Ramdeen, what are you quoting from?

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Sen. G. Ramdeen: I am quoting from the Joint Select Committee on National Security in public that was done on the 17th of April, 2017. Mr. Gaspard was asked, Madam President, just to set the foundation:

Director, we have also impending plea bargaining which I know, if properly used, could be an incredibly useful tool. What is your state of preparedness in anticipation of that?

And this is what Mr. Gaspard had to say:

Mr. Vice-Chair, I know that you have been someone who has done a lot of work in the criminal law arena and I would remind you that even without the plea bargaining Act, whether the one from 1999 or the one currently being proposed, the DPP's office has been in the business of bargaining...pleas. Persons have been charged with murder and you have a plea bargain process, informally, and that would have been ongoing for quite some time. So some persons are of the view that with the passage of plea bargaining legislation the volume of pleas is likely to swell exponentially. That type of thinking might be slightly misplaced. It is my experience that what determines whether or not persons are inclined to enter into plea negotiations and plea bargaining is usually the strength of the evidence, the type of evidence upon which the State relies.

And then he makes reference, Madam President, and this is what I want to take further in my contribution.

For instance, some persons would canvass before you that in the United States almost 90 to 95 per cent of criminal cases go the way of plea bargaining. Well, in the United States, greater reliance is placed on scientific

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evidence than obtains here. So accused persons and defence counsel may be of the view that because we rely so heavily on, say eyewitness accounts and caution statements and so on, within those ambits there is a lot of room for play.

So, while we can all understand the noble aims of the Government in bringing plea bargain legislation, Madam President, we can pass as much legislation as the hon. Minister has said, as we want, but if we do not address the problems of the criminal justice system that would make this legislation useful, then we would be—I do not want to say we would be engaging in an exercise of futility. But what we will do is really be passing legislation and the foundation for that legislation to work will not be there.

So if I can suggest to the Government, there are two things that Mr. Gaspard said are the problems that he identifies with the criminal justice system and why plea bargaining does not work. The first is eyewitness accounts. Almost every prosecution in this country depends upon eyewitness accounts. It depends upon persons coming forward and volunteering evidence to assist the prosecution in prosecuting persons who break the law. And the difficulty that we have, Madam President, or we have had for a number of years, since Mr. Ramesh Lawrence Maharaj was Attorney General, then to now, and it has not changed, is that we have not been able to put in place a proper system to allow those persons who are able to give evidence to get the protection of the law when they come forward to give evidence on behalf of the prosecution.

And, therefore, I want to suggest to the Attorney General that in addition to plea bargaining legislation, that the Government looks carefully at the Justice

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Protection Act and, therefore, we try to fix the Justice Protection Act because I think the hon. Attorney General, I wrote to him myself in relation to the matter that concerns the loss of life of two or say three citizens of this country, Madam President, and I am not going to go into the facts but I am just going to say that it is an extremely, extremely, disturbing fact that we have to deal with as a country, that we can have eight police officers—eight police officers—charged before the court on murder of three civilians. That is something that should send shivers up everybody's spine. Because, like the hon. Minister of Agriculture, Land and Fisheries said, it can happen to any one of us. Crime does not pick whether it attacks the UNC, the Independents or the PNM. It is a risk to every single one of us.

So it is my suggestion to the Attorney General, if we can look at the Justice Protection Act and strengthen that piece of legislation, so that those persons who willingly come forward to assist the prosecution and put their lives at risk, that at the end of the day, the State can offer them some kind of protection.

And right now, Madam President, I can say there is a situation that I will bring to the attention of the Attorney General, where a family willingly entered, under the provisions of the Justice Protection Act, gave evidence in a matter. Unfortunately, those persons were not convicted and after those person were not convicted, those persons who risked their lives were taken from Trinidad and sent to another Caribbean island, were just abandoned by the State and they have returned to Trinidad. Their lives are at risk. Their children are at risk and they do not know what to do. And if that is the experience that we use, or that other persons see as the experience of persons who assist in the prosecution of crime,

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one understands why the Director of Public Prosecutions would say we have a serious problem in getting persons to come forward and give evidence.

And that leads to the second issue that was raised by the Director of Public Prosecutions, which is the reliance on cautionary statements. It is the habit, the practice of the police, that the only way the police will prosecute crime is if they force somebody to give a cautionary statement. [*Desk thumping*] And the reason why, what the hon. Minister of Agriculture, Land and Fisheries referred to as the detection rates are so low, and the prosecution and conviction rates are so low is because at the end of the day, when you rely on cautionary statements to found a prosecution, you leave gaping holes for lawyers to take advantage of.

And so today I want to make another suggestion to the hon. Attorney General, which is that before we operationalize legislation such as plea bargaining and plea agreement legislation, let us put in every charge room, in every police station in Trinidad and Tobago, a system whereby those cautionary statements can be monitored outside of the police service, by an independent body so that when cautionary statements come before the court there will be an independent way of verifying whether those persons were promised or oppressed, beaten or whatever. But it will definitely provide a certain degree of independent evidence that will assist those who are charged with prosecuting crime and that can only be something that will advance the criminal justice system, Madam President.

So that the one thing that we can say today is that there are things that we can suggest on this side that can provide that foundation for legislation such as this to be effective and actually bring results. Because, we can sit here, like the hon. Minister has said, and pass legislation, more and more legislation, but the real

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workings of the legislation is not here. The real workings of the legislation is outside of Parliament. And unless we fix those problems, it is not going to work.

So, Madam President, I want to suggest today that another area that the Attorney General can concentrate on is to categorize murders. About two weeks ago, when we had that hearing at the Magistrates' Court for those 53 matters, the Director of Public Prosecutions raised the issue, Madam President, that in this country, the criminal justice system is burdened with over 900 murder indictments. That is not 900 people. That is 900 indictments. Whereas Sen. Sturge will tell you, in one indictment you can have 10 persons charged. So that, the level of backlog that you have in the criminal justice system is incomprehensible for the Office of the Director of Public Prosecutions.

And whereas we have heard from the Government that they have taken steps to give the Director of Public Prosecutions more staff, I think 35 attorneys were assigned. While that is a laudable attempt, Madam President, it falls far short of what is required. And that is something that we have to address.

So, when the People's Partnership was in Government, they brought the amendments to the Constitution Act, which one of the provisions was the categorization of murder. I think the Attorney General and all his advisors would tell him that if we categorize murders and you have different degrees, it will clearly provide an incentive for those persons who wish to use legislation like this to come forward and not face the death penalty in certain cases and say: I will plea-bargain my way out of it. So I want to suggest that to the Government as well. Let us bring legislation to categorize murders.

I have a few more suggestions, Madam President, before I get into the

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provisions of the Act. The Director of Public Prosecutions talked about embarking on a process that is more scientific, that will provide proper independent evidence, so that when the prosecution presents its evidence in court, whether it be at the preliminary enquiry stage or at the High Court, the accused will understand the burden that he faces, and, therefore, will be forced to adopt a position that will make use of legislation like this.

So, Attorney General, why do we not set up a firearms offenders registry, just like how we have a sexual offenders registry? Why do we not have a dangerous drugs registry? These things will provide the basis upon which we can monitor those persons who go in and out of the system. It is a characteristic feature of our criminal justice system, recidivism. And, therefore, if we have these registries set up you can monitor those persons, when they go in and when they come out, who are their associates. Provide the information to the prosecution so that they will be able to have that information at hand to better prosecute and detect crime. Because I do not think that anybody can dispute, Madam President. It is a small group of people that controls the criminal industry in this country and we have to wipe them out, whether it be by legislation or prosecution. We have to join together and wipe out this, so that our country can get back to the state it was in before. There can be no dispute about that.

Madam President: Hon. Senators, at this time we will suspend for half an hour and we will resume at 5.00 p.m. Sen. Ramdeen, you have used up 20 minutes of your time.

Sen. G. Ramdeen: Thank you, Madam President.

4.30 p.m.: *Sitting suspended.*

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5.00 p.m.: *Sitting resumed.*

Sen. G. Ramdeen: Madam President, thank you again, and as I continue my contribution, I want to go back to the Director of Public Prosecutions, and a second statement that he made at the same hearing in relation to the way in which plea bargaining operates and how it can operate in our jurisdiction, and this is what Mr. Gaspard Senior Counsel had so say.

“I would not describe it as a fundamental shift. I would say it is a formalizing”—this is in reference to this said piece of legislation.

“I would not describe it as a fundamental shift. I would say it is a formalizing of what would have obtained before with additional safeguards for the protection of attorneys who may be involved in this plea bargaining process. So what you have is a scheme of, say, legislation, which allows for the protection of the attorneys while engaged in this process of plea bargaining. But if you compare what is proposed to what is currently in place, I would not describe it as a fundamental shift.”

You see, what the learned Director of Public Prosecutions was saying Madam President, is that we already had, since 1999, legislation to govern plea bargaining and plea agreement and for 18 years, that legislation was in existence. We had a gestation period where those who were in Government over the various periods of time would have been able to examine the history over the past 18 years and be able—as no doubt, the intention of the Attorney General has been—to strengthen the legislation, provide for what was not provided for and to put in certain safeguards that were not present in the 1999 legislation.

But, Madam President, one has to be very careful when one brings legislation like

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this that interferes with the powers that are already being exercised by the participants in the criminal justice system, and in that respect Mr. Gaspard went on to say:

“Just to undergird the point that I would have made earlier about the fact that we...already have...plea bargaining informally, in the United Kingdom, I do not know that they have any particular piece of legislation dealing with plea bargaining. What they have is one provision, perhaps, under the Serious Organized Crime and Police Act of 2005...which allows them to treat with persons who may become state witnesses in a particular way, by giving them what is called a ‘restricted use undertaking’ in written form, by way of a written notice, that the information they provide and the evidence, and so on, would not be used against them. But every day, I would expect, in all...jurisdictions, especially common law jurisdictions, you will find situations around the world where persons engage informally in the issue of plea bargaining.”

And just to bring to the attention of the hon. Attorney General, Madam President, I think this particular paragraph that I am going to refer to is something that the Government will do well in exploring, and that is:

“And as to the backlog of persons, say at the prison, who may wish to avail themselves of the option of plea bargaining, that too can be dealt with in a particular way. I have always advocated that those persons who are in custody and who are unlikely to receive from the courts a sentence greater than the time they have already spent in custody, they may, even now, wish to write to the”—Director’s—“Office without the proposed legislation

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coming on stream.”

So the point that is being made by Mr. Gaspard, Madam President, is that even without the plea bargaining legislation in place, if the Government wishes to clear the backlog that is weighing heavily on the criminal justice system, one of the things that they can do, in addition to statutory reform such as what is presently before this Senate, is to embark upon an education drive for those persons who are incarcerated and explain and educate those persons who have been in the system for a very long period of time and have no way of getting out of it soon, that they can engage the Director of Public Prosecutions who has publicly indicated his willingness to listen to pleas of persons who are incarcerated for periods of time, that may already be in excess of what they may be sentenced to when they come to be an active part in the criminal trial and, therefore, we can voluntarily engage those persons in a process, using the Director of Public Prosecutions Office, and using his powers under section 90, that can provide a way out that does a very important thing, Madam President. It allows the administration to clear the backlog without actually going through the judicial system.

Now, the Attorney General has said in piloting this Bill, in piloting the motor vehicles Bill, has announced to the public and, understandably so, that there are going to be two new courts that are going to be set up with the Family Division Bill that was passed. But one of the things that the Attorney General in any Government and every administration—the previous administration and this one as well—has had to saddle with, one of the difficulties, is finding courts to treat with the criminal justice system because we simply do not have enough courts.

Now having said that, Madam President, I must voice a certain degree of

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displeasure to understand that the Government is trying as best as they can in the circumstances that they find themselves in to meet with the problems of the criminal justice system. There are not enough courts, there are not enough judges, but as we presently speak, I want to bring to the attention of the Attorney General, under correspondence to Sen. the hon. Wayne Sturge, dated the 16th of June, 2017, under the hand of the Director of Personnel Administration, Sen. Sturge, in answer to a freedom of information request, was informed—and Attorney General, this is a matter that you have to deal with—that we have a sitting judge of the High Court who has been given three years no pay leave and now we are being told that he has been given two more years leave.

So you have a sitting judge of the High Court on five years no pay leave, and the Government is under a strain to fix the criminal justice system because we do not have enough judges. A judge that is on the seniority list, taking up a place in the Judiciary, on five years no pay leave. How could that ever be right? And on what basis this decision could have properly been made, when you have judges who are sitting as best as they can, doing public duty—day, weekend, public holidays—trying to clear up the backlog and you have persons who are on no pay leave for five years. It is a matter that must be addressed, Attorney General.

Madam President, coming back to the issue that I raised before, I want to ask the Attorney General today to establish and bring to Cabinet, a proposal to establish a forensic data officer for each division of the Trinidad and Tobago Police Service that would be separate and apart from normal Trinidad and Tobago Police Service officers. So that in each division of the Trinidad and Tobago Police Service, we can have a designated qualified officer that treats with all of the

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scientific data—whether it be fingerprints, whether it be forensic ballistics, whether it be dangerous drugs—we can have an officer that can do that.

The Attorney General indicated to the Senate when this Bill was being piloted that there is a turnkey project to establish a new forensic science centre, but that is going to take some time, Madam President. We need solutions now. So I want to ask the Attorney General today to establish 14 scholarships; seven to the TTPS and seven to the Faculty of Natural Sciences in the field of forensic science so that before we build that forensic science centre and find that we do not have the qualified staff to man it, that we can put things in place now. [*Desk thumping*] We have the money to do that. [*Desk thumping*] I want to ask the Government today to put in place a plan to give seven scholarships to study forensic pathology, so that we can have persons who can come back and give back to their country in a field that we need persons to do. [*Desk thumping*]

Let us equip our country, not by simply giving out scholarships to any and every one, let us focus and target what we need and give scholarships to those persons. I was elated, Madam President, that the child who won the President's Gold Medal this year decided she did not want to be a lawyer or a doctor. She wanted to be a forensic scientist so that she can come back and give back to the people of Trinidad and Tobago—the child who won the President's Gold Medal this year.

Madam President, in the little time that I have left, as the hon. Minister of Agriculture, Land and Fisheries did, I want to make reference to two real-life examples of plea bargaining in our country so that all of us on each bench here can understand the benefits that can accrue from legislation like this, but also the

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caution that we must have in passing legislation like this because this type of legislation has a public policy behind it of giving an opportunity to persons who have committed a criminal act against the country and allowing them the opportunity to get a discounted sentence, and there is a certain degree of public policy that is involved in that, and that balancing act between the prosecution on one hand and the person who has committed that crime is one that we must very carefully balance. And I would demonstrate it by reference to a matter that is very close to me.

I come from a village call Palmyra Village in San Fernando and, perhaps, the only murder that we know of is a murder that took place in 2004, and the subject of the person who committed that murder is someone who benefitted greatly from plea bargaining. It goes to show—and I would demonstrate to you, Madam President—that while on the one hand we can implement legislation like this and say it will do well for the criminal justice system, we must also remember that the victims of the criminal justice system are also part of the criminal justice system and they also demand justice as well.

Madam President, in 2004, at the Langmore Health Foundation, Chandra Narinesingh was shot and killed. I am reading here from the facts that was set out in Criminal Appeal No. 12 of 2004 *Shawn Parris v the State*.

“Chandra Narinesingh, the deceased was shot and killed in her car at the Langmore Health Foundation, Palmyra on 29th June 1994. The case for the prosecution was that the applicant had been hired to kill her. On that day he went to the Foundation where she was employed, disguised as a ‘patient.’ His arm was in a sling and he was armed with a gun. He stood in the car

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park and waited for the deceased. As she entered her car, he walked up to her and shot her five times at point blank range. She died on the spot. The applicant did not dispute the prosecution's version of the facts."

That is a real-life example of the facts that surrounded, perhaps, one of the most famous plea bargaining agreements in this country, because a man who those facts could never support a conviction for manslaughter, ended up plea bargaining and getting a deal of manslaughter, 30 years. He will walk out one day from this country. That is how dangerous it is to have the legislation like this.

We must be very careful about when we enact legislation like this because we are putting the power in the hands of a few to exercise in the public interest, that the risk that one takes in doing that is that you can allow persons like Shawn Parris who should have faced the gallows to one day have the opportunity to be back amongst all of us here. One wonders—I have all the articles here, I cannot go through them because of time, but when you understood what took place after Shawn Parris was convicted and sentenced to 30 years, what took place thereafter were the people who planned that murder of Dr. Narinesingh then faced a prosecution that fell to the ground, and the witnesses in that, the people who planned with Shawn Parris got another plea bargaining deal. The two Morris brothers got another plea bargaining deal.

Do you know why I make reference to that, Madam President? For this reason, one wonders today how the Narinesingh family must have felt that everyone who was involved in the murder of that woman—that innocent woman who went to work that day—has walked on that indictment. And one day Shawn Parris will be among all of us again because of plea bargaining. Madam

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President—[*Interruption*]

Madam President: Sen. Ramdeen, you have five more minutes.

Sen. G. Ramdeen: I am obliged. I want to make one more reference, Madam President, because what I have to tell the Attorney General about the Bill is simply that I have put together 25 amendments, all of which I know you will take on board. The most important of which I think is that in passing this legislation, Attorney General, I want to underlie the caution that I understand why there are safeguards for those persons who are going to be engaged in plea bargaining, but the experience that we have had in the police service is not one that we want to seep in like a cancer into the prosecution of crime in our country and, therefore, I do not and I cannot advise that we pass legislation like this without putting in some type of mechanism in that legislation to ensure that if somebody does something wrong, that they must face the punishment for that because the consequences are too great in our country.

The reason why I say that, Attorney General, is this. We had a prosecution in this country where 11 persons were convicted and sentenced to death for murdering Thackoor Boodram and putting his head in a whisky box at the Caroni Cremation Site. Eleven persons were sentenced to death in this jurisdiction. The main witness for nine of those persons—subsequent to their conviction, the most wanted man in Trinidad at one point in time—Junior Granderson has gone on statutory declaration dated the 1st of June, 2011, by statutory declaration to His Excellency the President and has said that the evidence he gave against those nine men was fabricated. If the law did not take its course or the facts did not unveil themselves, we could have had nine persons, at least, being sent to the gallows on

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evidence that was perjured, and that is the risk that we have because Junior Granderson was another person who plea bargained his way out and sent 11 people to the gallows.

We must understand, Madam President, that when you commit murder in this country, there is only one sentence that you can suffer, it is death by hanging, and when you give this kind of power to someone to plea bargain with persons who can be associates in a capital offence, you have to be very, very careful that we have the right safeguards to ensure that someone is not sent to the gallows and posthumously we realize that an error was made. We cannot afford that because that sentence cannot be reversed. So I want to caution the Attorney General that we must be careful.

This is legislation that can advance the aims of the criminal justice system. It was started a long time ago, as the hon. Minister of Agriculture, Land and Fisheries has said. It has passed through three and four administrations. We are at a time now when we can fix it, but our efforts will simply be in vain if we do not put in place the things that need to operationalize this piece of legislation. You are in Government. The responsibility is yours. You have the assistance of the Opposition. We have given you the suggestions—bring the legislation that needs to be done; operationalize the system from the bottom up.

And like I have said more than one time, Madam President, you cannot solve crime in this country by passing legislation alone. You have to clean up the Trinidad and Tobago Police Service and the Trinidad and Tobago Prison Service and as unattractive as it might be, that administration or this administration or any administration is not going to find a solution to crime unless you take hold of the

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police service and the prison service and get rid of those people who are corrupt in that system. We will help you do it—propose the way forward; bring legislation if you have to; put together a special prosecution authority to deal with them and we will support it. But at the end of the day, we find ourselves in this position, that all of us are held victims every single day, because you have a corrupt police service and a corrupt prison service. Get rid of the corrupt prison officers; treat the prison as what it should be, a prison, not a place where you sit down and you are on the phone whole day and you are talking whole night on a cellphone. The cellphones do not drop from the sky, Madam President. So, I have given the Attorney General the suggestions, Madam President. [*Interruption*]

Madam President: Your time is up.

Sen. G. Ramdeen: I thank you very much. [*Desk thumping*]

Sen. Melissa Ramkissoon: Thank you, Madam President. Madam President, before I start my debate on the Criminal Procedure (Plea Discussion and Plea Agreement) Bill, I must say just hours after experiencing a life-impacting experience from tropical storm Bret, I have to say thank God all Members are here safely and sound and the members of the public are also safe. Material things can be replaced but life, good health and strength is something we have to be grateful for. So I had to pause and say thank God for that blessing. [*Desk thumping*] And maybe, Madam President, throw in to the Leader of Government Business while I am on that topic that we can leave a little early because of the Caroni banks. I got this warning from the Met Office that it is high, threatening, and I am from south as other Members, so maybe you can look at—[*Interruption*]

Sen. Khan: I am just waiting for a final official statement from the Minister of

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Works and Transport who has just left, and once I get the report we will act appropriately and with good reason and with safety as paramount in our minds.

[Desk thumping]

Sen. M. Ramkissoon: Thank you, thank you. Okay, Madam President.

In relation to the Criminal Procedure (Plea Discussion and Plea Agreement) Bill, much has been said already about this. I think the listening public, just to give them some principles about what this plea agreement or plea discussion will offer to them, or to persons who may be a suspect or an accused person, I found a nice guidance document from the gov.uk website and it was labelled “General Principles” and this is in relation to the plea. It had a nice introduction:

“In conducting plea discussions and presenting a plea agreement to the court, the prosecutor must act openly, fairly and in the interests of justice.”

And for these reasons, Madam President, I would support legislation that will bring forward plea—well, this is not new legislation, Madam President. This is to repeal the existing Criminal Procedure (Plea Discussion and Plea Agreement) Act from 1999 and to bring about an amended version of that particular Act. There are principles which are very applaudable such as where the plea can:

“Acting in the interests of justice means ensuring that the plea agreement reflects the seriousness and extent”—to which an act might have been committed. It also—“gives the court adequate sentencing powers, and enables the court, the public and the victims to have confidence in the outcome.”

It goes on to say:

“The prosecutor must consider...the impact of a proposed plea or basis of

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plea on the community and the victim, and on the prospects of successfully prosecuting any other person implicated... The prosecutor must not agree to a reduced basis of plea which is misleading, untrue or illogical.”

Also, in this amended version, we are saying that we would also like the victim to be involved in this plea discussion by means of a victim impact statement.

So, Madam President, according to the definition on the “prosecutor” who is defined in clause 2, that is the person has to be assigned from:

“the Director of Public Prosecutions or an Attorney-at-law authorized...”

—and this person must—

- “ensure that a full and accurate record of the plea discussions is prepared and retained
- ensure that the defendant has sufficient information to enable him or her to play an informed part in the plea discussions”—as well as—
- “communicate with the victim before accepting a reduced basis of plea, wherever it is practicable”—and as well as—
- “ensure that the plea agreement placed before the court fully and fairly reflects the matters agreed”—upon.

Madam President, in the introduction by the Hon. AG in the Senate on this particular debate, we learnt about the statistics that 21,000 High Court cases are in arrears of over 15 years. We also learnt that only 49 per cent of the cases can be handled annually and 51 per cent of the cases are left undone. The explanation given was maybe because of delays in the number of cases versus the number of judges or courts and prosecutors. So, Madam President, we know that this particular Bill will not affect the present 21,000 cases, but we hope that the plea

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discussions will bring a reduction to the number of backlog in the system.

Now, after 1999, we have only had 14 cases that went to plea discussions. With that track record we would not see any significant impact. So now, what can we do to encourage attorneys or victims or accused persons to go with a plea discussion? That is where the difficulty lies. If we look at clause 24(3)(f), the accused understands that the court is not obligated to accept the plea agreement. So even though an attorney might reduce a charge or get a lesser sentence for the accused or the suspect, there is nothing in this that says that the judge or the magistrates have to accept that recommendation.

So now, you might enter into plea—we have only seen 14 cases—so we do not really know how this is going to work. What will lead me now to say this is a way that we should use because the court is not bound, the judge is not bound and we have not seen a lot of success in the existing piece of legislation?

If you look at an article from the *Express* dated January 04, 2014, the title is “Plea bargaining legislation can help”. It started with a statement made which I think has a lot of truth in it.

“If you have low detection rates”—and Sen. Rambharat spoke about the percentage is less than 15 per cent at present that was given by the police service, and these low rates the article said is—“due to witnesses being murdered and intimidated, the anxiety”—or fear—“that the accused will be tried and given a heavy sentence is not there.”

So the incentive of entering into a plea bargain to get a lesser jail sentence when you know there is the risk of receiving a heavy sentence is not there.

So, to see the operationalizing or the implementing of this particular system

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is something that would be interesting to know, because Madam President, unfortunately Trinidadians and Tobagonians have gotten so brave. We heard of the video mentioned earlier of the brutal mass murder, but there are also people who are so brave, Madam President, to post videos of themselves holding automatic machine guns, showing off their illegal substances or use of illegal substances. They are even so brave sometimes to show that they are defacing public property. In the video, you would see them saying, “Call the police”.

So we have that culture. I am not sure when that culture has been encouraged, but we have now seen this in the public domain, so it is not like Trinidadians and Tobagonians can access these videos, but internationally people can see these videos and see this kind of lack of fear of being reprimanded for doing such an activity. It is almost like it has zero consequences.

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Madam President, with a detection rate of under 15 per cent and having such a brave population it is something that these legislation will have some difficulty being implemented and really making a difference. And that is why, the hon. Senator from the Government side, we need to ensure that the police service—we do not blame them, but ensure that they are doing what they are held accountable for. So, Madam President, I looked at an interesting book entitled *Commonwealth Caribbean Criminal Practice and Procedure*, and this was written by the honourable and the late Senior Counsel, Dana Seetahal, and she had an article, or a chapter in this book on plea. The book explained unequivocal plea where the plea must not be open to interpretation. If a defendant says he is guilty with an explanation, this indicates that the plea is qualified.

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There were some cases studies, such as *Lewis v Commissioner of Police* in 1969, where there was a case from Grenada where the defendant pleaded guilty for assaulting a police officer, only to have the explanation given by the person who was accused revealed that he should have entered into a not guilty plea. We also saw an example similarly in Baker, 1912. This legislation, I have only seen provisions been made for a guilty plea, to enter into a guilty plea. I am not seeing where we can enter into a not guilty plea. You can say you are not guilty but what next? I am not seeing anything in the Bill before us about that. Well, okay, if you are admitting that you are not guilty or you are innocent, you have a continuous statement that you are innocent? It does not give that provision in this particular Bill, it only is at guilty, and we do not want to have a forced person into because then it will be a nullity at the end of the day.

So, Madam President, to move on to another point in relation to the suspect. This is on page 5 of the amended legislation before us, and it says that a:

“‘suspect’ means a person whom a police officer, with reasonable cause, suspects has committed an offence but who is not charged;”

I listened to the introduction on this because this particular “suspect” terminology was not separated in the 1999 legislation. So it is not really new but it is new to this piece of legislation in this statement, because it has been separated. I did seek more information on this so I went to listen to the debate in the other place, and I learnt in the committee stage, there was reference to a 2014 policy on the reform of the criminal law and procedure, and this particular document was used to decide why they should have a suspect separated in this format and what was the reasoning, however, this document is not available.

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I went to the Parliament staff, Library, and they were saying that this was not circulated in the committee stage, so I do not know if the Government can make this document available so Members could really understand why we would like to include or separate a suspect and an accused person, because an “accused person” is:

“a person against whom a complaint is made or information is laid; or
a person against whom an indictment is preferred;”

And, again, the suspect who is someone who is not charged but the police has reasonable cause to believe that they have committed an offence. Also, I did not really learn anything more on this in the committee stage, and I do hope other Senators can share their interpretation of this particular separation, because in my understanding, in my humble understanding, a suspect that is not charged but he or she goes to court and then a charge is laid later after a discussion is done by the attorney who is representing such person? But if there is a scenario where you are a murderer or you are a murder suspect, or an accomplice, how does that then work?

Where is the link that these suspects will share truthful information to the police officers or to the attorney without having that fear of just making a statement that can be thrown out in court because it would be that you have been forced to make your statement?

Also, if you look at clause 30, we will see that only an accused can withdraw from a plea agreement, a suspect cannot. Not exactly sure why. And we also learnt, Madam President, during the introduction of the Bill by the AG, we learnt of the installation of cameras to allow for the recordings of agreements, or plea agreements and discussions, and I had really thought this was based on a voluntary

basis. But if we look at clause 10(1)(b):

“the accused person has informed the prosecutor, in the form set out in Form 1 in the Schedule, that having been advised by the prosecutor of the matters referred to in paragraph (a)—

(i) he desires to represent himself; and

he agrees to the plea discussions being recorded;”

Is it that you have to qualify for a plea discussion recording and the desire to represent himself—to full out this form then you need to do both to enter into a plea agreement? That was not very clear, because is it that I can enter into agreement without having a recording or is it mandatory that I have to have these sessions recorded? As well as, how long is it intended to keep these recordings? Is it a year, 10 years, until the end of the matter? That was not set out in the Bill before us.

Also, Madam President, clause 16 speaks about—and let me just quickly find it—and this is on page 12:

“Where the victim is a child—“

And now a child in this particular Bill is defined—okay, this one was not defined, it was is the other one, because a child is under 18 years, as we know from the Children Act, which is 46:01. This clause 16 says that:

“under the age of fourteen years, a parent or a guardian or, where the parents or guardians cannot be located, a person who has custody of the victim or who is responsible for the victim’s care and support may make a victim impact statement on behalf of the victim;”

But part (b) says, where the victim is a child:

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“has attained the age of fourteen years, the victim and one of his parents or guardians or, where the parent...cannot be located, a person who has custody of the victim or who is responsible for the victim’s care and support may make a victim impact statement on behalf of the victim.”

Why did we put in part (b) because we already know that the child is under the age of 18? So subclause (a) is sufficient to give that information, there is no need to separate it to put in part (b).

Madam President, I would like to look at clause 4(b) part (iii), and that deals with:

“an undertaking not to institute charges against family members or friends of the accused or suspect;”

I would like to endorse Sen. Chote’s submission to add “where there is evidence to sustain a charge”, and that is because of case study of *R v Herbert*, 1992. It was held that there are pressures on an accused person and some factors may weigh in deciding how he pleads. In that case, the defendant was jointly charged with his wife for offences including drug trafficking. He offered to plead guilty if the prosecution did not charge his wife, and that is why I would support putting “where there is evidence”, because you do not want to go through, again, a false plea because you want to protect your family. Again, this plea was found to be legally void because of this finding.

Madam President, clause 28 will provide that:

“...an accused person may appeal to the Court of Appeal”—where a court has rejected a plea agreement.

Clause 25 says that the judge or the magistrate has within seven days to give

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a reason why the rejection was made, or the reason for the rejection of the plea. And in the Bill, in clause 25, they give you reasons for why a judge or a magistrate, will find your plea to not be valid, and they would want to go to trial. Why then are we allowing this accused or the suspect an opportunity now to go to another judge to be tried? If we are trying to fast track or prevent backlog, is this not looking like you are tying up courts' time by not going to another judge to give a reason that is in the legislation? I am not really sure what was the reasoning for this particular clause. Also, clause 25(3) does not really say how many times you can go before a judge to have a re-judgment on your plea agreement. Is 10 times the limit? Well, I do not think you can go before the court 10 times, you might not have the time, or you even might not be heard more than once, but, honestly, there is no limit to this.

Clause 33 speaks about "Plea agreement inadmissible in criminal or civil court". Now, this was a point that Sen. Chote had made earlier in relation to evidence to the State, or what is the State gaining from plea agreements and plea discussions, and that would be that if you have evidence, or you have given information, the evidence should not be lost or only limited to that one particular case, for example, for serial murders or rape cases. You should not just say, okay, this one person you should charge, and—[*Interruption*]

Madam President, I have to say that, just a little off point, I work in an industry so crosstalk never gets to me because I just do not hear it. It is not a fault, it is just I really just do not hear, and so it is really hard to distract me. I do not know if it is the machinery or what caused it, [*Laughter*] it is that I just do not hear it. So if you would have a conversation, I just would not hear. So it is very hard to

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distract me, Madam President, but, apparently, there was a message that really needed to be said during my debate. Unfortunately it was not related to plea agreements, [*Laughter*] but it was related to a plea that I made in relation to the weather situation. [*Desk thumping*] It was, unfortunately, that the Caroni banks was level and we hope that after my debate, maybe, we could have an early adjournment.

So in relation to this—back to clause 33—which I found was a very, very good point, but I find the word “not” should be omitted, and that is on page 21:

“Evidence of the following matters is not”—it should be “is”—“admissible in civil or criminal proceedings against the accused person who entered into a plea agreement or is a party to plea discussions:”

So if the statement can resolve other cases within the system, it should be allowed. It is just like a simple situation and it may solve the 21,000 cases in backlog. And I really like the phrase put forward by the hon. Attorney General, agreeing where we can agree, so we can agree on plea agreements and discussions. Utilizing the plea agreements and discussions, or where I am seeing the difficulty, and offenders need to fear the consequences of reprimand and where they can get benefits from having a reduced conviction.

Unfortunately, the Ministry of National Security needs to be more accountable for his reportees, and if we want change, Madam President, change needs to start with the prosecutors and the police officers for this piece of legislation to have a lot of workings in our system that we can all benefit from.

We definitely cannot just say, we are going to pass this legislation or amendment to this legislation without putting things in place, or correcting the

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systems that surround it, because it would just be as good as the piece of paper it is written on. So, Madam President, thank you for really indulging me this afternoon, and I do thank you. [*Desk thumping*]

Madam President: Leader of Government Business.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, I have just been advised by the Minister of Works and Transport and the Director of Drainage that there is a very strong likelihood that the Caroni could overflow its bank very shortly. So, in that context, I want to move the Motion on the adjournment, before I so do I would just request of Sen. Ramdeen, if he would be so kind that he could pass the 25 amendments to the Attorney General for his consideration.

So with that said, Madam President, I beg to move that this Senate do now adjourn to Thursday the 22nd of June, 2017, at 2.30 p.m., at which time we will continue this debate on plea bargaining, and if time permits, we will debate the Motion on the report of the committee that was set up to consider the amendments related to trial by judge only.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.47 p.m.