

HOUSE OF REPRESENTATIVES

Monday, May 06, 2019

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

Madam Speaker: Hon. Members, I have received communication from Mr. Prakash Ramadhar MP, Member for St. Augustine, who has requested leave of absence from today's sitting of the House. The leave which the Member seeks is granted.

PAPERS LAID

1. Ministerial Response of the Ministry of Finance to the Twentieth Report of the Public Accounts Committee on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2017. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]
2. Ministerial Response of the Ministry of Housing and Urban Development to the Fourteenth Report of the Public Administration and Appropriations Committee on an Examination into the Construction, Maintenance and Refurbishment of State-Owned or State-Funded Housing Projects and Units. [*Hon. C. Robinson-Regis*]
3. Annual Report of the Strategic Services Agency, Ministry of National Security for the year 2017. [*The Minister of National Security (Hon. Stuart Young)*]

UNREVISED

JOINT SELECT COMMITTEE REPORTS**(Presentation)****Finance and Legal Affairs
Waste Management Polices and Initiatives**

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker. Madam Speaker, I have the honour to present the following report:

Fifth Report of the Joint Select Committee on Finance and Legal Affairs on a Critical Assessment of the Waste Management Policies and Initiatives of the State (with specific focus on solid waste).

Trinidad and Tobago Revenue Authority Bill, 2018

The Minister of Finance (Hon. Colm Imbert): Madam Speaker, I have the honour to present the following report:

Interim Report of the Joint Select Committee appointed to consider and report on the Trinidad and Tobago Revenue Authority Bill, 2018.

PRIME MINISTER'S QUESTIONS**Shooting Incident in Carenage
(Commencement of Investigation)**

Mr. Rudranath Indarsingh (*Couva South*): Thank you, Madam Speaker. Given the Prime Minister's public commitment of a thorough investigation into the recent incident in which three persons were killed and three persons were injured in an alleged gun battle between the TTPS and residents of Big Yard, Carenage, could the Prime Minister inform this House when will the investigation into the said incident commence?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, if my colleague from Couva South was so noticeable and caring about the people of Carenage in Big Yard, he would have heard the Commissioner of Police in response to this very question saying that an investigation has already commenced, and that an officer

who is named has been put in charge of the required investigation. So I know of no reason why this question should be before the House today.

Mr. Indarsingh: Thank you, Madam Speaker. Prime Minister, given the concerns of the residents of Carenage about the independence of the enquiry, could the Prime Minister as head of the National Security Council inform this House who is the officer that will be leading this investigation?

Hon. Dr. K. Rowley: Madam Speaker, an Officer Samaroo has been identified by the authorities in the police service, and I expect that given the nature of the incident, that following the appropriate protocols, that the Police Complaints Authority would get involved, and that this investigation is not unique. But we expect that it would be done in a way that would be covered by the laws of Trinidad and Tobago.

Hospitals' Electrical Supply (Review of)

Mr. Rudranath Indarsingh (*Couva South*): Madam Speaker, given the recent loss of a full electricity supply at the San Fernando General Hospital, could the Prime Minister inform this House if all electrical systems, including the supply of power at our nation's hospitals, have been reviewed?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, I have no information that all electrical systems in all hospitals have been reviewed, and actually I know of no incident that would require that all electrical systems in all hospitals would be reviewed. What I do know is that there is an ongoing arrangement of maintenance and observation, and insofar as electrical issues arise, they would be dealt with in a professional manner by the professionals in the Ministry of Health. That is what I am aware of.

Mr. Indarsingh: Thank you, Madam Speaker. So, is the Prime Minister telling

this House that given what happened at the San Fernando General Hospital on the 25th of April, 2019, it is not important to warrant a review of all the systems, from an electrical point of view, at our nation's public hospitals? [*Desk thumping*]

Hon. Dr. K. Rowley: Madam Speaker, the authorities at the various hospitals, which are physical buildings quite unconnected across the country, from Tobago to Arima, to Point Fortin to San Fernando, the protocols for maintenance of electrical supplies and service are in place and being observed by the professionals within the Ministry of Health, and there is no panic station. As a matter of fact, in response to this kind of approach being advocated, that the Ministry of Health had already indicated how San Fernando was dealt with, what the nature of the problem was and there is no need for panic stations.

Mr. Charles: Is the Prime Minister not concerned that the back-up generators did not function, which put lives of citizens at risk, and at least in the maintenance schedule that you described there ought to be an assurance that there is a back-up capability?

Hon. Dr. K. Rowley: Madam Speaker, that is precisely what I speak to when I speak about the professionals ensuring that electrical supplies and service are available, and that the systems are acceptable.

Dr. Khan: Prime Minister, supplemental. Are you saying that the professionals are now there seeing about it, and they were not there in the past?

Hon. Dr. K. Rowley: I am not saying that at all. This happened many, many days ago, and has been responded to a long time ago. This is old news.

Mr. Indarsingh: Madam Speaker, could the Prime Minister assure this House, and by extension the nation, that in relation to the generators at our public hospitals, the fuel supply will be guaranteed to last, God forbid, days rather than hours in a particular situation?

Madam Speaker: I am not going to allow that as a supplemental question.

1.40 p.m.

**Shell and Heritage Exploration Limited
(Joint Venture Process of Selection)**

Mr. David Lee (*Pointe-a-Pierre*): Question No. 3 to the Prime Minister: Given the recent reports that Shell and Heritage Exploration Limited have signed a Memorandum of Understanding for a possible joint venture, could the Prime Minister state the process which was adopted to select Shell as a partner in this joint venture?

Madam Speaker: Prime Minister.

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, the process is the same one that I met when I became Prime Minister and as the Government came into office, that Shell was in partnership with Petrotrin.

Contrary to the insinuation of this question, it is good for the public to be aware that Petrotrin and Shell are in an ongoing partnership of longstanding; Shell having bought the assets of BG, as a result of which that partnership sees Petrotrin and Shell operating the Hibiscus platform and owning and operating the pipeline from the NCMA to Point Fortin.

This MOU to work with Petrotrin on a matter of seismic observations and exploration potential of the south-western Soldado Field or elsewhere is simply a continuation of that partnership which exists as a result of Shell buying the assets of British Gas.

Madam Speaker: Member for Pointe-a-Pierre.

**Petrotrin's Profits
(Validity of Reports)**

Mr. David Lee (*Pointe-a-Pierre*): Question No. 4 to the Prime Minister: Given the recent reports which stated that Petrotrin made a profit after tax of TT \$1.6 billion

in its last year of operation, could the Prime Minister confirm the validity of these reports and specifically state what was the profit of Petrotrin in its last year of operation?

Madam Speaker: Prime Minister.

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, in as much as I would like to assist my colleague in getting the information he seeks, I would be very appreciative if he could identify any particular report to which this question refers?

Madam Speaker: Supplemental, Member for Pointe-a-Pierre.

Mr. Lee: Madam Speaker, the supplemental to the Prime Minister, the report was stated in the media that Petrotrin made a profit before tax of \$1.6 billion; it was stated throughout the media and that was the report.

Madam Speaker: Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, if the media reports—the unspecified media report is a basis of this question, I simply want to tell my colleague from Pointe-a-Pierre that that is simply spreading misinformation, and he is well aware that the Government's documents and the parliamentary reports covering Petrotrin's operations are not to be found in misinformation in the media. [*Desk thumping*]

Madam Speaker, the only reports that I know of, is that Petrotrin showed a loss operation in the last year of its operations and the year before, and we have spoken at length about Petrotrin's loss-making arrangements in this House and outside of it.

And, Madam Speaker, the situation with Petrotrin's last year accounts as of today, those audited accounts are not available to the board as yet, so I do not know what could be the possible source of any information that is credible about Petrotrin

having made a profit of \$1.6 billion. This is misinformation and political mischief, because what he is trying to do is to make the political case being made by the UNC that there was no reason to close the refinery because the company was making a profit; that is misinformation and political mischief. [*Desk thumping*]

Madam Speaker: Supplemental, Member for Pointe-a-Pierre.

Mr. Lee: Thank you, Madam Speaker, to the Prime Minister. It was stated in the media via—with the CEO of Heritage Petroleum Company Limited that this \$1.6 billion in profit before tax was used as a tool for the CEO in presenting to the international arena in refinancing the bonds of Petrotrin. [*Desk thumping*]

Hon. Dr. K. Rowley: Madam Speaker, just for your benefit because “stick break in their ears”, right? Petrotrin did not make a profit of \$1.6 billion in 2018. The reported \$1.6 billion applies only to the exploration and production side of the company, it does not take into account the massive losses of the refinery or payments of royalties, financing payments, depreciation, et cetera. When all of these things are taken in account, Petrotrin made a huge loss in 2018 and that is the fact. [*Desk thumping*]

Madam Speaker: Member for Tabaquite.

Highway from Debe to Mon Desir (Completion of Works)

Dr. Surujrattan Rambachan (*Tabaquite*): Thank you, Madam Speaker. Could the Prime Minister inform this House whether his Government intends to complete the segment of the highway from Debe to Mon Desir, and if so, what is the time frame for completion of the same?

Madam Speaker: Prime Minister.

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, at this time—I have been saying it for the last two years, in the last two and half years—the

Government has been focusing on the primary purpose of that highway which was to get a main artery going from north to south all the way to Point Fortin.

The spur off into Mon Desir and into Debe/Mon Desir is not the main route of the artery to Point Fortin. On restarting this project, the resources and the effort have been focused on getting the highway to Point Fortin. On completion of that, Madam Speaker, we will then turn our attention to other spurs off the main route. We are back to the original programme which is to build a main highway from San Fernando directly to Point Fortin. [*Desk thumping*]

Madam Speaker: Member for Caroni East.

Construction of Valencia to Toco Highway (Details of)

Dr. Tim Gopeesingh (Caroni East): Thank you, Madam Speaker: Could the Prime Minister inform the House from whom have the major portions of land been acquired and at what costs for the construction of the Valencia to Toco highway?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, the major portions of lands to be acquired if and when lands are to be acquired for the Valencia to Toco Highway, have not been undertaken at this time, the process is under way to get to that stage. But what I want to tell my colleague from Caroni East, the one thing that you can be assured of, is that major or minor acquisitions on this highway, the taxpayers can rest assured that there will be no squandermania and lawyer-enriching [*Desk thumping*] as happened on the highway from San Fernando to Point Fortin that happened under the last Government where land acquisition was one of the sources of rape of the Treasury in Trinidad and Tobago. [*Desk thumping*]

Madam Speaker: Member for Naparima, supplemental.

Mr. Charles: Thank you. Would the Prime Minister give this House the assurance

that none of his parliamentary colleagues will benefit from the acquisition of these lands even at this stage?

Madam Speaker: Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, what I can guarantee is that none of my parliamentary colleagues, whoever they might be, wherever they might have property will be treated as differently from other citizens whose property might be acquired, but I will tell you, we will not set out as a government to undertake administration in such a way as to deliberately benefit Members of this House. If he knows of Members of this Government who have land to be acquired, he is a better informed man than I am, I know of no such instance, but I will tell you one thing, it is not the policy of this Government to continue the policy of the last Government when Members of the Government and their friends used land acquisition to enrich themselves and when—I will stop at that. [*Desk thumping*]

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Thank you very much, and thank you to the Prime Minister for the disclosures. Could the Prime Minister indicate—I heard something about “rape” but I did not understand what you were talking about, but you may know about that. Could you indicate whether the lands would be by compulsory acquisition or private treaty or a mix of both?

Madam Speaker: Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, that is a question which I cannot answer at this time because the policy is to use the Land Acquisition Act, but on a case-by-case arrangement there may be instances that private treaties are used, but private treaty will not be used to bring about the rape of the Treasury, if that is what you do not understand. The rape of the Treasury [*Desk thumping*] is something that everybody understands in this country. [*Desk thumping*]

Madam Speaker: Member for Naparima. [*Crosstalk*]

Dr. Moonilal: You would know a lot about that.

Madam Speaker: Order! Order!

Dr. Moonilal: You know a lot about that.

Madam Speaker: Member for Naparima.

Mr. Charles: Would the Prime Minister give the assurance [*Crosstalk*] that if—rape or no rape, that a Member of Cabinet stands to gain, that he will recuse himself from the discussions of Cabinet?

Madam Speaker: Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, that is standard protocol observed by this Government under this administration. [*Desk thumping*] That is standard practice to be expected if there is a conflict at the point of the decision-making, every Member not only in this House, but public officers or any other citizen, wherever there is a conflict, one is required to recuse oneself from the decision-making. This Government observes that protocol.

Hon. Member: Not at all.

Madam Speaker: Member for Caroni East.

Dr. Moonilal: Madam Speaker, Standing Order 48(4). The Prime Minister is obsessed with this “rape” and “rape” and “rape”, and it is unparliamentary to speak like this.

Madam Speaker: Member for Caroni East.

Dr. Gopeesingh: I want a supplemental, Madam Speaker.

Madam Speaker: Yes.

Dr. Gopeesingh: Yes. Would the Prime Minister indicate, since you made the statement that no land has been acquired so far, the \$400million for the cost of the highway, would that be separate from the acquisition of properties?

Madam Speaker: Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, I am not sure what he is talking about because he is not specific. Throwing out a figure of \$400million, I do not know what he is talking about, and if he is more specific, I might be able to assist.

Madam Speaker: Member for Caroni East, the question has been answered. New question.

Dr. Gopeesingh: He wanted me to clarify, Madam Speaker, so I am clarifying my question.

Madam Speaker: Member for Caroni East, we move on to the next question, please.

Dr. Gopeesingh: I thought he was asking for a clarification.

**AV Drilling
(Lack of Forensic Audit)**

Dr. Tim Gopeesingh (*Caroni East*): Question No. 7 to the Prime Minister: Could the Prime Minister state why there has been no forensic audit into the widely reported AV Drilling oil issue with Petrotrin?

Madam Speaker: Prime Minister.

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, this is yet another attempt by my colleagues to confuse the public. You will recall that upon their platform shouts about AV Drilling, Petrotrin which is the company that was responsible for public assets in this particular matter, conducted thorough investigations using foreign expertise born on one level, produced a body of information, all of which the nation was advised through this Parliament, has been placed into the possession of the Director of Public Prosecutions to determine whether any wrongdoing took place and who is accountable.

Petrotrin concluded this process not only by using the technical expertise,

but senior counsel to collate and respond to the allegations and all of those matters, all of those documentations, all of those reports are in the possession of the Director of Public Prosecutions.

And I want to add, Madam Speaker, contrary to what is being said by my colleagues on the other side, this particular matter is currently in arbitration between AV Drilling and Petrotrin where contractual liabilities are to be determined, Madam Speaker. And I wish that they would keep their platform talk outside of the House and let the public understand how the public business is being dealt with.

AV Drilling and Petrotrin are to arbitrate over liabilities within the contract of that arrangement, and if there is any criminal conduct, that is in the hands of the Director of Public Prosecutions at this time.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Prime Minister, you seem to be intimately involved in the discussions and the arbitration. If this came to Cabinet, would you recuse yourself from discussions because the person is your friend? [*Desk thumping*]

Hon. Dr. K. Rowley: Madam Speaker, the first thing, I want the record to be clear. I never said about being intimately involved in any form with any arbitration. All I have mentioned for the public benefit, those who believe that somebody has something to answer for with AV Drilling, just let the public know that Petrotrin and AV Drilling are in arbitration where matters are to be determined as to who owes who what; that is a fact, it has nothing to do with me.

And secondly, if my colleague from Naparima knows of any reason why I should recuse myself in this matter as head of this Government, get up and say so in this House, and better still, better still, come outside and say it. [*Desk thumping*]

Hon. Members: Yeah!

Madam Speaker: Member for Caroni East, supplemental. [*Crosstalk*] Order, please.

Dr. Gopeesingh: Hon. Prime Minister, with the dissolution of Petrotrin, could you, with what you have just said, give some undertaking that circumstantial evidence would still be available for the Director of Public Prosecutions to work with? Or some of the evidence would have been destroyed as a result of the dissolution of Petrotrin.

Madam Speaker: Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, Petrotrin has not been dissolved. We have told this country, contrary to the confusion being created by our colleagues on the other side, Petrotrin still exists as the company with all the legacy items of the original company. So all matters of this and similar nature which Petrotrin was involved in, in the creation of the new companies, those matters remain with Petrotrin, they are called "legacy items". And I simply want to say that they are preserved for all actions which would have been taken, even if we had not restructured the company.

I want to also point out that the same DPP who conducted his business the way he has done last week and is doing it today and going forward, is the same DPP that has in his possession all the information concerning this matter; and that I say to the public. And I would simply want to ask the public to disregard my colleagues on the other side who seem to have a different story. [*Desk thumping*].

Madam Speaker: Member for Oropouche East, supplemental.

Dr. Moonilal: Thank you very much. Prime Minister, with respect to your clear distinction between the matter being a subject of arbitration for contractual liabilities and so on, on the one hand, and receiving the attention of the DPP and other law enforcement for criminal action on the other hand, would the Prime

Minister indicate whether the Government will also be prepared to hire first-in-class forensic experts out of the United Kingdom to also investigate and assist law enforcement on the AV Drilling fake oil matter? [*Desk thumping*]

Hon. Dr. K. Rowley: Madam Speaker, I do not know what they are so jumpy about, you know? [*Crosstalk*] The Trinidad and Tobago Police Service has already done that and put within the police service the competence, the expertise to treat with this and all other matters, and this is the first time that that has happened in this country [*Desk thumping*] and that may very well be the source of his unease.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Thank you very much, Madam Speaker. Prime Minister, the decision by the board to enter into arbitration with AV Drilling, was that taken without reference to the line Minister? The decision to enter into discussions without reference to the line Minister or the Cabinet of Trinidad and Tobago.

Madam Speaker: Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, that question defies an understanding of logic. AV Drilling and Petrotrin are in a contractual arrangement. The decision to go into arbitration is not a capricious matter requiring the Minister. AV Drilling initiated under the terms of the contract arbitration proceedings which Petrotrin under law is cooperating with. This is a contract between two parties, and contrary to the mischief that you all have been making, these are the facts and facts are stubborn things. This is not being created on this side and by this Government, you know. The contract requires arbitration triggered by one party, and if you know another route, then get up and say so. [*Desk thumping*]

Madam Speaker: Member for Caroni Central.

**TTPS Entry to Properties without Warrant
(Details of)**

Dr. Bhoendradatt Tewarie (*Caroni Central*): Question to the hon. Prime Minister: Could the Prime Minister inform this House whether he is in agreement with the invasion of citizens' private properties by the Trinidad and Tobago Police Service without the provision of search warrants, as reported by some homeowners?

Madam Speaker: Prime Minister.

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, once again, I want to draw the attention of my colleague to the statement made by the Commissioner of Police who is the authority governing the conduct of police investigations and police officers on investigations.

Madam Speaker, it is not for me to intervene in the police work with respect to specific matters of law enforcement on matters which the Commissioner has said at the appropriate time he will clarify for the public. But let me say this, provision is made for entry into premises by way of warrant, but there is also provision being made for police to conduct their police work under existing law where a warrant may not be necessary at the point in time when a particular action is being taken. And I will simply ask my colleague to await the details of the Commissioner of Police and do not invite me into the policing from which the Government, the Executive is excluded. [*Desk thumping*]

Madam Speaker: Supplemental, Member for Caroni Central.

Dr. Tewarie: I appreciate the Prime Minister's response, but as you know, the Commissioner of Police is still subject to a Minister of National Security.

Madam Speaker: Is that the question?

Dr. Tewarie: No. I am pre-ambling my question.

Madam Speaker: All right. Okay. Ask the question please.

Dr. Tewarie: And what I am concerned about, you having said that there are alternatives besides a warrant, whether there was a legal basis on which the police entered the property.

Madam Speaker: Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, what is my colleague inviting me into? My colleague is an experienced Member of Government. He must know the limit within which the Executive can intrude into law enforcement at the personal operational level. There is clear route where the police can act or cannot act, and to protect the citizenry there is a provision where warrants are sought on cases presented, but that is not the only way the police can act under specific circumstances, protected under existing law.

It is quite wrong for my colleagues to go out there and tell the population that we have created new law allowing this to happen. Madam Speaker, this is mischief of the worse kind creating hurt in our population, and I appeal to my colleagues to stop doing what you are doing. [*Desk thumping*]

Madam Speaker: Supplemental, Member for Caroni East.

Dr. Gopeesingh: Hon. Prime Minister, as head of the National Security Council, are you comfortable in your own mind that six homes have been—or seven homes have been invaded without any evidence of any warrant whatsoever? Are you comfortable in your own mind?

Madam Speaker: I will not allow that as a supplemental question. It is the question that has been originally asked. Member for Naparima, supplemental.

Mr. Charles: Is the Prime Minister not concerned that the timing of these raids so close to an election could give the impression [*Crosstalk*] to right-thinking citizens that they are political?

Madam Speaker: Prime Minister.

Hon. Member: So, stop law enforcement.

Hon. Dr. K. Rowley: Madam Speaker, I simply want to give my colleague from Naparima and all his colleagues on the other side the assurance that no aspect of law enforcement in Trinidad and Tobago is governed by any election or perceived election. Law enforcement is 24/7, every day of the year in this country. [*Desk thumping*] There is no time frame about the elections, and once again, it is mischievous to be countenancing and putting it out that law enforcement in Trinidad and Tobago is governed by elections.

Madam Speaker, as far as I am aware, we are under criminal attack in this country from the criminal element and it has nothing to do with the election date. It has to do with law enforcement under the country's Constitution, and the people who are to do that, do so under the expectation that they will protect and serve. It is mischievous to be talking about—

Dr. Moonilal: Madam Speaker—

Hon. Dr. K. Rowley:—about elections.

Dr. Moonilal:—48(6), again. These are questions approved by the Speaker and to say—

Madam Speaker: Member for Oropouche East, kindly take your seat. [*Crosstalk*] Member for Caroni Central, supplemental. [*Crosstalk*] Excuse me. [*Crosstalk*] Excuse me.

Dr. Gopeesingh: The Minister of Finance should apologize.

Madam Speaker: I have not recognized you, Member for Caroni East. [*Crosstalk*] Just one minute. Member for Diego Martin North/East, I heard that. I will ask you, since it is early: one, to get up, withdraw and apologize; and secondly, hereafter, try your best to contain those outbursts. [*Crosstalk*] Prime Minister, and all

Members, it may be very difficult for us sometimes to contain ourselves, but in here we have to summon all our strength.

Mr. Imbert: Thank you, Madam Speaker. I apologize and withdraw that remark.

Madam Speaker: So, Member for Caroni Central.

Dr. Tewarie: Yes. Prime Minister, did I understand you to mean that whatever was done with these homes in south Trinidad was done under existing law? I am asking the Prime Minister.

Hon. Dr. K. Rowley: Madam Speaker, I do not—the Commissioner of Police has indicated that he would speak to this matter and clarify these concerns at the appropriate time.

Madam Speaker, as Prime Minister I cannot go beyond that because I do not have any new or additional information. What I do know that I am not in a position to say that anything was done that was illegal. So therefore, I have to conclude that the police have acted under existing law. I have also said it was wrong for my colleagues, one of whom has said, that it is new law made by this Government which has resulted in this situation; and I am saying, that is not correct, that is all I am saying. [*Desk thumping*]

Madam Speaker: Hon. Members, the time for Prime Minister's Questions is now spent.

URGENT QUESTIONS

Measles

(Details of Recorded Cases)

Mr. Rudranath Indarsingh (*Couva South*): Thank you very much, Madam Speaker. To the hon. Minister of Health: Given the recent public disclosure that it is only a matter of time before Trinidad and Tobago experiences a pocket of people infected with measles, could the Minister inform this House if there are any cases

that have been recorded with our health system?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. The last indigenous case of measles in Trinidad was recorded in 1991. The last imported case of measles brought into Trinidad was in 1997.

Madam Speaker, I raised this issue at a press conference on Friday to alert the population that we need to achieve a vaccination rate of 95 per cent which is called “herd immunity”, that is, you vaccinate 95 per cent of your people so that it breaks the transmission to the 5 per cent unprotected or unvaccinated.

Madam Speaker, Trinidad and Tobago has not distinguished itself from 2012—2016. Vaccination rate for measles, the first dose from 2012 was 85 per cent; 2016, 86 per cent. For the second dose 2012, 78 per cent; 2016, 75 per cent, so we were not doing well from 2012—2016. It is only in 2018 when I started to push this thing, we achieved a 93 per cent in 2017, close to herd immunity of 95 per cent, and 90 per cent for MMR2 in 2017. Madam Speaker, these figures are estimated figures. The actual percentages are probably better because it does not take into consideration the private sector; this is mainly the public sector.

So we may be achieving a 95 per cent vaccination rate which is herd immunity, but out of an abundance of caution of what is happening globally where measles was confined to the dustbin of history, it is now making a resurgence of about 20 to 30 per cent globally, especially in the United States and England, two of our major countries that we have people being exchanged and cruise ships coming in.

I am taking absolutely no chances, and I want to get this country as close to maybe a 100 per cent if possible, hence the reason for going public with this issue on Friday out of an abundance of caution, and being responsible as a Minister of Health. Thank you very much. [*Desk thumping*]

Madam Speaker: Supplemental, Member for Fyzabad.

Dr. Bodoë: Thank you, Madam Speaker. Minister, thank you for that response. Can you indicate whether any arrangements are in place for seeking out those visitors from Venezuela, for example, and other visitors to this country with regard to offering them the vaccination?

Madam Speaker: Minister of Health.

Hon. T. Deyalsingh: Madam Speaker, as I indicated in the press conference, I did not want to turn this into a Venezuela issue. It is not a Venezuela issue, it is a measles issue, and globally the countries that are posing the most problems are not Venezuela, it is the United States, it is England, it is Italy, it is continental Europe. Those are the countries that are seeing the explosive rise in the number cases of measles for a lot of factors. And the two counties we are concerned about here are St. Patrick and St. George Central, and we are adopting particular focus activities to get into the hearts and minds of heads of the elders of those two counties to encourage them, understand the science in language that they could understand, that we need to get herd immunity up to, at least, 95 per cent in Trinidad and Tobago.

Madam Speaker: Supplemental, Member for Barataria/San Juan.

Dr. Khan: Minister, there is a strong anti-vaccination movement occurring, as you said, in those countries, and whatever they do happens here. What is the Ministry of Health doing to combat that anti-vaccination movement?

Madam Speaker: Minister of Health.

Hon. T. Deyalsingh: Thank you. Madam Speaker, and I thank my colleague for the question. The modern anti-vaccine movement started in 1998 with Dr. Wakefield who duped *The Lancet*—and *The Lancet* is the bible of medicine—into printing a flawed report that linked MMR vaccines—

Dr. Gopeesingh: One of them.

Hon. T. Deyalsingh:—to autism, based on no science and based on a small sample of 12 children. We have taken note that the anti-vaccine movement is taking route in Trinidad, and I have been in the forefront battling the anti-vaxxers movement.

2.10 p.m.

Madam Speaker, just Saturday gone the UK's Ministry of Health's Matt Hancock said this, that:

“...anti-vaccination campaigners were ‘morally reprehensible, deeply irresponsible’ and had ‘blood on their hands’...”

That is how serious it is. And speaking to the BBC on the same day he said:

“...the UK needed to ‘consider all options’ to ensure more children were vaccinated, refusing to rule out the possibility of compulsory vaccination.”

That is how serious this issue of anti-vaxxers, which leads to vaccine hesitancy, which WHO has now put as one of the 10 most important public health concerns for 2019. Imagine that? We have reached the stage where a disease that was confined to the dustbin of history in 2019 is now one of the 10 most important public health concerns for WHO, and it is largely due to conspiracy theories, governments are taking action to close down Facebook sites, YouTube sites, Instagram sites that promote this anti-vaxxers propaganda, and we in Trinidad have to take all steps to combat that. Thank you very much, Madam Speaker.

Escalation of Murders (Crime-Fighting Initiatives)

Mr. Rodney Charles (*Naparima*): To the Minister of National Security: Given the escalation of murders in both Trinidad and Tobago over the past few days, could the Minister inform this House whether he is satisfied that the Government's crime-fighting initiatives are working?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, I would like to start by saying that this Government and this administration takes the issue of crime very seriously, and every crime that is committed against any citizen or anybody resident in Trinidad and Tobago, we take very seriously and we put as much resources behind it as we can. Furthermore, the recent murders that are being committed within recent times fall into two categories: domestic disputes, family disputes as one category; and then the other category is the use of illegal firearms.

With respect to domestic disputes and family disputes, Madam Speaker, it is our respectful view that unfortunately in the vast majority of occasions these cannot be prevented by any crime-fighting initiatives, and unfortunately these have been taking place within recent times. With respect to the use of illegal firearms, what this Government intends to do as we have indicated is bring very shortly to Parliament legislation specifically aimed at dealing with the scourge of illegal firearms [*Desk thumping*] that are being used to commit crimes against the citizens of Trinidad and Tobago.

This legislation and suite of legislation would deal with bail in that there would be no bail, we propose, for illegal firearms. We are also looking to increase the fines, sentences, and on some occasions do away with fines for those who are repeat offenders of being in possession of illegal firearms. Madam Speaker, here today I put the country on notice, once again, that the 23 votes on this side would support this legislation that is requested by the police service of Trinidad and Tobago. The police service of Trinidad and Tobago has asked the Government's assistance in dealing with illegal firearms. You have the support of this administration; the legislation will require a special majority, so we will see what

their crime-fighting plan and initiative is to deal with illegal firearms.

Mr. Charles: Minister, are you willing to accept that your ill-conceived policies towards Venezuela, including your ill-advised asylum policy, and inability to protect our borders are in part responsible for the epidemic of crime leading to 49 murders [*Desk thumping*] last month, 25 per cent more than in April 2018?

Hon. S. Young: Thank you very much, Madam Speaker. Madam Speaker, despite the continuation, as we heard the hon. Prime Minister say a short while ago, of their attempts to continue to misinform the public, and put these false narratives out into public, what is happening with the registration of Venezuelans to take place at the end of this month has absolutely nothing to do with the recent murders committed in Trinidad and Tobago, and it is very hypocritical and disturbing to sit down here and hear in particular the Member for Naparima, who is screaming at the top of his voice for months about the crisis in Venezuela, and what is being done with respect to Venezuela, and now that a responsible Government is registering the Venezuelans, to hear what comes out of the mouth for Naparima. [*Desk thumping*]

Dr. Moonilal: Thank you very much, Madam Speaker, if the Member would get his pressure under control. Madam Speaker, to the Minister of National Security, a quick question as to whether or not the police services has been or will be provided with adequate expenditure for capital investment as part of the commissioner and indeed the TTPS's aggressive action plan in the coming months to deal with serious crimes, not only recurrent expenditure, wages and so on, but to finance their capital programme to deal with the crisis?

Hon. S. Young: Thank you very much, Madam Speaker. The simple answer is yes. In fact, the Commissioner of Police is working along with this administration to prioritize the areas of spend in that capital expenditure programme in order to

provide the police service with the assets they need to fight crime.

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you kindly, Madam Speaker. There are 15 questions for oral answer; the Government will be answering 14 of those 15. We are asking for a deferral of question No. 193 for two weeks. There are no questions for written answer.

Madam Speaker: Question 193 has been deferred for two weeks. Hon. Members, I wish to advise that the hon. Member for Oropouche West has requested that questions 211 and 212 be withdrawn. The leave which the Member seeks is granted. Member for Oropouche West.

ORAL ANSWERS TO QUESTIONS

The following question stood on the Order Paper in the name of Ms. Ramona Ramdial (Couva North):

Pepper Spray (Use of)

193. In light of the recent murders of three (3) women over a four (4) day period, has the hon. Minister of National Security considered recommending pepper spray as legal for women to carry and use against their attackers?

Question, by leave, deferred.

Kidnappings and Robberies of Local Fishermen (Measures to Address)

165. Mrs. Vidia Gayadeen-Gopeesingh (Oropouche West) asked the hon. Minister of National Security:

With regard to the continuous kidnappings and robberies of local fishermen by pirates allegedly from Venezuela could the Minister state:

a) the measures, if any, which have been implemented to prevent

occurrences of this nature;

- b) whether any additional resources have been allocated to the Trinidad and Tobago Coast Guard to address this problem and if in the affirmative, provide the details;
- c) the number of missing persons extracted from January 2017 to January 2019; and
- d) the amount of stolen items retrieved from January 2017 to January 2019?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, firstly, it is noteworthy that not all reports of kidnappings and robberies of local fishermen involving Trinidad and Tobago nationals who are engaged in legitimate activity. There is information to support the allegation that some of these incidents of our nationals being kidnapped and/or robbed are due to them being caught up in nefarious illegal activities. Secondly, the Government and law enforcement including the Trinidad and Tobago Defence Force, Trinidad and Tobago Police Service, always take every reported incident of any of our nationals being kidnapped or robbed seriously. If such incidents take place outside of our national waters, we have no jurisdiction and have to rely on assistance from external law enforcement agencies.

Madam Speaker, the Government is looking at implementing a policy that would require all locally registered marine vessels to be fitted with global positioning system, GPS devices, so that they can be tracked at all times. This would of course assist in securing our local marine vessels. The measures undertaken by the various local agencies to prevent occurrences of kidnappings and robberies of local fishermen are as follows:

- (a) A continuous collaboration between the Trinidad and Tobago Coast Guard, Customs and Excise Division, Immigration Division, Trinidad and Tobago Police Service, regarding measures to secure the south-western peninsula and this country's territorial waters generally;
- (b) the Trinidad and Tobago Coast Guard has undertaken a robust maritime operational strategy which resulted in an increased maritime presence around Trinidad and Tobago.

The Trinidad and Tobago Coast Guard cannot patrol or take action in Venezuelan waters since this would be considered a breach of international law, and could even be seen as an act of war. Land patrols have also been increased and the use of intelligence is being utilized in deploying our resources.

With regard to part (b) of the question: The Government of the Republic of Trinidad and Tobago is in the process of acquiring two Austal Cape Class vessels from Austal shipbuilding STY. Additionally, as stated before, the Government of the Republic of Trinidad and Tobago has authorized the refurbishment of 14 Trinidad and Tobago Coast Guard interceptors in an effort to bring them back to full serviceability.

With regard to part (c) of the question: Trinidad and Tobago Police Service has indicated for the period January 2017 to January 2019, 27 persons were reported missing, with 17 persons being extracted; that is, being removed from the missing persons list by the means of being found or accounted for and being returned to their respective homes. Regarding part (d) of the question: The Trinidad and Tobago Coast Guard has indicated that two vessels were retrieved, meaning four of the reported missing persons made their way back to Trinidad on their own vessels. Thank you very much.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, is there any maritime presence given

to the fishermen of Orange Field and Carli Bay who have alleged that Venezuelan nationals have stolen their vessels including their boat and engine?

Hon. S. Young: Thank you very much, Madam Speaker. Madam Speaker, I do not have the specifics of where the assets or maritime assets are currently deployed, nor do I want to give those specifics for obvious reasons. Because part of the effectiveness of these maritime operations is that they are not known to persons in advance.

**Video/Images of Sexual Activities by Children
(Measures to Address)**

166. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of National Security:

With regard to the circulation of video and images of children engaging in sexual activities, could the Minister indicate:

- a) the measures which have been implemented by the Child Protection Unit of the Trinidad and Tobago Police Service to monitor and prevent this offence; and
- b) whether any persons have been apprehended or charged in relation to this offence from January 2017 to January 2019?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, according to the information provided by the Commissioner of Police, the Child Protection Unit of the Trinidad and Tobago Police Service—sorry, the Child Protection Unit of the Trinidad and Tobago Police Service has engaged in several proactive initiatives to address the circulation of video and images of children engaging in sexual activities. These initiatives include stakeholder partnerships, school visits, media forums. These

initiatives are geared towards sensitization and awareness of the laws relating to the type of offence that can be committed, and the protection against said offences that is available to individuals. Additionally, the Child Protection Unit is also involved in informal cyber patrols to monitor content on Facebook and Instagram. Further, the Trinidad and Tobago Police Service has also informed that four males and one female have been charged in relation to such offences over the period January 2017 to January 2019.

**Renovation of Skinner Park
(Details of)**

171. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Rural Development and Local Government:

With regard to reports that Skinner Park will be closed for eighteen (18) months to undergo renovations, could the Minister indicate:

- a) the publication dates for the invitation to tender;
- b) the name of the entity that was awarded the contract; and
- c) the expected total project cost?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, on behalf of the Minister of Rural Development and Local Government, the Skinner Park Re-Development Project is a project under the Ministry of Sport and Youth Affairs Infrastructure Development Fund Programme for fiscal 2018 to 2019. The Skinner Park facility has a long legacy of the hosting of sporting, cultural and recreational activities in San Fernando. The redevelopment of Skinner Park will ensure that the southern communities and the wider Trinidad and Tobago have a premier multipurpose complex which can be used to host numerous events. The project is being executed in phases and the scope of Phase I of the project is as follows:

1. construction and fit-out of a new 3,000 seat three-storey pavilion, inclusive of a new mayor's box, corporate boxes and conference centre and gym;
2. dismantling and reassembly of the 3,000 seat uncovered stands to the eastern end of the park;
3. refurbishment of the cycle track;
4. refurbishment of the playing field;
5. installation of LED lighting towers;
6. supply and installation of a digital scoreboard;
7. general refurbishment and upgrade of the facility and surrounding site.

Madam Speaker, expressions of interest for Phase I of the project were invited by public advertisement in September 2018. Following this, requests for proposals were invited from qualified applicants in January 2019. Proposals are currently being evaluated and no decision has as yet been made with respect to the successful bidder. The estimated cost of the project is \$120 million. Thank you very much, Madam Speaker

**Godineau River
(Smuggling Activities)**

172. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of National Security:

Could the Minister indicate the measures taken to address reports that the Godineau River, Woodland, has been used as an illegal port of entry to smuggle contraband items?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you

very much, Madam Speaker. Madam Speaker, according to the information provided by the Commissioner of Police, there have be no official reports made to the Trinidad and Tobago Police Service of the Godineau River—

Hon. Member: Godineau River.

Hon. S. Young: Godineau River being used to smuggle contraband items. Nevertheless, the river may be susceptible—[*Crosstalk*]

Hon. Member: You from Debe and you cannot pronounce the word.

Hon. S. Young: Ma'am, when they are finished I will continue with my answer.

Madam Speaker: Minister of National Security, please proceed.

Hon. S. Young: Thank you very much. Nevertheless, the river may be susceptible to smuggling activities. Consequently, the river and its environs are patrolled daily by several operational units within the Trinidad and Tobago Police Service.

**Engineering Unit at Ramjattan Trace, Penal
(Termination of Services)**

173. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Agriculture, Land and Fisheries:

With regard to a letter issued on Wednesday February 20, 2019 to the Engineering Unit at Ramjattan Trace, Penal, stating that their services would be terminated on Thursday February 28, 2019, could the Minister indicate:

- a) the number of staff that were issued termination letters;
- b) the reason for the termination of staff in part (a); and
- c) whether staff were issued severance payments?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, on behalf of the Minister of Agriculture, Land and Fisheries, there are three daily-rated workers at the Ministry's Engineering Unit at Ramjattan Trace, Penal, who were issued with letters on February 19, 2019,

stating that their services would be terminated with effect from February 27, 2019. Before the termination took effect on February 25, 2019, the letters were rescinded. The three workers suffered no loss of earnings, and the requirement for the payment of a severance benefit did not arise. Thank you kindly, Madam Speaker.

Mrs. Gayadeen-Gopeesingh: These workers, their job portfolio made redundant or could they have been reabsorbed in a new department?

Hon. C. Robinson-Regis: Madam Speaker, I do not think I understand the question, given the answer that I gave. I am not understanding the question.

Mrs. Gayadeen-Gopeesingh: Do you want clarification?

Hon. C. Robinson-Regis: That would help me.

Madam Speaker: Another question.

Mrs. Gayadeen-Gopeesingh: Yes, I am asking, was the job portfolio, or usually we have workers with certain job spec. I am asking, could those workers who were given termination letters could have been reabsorbed in a new department? That is what I am asking.

Madam Speaker: Member for Oropouche West, I believe the answer indicated that that whole situation was retracted. I think that is what I heard. Member for Pointe-a-Pierre.

Mr. Lee: Thank you, Madam Speaker. Supplemental on the same question to the Minister. Minister, could you state why these letters of termination were rescinded?

Madam Speaker: Member for Pointe-a-Pierre.

Hon. C. Robinson-Regis: Am—

Madam Speaker: I am sorry. Minister of Agriculture, Land and Fisheries.

Hon. C. Robinson-Regis: Yes, Ma'am. I am not aware.

**Esmond Ramesar Open Campus Centre
(Completion Date)**

174. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Education:

Could the Minister provide the expected completion date for the Esmond Ramesar Open Campus Centre at Soogrim Trace, Chaguanas?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. Madam Speaker, the University of the West Indies Open Campus has advised that the Esmond D. Ramesar Centre at Soogrim Trace, Chaguanas is currently 97 per cent complete with only minor outfitting works to be completed. All works are expected to be completed by the end of May 2019. Thank you very much.

Mr. Karim: Thank you very much, Madam Speaker. Hon. Minister, would you be able to say whether there has been any change in the design and subsequent construction of this original Esmond D. Ramesar Centre Open Campus at Chaguanas?

Hon. A. Garcia: Madam Speaker, at this point I would not be able to say whether any change has been effected. Thank you.

Mr. Karim: Thank you very much, Madam Speaker. Hon. Minister, would you be able to say what programmes are going to be conducted at the facility, given that it is expected to be completed in May, and when?

Hon. A. Garcia: Madam Speaker, the Open Campus of the University of the West Indies conducts a series of programmes in alignment with what are offered at the landed campuses of the University of the West Indies. Thank you.

**University of the West Indies South Campus
(Expected Date of First Intake)**

175. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Education:

Could the Minister provide the expected date for the first intake of students

(inclusive of the faculty) at the University of the West Indies, South Campus at Debe?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, the University of the West Indies, St. Augustine Campus has advised that the faculty of Humanities and Education at the UWI School of Business and Applied Studies Limited, that is ROYTEC, will commence offering programmes and courses at the South Campus at Penal/Debe with effect from September 2019. Thank you.

Mr. Karim: Thank you very much, Madam Speaker. This campus originally designed for law faculty, will there be any intake of law students?

Hon. A. Garcia: Madam Speaker, my answer, I think, was specific. The information that I have from the University of the West Indies is simply that in September 2019, and let me repeat, courses will be—the Faculty of Humanities and Education and the UWI School of Business and Applied Studies, ROYTEC, those are the courses that would be provided, and that is the information that I have from the University of the West Indies. [*Desk thumping*]

Mr. Karim: Thank you very much, Madam Speaker. Hon. Minister, as the Minister responsible for the University of the West Indies, has there been a change in the original mandate of this campus?

Hon. A. Garcia: Madam Speaker, I am at pains to express the view that I have received information from the University of the West Indies, and I stand by the information that I have received. Thank you. [*Desk thumping*]

Statutory Boards and Other Bodies (Achieving Mandates)

176. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Education:
With regard to the statutory boards and other bodies under the Ministry's purview, could the Minister state:

- a) the measures taken to ensure these statutory boards and other bodies are achieving their mandates; and
- b) whether consideration should be given to changing the focus of statutory boards and other bodies to focus on economy diversification?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, with respect to question (a), and that question is: The measures taken to ensure these statutory boards and bodies are achieving their mandates. The answer: The Ministry of Education exercises robust oversight of the statutory boards and other agencies under its purview to ensure good governance, achievement of their respective mandates, adherence to statutory requirements and government's policy, and compliance with the *State Enterprises Performance Monitoring Manual* issued by the Ministry of Finance. This involves review of board minutes, audited financial statements, internal audit reports and other reports as well as strategic plans and business plans, raising of queries as they arise, and the maintenance of open communication channels between the Ministry and the agencies through meetings, letters, emails, and phone calls.

With respect to (b)—with respect to whether consideration should be given to changing the focus of statutory boards and other bodies to focus on economic diversification, the Ministry of Education recognizes that economic diversification is the bedrock of sustainable development. Accordingly, the Ministry is committed to providing an education system not just for today but the labour demands of the future. The training agencies under the Ministry's purview provide support for economic diversification in that, apart from the traditional academic offerings, they offer diverse programmes, focus on technical/vocational education, science, research, innovation, technology, and particularly entrepreneurship. Thank you very much. [*Desk thumping*]

**Medical Marijuana
(Treating Epilepsy)**

190. Dr. Lackram Bodoë (*Fyzabad*) asked the hon. Minister of Health:

With regard to a recent report that the Ministry is considering medical marijuana for the treatment for epilepsy, could the Minister state the steps being taken to explore this possibility?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Currently the Ministry of Health is in discussions with the Ministry of the Attorney General and Legal Affairs in the provision of evidence-based research to determine the possibility of using medical marijuana as an alternative treatment for all ailments including epilepsy. To this end, the principal pharmacist by request from the Ministry of the Attorney General and Legal Affairs is on an advisory panel to look at the entire issue of medical marijuana. Thank you very much, Madam Speaker.

Dr. Bodoë: Thank you, Minister. Minister, with regard to reports that the FDA recently approved a drug by the name of Epidiolex to treat seizures, can you indicate what the Ministry's position would be, going forward?

Hon. T. Deyalsingh: Madam Speaker, Epidiolex is the first drug derived from cannabis using CBD, cannabidiol, and does not contain much THC, which gives you the high. Epidiolex is only recommended for two very rare severe childhood onset forms of epilepsy, Lennox-Gastaut syndrome and Dravet syndrome. It is not a panacea for all types of childhood epilepsy. It has been approved by the FDA since June of 2018, and in discussions with the chairman of the Drug Advisory Committee this morning, who happens to be the Chief Medical Officer, once a drug has been approved by the FDA we would look at it for approval in Trinidad and Tobago. But I just want to caution parents especially, who may have a child in

Trinidad and Tobago with Lennox-Gastaut syndrome or Dravet syndrome, that even in the trials it is not 100 per cent effective so far. But it does seem to be more effective than the traditional drugs. So, the drug does have a place in the arsenal of treating these two very severe, rare forms of childhood onset epilepsy. Thank you very much, Madam Speaker.

**Tourism Trinidad Destination Company
(Strategic Plan)**

191. Ms. Ramona Ramdial (*Couva North*) asked the hon. Minister of Tourism:

Could the Minister inform this House whether the Tourism Trinidad Destination Management Company Limited has formulated and implemented a strategic plan?

The Minister of Tourism (Hon. Randall Mitchell): Thank you very much, Madam Speaker. Tourism Trinidad Limited is at this time engaged in the process of formulating its strategic plan for the period 2019—2022. The strategic plan is expected to be completed on or before the end of July 2019, and implemented thereafter.

Ms. Ramdial: Thank you, Madam Speaker. Minister, can you say what is the cost of this strategic plan?

Hon. R. Mitchell: Madam Speaker, I do not have that information at hand.

**Carapichaima West Secondary School
(Structural Integrity)**

192. Ms. Ramona Ramdial (*Couva North*) asked the hon. Minister of Education:

Could the Minister state the measures being taken to address increased complaints regarding the structural integrity of the Carapichaima West Secondary School?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. Madam Speaker, the 14 pre-engineered classrooms in use at the

Carapichaima West Secondary School have reached the end of their useful life, and attempting further repairs to them is now not a viable option. In the circumstances, Madam Speaker, the Ministry of Education proposes the reconstruction of these classrooms at a cost of approximately \$6 million. The new facilities are expected to be ready for occupation at the start of the next school year in September 2019. Thank you very much.

Ms. Ramdial: Thank you, Madam Speaker. Minister, can you say what is preventing the Ministry of Education from opening the new Carapichaima West Secondary School?

Hon. A. Garcia: Madam Speaker, we were talking about the Carapichaima West Secondary School, and my answer reflected on the need to refurbish or to change the 14 pre-engineered sections. I cannot at this point give any reason for the non-opening of the new school. The information that is available to me is information that I shared this afternoon. Thank you.

**Permanent Council of the Organization of American States
(Foreign Policy Details)**

195. Dr. Roodal Moonilal (*Oropouche East*) asked the hon. Minister of Foreign and Caricom Affairs:

With regard to the meeting of the Permanent Council of the Organization of American States in March 2019, could the Minister provide an explanation for the Government's foreign policy when Trinidad and Tobago abstained from the resolution to render humanitarian assistance to Venezuela?

The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dennis Moses): Thank you, Madam Speaker. [*Desk thumping*] The Government of the Republic Trinidad and Tobago is aware of the adversity facing the people of Venezuela, and has continued to monitor closely the developments in that country.

Trinidad and Tobago embraces as an integral part of its foreign policy the internationally recognized and accepted principles of non-interference and non-intervention in the affairs of states, respect for sovereignty, adherence to the rule of law and respect for human rights and democracy.

In keeping with our foreign policy position, this Government has sought along with other member states of the Caribbean community to advocate for a peaceful resolution to the situation in the interest of the people of Venezuela. The Government of Trinidad and Tobago's foreign policy position is that humanitarian assistance should not be politicized, and in circumstances where assistance is required and requested by countries the services of long-established multilateral agencies such as those under the United Nations framework should be employed in rendering aid. Trinidad and Tobago therefore abstained during the vote on Resolution CPRES1123 on humanitarian assistance in Venezuela on the 27th of March, given its divergence from Trinidad and Tobago's foreign policy. Thank you, Madam Speaker.

2.40 p.m.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Thank you, Madam Speaker. Minister, given our stated position that we are part of a Caricom initiative to serve as an honest broker to bring contending parties to the table of reason, why, in this instance, and when we walked out and when Guaidó representatives spoke at the OAS, that all our decisions seem to be on the side of President Maduro?

Sen. The Hon. D. Moses: Madam Speaker, I would share some information that should assist the hon. Member. The central issue of the delivery of humanitarian assistance is one that the resolution treats with and is patently not—or is at variance with our foreign policy position. So that is the main issue that enabled

Trinidad and Tobago to register our vote as we did, meaning abstaining.

Madam Speaker: Supplemental. Member for Naparima.

Mr. Charles: Does the Minister really understand the concept of non-intervention in the internal affairs? [*Crosstalk*] My question is—[*Crosstalk*]

Madam Speaker: One minute. The “really” is what causes the objection. So if that is not part of your question, you could just withdraw that and ask your question.

Mr. Charles: Given that in climate change where it calls for the intervention in States to accede to international norms, our support of the Arms Trade Treaty, the International Criminal Court, which involves interference in the domestic affairs of countries, why are we supporting a philosophy that is not consistent with our practice at the UN and international agencies?

Madam Speaker: I am not going to allow that question, having regard to the response. Member for Oropouche East.

Dr. Moonilal: Thank you very much. Minister—and thank you for your response—could you just clarify a bit deeper? Because I am not understanding and I am almost certain it is my fault, not yours. Are you suggesting that on this particular matter, that the decision of Trinidad and Tobago to abstain from rendering humanitarian assistance was because that assistance to be rendered was outside of the UN framework and that is why the country took that decision?

Madam Speaker: Minister of Caricom and Foreign Affairs.

Dr. Moonilal: Your laughing could help—

Madam Speaker: Member for Oropouche East, please. Minister?

Sen. The Hon. D. Moses: The question posed and the resolution, they do not treat with abstaining from rendering assistance. What the resolution sought to do is to have a pronouncement at the OAS level for humanitarian, or rather the politicization of rendering humanitarian assistance, and we are totally against it

and that is in keeping with our principled position over many, many years, in treating with States. [*Desk thumping*]

Madam Speaker: Supplemental, Member for Oropouche East.

Dr. Moonilal: Thank you again so much. So, Mr. Minister, the issue here on the position Trinidad and Tobago took to abstain was that the Government felt consistent with your foreign policy principles, that this had to do with the politicization of humanitarian aid and not the delivery. Is that your answer? Thank you.

Sen. The Hon. D. Moses: For once, hon. Mini—I almost—

Hon. Member: Misquoted his position.

Sen. The Hon. D. Moses: I almost misquoted your position. That is a benign way of putting it. But you are correct. On this point you are, indeed, correct, for a change. Thank you. [*Laughter and desk thumping*]

Dr. Moonilal: That is a big strike I got there, you know.

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Madam Speaker, I was so flattered, I forgot the next question.

Trinidad Petroleum Holdings (Payment of Debts)

196. Dr. Roodal Moonilal (*Oropouche East*) asked the hon. Minister of Finance:
Could the Minister provide an update on the approach of Trinidad Petroleum Holdings to the international financial markets for an approximately ten billion dollar loan facility to pay its debts?

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. It is public knowledge that Petrotrin has a US \$850 million bond maturing in August of 2019. This financing facility has been taken over by Trinidad Petroleum Holdings Limited. The current approach by Trinidad Petroleum Holdings for the refinancing

of this bond on the international market is influenced by the international credit ratings of Trinidad Petroleum. I can confirm today that both of the major international credit rating agencies released new ratings for Trinidad Petroleum on the 15th of April, 2019. Moody's upgraded Trinidad Petroleum two levels to Ba3 and S&P kept Trinidad Petroleum's rating at BB. With respect to the financing itself, the exchange offer for Petrotrin bonds was launched on the 15th of April 2019. The original settlement or offer date was April 26th which was extended to the 10th of May and now to the 24th of May. I am advised that Trinidad Petroleum continues to work on completing this refinancing assignment.

Madam Speaker: Supplemental, Member for Oropouche East.

Dr. Moonilal: Thank you very much, Minister, for the update. Minister, would you agree with a newspaper article of Tuesday, April 23, 2019 in the *Trinidad Guardian*, which stated, and I quote:

“State-owned Petrotrin made an operating profit of TT \$1.67 billion during its last year in existence. This was revealed in unaudited figures that the company's successor, Trinidad Petroleum Holdings Limited presented recently to investors.”—in order to attract this refinancing and this assistance.

Would you agree with that? Thank you.

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Absolutely not. That is misinformation. It was the exploration and production side of the integrated oil company that Petrotrin was up to the end of November, 2018. It has always been known that the exploration and production side of Petrotrin has, from time to time, made an operating profit. It is the refinery, which is part of the integrated company that has dragged the company down. And therefore it is not correct to say, as was indicated in that article, that Petrotrin made

an operating profit. It is the E&P side of Petrotrin, not the whole company. The whole company made a loss. And you have heard that already for today.

Madam Speaker: Supplemental question, Caroni East.

Dr. Gopeesingh: Minister, would you be able to state whether, with this bond issue—whether Trinidad Petroleum Company would be standing the guarantee, or the State will be standing the guarantee? And if the State is standing the guarantee, where are you going to get that guarantee from?

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Former.

Dr. Gopeesingh: What?

Hon. Member: What?

Hon. C. Imbert: He asked me whether it is this one or that one, if the State is not guaranteeing it.

Madam Speaker: Member for Caroni Central.

Dr. Tewarie: With the taxes that you referred to recently that Petrotrin paid, did they come from the \$1.6 billion profit from the production side?

Madam Speaker: I will not allow that as a supplemental question.

Hon. C. Imbert: I could answer it.

Boeing 737 Max 8 Aircrafts (Leasing Costs)

197. Dr. Roodal Moonilal (*Oropouche East*) asked the hon. Minister of Finance:
Could the Minister provide the total cost for the leasing of twelve Boeing 737 Max 8 Aircrafts (inclusive of the leasing company cost) by Caribbean Airlines Limited?

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. With respect to the cost of leasing Boeing Max aircraft, the terms of the aircraft

leases with each lessor contained confidentiality provisions which legally restrict Caribbean Airlines from sharing this information at this time. However, as a guide, I am advised by Caribbean Airlines that the typical lease cost of a Boeing Max 8 aircraft is in the range of US \$314,000 per month to US \$421,000 per month, excluding escalation and maintenance reserves.

Madam Speaker: Supplemental, Member for Oropouche West.

Dr. Moonilal: Madam Speaker, could the Minister clarify, therefore, that for one aircraft, you are dealing with approximately—is it US \$8 million per month for one aircraft?

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Yes, Madam Speaker. I know mathematics is not their strong point. If you multiply three by seven you get 21. So US \$314,000 is not eight, it is two.

Madam Speaker: Supplemental, Member for Oropouche West.

Dr. Moonilal: Madam Speaker, since the Minister invites us to do some O Level arithmetic and will not tell us exactly the cost he is speaking about, could the Minister then, therefore, tell us the identity of the—not the thing, but the middle man, the company that is operating on behalf of CAL to arrange these leases with the supplier?

Madam Speaker: I would not allow that as a supplemental question. [*Crosstalk*] Minister of Finance, I did not allow the question.

**DEFINITE URGENT MATTER
(LEAVE)
Police Action Against Citizens
(Constitutional Framework and Legal Basis For)**

Dr. Bhoendradath Tewarie (*Caroni Central*): [*Desk thumping*] Thank you very much, Madam Speaker. Madam Speaker, I hereby seek leave to move the

Definite Urgent Matter (cont'd)

2019.05.06

Adjournment of the House today under Standing Order 17 for the purpose of discussing as a definite matter of urgent public importance, the constitutional framework and legal basis for police action against citizens of Trinidad and Tobago in their private homes and in their local communities.

The matter is definite because it pertains to two raids by the Trinidad and Tobago Police Service on May the 3rd, 2019, Gulf View, San Fernando, and on the same evening in the Big Yard of Carenage.

The matter is urgent because from all reports nothing was found and no warrants were shown to homeowners or residents prior to, or on entry. Therefore, it would seem reasonable to question the legality of police action in both instances.

The matter is of public importance because it appears to be an abuse of power and an infringement of the constitutional rights of citizens in both instances.

I so move, Madam Speaker. [*Desk thumping*]

Madam Speaker: Hon. Members, I am not satisfied that this matter qualifies under the Standing Order.

STATEMENT BY MINISTER

Private Security Industry Bill

The Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): [*Desk thumping*] Thank you, Madam Speaker. Madam Speaker, I have been authorized by the Cabinet to make the following statement. Having approved the policy and the provisions of the Private Security Industry Bill, 2019, Cabinet has authorized that this Bill be laid before this House. Fundamentally, this Bill seeks to establish the private security services authority, itself designed to regulate the affairs of the industry and be a single point of oversight for the entire private security industry. This industry is estimated to consist of about 268 companies involving about 50,000 security personnel, as

recorded by the Ministry of National Security. It is also recognized that there are thousands of security personnel operating in Trinidad and Tobago, who are not registered with or known to the Ministry of National Security. There is also a sizeable cross-section of security personnel who are “precepted” and therefore fall to be regulated under the Supplemental Police Act and superintended by the Commissioner of Police. The vast majority are not and, therefore, the industry is largely unregulated.

Madam Speaker, the pace of development and growth of this sector was shaped by the expansion of the industrial base of our society since the 1960s, and more recently, it is being shaped by the continuing economic growth and burgeoning threat and fear of crime. Madam Speaker, consider that the State security apparatus, at least the uniformed sections of the Ministry of National Security, amount to roughly 17,000 personnel. Consider, as well, by contrast, Madam Speaker, that the private security personnel number upwards of 50,000. The disparity is stark and significant. This is an observable international trend and Trinidad and Tobago is not exempt from this.

The Government recognizes the clear and obvious need for a more modern and efficient philosophy to undergird a modern and holistic legislative framework, as this industry has grown and continues to grow exponentially, both in the scope and the nature of its activities, and the number of firms in operation, and personnel.

Madam Speaker, our records reveal that the idea of regulating this industry began as far back as 1992, but somehow progressed no further than an idea. It never made its way to implementation. I am more than usually pleased, Madam Speaker, on the advice of the Cabinet, under the determined direction of the Member for Diego Martin West, our leader, to present this Bill here today for our

consideration.

It is quite clear that effective management and regulation is necessary. The current unmanaged and regulated state of the private security industry has in a perverse way, even contributed to the growing crime rate in Trinidad and Tobago, given that there are serious issues of poor or non-existent vetting, issues of untrained and ill-equipped often unsupervised persons, some of whom may have criminal backgrounds and are paid, purportedly, to protect our citizens and their property.

Some use their access in these offices to perpetrate and instigate serious crimes, yet there is no effective legislation in place, which legislation should, among other things, set standards for and supervise the industry. There is not:

- an authoritative body to oversee and supervise operators.

There is no body:

- to ensure wholesome employment practices;
- to regulate performance and standards;
- to oversee training and certification of employees;
- to ensure that the proper and safe equipment is issued and used;
- to effect the licensing of operators and officers; and certainly, there is no proper arrangement to deal with the treatment of complaint from end users of the service, that is to say, the general public.

This proposed legislation aims to create a regulatory body with the power to licence the operators of security firms, inclusive of the individuals they employ, and to provide for secondary legislation to regulate its affairs as developing conditions necessitate. It is intended that this new independent body would be accountable to the Minister of National Security and, of course, to the Parliament.

This body would essentially adopt the functions of the Commissioner of Police under section 5 of the Supplemental Police Act, Chap. 15:02, namely that of “command” and “superintendence” of the entire private security industry.

Amendments to the Supplemental Police Act will be necessary so as to reconcile the change or shift in powers. In addition, the Authority, albeit initially funded by the State, would eventually be self-sufficient in nature, as its operational cost would be funded by licensing fees paid by companies and officers operating within the private security industry, and other such income. The concept of establishing a regulatory body to manage the private security industry is by no means novel. Indeed, it has been observed as the preferred method of several nations, including the United Kingdom, the United States of America, Canada, several European nations and, of course, neighbouring Jamaica. Madam Speaker, we studied the Jamaican and the UK experience s very closely and benefitted greatly from these. This proposed legislation provides for the following:

- Establishment of a licensing regime;
- Provide for certification of individuals within the industry in accordance with tiered structure. This structure would recognize varying specialist skills in the security field.

This situation, as now currently exists, allows for anyone from a Caricom country to set up a security firm under the free movement of services provisions guaranteed by that agreement. In the present state of industry self-regulation, such a situation opens individuals and this country to various disadvantages. With professional certification it would become easier to track far movement and guarantee the status and compatibility of standards of security personnel within the region. It would provide, as well, for:

- Establishment of certification agencies;
- Establishment of a standard for training.

It would confer powers similar to those of the Commissioner of Police. It will regulate minimum pay levels according to the tiered professional structured base.

Madam Speaker, in conclusion, it will create an Appeals Tribunal and regulations will be prepared to give effect to it. As I close, Madam Speaker, I would like to underscore that one primary duty of every State is to secure and make its citizens safe within the jurisdiction. Feelings of insecurity have led to more and more people turning to the private security industry to protect themselves, their property and their families.

The philosophy behind these measures involves bringing this large group of security workers to a level of professionalism and efficiency, such that our vulnerability to criminals and violent extremists by their numbers and presence, would be minimized, wherever they operate. It means simply more eyes, more legs, more hands, and more resources will be brought to bear. The question, in conclusion is: who will guard the guard?

These measures will not necessarily guard them per se but will make them better organized, more efficient and stronger. It is for this reason that the Private Security Industry Bill is greatly needed as we continue to bolster the foundations of safety and security in this nation. The private security industry has a critical role to play. Madam Speaker, we thank you. [*Desk thumping*]

INTRODUCTION OF BILLS

SUPPLEMENTAL POLICE (AMDT.) BILL, 2019

Bill to amend the Supplemental Police Act, Chap. 15:02 [*The Minister in the*

Ministry of Attorney General and Legal Affairs]; read the first time.

PRIVATE SECURITY INDUSTRY BILL, 2019

Bill to establish the Private Security Service Authority and to regulate the private security industry and for other related matters [*The Minister in the Ministry of Attorney General and Legal Affairs*]; read the first time.

JOINT SELECT COMMITTEE REPORT

Trinidad and Tobago Revenue Authority Bill, 2018

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Thank you, Madam Speaker. Madam Speaker, having regard to the Interim Report of the Joint Select Committee appointed to consider and report on the Trinidad and Tobago Revenue Authority Bill, 2018, I beg to move that the committee be allowed an extension in order to complete its work and submit a final report by May13, 2019. Thank you very kindly.

Question put and agreed to.

WHISTLEBLOWER PROTECTION BILL, 2018

[Second Day]

Order read for resuming adjourned debate on question [May 01, 2019]:

That the Bill be now read a second time.

Question again proposed.

The Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very much, Madam Speaker, Madam Speaker, when the Attorney General presented these measures last week, he indicated that these measures were laid before this House a very, very long time ago, very shortly after we came to office, and they were sent to a Joint Select Committee. In order that the public understand the implications of this, permit me to say—well, the Attorney General as well said—when it went before the Joint Select Committee,

we received a number of submissions. The “we” he was referring to, obviously would include Members of the Opposition, Members of the Independent Benches and, of course, Members of the Government. The committee consisted of, of course, the Attorney General, Sen. Foster Cummings, Sen. Wade Mark, Sen. Sophia Chote, Minister Young—MP Stuart Young—MP Edmund Dillon and, of course, MP Prakash Ramadhar.

Madam Speaker, I went through that because I want the public to recognize and to take note of the fact that the Opposition was very much involved in the deliberations of these measures for the past few years in Joint Select Committee before they emerged for our discussions before us here today. Witnesses, as we know, Madam Speaker, is the lifeblood of a justice system. Whether civil or criminal, witnesses are critical for the operation of, and for successful prosecutions of matters, whether, as civil or criminal. The element of this is voluntariness. For the most part a prosecutor will tell you a voluntary and a willing witness is far more effective than an unwilling and involuntary witness.

In the United States it is well known, and it ought to be this way everywhere, issues around witnesses are taken particularly seriously. The slightest interference with a witness brings the whole range of criminal sanction down on the offender. In criminal cases in Trinidad here, we have seen in a very famous case now totally complete, Dole Chadee and his gang, dealt with. And in that matter, just to underscore the point, there was a key State witness. The point I want to highlight around this, because it was attended to earlier, is that that person was instrumental in causing a successful prosecution. Sometimes their evidence is critical in securing a conviction. And most of all, from the information available to me, that witness was given full protection of this country, this State: left the

country as part of an agreement; new opportunities; identities and what have you, and therefore, that matter was successfully resolved in the public interest.

In civil cases, as we know, the concept of indemnification looms large. It is therefore in accordance with clauses 21 and 14 of these measures before us, which some previous speakers have alluded to, pointing out a whistle-blower as a very serious offence. Clause 21 of the measures before us treats with that, and in today's world, pointing out a whistle-blower has led and could lead to death, a very serious situation. And therefore, law enforcement is very critical in support of these measures. The average citizen would ask—because the whistle-blower legislation that is before, an Act to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making disclosures from detrimental action. Madam Speaker, the average citizen would ask—because these measures really provide a legal framework for protection, which I will come to a little more closely. The average citizen would ask, “Well, how does that help me”, akin to, for example, a domestic violence order? We have had examples of persons who had the benefit of these orders and still were the subject of violent attack. These measures here are to protect the whistle-blower from detrimental action and detrimental action is defined in great detail in the law. It includes, but is not limited to:

Unfairly, subject to disciplinary action by the employer or the firm; unfair dismissal; suspension or demotion; harassment; intimidation; victimization; transfer against his will. Transfers are used sometimes. And a number of other ways in which detrimental action—threatened with any of these actions: otherwise suffering injury, loss, damage in relation to employment, family, life, career, profession, trade or business.

A lot of people are very coy. A lot of people are worried to share information that the public will do well to have, because they fear these kinds of actions taken against them. And, therefore, this legislation is designed to protect persons from such detrimental action, as it is called. That does not obviate, and still leaves place for the normal security arrangements around all citizens of Trinidad and Tobago. And in particular when it comes to witnesses, especially in criminal matters, we have the Justice Protection Programme which is designed to protect persons who become witnesses. And I told you a while ago by way of an example, in the Dole Chadee matter, the extent to which the State went to protect a witness and to ensure that he gave evidence and did so safely. So that was important. This Bill is non-political. I say so because one of my friends on the other side mentioned something about politics. This is a non-political piece of legislation and it is designed to protect all persons who voluntarily decide to be whistle-blowers.

3.10 p.m.

There is a well thought-out structure in here and the structure essentially, Madam Speaker, if I may remind this House, is bifurcated. You have the external structure where a number, 21 actually, of established operational institutions in this country are highlighted as whistle-blowing units where citizens can go to give information without fear of detrimental action and then you have the internal arrangement where firms, however large or however small, can establish a whistleblower protection officer who must be designated for that purpose. Very cost-effective, does not cost anything, does not require any special training. All that is required is a sense of administrative capacity to deal with documents and to secure them, integrity, confidentiality and of course, firms will engage in providing some kind of training as this legislation develops so that such persons can know what is

involved. As I say, it is bifurcated.

So anyone who wants to give information about some improper conduct that is taking place within his or her knowledge can go, either to his own internal process where there is a whistle-blowing officer so designated in the firm, very small firm, medium size or large, private as well or public, and other than that, they could go to any of these units. Madam Speaker, let me just give a few examples of some of these whistle-blowing units among the 21 as listed in the Schedule to this law: the Auditor General, the Board of Inland Revenue, the Central Bank, the Equal Opportunity Commission, the Financial Intelligence Unit, the Office of the Director of Public Prosecutions and of course, the good ole Trinidad and Tobago Police Service where many of these things go; and these are designated authorities under the law. And you may ask, Madam Speaker, one may ask, and I have looked on these designated authorities and ask myself: What do they share in common? One, they are independent as a characteristic. Two, they have experience in dealing with confidential information and complaints over time by nature of their operations.

So, Madam Speaker, they are there and if one does not want to take his for any reason, real or imagined, does not want to take his complaint to the internal structure within his firm that is now available under this law, he or she can go to one of these whistle-blowing units, one of the 21. And the law provides that when the internal officer determines that there is sufficient reason to pass this further and by so, let me for the purposes of the layman say when it does not pass the dustbin test. There was an occasion in this Parliament when a Member of Parliament, received a number of emails and most of us, as Members of Parliament receive information about situations that might appear or are being put to us as being

improper or criminal or corrupt and we have to make the first judgment. There are some people vexatious people, there are some vexatious complaints. When you hear them, they do not pass what I call the dustbin test so it falls, but there are some, Madam Speaker, that you take more seriously than that.

And the records of this Parliament show that a certain number of emails came and a Member of Parliament took it more seriously than the dustbin test and passed it to an authority in this country asking that it be investigated. The records will also show that that was not done for six months and the Member came to this House, the forum available to him and raised the matter here and did nothing more than raise them and called for an investigation which, according to the records, is ongoing. So when the whistle-blowing officer, on the internal approach, gets this information, if it passes the dustbin test, then he now passes this—he or she—to one of the 21 units established, as I have identified, for their further attention.

So, Madam Speaker, all of the citizens of this country who see wrongdoing and are willing, this is designed to encourage them, as the long title says, to come forward in the public interest voluntarily and share this information for all of our interests, because there is a lot that happens that the authorities would never otherwise know about so it has to be encouraged and part of that encouragement is to ensure that they enjoy full protection under law and given assurances that their physical protection, like the example I gave earlier, can be dealt with, has been dealt with and is being dealt with under current law in arrangements in Trinidad and Tobago.

And then of course, let me move swiftly to the issue of retrospectivity, not retroactive criminal law as one of our colleagues here misunderstood it, this is about retrospectivity. Clause 7 says that any whistle-blower complaint or element

of whistle-blowing after the passage of this Act will be protected or can be treated by this law. In other words, whatever happened before we passed this law has already happened but a complaint made or a disclosure made after the passage of this law can, of course, operate in respect of past actions because they are still very much in the public interest. And therefore, in that sense, there is no time bar. Just like in the civil asset forfeiture, as I call it, common law, there is no time bar save and except for tax offences where we stipulated that it could only go as far as six years because the income tax law mandated that persons or permitted persons to destroy tax documents that are more than six years old.

Madam Speaker, clause 8 deals with a very important aspect of this law, that is to say, persons who may be malicious in their dealings. There is what is known as protected disclosure. And clause 8 says:

“A disclosure is...protected...if—

- (a) it is made in accordance with section 7;
- (b) it is made in good faith;
- (c) at the time of making the disclosure, the whistleblower reasonably believes, based on the information he has at that time, that—
 - (i) the information disclosed...”—is—“substantially true...”

I am paraphrasing. And that:

- “(ii) the information disclosed tends to show that his employer, another employee of his employer or a person acting in his employer’s behalf has engaged, is engaging or is preparing to engage in improper conduct...”

And so the section goes. Madam Speaker, this section is designed to protect both the whistle-blower and other persons in the national community. Because by

demanding, as this does, that it be made and to enjoy the protections, as I have explained, only when, among other things, the whistle-blower is acting in good faith, not only protects him but it protects all other persons from bad will and “ill faith”, so to speak. So this clause 8 is very, very, very important and of course, we have had examples of bad faith disclosures in this country by way of an example, and very briefly.

A Member of Parliament, still sitting in this House, got up in this House and read into the *Hansard* certain disclosures. It transpired, Madam Speaker, that it was made with bad will, “ill faith” I would call it, maliciously and I say so on the basis of the fact that that so-called whistle-blower told the country that it was concocted by a Member of Parliament at that time and a member of the media. But more importantly by way of evidence, that it was concocted maliciously is the fact that the Director of Public Prosecutions, when the day for court came, on the basis of that malicious disclosure, walked into the court in personam and told the court that all these matters are henceforth annulled, to be withdrawn. That is the evidence. And therefore, these measures protect such persons from being victims of malicious whistle-blowers. And while a disclosure made by a Member of Parliament typically would be protected by parliamentary privilege, clause 9 of this Bill says and let me just read it:

“A disclosure of information in respect to which a claim to legal professional privilege could be maintained in legal...is not protected disclosure if it is made by a person to whom the information has been disclosed...”

So it treats with this law, treats with disclosures from a parliamentarian and disclosures that are enjoying legal privilege. A very well thought-out, wide-ranging

piece of legislation before us for our consideration.

Madam Speaker, I just want to run to clause 18 of this Bill. I am choosing the elements that the public ought to understand because there was a lot of misinformation flying around the place about these measures scaring the public. This law is designed to encourage the public in the public interest to share information. Clause 18 of this Bill, under the rubric “Protection of Whistleblowers” says and I quote:

“Subject to the exceptions provided for in this Act, despite any prohibition of, or restriction on, the disclosure of information under any written law, rule of law, contract, oath or practice, a whistleblower shall not be subjected to detrimental action on account of his having made a protected disclosure.”

All of that fine legal language says that notwithstanding any oath of secrecy and privacy or any contract provision because many contracts actually say that one party is never to reveal, under no circumstances, information that would have come to his or her attention in the course of operating that contract and of course, some people take oaths and all of that. And, Madam Speaker, this is very critical because it clearly states in this clause 18 that the whistle-blower will be given full protection under this law.

And it also says, Madam Speaker, in clause 19 that:

“Notwithstanding any other law, but subject to section 20(1), a whistleblower who makes a protected disclosure is not liable to any criminal, civil or disciplinary proceedings for having...”—so done.

Further protection. Further protection. So he will not be liable to any criminal, civil or disciplinary proceedings, he is protected from such detrimental action. But whistle-blower in subclause (2):

“Whistleblower protection shall not be prejudiced on the basis that—

(a) the whistleblower was in good faith, mistaken about the importance of...”—it; or

“(b) any perceived threat to the public interest on which the disclosure was based...”—or—“materialized...”

And, Madam Speaker, (c) says:

“the whistleblower has not fully respected the procedural requirements of this Act...”

Those things should not prejudice his protected disclosure. Further protection for the whistle-blower by way of encouraging him or her in this civilized society to share information that is detrimental to us all.

And of course, no immunity to a whistle-blower if he was perpetrator or an accomplice. So if the whistle-blower was a perpetrator of one of the acts complained of, improper conduct, or if he was an accomplice to it, this law does not give him a get-out-of-jail, free-walk-away card, he will still be able, in those circumstances and will still be subject to civil and criminal liability. He will still be, except, of course, in clause 20, arrangements are made for leniency and that is the allotment, that is the benefit that someone will have as a whistle-blower even if he or she was engaged in the actions complained of and detected.

And this is what the Attorney General meant when he quoted the typical American saying by law enforcers there that the first man on the bus gets the best seat. If you come out of it, like happened in the Dole Chadee criminal matter, or if any whistle-blower in any matter in Trinidad and Tobago comes out of the criminal behaviour and speaks to the State, either through the internal process or through the TTPS in the external process as one of the 21 units, such a person will not be

immune from criminal action but will be given an assurance of leniency as this law expressly states in subclause (3) which in parts says:

“In any criminal proceedings instituted against a whistleblower based on the fact that the whistleblower was the perpetrator of, or an accomplice in, the improper conduct disclosed by the whistleblower, the court shall, in giving its judgment or decision, take into due account—

- (a) the fact that the disclosure was made by the whistleblower; and
- (b) whether the whistleblower has assisted the police to apprehend any other person involved in the commission of offence;

and the punishment of the whistleblower may be mitigated or remitted, as the court thinks fit, and the court shall expressly refer to this subsection in its judgment or decision.”

Essentially, this is not new, Madam Speaker, but we are here codifying it and I want the members of the public to understand and to internalize it because there was a lot of the misinformation from the other side and by people who ought to know better to discourage people when we are here today presenting measures to encourage them by protecting them and even giving them an assurance of leniency in cases where they would have participated in criminal conduct.

So—[*Crosstalk*] Well, someone is whispering Nelson. That is sub judice, Member for Caroni East, I do not want to say anything about that. [*Crosstalk*] “Yuh distracting me, I doh want to talk about any Senior Counsel Nelson.”

Mr. Mitchell: Ignore him.

Hon. F. Hinds: Right. A lot could be said but I do not want to say anything on that. Madam Speaker, clause 21 prohibits the disclosure of information in respect of the identity of the whistle-blower. Another very critical tier of protection. As I

indicated earlier, Madam Speaker, in today's world, we have seen where whistle-blowers, people who give information, informants, informers as they are called by those who want to perpetrate crime and who will prefer their actions to remain in the dark, it can end in people's deaths and therefore, in clause 21 here, it makes it very clear that disclosing the identity of whistle-blowers where that is not sanctioned is a serious matter and is prohibited under this law.

Madam Speaker, this law exists in several other countries of the world and in different shapes and forms. Ours, as I said, is bifurcated. We have elements of a centralized system; that is to say through the units, the 21 of them, that we have established. I consider them to be centralized where citizens all over could go to these independent bodies, designated authorities and give information, they being independent, they being experienced in dealing with confidential and serious issues. Some of the examples I gave you. And as well, we have the internal procedure which, to my mind, reflects, not the centralized but the more diverse way it is done. In some countries, they have one or the other. In some countries, they have whistle-blower legislation dealing only with public agencies and institutions and in other jurisdictions, only with private. We have both. So we have really looked around the globe and taken the best that is on offer, put it together in this package as we codify this business of whistle-blower disclosures for the benefit of us all.

Madam Speaker, when the Member for Oropouche East spoke, he raised the issues of witness protection. I think I have dealt with that adequately and I have given a live example. Persons are able to be kept outside of the jurisdiction when being kept in the jurisdiction is too troublesome based on the assessments of the experts who handle them. But the Member for Oropouche East, he suggested that

we create in these measures, an offence of inducement where it can be highlighted that someone induced a whistle-blower to give malicious information. That I submit, for the benefit of the Member for Oropouche East, is not necessary because we already have the offence of perverting the course of public justice and such conduct could quite easily be dealt with under the terms of the offence of perverting the course of public justice, inducement of someone to do that. So in the example I gave earlier where a man gave malicious information concocted by a media person and a Member of Parliament at the time and that was brought to this House by another very willing Member of Parliament, that, Madam Speaker—
[Interruption]

Mrs. Newallo-Hosein: 55(1)(b).

Hon. F. Hinds: That, Madam Speaker—

Mrs. Newallo-Hosein: 55(1)(b).

Hon. F. Hinds: What is your problem?

Mrs. Newallo-Hosein: Standing Order 55(1)(b), tedious repetition, Madam Speaker.

Madam Speaker: Hon. Members, any Member is entitled to stand up and raise a matter under the Standing Orders. Member for Laventille West, please proceed.

Hon. F. Hinds: May I thank you very much for protection, Madam Speaker? As I was indicating and will continue undisturbed, in such circumstances, perverting the course of public justice would have been quite appropriate and now that it has come to my head, I must enquire, as a citizen with access, what has become of that because it is clear from what I have submitted here beyond challenge, that that matter had to be withdrawn by the DPP. I must now seek, as a citizen with access and as a Member of Parliament, to find out whatever became of that because we

have had cases like that and it has just gone abegging. So I will give the Member for Oropouche East that perverting the course of justice could, in fact, do it. I have also already—

Madam Speaker: Member for Laventille West, your original 30 minutes are now spent, you are entitled to 15 more minutes to wind up your presentation. You may proceed.

Hon. F. Hinds: Thank you very warmly, Madam Speaker. The Member for Oropouche East as well raised what he considered to be a very bright idea of having the Parliament be one of those designated authorities. Well, the Parliament does, in fairness to the Member, have a facility through joint select committees to investigate complaints. We do. But of course, the Parliament itself does not have investigative capacity. It is when we convene a joint select committee and specific issues are raised within the mandate of that committee, such investigation. That is very different from the 21 organizations that we have listed as designated authorities. But more than that, the Office of the Ombudsman is one of those 21 designated authorities and the Ombudsman is an officer of the Parliament. The Office of the Ombudsman is an officer of the Parliament. So the suggestion from my friend for Oropouche East is not necessary and it falls flatly to the ground, not necessary. So, Madam Speaker, this piece of legislation is all an attack on white-collar crime, in particular, corruption.

And, Madam Speaker, I would like to share with this House very quickly to remind Members of this House that over the last four years in the governance of this country, this Government can boast of saving this country billions of dollars. [*Desk thumping*] I am able to stand here on my oath and say truthfully that for the first year in the Cabinet, we had to deal incessantly with notes that we considered

to be overburdened, over invoiced, costing taxpayers far more than we, as reasonable sober people in the protection of the public purse thought and we would send them back. Because by the time we were in Government, we came in, the machinery of the State, all the state enterprises, they had been nurtured along a particular way, excessive budgets by the billions were coming through and we would send them back.

Mrs. Gayadeen-Gopeesingh: Madam Speaker, 48(1).

Hon. F. Hinds: What is your problem?

Madam Speaker: Again, Member for Laventille West, any Member is entitled to raise a Standing Order. Please proceed.

Hon. F. Hinds: Thank you, Madam Speaker. And we dealt with every single one in the public interest. We sent them back and back and back [*Desk thumping*] and I can tell you, in the end, when we saw the real figures after we peeled off all the fat that was coming through as a matter of cost and habit, because the machinery was still grinding you know, all the excessive spending. Today, any of my colleagues can raise their hands and say “we doh see that no more”. [*Desk thumping*] When they come, they come good to the Cabinet and we boast of saving this country billions of dollars. Let me give you some facts in support of my lofty submission, Madam Speaker.

In respect of the Cumuto highway, the cost in 2015 on the record for the Cabinet and for this country was 400 and—

Mrs. Gayadeen-Gopeesingh: Madam Speaker, 48(1).

Madam Speaker: Okay. So Member for Laventille West, while I allowed you to make the bold broad statement, I would like you to make very quickly the connection of these details to the Bill that is before us, please.

Hon. F. Hinds: Thank you. So, Madam Speaker, I am saying that we did not have whistle-blower legislation at that time but there must be people who would know why this Cumuto highway project was to cost \$550 million. Today, it is run at a cost of \$400 million, a saving of a substantial amount of public money, \$150 million. And the Curepe flyover, \$412 million in 2015, costing us \$221 million. Same project. And finally, the Red House Rehabilitation Project, \$886 million in 2015 when we came, it is costing this country almost—well half, \$441 million. In those three projects, along with the Point Fortin Hospital, from \$1.5 billion to \$1.1 billion, those alone give us a saving of \$1.26 billion. [*Desk thumping*] This whistle-blower legislation, Madam Speaker, is to support people who know about those ballooned and inflated figures and “where the money go”. [*Desk thumping*]

For example, Madam Speaker, I do not want to get into too much but if, by way of my final example, a budget moved from say \$40 million in a particular period consistently for years and then jumped to \$130 million, some persons might find that suspicious and troubling and there are people or maybe people who would know why, this legislation is designed to encourage them. And those of us who are sitting in this House and who would have sat in Government, we have a responsibility to protect the public purse and to protect the public interest. That is what we are doing as we present these measures here today, Madam Speaker. [*Desk thumping*]

And we had promised this legislation a long time back, since we were in Opposition, and as soon as we walked into the corridors of office, we put it before the House.

3.40 p.m.

Madam Speaker, I think that Trinidad and Tobago is in a place where it needs this. This is the way to manage whistle-blowers. The record of this country

shows that there was a very prominent public service whistle-blower who wrote a letter whistle-blowing to the then Leader of the Government, twice. And rather than bring whistle-blower legislation as we do today, and rather than take preemptive action, the records of this country in the public domain show that those letters were sent to the person against whom allegations were being made.

The option was, that officer, afraid of detrimental action, as we highlight here in clause 4, afraid of detrimental action, and as I said, in today's world could lead to death, that whistle-blower packed up and gave up her high office and ran away. That is how other people handle a whistle-blower. That is not the case here. We have come to Parliament with this legislation, as I close, with clear measures to encourage and to protect whistle-blowers, Madam Speaker, giving them guarantees on the law.

And, Madam Speaker, with that in mind, and recognizing that these measures require the support of both sides of this House, and I have heard friends on the other side talk about past corruption and PNM corruption, this is an opportunity to protect those who know about it.

So on that logic alone, Member for Siparia, I call on you to do the right and honourable thing today, lead your troops right. Our leader stood up here in this debate last week and made it clear, that every single vote on this House will be put behind this in the public interest. And as I close, I call on the Member for Siparia, the Leader of the Opposition, to lead your troops right. This is for the good of the public. This is to protect whistle-blowers. This is to protect the public from malicious whistle-blowers. You have every reason to support it. I thank you Madam Speaker. [*Desk thumping*]

Mr. Ganga Singh (*Chaguanas West*): Thank you very much, Madam Speaker. I

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wish to take this opportunity to contribute on this whistle-blower legislation. Prior to the hon. Member for Laventille West speaking, 10 Members spoke on this Bill; five on that side, five on our side, and I want congratulate Members led by our opening batsman, the Member for Oropouche East, [*Desk thumping*] for their contribution and the learning they added. Unfortunately, my good friend, the Member for Laventille West, added nothing new, nothing new. And I want to really talk about the virtual cri de cœur, by the hon. Attorney General, when he presented the Bill, seeking the Opposition's support for this Bill. This Bill, to paraphrase him, Madam Speaker, sits atop in a hierarchy of legislation. And in his attempt to bring about legislation and create legal Darwinism, he regarded this Bill as absolutely necessary, Madam Speaker. But I find it passing strange, in demonstrating the absolute necessity of the Bill, that he truncated the Joint Select Committee that looked after this piece of legislation. [*Desk thumping*]

You know, Madam Speaker, I think it was the Member for St. Joseph, who spoke of death by a thousand cuts, by a particular Opposition Member of Parliament. But the hon. Attorney General, in his presentation, spoke highly of the Member for St. Augustine, making contribution at the Joint Select Committee, and that therefore he regarded the contribution of the Opposition as being beneficial to the legislation.

But Madam Speaker, the Joint Select Committee is a mechanism in which the Parliament deals with complex issues, and this piece of legislation deals with the creation of an ethical standard, and it places in the context of the legislation, moral issues. I think my colleagues, the Member for Caroni Central and the Member for Tabaquite, spoke about those issues. So in the current context, why did you truncate it? It requires a three-fourths majority. It requires the vote of the

Opposition, but you do not embrace the Opposition at the Joint Select Committee level. [*Desk thumping*]

So is it that you are inherent in coming to this Parliament, without going through that process, eliminating the Independent Senate? You eliminated the Independent Senate. This is the construct. This is the social contract. This is the Parliament of this country, in which there are three elements: the Opposition, the Government and the Independents. But you put it on one UNC Senator, all the blame is cast.

And I would quote, Madam Speaker, what the hon. Attorney General said. He said that he took the decision to truncate and not go. He took that decision to come before the House. So, Madam Speaker, I said to myself: Why? The question is: Why? So you are here before us, you want to create, you want to have—why did the Attorney General not—let me put it differently—have the level of mutual tolerance for the Select Committee of the Parliament? There is need for patience. There is need for self-restraint. There is need for tolerance. It is one of our watchwords: Discipline, Tolerance and Production. So why the rush? Why the rush? You know, when I listen to him, come ye, come ye, all who know. And you know he reminded me, Madam Speaker, of a song by Flo Rida:

"Blow my whistle baby, whistle baby, let me know."

But that is a different context, Madam Speaker, a different context altogether. [*Laughter*]

Madam Speaker, so the question is, why did the Attorney General speak in that fashion? Why? And it is only when I read the *Hansard* comments of the hon. Prime Minister and the hon. Attorney General, then I began to appreciate that there is indeed a trigger why, that this legislation—what catalyzed this legislation before

us? What stimulated this legislation before us? And I go into the *Hansard*, Madam Speaker, on the last occasion, and I am at page 40.

“Madam Speaker, quite interestingly”—this is the Attorney General—“sticking a pin, at the caucus of the Government, in dealing with this law, we sat down as a group and there were three letters provided to the Government. One addressed to the Minister of National Security, one to the Minister of Housing and Urban Development and one to the Attorney General. And in that, without going into the specifics, a whistle-blower stepped forward anonymously and gave information in relation to fraud, touching and concerning, \$147 million of fraudulent activity. Just like that, by pure coincidence, long before we announced that this Bill was going to be debated...”

But Madam Speaker, when the hon. Attorney General said that, I said okay, that is not a problem. But when the hon. Prime Minister spoke, this is what he said, at page 16 of his contribution on the last occasion:

“You heard today about a one hundred million dollar reference to something wrong? I will tell you Madam Speaker, I am going to ask this House, as I have asked the Attorney General a few months ago, to make sure that this Bill comes to the House and it will go to the floor.”

So it is by Prime Ministerial dictate, that the Joint Select Committee, in which—and I will point out that if the opportunity was taken to go before the Joint Select Committee, a lot of what is contained in the Bill, that is not a total protection, would have been corrected. And I would show later on, Madam Speaker. First, I will deal—so that this is the context. It almost appears from this ad hominem legislation. But we understand the context of ad hominem and that it is generally

applicable, but it appears that way, Madam Speaker.

Madam Speaker, I would also want to deal with the question of retrospectivity. My colleague, the hon. Minister, parliamentary colleague that is, from Laventille West, spoke about it. But there is a legal opinion, given by the CPC on the issue. So I would want to deal with that. I would also want to deal with the cultural underpinnings of the society that shows the contextual framework and how dangerous it is to have whistle-blower protection and whistle-blower legislation without acknowledging the nature and content in our society.

And then, Madam Speaker, I will then raise the issue of regulations. Look, we have been some time here in the House. The hon. Attorney General, when he sat on this side, ensured that unless there were regulations available to have sight of, that you would not participate in anything that was inconsistent with the Constitution as this Bill is. So the Bill breaches section 4 and section 5 of the Constitution but the legislation in sections 28 and 29 gives the Minister the power to deal with regulations but we have no sight. So effectively what we are doing here today is buying cat in bag, Madam Speaker. [*Desk thumping*]

Madam Speaker, I want to deal now—as I outlined what I plan to deal with. I just to indicate to the hon. Member for Laventille West, this is not centralized legislation. This is not centralized legislation. This is decentralized legislation. You have 21 designating authorities. You have 21 units arising in those designating authorities. You do not have them under one roof. That is the idea of centralization. So get your adjectives right, with respect to understanding of the nature and content of this legislation.

So you have a situation where, as the Attorney General in his contribution indicated, this is retrospective legislation and that the clause that deals with the

retrospectivity, clause 5, states as follows, Madam Speaker, and I quote from legislation:

“This Act applies to any disclosure made after the coming into force of this Act, irrespective of whether or not the conduct or the improper conduct to which the disclosure relates occurred before or after the coming into force of this Act.”

The hon. Member for Laventille West, in his contribution, indicated that this is going all the way back; that therefore you have a situation where whatever was done before and the whistle-blower comes forward today on the passage of this Act, that an action can be taken subsequently.

Madam Speaker, I want to read into the record what the CPC had to say on this matter, talking about provision five here.

“The provision is therefore retrospective in that it permits a disclosure to be made in respect of improper conduct which occurred before the coming into force of the proposed Act. The issue raised by this provision is whether it is objectionably retrospective and therefore infringes the right of the individual to the protection of the law enshrined in section 4(b) of the Constitution.

According to Francis Bennion, ‘The essential nature of a legal system is that current law should govern current activities. ...If we do something today, we feel that the law applying to it should be the law in force today, not tomorrow's backward adjustment of it. Such, we believe, is the nature of law. ...The basic principle against retrospectivity ‘is no more than a simple fairness, which ought to be the basis of every rule’. It follows, therefore, that if the retrospectivity of an enactment is contrary to the essential nature of law, then the enactment may be said to infringe the right of the individual to

the protection of the law.”

And the opinion goes on to say, Madam Speaker:

“All retrospective enactments are not objectionable. According to Bennion, ‘It is important to grasp the true nature of objectionable retrospectivity, which is the past legal effect of an act or omission is retroactively altered by a later change in the law. However, the mere fact that a change is operative with regard to past events does not mean that it is objectionably retrospective. Changes relating to the past are objectionable only if they alter the legal nature of an act or omission in itself. A change in law is not objectionable merely because it takes note that a past event has happened, and bases new legal consequences upon it.”

This “clause...does not purport to change the nature of the conduct which occurred before the coming into force of the proposed Act. It does seek to turn conduct which is lawful or proper before the commencement of the Act into unlawful or improper upon the commencement of the Act. It merely refers to improper conduct which may have occurred before the commencement of the Act and permits a whistleblower to disclose information in relation”—to—“such improper conduct. The legal consequences for such conduct would continue to be the same consequences that applied at the time of the conduct.”

So, I do not know where the hon. Member indicated that it is otherwise. What he is saying is the conduct—there is no law that indicated that the conduct was improper then. So you cannot have law today indicating that the conduct was objectionable to the law then. Because there was no breach of law. So I think the hon. Member is misinterpreting what is being said. But there is a pattern, a patent

approach by the Attorney General to do retrospective legislation. Why is that so? Why is that so?

Madam Speaker, I have looked at all the relevant legislation that they modeled this upon. The hon. Member for Laventille West spoke, the New Zealand model, the Malaysian model, the Maltese model, the Jamaican model. And in none of those model legislation and the British model, they included retrospectivity. What is the agenda of this Government, Madam Speaker? [*Desk thumping*] What is the agenda?

And that therefore, inherent in the retrospectivity is the ad hominem argument. Because if the law is not applicable then and you cannot go and say you get information today that the conduct then was improper because only today you have improper conduct, well then it is politics “yuh” playing. It is politics “yuh” playing. [*Desk thumping*] And that, therefore, “is mauvais langue and gossip yuh want tuh engage in”.

Madam Speaker, so when you have this approach, therefore, that we recognize that it is the tone at the top. So you will continue the process with information to demonize people, and I want to say in particular the Members of the Opposition. [*Desk thumping*] Because you see the guardrails of our democracy require us to stand here, do our duty. Our duty does not mean to respond to your cry in that sense. There ought to be compromise in bringing about legislation. But if the tone at the top of the Government is to demonize people, then we cannot participate in that. [*Desk thumping*] We cannot participate in that, Madam Speaker.

Because, if you do not have this level of institutional forbearance and the patience to go before a joint select committee, if you do not have this level of tolerance, and there is this level of distrust. There is a big problem, in that the

radius of trust around this Government is very low, very, very low. And, that therefore, that is why you have problems with the social capital in this country.

Look at what is happening, crime, the level of criminality. You look at the newspaper headline today, the bloodiest month in our history. What does that point to? It points to what my colleague, the Member for Caroni Central spoke about, dissonance, disconnectedness, a lack of social capital. And when you recognize this reality, then you can now deal with what are the cultural factors that underpin this legislation, what is the contextual environment which we find ourselves in.

You know, Madam Speaker, Preet Bharara, United States attorney for the New York area, over 200 Assistant District Attorneys under his watch. From 2009 to 2017, he was fired by Mr. Trump when he took power. This is what he says in his book *Doing Justice*, a very recent edition. Snitches, the 'moral quicksand' of co-operating witnesses. Tackling is not attractive. It is a betrayal. No one likes a snitch. People who snitch on those close to them make us uncomfortable, makes us recoil a bit. There is baked into our DNA an aversion, a moral distaste, even for this kind of informant, even though such turncoats are the bread and butter of countless criminal investigations.

This investigative tool, the criminal-turned government witness, captures the public imagination unlike any other. The snitch, the rat, the Judas also known as the co-operator. Prosecutors like to think that the integrity of the prosecutor is not ever on trial. In fact, we say it all the time 'the government is not on trial here', and yet, of course, it always is. The truth is simple.

“The criminal justice system in any society necessarily implies a moral code. Law and morality are not coextensive, but a significant degree. What a society chooses to punish is a proxy for what it deems unacceptable,

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reprehensible, or immoral. Moreover, the way that a society chooses to enforce its laws, the practices it sanctions, the power it grants, the tools it approves, also reveals the community's moral thinking'.”

Madam Speaker, so what Preet Bharara, very successful, was indicating that is we are entering into a realm of the creation of a moral quicksand and that the question that arises is whether there is sufficient protection for the whistle-blowers that the current legislation provides for. And we are saying, Madam Speaker, from the four pieces of legislation, that reform is necessary. When you look at the Jamaican model, Madam Speaker, in the Jamaican model, in an article by *The Gleaner* of June07, 2017:

“Light on Corruption Protected Disclosures Act, 2011: Blowing the whistle on corruption”

The Attorney General said that the Jamaican model was quite persuasive. This is what, an article by Dr. Omar Hawthorn:

“Whistle-blowing is the act of exposing unlawful activities or misconduct occurring in a society or organisation. Corruption typically takes place behind closed doors. Therefore, encouraging individuals who may have information to speak up, while creating and facilitating a safe environment for them to do so, are foundational to an effective anti-corruption framework. The practice of whistle-blowing should be institutionalised and de-stigmatised while ensuring adequate protection for whistle-blowers. Jamaica's Protected Disclosures Act, 2011, is among the best-written legislation in the world pertaining to whistle-blowing, but the lack of regulation on the procedures and implementation might be a pivotal factor in

the lack of reported cases to the Commission for the Prevention of Corruption (CPC).”

So your best model, the model in which you anchor our legislation, is without regulation. And I ask the question again: Where is the legislation? Where is the regulation?

Madam Speaker:

“Jamaica has long had an 'informer fi dead' culture. The proverb 'see and blind, hear and deaf', in essence, pay attention to your own business and not meddling in another person's affairs, is adhered to. Consequently, in Jamaica this legislation, in order to gain traction, needs significantly more than just passing of the legislation.”

And then they went and they outlined, Madam Speaker, a series of reforms required for the Jamaica legislation. So I want to ask the hon. Attorney General: Why it is you bring half-baked legislation before us? “You take de model but you take de old model. Yuh know dis is a kind of foreign used approach”, Madam Speaker. You could buy a brand new car with all the improvements. But the Attorney General "went and get ah foreign use tuh come tuh dis legislation" to introduce it into our society, unacceptable.

Similarly, Madam Speaker, so you understand.

“Whistleblower on Jamaica drug failings ‘bullied into silence’.”

This is taken from the *Mail Online*. May 03, 2019:

“A whistleblower who made public the shocking failings of Jamaica's anti-doping system has been bullied and intimidated into silence by government officials...”

No protection. No protection in the whistle-blower legislation. And this is the

model you bring? And it goes on, Madam Speaker. When you look at the dance hall and rap culture, “informer fi dead” is part of it.

This same Buju Banton that the hon. Minister of National Security granted permission to come into Trinidad because of his run-ins with the law previously, Buju Banton has a song “Informer Fi Dead”. Because they take—there is a whole study done, an approach where the dancehall artiste takes the gun and kills the snitch, the informer, themselves. So that is what you have. So when you get that culture going into the system, the outcome is the level of murder and the cultural ostracizing of people who want to become whistle-blowers.

So Madam Speaker, the law of Malaysia, that too has no retrospectivity. When you look at an article, on a reform—and it is entitled, Madam Speaker: A Critical Look Into the Whistle-Blower Protection Act, 2010, by Christopher Leong, he is head of the Bar Association, points to three areas to reform.

1. Protection for whistle-blowers - the level of protection for whistle-blowers needs to be improved and reinforced.
2. The Act still remains vulnerable to Ministerial action and it needs to be made entirely independent of such influence.

In our legislation, in all the 21 institutions, bar the Integrity Commission and one other, you have ministerial—[*Interruption*]

Dr. Gopeesingh: The Ombudsman.

Mr. G. Singh: The Ombudsman. You have ministerial direction to all the designated authorities, unacceptable. [*Desk thumping*] This is what they are saying to bring change. And they are saying thirdly, Madam Speaker, in this that they conducted, the. Thirdly:

- “3. A more comprehensive whistle-blowing mechanism needs to be

created - one that is more robust than the current model.”

And we based our legislation on the old model.

Madam Speaker, the New Zealand legislation: Whistleblower Law Falls Short. And they then point out potential areas for reform. And they point out a series of areas for reform, Madam Speaker. This is by the State Services Commission. So what you have, Madam Speaker, is a clear indication that the law that we are seeking to put in place exposes whistle-blowers rather than protects them. [*Desk thumping*] And that, therefore, the hon. Attorney General in truncating the Joint Select Committee did not give this Parliament and the country the opportunity for updated legislation relevant to the context and culture in our society. [*Desk thumping*]

4.10 p.m.

Madam Speaker, now I want to deal also with this question of culture. Madam Speaker, I think the Members who spoke before me raised the issue of Gene Miles. Madam Speaker, Gene Miles is very much like the designated icon for whistle-blowing in Trinidad and Tobago long before the legislation. Gene Miles in an article dated the—I do not have the date, Madam Speaker, but I would provide the date. It is entitled Gene Miles and it deals with the commission of enquiry. So this is the first commission of enquiry in which the PNM Government had the opportunity to prevail over.

And in this testimony to the commission, Gene Miles used her position as a clerical officer to name and accuse senior officials in the department of the senior factory inspector of wrongdoing. And go on, and the commission vindicated her position. But, Madam Speaker, and this is taken from the article:

“Aftermath of the Commission

Shortly after the commission started sitting, Gene and her mother were robbed at gunpoint by two men but were not harmed; she was also alleged to have received abusive phone calls. Her personal campaign to have the report of the Commission published resulted in her becoming the subject of vicious slander. She was dismissed from the public service without benefits. According to Raffique Shah, Miles had been conducting an affair with a senior government official, stating that ‘not even her relationship with the notorious John O’Halloran could save her from the might of the PNM’ and that she died ‘a virtual vagrant, pauperised and made an outcast by the same Williams who had attacked corruption with full force—before he came to power!’”

Madam Speaker, the former President of this country and former Prime Minister, ANR Robinson, in his work—

Madam Speaker: Member, your original speaking time is now spent. You are entitled to 15 more minutes to complete your contribution.

Mr. G. Singh: Thank you, Madam Speaker. [*Desk thumping*] *Caribbean Man* by ANR Robinson at page 259 stated:

For a long time the population had been tremendously concerned about the report of the commission of enquiry into gas stations. This report discloses malpractices of many kinds including the wrongful obtaining of licences, the purchase of licences, but curiously enough, you would remember no one was brought to justice. The principal personality who generated the disclosures, which gave rise to the report, suffered a pitiful death while the names of persons who had been mentioned in the report as engaging in corrupt practices can be found in high positions in government in the National

Petroleum Company and so on.

It is so incredible. The person who discloses is repressed, and suppressed, and penalized and the people who are engaged in corrupt practices and criminal activities are always on the top.

How does it happen? It is not by accident. So that is the DNA coming forward; that is the cultural framework within which we operate. And this approach, Madam Speaker, that is the culture of our country. That is the nature and culture of our country. This is an attempt to make an intervention to deal with matters of that nature. But, Madam Speaker, it is clear that the cultural aspect of this is simply our society is not facilitative like that. The smallness of the society—in Malta, Madam Speaker, they said that the smallness of the society precludes an effective whistle-blower programme.

And the hon. Member for Laventille West spoke at length about Dole Chadee, but that was done under Mr. Panday as Prime Minister and Ramesh Lawrence Maharaj on the UNC, about four times he mentioned that, Madam Speaker, not recognizing that is what transpired in those days. The question is that, whether there is now an intervention through the politics to change the culture of this country.

Madam Speaker, it is clear that in this society today that there is a lack of mutual toleration—tolerance?—that we have lack of institutional forbearance that there is hyper-partisan politics and there is mutual distrust in the society. There is currently reform and updating of all the legislation but we come with the old one, Madam Speaker. We did not take the benefit of the experience of the other countries.

Madam Speaker, so in this context, how now do you deal with the culture of

this country? How do you deal with that? You say legislation? I think the hon. Member for Moruga/Tableland talked about the seatbelts, and seatbelts dealing with that. You know, Madam Speaker, but today, you know, Madam Speaker, I spoke about Flo Rida but you also have to take into context the culture of our country, material. You know, Madonna said it is a material world and she is a material girl. And that therefore it is the one with the “bling, bling, bling”, and the cash, cash, cash and so on—so that what you have are two models of whistle-blower legislation.

The anti-retaliatory model that is before us, and then you have the incentive model, Madam Speaker. And in a book entitled *The New Whistleblower's Handbook*, very recent edition, Madam Speaker, by Stephen Martin Kohn Esq., this is what he had to say. At page 1:

“Today, two very different systems governing whistleblowing coexist. One system is made up of old whistleblower laws, based on an antiretaliation model.”—that is what we have; this is what is before us in 2019—“The whistleblower raises a concern. The boss knows who the whistleblower is. The whistleblower is fired. The antiretaliation law kicks in, and the whistleblower can challenge the termination in court or before an agency...The whistleblower is paid compensation commensurate with the damages suffered. These cases are the focus of public attention...”—and so on.

And the second model, Madam Speaker:

“The new whistleblower laws are reward based. You obtain compensation...used to hold wrongdoers accountable. The focus is on using a whistleblower's insider status to uncover hidden frauds. By protecting a

whistleblower's identify, he or she can remain on the job and continue to assist in investigations. Compensation is based on being right.”

And then went on to reiterate a series of laws in the American system.

So, Madam Speaker, we are behind time. You know we behind time; this is the experience; a material world; it is not altruism. The Jamaicans have come to that position now. The Malaysians, only .03 per cent based on the same old legislation that we have modelled ours on, that you do not that. You do not have an effective whistle-blower programme and whistle-blower legislation on the basis of the old model.

So, hon. Attorney General, do the right thing. Take it back to a joint select committee bring it before the Parliament subsequent to that and to say that it is simply unacceptable—what you are going to have. You know, in the contribution, Madam Speaker, at the joint select committee the police told the Joint Select Committee existing that they would prefer anonymous tip, anonymous whistle-blowers because in this culture of murder in our society that it is better to have anonymous. We are not protecting anonymous, this protected disclosure and this lack of confidentiality.

You know, Madam Speaker, Terrence Farrell in his book *The Underachieving Society* talks about the networking that takes place, speaks about the fact the rules and enforcement of rules are irrelevant once you have your network and that the transactional costs associated with that. So you understand the culture we have here; we understand that there are no regulations; we understand that there is a culture in which you do not trust the Government, and you do not trust authorities.

But, Madam Speaker, we have to engage in this country in an exercise to

create a multi-ethnic democracy. And that therefore when we do so that on the basis of equality, social and political equality, and not the dominance of one ethnic group and the subordination of another. This is a work in progress, Madam Speaker. This piece of legislation to my mind, on the basis of the retrospectivity, the fact that it appears to be ad hominem for a particular situation. Although it is legally not ad hominem, but that is a matter for the courts otherwise. The fact that there is no cultural underpinning to support this legislation, but there is an imposition from the top.

And therefore what we are saying to the hon. Attorney General that this is not a question of go—that you must have this piece of legislation in its current form, where is the patience? If we want to get it right. If you want to have access to the votes of the Opposition, instead of utilizing the opportunity for demonizing and putting out an agenda, a political agenda, then let us have good law.

Look I sit in a joint select committee. We have sight of the regulations and we have expertise analyzing the regulations, so that therefore we are guided. Hon. Attorney General, at what stage is the regulations for this whistle-blower legislation in? I am certain that there are no regulations existing now but you come and that would effect the procedures; clauses 28 and 29 deal with the question of the regulations and ministerial power. So there is ministerial overreach in the model because the Minister—there is ministerial interference not directly but through the process. In the 21 designated authority units the Minister can intervene; almost all in state agencies and so on the Minister can give directions. So if you are giving directions there is effectively political interference; this is unacceptable. Unacceptable. [*Desk thumping*] So, Madam Speaker, it is clear that what is happening there is a lack of social capital in the country. There is a lack of

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trust, there is mutual distrust, there is a lack of tolerance; the tone at the top is not a tone that is appropriate in a multi-ethnic society. And we therefore call upon this Government, withdraw this legislation and come back with appropriate legislation for Trinidad and Tobago and you will have the support of the Opposition, Madam Speaker, I thank you. [*Desk thumping*]

Madam Speaker: Member for Naparima.

Mr. Rodney Charles (*Naparima*): I give way to my colleague, Madam Speaker. Can I?

Madam Speaker: Member for La Horquetta/Talparo.

The Minister in the Ministry of Public Administration (Hon. Maxie Cuffie): [*Desk thumping*] Thank you, Madam Speaker. It is with pleasure I rise to support this Whistleblower Protection Bill. Madam Speaker, I do not want to blow the whistle of the Member for Chaguanas West, I leave it for the AG to do that. But this Bill is absolutely necessary for a country like ours. Before I remember the contribution of the Member for Tabaquite, when he spoke about values and the Member for Chaguanas West spoke about changing the country. I think we need to change the way—we approach legislation the way we approach these things.

Now, I support this Bill wholeheartedly because I spent, like the Member for Oropouche East, spoke about having experience whistle-blower, I spent my entire career dealing with whistle-blowers as a journalist. And I have been subjected to detrimental action by the Members opposite as a result of that; I will get to that later.

Mr. Indarsingh: Members opposite?

Hon. Member: Listen nah.

Hon. M. Cuffie: I will get to it. Two weeks ago, one of my constituents came to

me to speak about a matter in the public interest, and I told her I will refer her to the Commissioner of Police. She said she did not want to speak to the Commissioner because he was associated with the Members opposite, and she does not trust him. The Member for Chaguanas West. [*Crosstalk*]

Madam Speaker: Member, Member for La Horquetta/Talparo, I am not certain you want to go that way, it is imputing improper motives, I really would not allow you to go that way.

Hon. M. Cuffie: I am just saying that, Madam Speaker, because the police are the designated authority under this Bill.

Madam Speaker: But, maybe you might want to approach it in a different way. But as you are going, I would not allow it, it is imputing improper motives against Members here, please.

Hon. M. Cuffie: I assured her that I have total faith in the Commissioner, with whom I was meeting with the next day. And he was a man to be trusted and an honourable man. And to reassure her because of her lack of faith in the Members opposite—[*Crosstalk*]

Mr. Indarsingh: Madam Speaker, I do not want to—

Hon. M. Cuffie: Chaguanas West spoke about the lack of—

Madam Speaker: Member for La Horquetta/Talparo, again, you know, I really would like to caution that you redirect the course of your contribution, please.

Hon. M. Cuffie: Thank you for your direction, Madam Speaker. [*Crosstalk*]
Madam Speaker, I am being disturbed by the Member for Oropouche East. The point I wanted to make was that I have had tremendous experience dealing with whistle-blowers and this Bill treats with those concerns that I have and my own experience treating with whistle-blowers. In 2011 a whistle-blower came to me as

a journalist to provide information which I published in the *Mirror* and as a result of that I was subjected to detrimental action by Members opposite—[*Crosstalk*]

Madam Speaker: Member for La Horquetta/Talparo, you may have suffered detrimental consequences; I think you should leave it at that and press on rather than imputing improper motives against any Member here, please.

Hon. M. Cuffie: Madam Speaker, I want to act within the spirit of clause 7 of this Bill; I wanted to refer to a letter I wrote to the Integrity Commission which took up the matter, but I will leave it. The fact of the matter is I think we are not changing the culture if we refer to whistle-blowers as “snitches and rats” as the Member for Chaguanas West did. I think we could talk about “patriots”; they are not snitches and rats; an informer if “he dead” and using a Jamaican expression right now, when we have a high-profile matter involving a Jamaican national that is engaging the—

Madam Speaker: Member for La Horquetta/Talparo, it is now 4.30. Members, I think we will take the suspension now; we will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Madam Speaker: Member for Naparima.

Mr. Lee: No, no. Madam Speaker, it is—

Madam Speaker: Member Lee, I am quite aware of what was, but the Member is not here. Member for Naparima.

Mr. Rodney Charles (Naparima): [*Desk thumping*] Thank you, Madam Speaker. I listened intently to my colleague from La Horquetta/Talparo, and I must say that he was more articulate than the rest of the speakers on that side, in particular the Member for Laventille/West.

Madam Speaker, we are here once again, to debate a most important piece of legislation. Our debate comes in the wake of two high-profile searches, one against a visiting Jamaican artist Buju Banton, and the others against seven families in the Gulf View area. These families, seemingly successful, going about their lives in a sense of the view that they were immune to these kinds of activities but they were searched, nevertheless. And these searches were presumably based on faulty intelligence since nothing incriminating was found. Both searches were premised on faulty intel, presumably, and it could have been supplied by a whistle-blower or whistle-blowers.

And if that is the case, who were these whistle-blowers? What could have been their motives? And what recourse do these families and Buju have against these whistle-blowers if indeed they were malicious? When will these whistle-blowers be charged and if at all can they be charged? When we look at clause 20(1) and (2) of this Bill, which speaks only to the immunities to the whistle-blower, it says no immunity to whistle-blower if he was the perpetrator or accomplice. However, nowhere in the legislation we see any attempt to balance the effects of the whistle-blowers with the fact that you could have, in our society, some whistle-blowers who may have malicious intent.

So our first recommendation is that this Bill must forthwith be amended to make it a criminal offence plain and simple for a whistle-blower to maliciously and knowingly provide false information to either the police or the whistle-blowing reports unit. Madam Speaker, whistle-blowers are not always saints and this legislation operates on that assumption. You see it, clause after clause after clause.

Weinberg, writing in *Forbes* 2005 in an article entitled, *The Dark Side of Whistleblowing* reports the case of a whistle-blower who was in a position to

prevent the actions that were the subject of the lawsuit, but instead of preventing them he watched quietly, collected information to build his case. Stories abound, Madam Speaker, of disgruntled fired employees who felt that they were hard done by an organization and who “come out to buss mark” to gain revenge. We know about that, I think all of us in our previous incarnations would be aware of situations like that.

Madam Speaker, it brings me to the question who were the whistle-blower or whistle-blowers in “emailgate”. If he or she acted maliciously, what would be the sanctions against him or her as prescribed in this Bill?—nothing. And can it be readily and unambiguously used as a remedy in justifiable circumstances such as “emailgate”. So we have a certain Prime Minister accused of conspiracy to murder, she lost a general election in part because of it and a whistle-blower enjoys the spoils of his or her calumny and mischief. Punishments for malicious whistle-blowing must be unambiguously clear, or right-thinking citizens may come to believe that we are about to legitimize and protect bacchanal, old talk, comess, Minty Alley gossip and even political victimization. And more so when legitimate questions are asked we have obfuscatory, inherently foolish, novel legal concepts and I quote; “like looking beyond the four square of the evidence”.

Madam Speaker, we know our country and we know how we operate; as they say in the dialect “we know how ting does go down here”. Let us look at clause 19 which grants immunity from “civil and disciplinary proceedings for having made...a disclosure.” Let us assume the employee, subsequent to making the disclosure, does not perform on the job or is habitually absent, what is to stop the employee three years down the line from saying—

Madam Speaker: I do not want to interrupt you, but I am just reminding you of

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Standing Order 44(10). Okay?

Mr. R. Charles: What is to stop the employee from saying three or four years down the line, Madam Speaker, that the firing was originally caused by the fact that the person was a whistle-blower in the organization. And clause 18 states inter alia and I quote:

“...a whistleblower shall not be subjected to detrimental action on account of his having made a protected disclosure.”

But research shows and as pointed out in an article published on October 17, 2015, in the issue of the International Journal of Health Policy and Management that legal actions are oftentimes not always effective; the article goes on to state and I quote:

“...employers have a multitude of methods for ending an employment relationship without actually firing the employee. By making the employee’s job more difficult, giving the employees the least desirable tasks or hours”—to work or—“refusing to promote an employee, or otherwise making the employee feel unwelcome...”

And the article says:

“...organizations can effectively end an employment relationship while still following the letter of the law.”

So we may think in this legislation that we are giving certain immunities and protections on the job to an employee. But all of us know that, and as the research shows, that it is very possible to follow the letter of the law and still make the life of a whistle-blower, who is an employee, make his or her life very difficult.

And today we witnessed not well thought out, slipshod, sloppy, and careless legislation brought before this House with minimal consultation. A unilaterally

imposed sense of urgency that suggests that we should pass bad law for the sake of showing the world and local voters that we are dealing with crime even as we recorded 49 murders last month, the highest in our history; and 25 per cent more than what was recorded in April 2018.

Madam Speaker, we have repeatedly said and we will say it again, we will not be co-conspirators in passing bad law in this Parliament. We have said that. Well-conceived whistle-blowing legislation is an important tool in a country's arsenal used in the prevention and detection of serious misconduct such as fraud and corruption which can lead to financial loss and reputational damage. Some of the world's largest financial frauds, as the well-known Enron and WorldCom cases in the US, were detected through using whistle-blowers. And whistle-blowing is so important in the United States, Madam Speaker, that some regulators—the Department of Justice and the Securities Exchange Commission—under the Dodd-Frank Act offer financial incentives to whistle-blowers who provide original information which leads to successful prosecutions. Madam Speaker, I have serious reservations about supporting this Bill. And I will provide my reasons seriatim.

5.10 p.m.

In the first place, the Bill calls for a three-fifths majority. I have said it previously and I would say it again, that the framers of our Constitution wanted a responsible, reasonable and sensible engagement of the Opposition and the Government to provide a consensus which ultimately would lead to better legislation. There must be, for this legislation, and I am speaking here specifically of that clause, a capacity to disagree in a peaceful, professional and in a consistent and respectful manner. And I ask the question: How can the UNC support

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legislation when there are constant insults from the Government side? Madam Speaker, I refer to *Hansard* December 06, 2017, and I refer to the Member for Laventille West. He said, and I quote:

“But, you see, the UNC believes that crime is a PNM problem and not a national problem, and that is why we describe them as unpatriotic, without apology.”

Now, Madam Speaker, I ask the question, and I know my friend, the Member for Point Fortin, always say, “join with us”, but you cannot join with us. As Lloyd Best used to say: “Yuh beat up de wife, yuh beat her till she bazodee, yuh give her some flowers and a glass of champagne”, and tell her, “Well, let us be peaceful and let us have a loving relationship.” It does not work so.

And the Member for Arouca/Maloney—this is *Hansard* 06 December, 2017, page 359, and I quote.

“Despite the unpatriotic display by those opposite of us, we will continue to act in the interest of the people of Trinidad and Tobago.”

Member for St. Joseph:

I—“...recommend something instead of just opposing for the sake of opposition...” Page 118.

It gets worse. The Member for San Fernando West, the MP, January 11, 2019, page 222, *Hansard*. Quote:

“I sat down here and listened in utter shock and amazement and feel a deep sense of embarrassment that somebody that represented this country at an international level as the Member for Naparima could and did...”

And he went on and on and on.

“Madam Speaker, it is scandalous, it is a dereliction of intellectual and

every other form of duty for Naparima...”

And he goes on. Madam Speaker, we do not support a situation where one side could “ad hominemly” attack those on our side and expect us to work together in the interest of Trinidad and Tobago. We will, and we do, but we will do it only with good legislation.

Madam Speaker, I want to give them a little lecture on the role of the Opposition. According to the European Commission for Democracy through law—

Madam Speaker: Member, I understand the context. I have allowed you some leeway, but tie it quickly into the Bill, please.

Mr. R. Charles: I would tie it quickly.

Madam Speaker: Thank you.

Mr. R. Charles: I would tie it quickly, and I would say that the European Commission says:

“The extent to which the opposition in a given parliamentary system is allowed to actually fulfil these functions can be seen as a sign of the...democratic maturity”—of the country.

I would go on to my second point, Madam Speaker. Once the Bill is passed, we are told that it can be proclaimed with immediacy, and I am referring to clause 2.

“This Act comes into force on such date as is fixed by the President...”

So, Madam Speaker, yes, my second point is the question of immediacy. We have statements from the Attorney General in the press that it will be proclaimed with immediacy. So, the question I ask is: Who are we fooling? Clause 14(1), for example, tells us, quote:

“(1) A designated authority shall have a Whistleblowing Reports

Unit consisting of a director and such other officers as are required for the efficient performance of the functions of the unit.”

And it has been said before. We have 21 designated authorities and they are going to have to get qualified staff to fill the vacancies, but so far we do not have job descriptions, we do not have job specifications to fill these jobs, and how will they be appraised?—these individuals that are to be recruited. Will they be provided on selection with performance standards upon which they would be appraised? A serious country will put in place these things to see whether we have the staff—what are the qualifications needed before passing the legislation? Will they be trained? I suspect that they will be hired and told survive as best as you could on the job. There will be no standardization—

Mr. Deyalsingh: Madam Speaker, Standing Order 55(1)(b). All of this was covered last week by the Opposition, please. Thank you.

Mr. R. Charles: No, Madam Speaker, I am making—

Madam Speaker: I always say I always understand your enthusiasm, but let me rule. I will allow you to continue.

Mr. R. Charles: Will they be trained? And I suspect that there would be no standardization across the 21 units and across the thousands that employers may choose to avail themselves of.

Clause 11 deals with the appointment by companies of whistle-blowing reporting officers and we know what it says. But in Singapore, Madam Speaker, where they do things differently, and I quote:

The revised code of corporate governance recommends at paragraph 12(7) that audit committees—

You see, we say that we shall establish internal reporting mechanisms. The

Singaporeans do it differently. They say, we have in our company laws, existing audit committees, and in the United States audit committees are necessary in all publicly traded companies. So what they do is:

“The...[Audit Committee]”—they say—“should review the policy and arrangements by which staff of the company and any other persons may, in confidence”—may provide the information and report on financial improprieties.

“The AC’s objective should be to ensure that arrangements are in place for such concerns to be raised and independently investigated...”

I think my colleague, the Member from Oropouche East, raised the point about if I have a company and I own the company and I appoint my brother as the whistle-blowing reporting officer, and an employee wants to report on me, it has to go through my brother, essentially.

Now, the Singaporeans have developed a system for an independent review and they must be independent, and I am saying that these things ought to be looked at in terms of the development of the framework legislation that we have. So they have set up a system for:

“...independently investigated, and for appropriate follow-up action to be taken. The existence of a whistle-blowing policy should be disclosed in the company’s Annual Report, and procedures for raising such concerns should be publicly disclosed as appropriate.”

But it is a little more than that. Employees in audit committees are encouraged to become certified by world class accredited institutions, such as the Association of Certified Fraud Examiners, in which there are 85,000 members and they give certificates for persons who will do these kinds of investigations.

So we have another society that has a structure, that has a system in place, that has training for staff and has certification for staff and we have a system where we say the company can develop an internal whistle-blowing reporting system and we leave it as that. Madam Speaker, it was like long ago, when you have a village cricket match and a captain will pick a side, and he will pick a side and he will tell us: “Gentlemen, the field is there, the two batsman, all yuh scatter, scatter on the field”, and we go there and we scatter on the field and we do our own thing. This legislation seems to be suggesting a scattering approach to management that is inconsistent with a country that is aspiring to first world status.

So this Attorney General will railroad this legislation. He will recruit people by vaps with no requisite training and send them to survive in these organizations as best they could, and these whistle-blowing reporting officers will scatter in organizations, underperform, do untold damage, but then we could “zess” and tell ourselves, Madam Speaker, that we are creating a suite of legislation to deal with crime and, Madam Speaker, I make the point that “zessers” exist in suits also, designer suits.

My third problem—

Madam Speaker: I do not like the implication in that, so I would ask you just to withdraw that and continue

Mr. R. Charles: All right. “Zessers” exist everywhere. Good. My third problem is that I do not trust this Government, in general. I do not trust them and I do not trust this Attorney General in particular. Madam Speaker, I keep wondering sometimes whether the Opposition Benches are specially selected for targeted supervision, and I would give you a reason why I am saying that. I would give you a reason. All right.

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Madam Speaker: Member, I am sure you do not want to go that way. Okay? I am sure you do not want to go that way.

Mr. R. Charles: I would withdraw but I would ask a question. Madam Speaker, every time I travel out of Trinidad and I return to the Immigration Office—and this is a fact. I would ask them to check it. When I submit my passport to the Immigration Officer and he swipes it, picks up a phone, call somebody—

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(6).

Mr. R. Charles: I am giving a fact.

Madam Speaker: I will let you continue.

Mr. R. Charles: And, Madam Speaker, I ask because I am genuinely concerned. They swiped, a phone is picked up and after a short conversation, I am stamped and I am sent on my way. And I thought everybody got that. So I asked my family and friends and they said no. On the last two occasions, and I would tell you, on the 23rd of February, when I arrived at 10.05 on flight No. BW525, it occurred also on the 15th of March when I arrived from Fort Lauderdale, weeks ago, on flight No. BW481. When on the last occasion, I enquired of the Immigration Officer on duty, I was told that there was someone with a name similar to mine on a watch list. So help me God, that is the truth. And I asked myself: A watch list? How come I travelled to the United States, to the UK, to Saint Lucia and other places and only in Trinidad and Tobago I am subject to enquiries? [*Crosstalk*] And I have the question: To whom does the Immigration Officer speak? And you could check it out and you could clarify it later on [*Crosstalk*] and the question I asked is: Am I being monitored and by whom and for what? And I move on. Madam Speaker, I move on. I do not trust—my second reason for not supporting this Bill—

Madam Speaker: Hon. Members, you know, I usually do not have difficulties in

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hearing the hon. Member for Naparima, and could I ask the Members who cannot seem to contain their enjoyment of his contribution—[*Crosstalk*] I think maybe tea was just too good. All right. But we are back in here. So Member for Naparima, please continue.

Mr. R. Charles: Thank you very much for your intervention. [*Desk thumping*]

Madam Speaker: But moving on. You are moving on.

Mr. R. Charles: Yes, I am moving on.

Madam Speaker: Yeah.

Mr. R. Charles: I am telling you—[*Crosstalk*]. Yes, so I would be calling St. Ann's. That is what I speak about in terms of ad hominem disrespect, Madam Speaker. I would tell you why I do not trust—and I speak for 15,000 voters in Naparima constituency [*Desk thumping*] and they could say what they want, nobody on that side has that number of people representing them. [*Desk thumping*]

Madam Speaker, what is happening here is nothing strange. During the debate—and I am saying this is my reason why I distrust. During the debate on the Legal Notice 185 concerning sanctions against Iran on January 11, 2019, the Attorney General deliberately ignored the fact that I acknowledged three times during my contribution that the Security Council Resolution 2231 was applicable to Iran and, therefore, to the debate and I am making this point, one, to clear up *Hansard* and two—

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1).

Mr. R. Charles: And two, to support—

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1).

Madam Speaker: Okay. I would want to—Member, I sustain the objection with respect to relevance. Okay?

Mr. R. Charles: I go on. I go on, Madam Speaker. Except—anyhow, I go on. Madam Speaker, this legislation will be just one of a suite of legislation that will create bottlenecks in our system and, therefore, be ineffective. So we are always being brought here to discuss legislation and before putting the necessary systems and procedures in place in order to give effect to the legislation.

Currently there are bottlenecks in our judicial system. We have offices such as the Forensic Science Centre and the DPP Office backed up with cases. The Forensic Science Centre is understaffed. And I am saying this, we have this piece of legislation before us that could burden the system. The Forensic Science Centre is understaffed, lack pathologists, support staff, lack of proper medical equipment and scalpels, cramped centre, unsanitary conditions and the DPP's Office is understaffed, I understand, by 55 per cent and more and cramped.

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1) and 55(1)(b). All of these matters were traversed last week.

Madam Speaker: Member, please continue.

Mr. R. Charles: So, Madam Speaker, all we are saying is that perhaps it is better to improve the existing infrastructure rather than going on to new legislation and bringing us here to further clutter a system that is overburdened and underperforming. Madam Speaker, in this kind of legislation we want to ask, looking at clause 7, “reasonable grounds” is a very open statement. It says, clause 7(1):

“An employee of an organisation may make a disclosure of improper conduct to a whistleblowing reporting officer or a whistleblowing reports unit where he has reasonable grounds to believe that improper conduct has occurred, is occurring or is likely to occur within the organisation.”

“Improper conduct” here can mean, according to definitions in this Bill:

“(h) conduct that tends to show unfair discrimination on a basis of gender, race, place of origin, social class, colour, religion or political opinion;”

In a society such as Trinidad and Tobago—and my colleague, the Member for Chaguanas West, alerted to the cultural context in which this legislation is being brought to us—there is culture of idle rumour and gossip in our society. Are we legitimizing a negative trait by providing an operationalized mechanism to facilitate this?

Madam Speaker: Now I would stand on tedious repetition. Almost every Member on your side dealt with us legitimizing rumour, et cetera, gossip and so on in different ways. So I would ask you to develop a different point.

Mr. R. Charles: I would move on, Madam Speaker. Similarly, clause 7(2)(c), there is no guarantee that the information given by a past employee is accurate. Clause 7(2)(c) says:

“(c) in respect of information acquired by the employee while he was employed in the organisation;”

The issue opens the door for biased information being reported on a person who may be not guilty, due to the fact that the information was given by a past employee can be problematic, especially if the employee was fired. It can be a question of: Is the information 100 per cent true and is it reliable? And it can be subjective and we are saying that this opens up floodgates of possible arrangements that could lead to abuse.

Clause 7(4), how accurately will an oral disclosure be recorded? Clause 7(4) states, I quote:

“Where a disclosure is made orally, the officer receiving the disclosure

shall—

- (a) reduce the disclosure immediately into writing in the presence of the person making the disclosure; and
- (b) read the written disclosure to the person who made it.”

The question I ask is: Are our officers trained to write reports that accurately reflect what the whistle-blower has said? Madam Speaker, many of us have gone to police stations to give accident reports and often what is written by the officer is not the same thing that you had said. Fortunately, for some of us, we can read it and correct it, but what happens if the person cannot read or write and we will have situations like this where the whistle-blower may not be literate.

Information, Madam Speaker, can be modelled in the process of transcribing the oral report if it is not written word for word or the whistle-blower is unable to articulate his claims in a coherent manner. The whistle-blower may be pressured to sign. I have been in police stations where the officer, when I tell the officer, I will write it and present it to you and there is measure of annoyance, because it is making a judgment of his capacity to write. So you could feel pressured in order to sign and we have to ask the question: What if the whistle-blower cannot read or write? This can likely be the case if an oral report is made. He will not know whether the report written by the officer is accurate. And all we are saying is there is need for training in report writing to ensure that what is written is accurately reflective of what the whistle-blower indicates.

Madam Speaker, “shall” and “may” are used multiple times throughout these clauses, multiple times. In some cases, it can be interpreted in an ambiguous manner. I think it was raised by our representative for St. Augustine who said “shall” means “must”. That is what I learnt in school and it was corrected by the

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Member for Diego Martin North/East in consultation with the Member for Laventille West which says that it could mean, in certain situations “shall” could mean “may”.

Madam Speaker: So, Member for Naparima, your original 30 minutes are now spent. Your very last statement supports the point I would like to stand on, and that is Standing Order 55(1)(b) with respect to tedious repetition. All right? [*Crosstalk*] So that I do not want you to correct me. This is what I am ruling. What you have said supports that. So please move on.

Mr. R. Charles: What I said was to make the point that in this legislation we need to clarify when “shall” and “must” should be used. [*Crosstalk*] That was not made.

Madam Speaker: I invite you to move on, please. Are you finished?

Mr. R. Charles: I am on my feet, Madam Speaker.

Madam Speaker: No, no.

Hon. Members: “Oh goooooood.”

Madam Speaker: Please sit. All right. Please sit. I have taken note of your physical demeanour and that is why I have asked you if you are finished. Next. I invite you to take your seat. Next person.

Mr. R. Charles: I am leaving.

Madam Speaker: I invite you to take your seat. Next speaker.

Mr. R. Charles: I am leaving. [*Crosstalk*]

Madam Speaker: Anybody else? Member for Couva South. [*Desk thumping*]

Mr. Rudranath Indarsingh (Couva South): Thank you, Madam Speaker. Madam Speaker, as I join this debate as it relates to a Bill to combat corruption and other wrongdoing by encouraging and facilitation disclosures of improper conduct in the public and private sector, Madam Speaker, I have listened very attentively to this

particular debate as it relates to the intention of the Government in relation to combating—their mantra of combating corruption and focusing on the need to deal with the public purse and accountability to the taxpayers of Trinidad and Tobago, Madam Speaker. And during the debate, the Member for Laventille West, during his contribution, indicated that the legislation that went to the joint select committee, and where the Opposition was very involved and so on, that the legislation would attempt to focus on providing protection to whistle-blowers in the context of detrimental action and so on, Madam Speaker.

And he indicated during his contribution that the witnesses or a witness—whether it is from a criminal point of view or from a civil point of view—is the lifeblood to the judicial system in our country, and he indicated that the importance of the witness, in the context of realizing a conviction, Madam Speaker. And he focused on the role of the State and he went on to go in the direction of the Dole Chadee matter, and he further attempted to underscore to this House and to the country that, as a result of this particular legislation, that witnesses or whistle-blowers would have the support or the protection of the State, Madam Speaker.

And, in that context, because during his contribution my colleague, the Member for St. Augustine, had indicated that the lives of persons in this country has no value in terms of—it is public knowledge, it is out in the public domain—that persons are hired for as little as \$500 and so on in relation to perpetrating a crime. And, today, I want to ask the Government: What is their role in terms of giving that sense of comfort, that sense of support to persons who are potential whistle-blowers? I ask it in the context of headlines that I have read online today and in the newspapers, Madam Speaker.

Madam Speaker, just to highlight the point that I want to deal with, is that

only today—if you could give me a moment—yes, Madam Speaker, and I am quoting directly from Loop News the 6th of May, 2019:

“Gunmen murder female state witness in Barataria, man hospitalised.

A Barataria shooting left a 21-year-old woman dead.”

And it goes on to say that Ms. Franco was a state witness in a double murder and also that the 22 year-old was murdered by persons posing to be police officers of Trinidad and Tobago, Madam Speaker. Whilst I have no facts or all the facts at my disposal, it causes a great sense of concern to me, because the backbone of this piece of legislation is getting the ability of someone to come forward and make disclosures and to protect them against possible detrimental repercussion, Madam Speaker, [*Desk thumping*] and this is why I hope that in his winding up that the Attorney General can provide some comfort to those potential persons that he and the Government are trying to solicit to come forward in combating, as he said, corruption which is the platform or the main pillar of this particular piece of legislation, Madam Speaker.

And, Madam Speaker, whilst we may continue to focus on the big picture issue of corruption and dealing with the public purse and protecting the taxpaying public and so on against abuse and corruption, Madam Speaker, there are some issues that are in this Bill that need to be ventilated from what I would call from an ordinary person's point of view and, especially, from the point of view of workers in Trinidad and Tobago. Because, Madam Speaker, it was pointed out that this Bill would focus on the public and private sector and it was further indicated that there are approximately 76,000 companies in Trinidad and Tobago and, in this regard, there are some issues that I would want to ask the Attorney General to clarify for the benefit of all and sundry and, especially, as I would say, the workers in

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Trinidad and Tobago, Madam Speaker.

5.40 p.m.

Madam Speaker, and this leads me to the point of the whole question of Part II of the Bill where it has been indicated, or where it is indicated that under *Division 1*, under “*Protected Disclosures*”, that:

“An employee of an organisation may make a disclosure of improper conduct to a whistleblowing reporting officer or a whistleblowing reports unit where he has reasonable grounds to believe that improper conduct has occurred, is occurring or is likely to occur within the organisation.”

And, Madam Speaker, this leads me to the very important issue to ask whether this legislation will be subjected to manipulation from the point of view of an employee, an employer-employee relationship, and I ask it against the background of the experience that I would have had previously in another place from the point of view of sometimes—and I am dealing with real issues based on my experience—from the point of view of, I know for a fact that at one particular state entity—I recollect it very clearly—the Sugarcane Feeds Centre, that a particular union officer that is; he was the branch president of the union, and he was suspended on 19 occasions based on his involvement in the trade union and pursuing issues on behalf of workers.

I am forced to ask the question that if this particular piece of legislation can be abused, it can be manipulated to the point where, for example, in a recognized majority union environment where an employer has a difference of opinion because of trade union activities, what is happening in terms of pursuing issues on behalf of workers? And in this particular instance, as I said, that a person was subjected to disciplinary action under the Industrial Relations Act for 19 occasions

and every time the union prevailed in representing that particular individual—

Madam Speaker: Member, in terms of relevance, I do not see the relevance of the situation you are giving to whistle-blowing. And I also want to say that I have allowed you some leeway, but a number of Members have already spoken about the employer-employee relationship, both with respect to existing employees and former employees under, what I would call, sour grapes. So I would ask you to go on to your next point, please.

Mr. R. Indarsingh: Thank you, Madam Speaker.

In that regard, Madam Speaker, as I said, I want to deal with the very important issue of the relationship in terms of “*Internal Disclosures*”, under clause 11, where:

“An employer shall appoint and keep in his employ such whistleblowing reporting officers as are required for the purposes of this Act.”

Mr. Deyalsingh: Madam Speaker, Standing Order 55(1)(b), we traversed this last week, we traversed this today.

Madam Speaker: Member for Couva South, unless there is something totally different you have to say about the internal mechanism, I would have to uphold the objection in terms of tedious repetition with respect to the internal mechanism. It has been looked at, at every which way, how you hire the person, whether the person could speak against their employer, all of that. That has been dealt with. So unless it is something very different you are going to say, I will again ask you to move on.

Mr. R. Indarsingh: Thank you, Madam Speaker. I have listened to you and I will move on, Madam Speaker. In this regard, in terms of the very question of what will prevail in the real circumstance, I want to go directly to the *Hansard* of the hon.

Prime Minister when he contributed in this particular debate, and I want to quote where he indicated:

“We have just spent a long time dealing with, trying to bring to a head this whole question of the procurement legislation, and in that legislation it talks about a procurement officer in every department. Madam Speaker, what we discovered is that some people interpret that to mean that you”—can—“go out there and hire a...cadre of public servants who will be procurement officers.”

And he further went on, but the point I want to zero in on, and I quote:

“We said no, what that law is saying is that you designate some officer as part of their duty, and it is only if you do not have such a person who you can pass that responsibility on to, then you will have to hire somebody”...

And then he further went on, Madam Speaker, to indicate:

“...that in the public service, we are sure in all the Ministries, we had a, what you call it?—we brought the PSs and Deputy PSs and explained to them that the procurement officers are not that you go out there and hire a set of people.” You—“Find somebody within your department who will be designated and identified to do that...once in a while”—within—“your department.”

Madam Speaker, I am saying that in relation to dealing with the whole question of whistle-blowing, and whistle-blowing from a reporting point of view and also from the establishment of a unit within the respective Ministries, and from the point of view of the 22 designated authorities, I am saying, is the Prime Minister telling the country that in order to do this specialist role, or fulfil this specialist role and responsibility you operate in a willy-nilly form or a willy-nilly

fashion where you just pluck somebody from a Ministry without the necessary competence, without the necessary expertise, without the necessary qualification and you appoint them to fulfil this role? Madam Speaker, I am saying, based on what the Prime Minister outlined, based on the importance of this particular piece of legislation and what it sets out to do, you simply cannot take a public officer who falls under the Public Service Commission and appoint him without the prerequisite qualification to fulfil what job description when it has not been clearly spelt out from a reporting unit point of view, Madam Speaker. [*Desk thumping*] And that leads me to the very critical issue, Madam Speaker, of the independence of the person who will be chosen by, as in this particular instance, the Permanent Secretary or the Deputy Permanent Secretary.

Madam Speaker: Okay. So, Member for Couva South, I am going to ask you to move on, I have already ruled on that in terms of the whole internal mechanism and the qualifications, and so on. Please move on to your next point.

Mr. R. Indarsingh: Thank you, Madam Speaker.

In this regard, Madam Speaker, I want to deal with the very important issue also of ensuring that whatever legislation that comes before this Parliament, we have a sense of duty and responsibility to ensure that we take control or we display that sense of responsibility, from a leadership point of view, to ensure that whatever we pass in this particular place can stand up to the—or it demonstrates, what I would call, the transparency, integrity and confidence of the entire process. At the end of the day, Madam Speaker—[*Interruption*]

Mr. Deyalsingh: Madam Speaker, Standing Order 55(1)(b), all those issues of transparency have been traversed last week and today.

Madam Speaker: Member for Couva South, I will give you a little leeway to

develop that point.

Mr. R. Indarsingh: Thank you, Madam Speaker. [*Crosstalk*] Member for San Fernando East, I need no guidance from you as it relates to this particular piece of legislation. Madam Speaker, as I indicated in relation to the whole issue of the designated authorities and even the whole question of independence from an issue involving where workers are related to approximately 76,000 companies in Trinidad and Tobago, and from time to time there will be matters, when raised by persons, whether in a recognized union environment or non-recognized union environment for the purpose of clarification and for consideration also, the Attorney General may want to look at the whole question of including in the designated authorities, the Industrial Court of Trinidad and Tobago as part of the remedial process or the process of redress when persons feel, in some way, that they have been wronged for becoming involved in the whistle-blowing process, and so on, in the workplace and they have little or no alternative, based on confidence in the internal procedures point of view. And they may want to pursue some kind of grievance via the process that is available to them and they may feel that the only sense of independence that they can have, in terms of redress, is at the Industrial Court of Trinidad and Tobago, or even from the point of view of the Ministry of Labour and Small Enterprise Development from a conciliation process, and so on. So I do not know if this may be part of the Attorney General's consideration in his winding-up to look at the inclusion of the Industrial Court of Trinidad and Tobago from the point of view of part of the designated authorities in the context of the Schedule.

Madam Speaker, at the end of the day this piece of legislation is important, but it is important to the Government, and it is important in the context of they

have continued to sell to the country that it is part of their legislative agenda to deal with the issue of corruption, and, as I said, to focus on the issue of the public purse and saving the taxpayers of this country. But at the end of the day, any piece of legislation that comes to this place we all have a responsibility to ensure that it offers some kind of protection to the small person in society, the ordinary citizen of this country. And from where I sit, based on what I have read and what I am seeing, I am not confident that it will offer that kind of protection and support to workers in the unionized environment and even in the non-unionized environment, and I am of the firm conviction that it can be abused, it can be manipulated to remove persons [*Desk thumping*] from within the workplace environment based on collusion between the employer and the reporting officer.

Madam Speaker: Member, we come right back to what I have asked you to move on from, so if you cannot find a new point with which to make your contribution, I would also invite you to take your seat.

Mr. R. Indarsingh: Well, Madam Speaker, I was making my final point in the context of the relationship between employer and employee existing in an independent work environment, ensuring that their rights are protected—
[*Interruption*]

Mr. Deyalsingh: Madam Speaker, Standing Order 55 (1)(b). He keeps repeating the same thing.

Madam Speaker: Member for Couva South, I invite you to make a new point.

Mr. R. Indarsingh: Madam Speaker, I indicated that I was simply pointing the Government and the Attorney General in a direction of protecting the workers, by extension, the citizens of the country, and I believe also that this piece of legislation should not be placed under the Minister of National Security in the

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context of what it sets out to achieve on behalf of the people of Trinidad and Tobago. I thank you. [*Desk thumping*]

Madam Speaker: Member for Pointe-a-Pierre. [*Desk thumping*]

Mr. David Lee (*Pointe-a-Pierre*): Thank you, Madam Speaker. Madam Speaker, I am happy to join this debate:

“An Act to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making those disclosures from detrimental action, to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct and to provide for other matters connected therewith”.

Madam Speaker, this Bill as a whole proposes laws to allow persons the opportunity to report on corruption and wrongdoing within an organization. The mischief intended is to solve the ongoing corrupt practices in the public and private sectors, and I have nothing wrong with that. But, Madam Speaker, I want to also look at in my contribution, the unregulated legislation that I feel this Bill is, and it can lead to malicious attacks on innocent individuals. Throughout this debate, and especially on my colleague’s side, we have looked at areas where the Bill relates to employees, but I want to look at it from another perspective because I do not feel that this Bill is proportionate to the organizations that employ employees.

Madam Speaker, when you look at the different clauses, and I want to turn to a few clauses, in that perspective in the interpretation in clause 4. When you look at clause 4(k):

“otherwise suffering injury, loss or damage in relation to his employment, family life, career, profession, trade or business;”

—and this interpretation talks about, and as the Attorney General, when he piloted

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the Bill on the last sitting, talked about the employees who should not be subjected to, but in my view (k) is such a wide subclause that it really could impact on innocent employers, innocent organizations in relationship to employees who have a grievance or some issue with their employer.

Madam Speaker, when you look at clause 4(g):

“provided with an adverse reference or refused a reference;”

So this is an employee who can take action under the interpretation of detrimental action where he or she feels that she got an adverse reference or none at all, and I think it is very harsh, those definitions, and I ask the Attorney General to look at it because it was looked at in the JSC the first time around.

Madam Speaker, I want to refer to the JSC because when the hon. Prime Minister debated, when he debated, and the Member for Laventille West also, and the Member for Point Fortin, I just want to refer something to you. On the 13th of November, 2015, Minister Dillon, or the Minister of National Security, Edmund Dillon at the time, piloted this Bill in his first reading, and after piloting that Bill—and he read the first reading the first time—he took it, and I will quote:

“Madam Speaker, in accordance with Standing Order 64(1)(c), I beg to move that the Whistleblower Protection Bill, 2015 be referred to a joint select committee to be established for its consideration and report.”

That was not our doing. The Opposition did not ask for that. The Government of the day took it upon themselves to send that 2015 Whistleblower Bill straight to a JSC, Madam Speaker.

Mrs. Robinson-Regis: Madam Speaker, Standing Order 55 (1)(b), please. How many times you would say that? [*Crosstalk*]

Madam Speaker: Member for Pointe-a-Pierre, I would give you a little leeway

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but I would remind you that truncated JSC, JSC not completing its work, et cetera, all of that has been dealt with. So that I would give you a little leeway to develop this, but be guided by what has been said already.

Mr. D. Lee: Thank you, Madam Speaker, I am guided. The only point I wanted to make is that the Opposition did not ask for this JSC and the Government took it to a JSC on their own accord.

Madam Speaker, so when I started off by saying this is an unregulated, in my view, piece of legislation that can have malicious attacks on organizations and employers, and whistle-blowers can be malicious. I read in the papers, I read in the media on Saturday that “there had” seven homes that were invaded by the police—

Mr. Deyalsingh: Madam Speaker, Standing Order, 55(1)(b). [*Crosstalk*]

Madam Speaker: Minister of Finance, I would just caution you on tolerance. All right? Please. Member for Pointe-a-Pierre, malicious, whistle-blowers being malicious has been dealt with from any which way by several Members who made contributions already. So that I am not going to allow you to deal with whistle-blowers being malicious again. In fact, your first point is really a subset of whistle-blowers being potentially malicious. Please move on.

Mr. D. Lee: Madam Speaker, I am guided. Can I give you an example of a whistle-blower? I am guided? [*Crosstalk*]

Madam Speaker: Okay, so let us cut all of the crosstalk. Member for Pointe-a-Pierre, if you wish you can continue your contribution, but if you do not wish I make no judgment on that.

Mr. D. Lee: Okay. Thank you, Madam Speaker. I will continue. I will continue, Madam Speaker.

Madam Speaker, let me carry you and the Attorney General to a clause in

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this Bill, clause 20(3). Clause 20, I do not think anybody dealt with clause 20 in its entirety.

Madam Speaker: If you are asking—

Mr. D. Lee: No, I am just making a—

Madam Speaker:—several people have; several people have, so that if you are going to deal with clause 20, please deal with it in a way that it has not been dealt with before.

Mr. D. Lee: Thank you, Madam Speaker. Clause 20(3), now this, as you rightly know, Madam Speaker, the law is retroactive; 20(3), and I quote:

“In any criminal proceedings instituted against a whistleblower based on the fact that the whistleblower was the perpetrator of, or an accomplice in, the improper conduct disclosed by the whistleblower, the court shall, in giving its judgment or decision, take into due account-

- (a) the fact that the disclosure was made by the whistleblower; and
- (b)...

Mrs. Robinson-Regis: Madam Speaker—

Mr. D. Lee: I am reading.

Mrs. Robinson-Regis: Yeah, but everybody read it before you.

Mr. D. Lee: No. No.

Hon. Member: Yes.

Mrs. Robinson-Regis: Yes 55(1)(b), please, Madam Speaker.

Madam Speaker: Member for Pointe-a-Pierre, I know it is kind of difficult when a debate runs this long for us to remember everything but up to today clause 20(3) was dealt with, including today.

Mr. D. Lee: Maybe I missed it.

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Madam Speaker: Yes. Okay? So please continue, next point.

Mr. D. Lee: Thank you, Madam Speaker.

Madam Speaker, when this Bill was debated in a joint select, and the Bill in 2015 [*Crosstalk*] went to a joint select, there were some conditions. There were some conditions that the committee had given—

Madam Speaker: Members, if I do not hear the Member for Pointe-a-Pierre, how could I then rule on an objection that somebody may make? Member for Pointe-a-Pierre, please continue.

Mr. D. Lee: Thank you, Madam Speaker. Madam Speaker, I just want to refer you, and I do not think anybody said it, when the Ombudsman, Ms. Lynette Stephenson, Senior Counsel, submitted an issue to the committee in the JSC, she talked about retroactivity as an Ombudsman, and the committee had given the undertaking to the Ombudsman that her concerns would be dealt with in respect to retroactivity; in respect of putting a time limit on how far back one goes. And the committee had given the undertaking, and the Attorney General who was the chair of that committee had given the undertaking to take that into consideration. Madam Speaker, in this Bill, 2018 Bill, nothing of the sort was brought or adjusted in this Bill. [*Desk thumping*]

Madam Speaker, there are so many other different stakeholders who had submitted recommendations and the chairman of that committee, who was the Attorney General at the time, had said that they would have taken it under advisement to change the Bill. None of those recommendations, even by the Law Association in respect to clause 9 where it talks about information protected by legal professional privilege. So I am asking the Attorney General, with this new Bill that he talks about that has part of an old Bill—and at a JSC certain

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recommendations were raised by different stakeholders and they were given a commitment that they would make adjustments to it. And that is why we have said on this Bill that this Bill requires to go back into a JSC for better legislation because this law is not proportional. [*Desk thumping*] It is not proportional. It does not protect all citizens of Trinidad and Tobago. This law, this Bill, Madam Speaker, is a mischief piece of legislation. It is not about the whistle-blower. It is not about the whistle-blower that we talk about in this Bill. It is about a mischief that this Government wants to perpetrate on this country. [*Desk thumping*]

Mrs. Robinson-Regis: 48(6), Madam Speaker.

Madam Speaker: And I uphold the objection, please, withdraw and restate.

Mr. D. Lee: I withdraw, Madam Speaker, whatever I said.

Hon. Member: What?

Mr. D. Lee: Yeah, I withdraw whatever I said.

Madam Speaker: Member, Member—

Mr. D. Lee: I withdraw what I said.

Madam Speaker: Okay. All right, good, that is sufficient. Please continue.

Mr. D. Lee: Madam Speaker, so when we talk about this Bill, when the Attorney General piloted this Bill, this Bill is not about protecting whistle-blowers, either/or, this Bill is about putting—I would not want to use the word, someone has to help me—it is about putting an “unproportionate” piece of legislation on the citizens.

Hon. Members: Disproportionate.

Mr. D. Lee: A disproportionate—sorry, Madam Speaker. Because this is a piece of legislation that is a suite of legislation that the Attorney General talked about and we have seen where he is now putting together his puzzle to do what— [*Crosstalk*] The citizens have to ask that question, Madam Speaker, because this

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Bill talks about no report. What happens in this Bill, and the Attorney General in his wind-up should state where the whistle-blowers and their reporting activity go forward. Where does it go? Where does it end up, Madam Speaker? This Bill is really, in my view, about clause 20(3), and we will see that play out in this country in the next few weeks; clause 20(3), if we pass this Bill. And I will tell you, Madam Speaker, in closing, I cannot support this piece of legislation. I thank you.
[*Desk thumping*]

6.10 p.m.

Madam Speaker: Member for Siparia.

Mrs. Kamla Persad-Bissessar SC (Siparia): [*Desk thumping*] I thank you very much, Madam Speaker, for allowing me to join this very important debate which has engaged us over—today will take us in our second day of this debate—

Mr. Hinds: We too will accept your resignation.

Mrs. K. Persad-Bissessar SC:—and I will not take on that Member—

Madam Speaker: Member for Siparia, please, I am on my legs.

Mrs. K. Persad-Bissessar SC: I will not be distracted.

Madam Speaker: I am on my legs. Member for Laventille West, please allow. All right? Member for Siparia, continue.

Mrs. K. Persad-Bissessar SC: Thank you, Madam Speaker, for your protection. You know, when the hon. Prime Minister stood up to speak on this Bill on the last occasion he made a very curious statement, and I really would like to turn that statement, flip it around as it were. He said that he had a cousin who was afraid of getting married. Why? Because he was afraid that he would be “horned”, to use the Prime Minister’s language.

Madam Speaker, today I say, we do not trust this Government, we will not

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[*Desk thumping*] marry and join with them to pass this Bill, because we know that they will abuse it or have those who would do their bidding. We will not be bullied by them. [*Desk thumping*]

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(6).

Madam Speaker: Member for Siparia, I would ask you to withdraw. I know with your experience you can find another way to make that point.

Mrs. K. Persad-Bissessar SC: We do not trust this Government and therefore, I want to spend the time that I have here in this House to give some of the reasons why we feel this is seriously flawed legislation. Not only is it unconstitutional, but it goes beyond that remit because you may cure some of that with a three-fifths majority as the case may be, but it is beyond that; it goes to the 13(1) in the Constitution which speaks to, it must also:

“...be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.” [*Desk thumping*]

And we are saying, whilst the Attorney General brought before us or sometime ago in 2015, the 2015 Bill, and has now indicated that the Bill before us, the 2018 Bill is different, the concerns that were raised by the CPC on the 2015 Bill remain valid up to today and I shall demonstrate why. Because you see, the clauses that were impugned by the CPC Ian Macintyre, they remain, with the exception of three words—changes of three words—they remain identical to what was in the 2015 Bill. And therefore, the concerns on constitutionality and being disproportionate to the legitimate aims and so on, still hold in the context of the present Bill, and I want to share some of these today, Madam Speaker.

There was one issue that was not raised by the CPC in considering constitutionality and that had to do with clause 7(6), and I really want to raise that

today and ask the Attorney General what is the intention, because in using 7(6), and if I may read clause 7(6), it says:

“A disclosure made in relation to a member of Parliament shall not amount to a breach of privilege.”

On its face:

“A disclosure made in relation to a member of Parliament shall not amount to a breach of privilege.”

This is identical, Madam Speaker, to a provision that was contained in the 2015 Bill. It is the identical provision that we have there, and I will get the clause in the 2015 Bill—one moment, please. In the 2015 Bill, this was clause 6(5), identical.

Now, when the committee met, the Integrity Commission gave submissions on this particular clause and they said that clause should include words, “Any disclosure made...”—sorry, 7(6) now that it is, but in the original:

“A disclosure made in relation to a member of Parliament shall not amount to a breach.”

The Integrity Commission in their submissions said that the words should be included after the word “made”, “by a member of Parliament”. Now, I state this, because it is very important to understand what is the purport of this, and I will ask the hon. Attorney General in his winding up, if he would kindly clarify what this actually means. The Integrity Commission said in subclause (5), which was 6(5) and now 7(6):

“...we think the words ‘by a member of parliament’ need to be inserted after the word ‘made’.”

On the other hand in the column for comments, the committee’s comments, the committee agreed that this provision would be deleted. The committee agreed that

this provision would be deleted. Instead, it is repeated now as clause 7(6) in the 2018 Bill.

So, again, what the committee agreed or did not agree, was it some members, all members? But in the report of the JSC, the interim report, this is the Second Interim Report, it says:

“The committee agreed that this provision would be deleted.”

So it is still there.

When I heard the hon. Attorney General speak today—last day, in relation to that clause 7(6), I became a bit concerned and a bit confused, and those arguments were repeated by the AG after the hon. Member Tim Gopeesingh spoke and raised the query about that same 7(6). So if I may take a look at the issue of parliamentary privilege by looking at the *Hansard* of the hon. Attorney General, at page 13 of the *Hansard*. So there the hon. Attorney General explains this in a particular manner. I have it here, at page 13 of the *Hansard*.

I spent a little time on this because no one thus far has really touched on it seriously, but it represents to me a very fundamental departure from the laws of Westminster, [*Desk thumping*] from the *lex parliamenti* as we have known it, since— [*Interruption*] well, it is the same, from *lex parliamenti*, from time immemorial going back to the *Magna Carta* all those years ago, that the right of parliamentary freedom of speech has been enshrined. First it was there, as I say, in the common law, and then it became expressed in the Constitution, our Constitution at section 55 of our republican Constitution, it has been entrenched there. [*Interruption*] And, Madam Speaker, I do not like the word “dotish”. If they want to use it for themselves, refer to yourself. [*Desk thumping*]

Madam Speaker: Member for Siparia, I do not know which Member said it but,

again, I would like Members to be aware of the crosstalk and also unparliamentary language. Member for Siparia.

Mrs. K. Persad-Bissessar SC: I thank you very much. [*Desk thumping*] I refer to page 13 of the *Hansard* of the hon. Attorney General and this is what the hon. Attorney General had to say; this is with reference to clause 7(6) talking about privileges, parliamentarian. Now, “why?”—AG asked:

“Why? Because the law is designed to protect you when you are known from detrimental action and that is a critical point inside of here.

It also makes sure to treat with an important observation, raised by Member Ramadhar in the committee, which is, where we treat with parliamentary privilege and we have especially carved out the manner in which we treat with section 55 of the Constitution which is the absolute privilege of Parliament in the context set out.”

And then the hon. Member shifted to clause 8 and then comes back and says as follows:

“This includes for instance a matter which is now ended, the Dansam Dansook kind of matter, where a fraudulent statement was engrossed into an affidavit and brought to a Parliament, laid on table and resulted in something which happened in the courts and which then fell apart after due process. That kind of distinction, that kind of perjury will not find itself in this place.”

These sentiments were expressed by the hon. Member for Laventille West, the hon. Fitzgerald Hinds today, similar sentiments expressed about, if you come here with a statement and you make a disclosure in the Parliament, that this particular clause, he did not give the right clause, he said clause 9; clause 9 deals with legal

professional privilege. It is indeed clause 7(6) which talks about parliamentary privilege, Madam. So I really need for us to clarify.

Is it what it says on the face of clause of 7(6) or is it this explanation that has been given that when a Member stands in the Parliament and makes the disclosure, that Member will now no longer be subject to parliamentary privilege? This is what—I repeat what the hon. Attorney General said, eh.

“This includes for instance, a matter which is now ended, the Dansam

Dansook kind of matter a where fraudulent statement was engrossed into an affidavit”— [Interruption] —“...brought to a Parliament...”

—Yes, I got it. I got it from whistle-blower and I read it in the Parliament, and I had the parliamentary privilege at that time. The AG is now saying, it resulted in something which happened in the courts which then fell apart after due process.

“That kind of distinction, that kind of perjury will not find itself in this place.”

How is it not going to find itself here? How is it not going find itself here? The hon. AG will probably explain it because, you see, I have very serious concerns, Madam Speaker. [Desk thumping]

We have a parliamentary democracy, we have a parliamentary democracy and enshrined in our Constitution in section 55 is that parliamentary privilege, “freedom of speech”. I have said this goes back to hundreds of years and maybe right back to the *Magna Carta*, that when a parliamentarian speaks, you have the right of parliamentary privilege so that you can raise issues on behalf of your constituents. [Crosstalk] Will they stop grumbling? They have a chance to reply. You have a chance to reply. So that goes back I am saying, that privilege goes back, and then we came and we enshrined it in our Constitution. So first of all, the

committee saw wisdom in deleting it, it was not deleted; it reappears in clause 7(6).

Secondly, when asked here in this House by, I think it was MP Tim Gopeesingh:

“Hon. Attorney General, you are a very brilliant man.”

—Some of us may not agree, but Tim Gopeesingh did say that.

“You speak well. You are very learned....I would really love you to tell us what this really means:”

—And he read the clause:

“‘A disclosure made a member of Parliament would not amount to a breach of privilege.’

I could sit down and if you want to give the answer, or if you want to wind up.”

—AG, replies:

“Thank you, hon. Member. The concern—I would not take the opportunity to wind up—was how the law would articulate against section 55 of the Constitution, which provides the immunity from privilege for parliamentary Members, and what was requested here was consideration coming from Mr. Ramadhar—Member for St. Augustine—that we ought to make sure that if the Parliament wanted to give a disclosure under this, a Member of Parliament giving a disclosure would not breach the rule of privilege if that was done. It was taken from the English precedent of similar value.”

So this appears to be contradicting the example given both by the AG and the MP, hon. MP Hinds, about a particular incident of a disclosure made here, and is saying, that will not, could not happen here again.

Madam Speaker, whilst it is, if you breach section 4 and 5 rights of the

Constitution, your fundamental rights to privacy, no deprivation of property and so on, the law allows, the Constitution allows for that to be done with a three-fifths majority. This Bill does say it has a three-fifths majority, but you see, if you go by a side wind to imply an amendment to section 55 of the Constitution, then that is so deeply entrenched, what is needed is a three-quarters majority of the Parliament, [*Desk thumping*] not a three-fifths.

So, I await the AG's explanation as to why that example was given and how does it tie in with section 55 rights. And I will read section 54 of our Constitution. Section 54 tells us that if you are in any way—a Bill for an Act relating to section 55 and others shall not be passed unless the final vote is supported in the House by the votes of three-fourths of all Member of the House; in the Senate, two-thirds, so there is a much greater level of entrenchment in the Constitution. And then we come to section 55 which gives us the privileges and immunities of Parliament, which is deeply entrenched, and then we talk about 54, and we talk about altering.

So you may bring a Bill that directly says, I am going to alter section 55 of the Constitution or you might be implicating as this is doing. You may by implication be altering the Constitution and doing so, as I say, without the constitutional remit or indeed without the due respect, the proportionality that is required. I raise that issue, Madam, and I move on and I will wait the clarification because it will be important if this thing should come to a courthouse, it is important that the *Hansard* may be able to assist in the interpretation because we have two different versions of what this particular clause means. I move along, Madam, to some other issues with respect to our debate here today.

Now, you know, I also heard all the nice things about whistle-blowing and, yes, we agree about whistle-blower legislation and so on, but we have just had a

prime example of whistle-blowing gone bad or gone mad, and I will not repeat it, but we saw where information was given which would have been from a whistle-blower, and a heavily armed contingent of police officers descended on not one home, seven homes. I am told they were told to look for a particular coloured house. I am told that they were to look for a yellow house, so they went to every yellow house that they could find.

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(1), please. [*Crosstalk*] How many times will we repeat it?

Madam Speaker: Members, I will rise on Standing Order 55(1)(b). Member for Siparia, that matter was raised on about two occasions already for this afternoon. Please proceed with the other point.

Mrs. K. Persad-Bissessar SC: I am guided. And then, Madam, we have the other flipside of it where it is that we are talking about protecting whistle-blowers and helping whistle-blowers so that we can get to the root of corruption and so on. And yet, when we have not just whistle-blowing, you know, we have trumpets blaring, nothing has been done whatsoever to deal with those things. [*Desk thumping*]

The hon. Prime Minister came to this House and spoke about a letter sent, a whistle-blower's letter being sent to the then Prime Minister—speaking to my good self—from the Solicitor General and saying that the very person that was impugned in that letter—

Mrs. Robinson-Regis: Madam Speaker, Standing Order 55(1)(b). That was dealt with by other Members.

Mrs. K. Persad-Bissessar SC: No. No. No. No.

Mrs. Robinson-Regis: Yes, it was.

Mrs. K. Persad-Bissessar SC: No. No. No.

Madam Speaker: Member for Siparia, I will allow you.

Mrs. K. Persad-Bissessar SC: I thank you, Madam. [*Desk thumping*] Yes. No one dealt with it yet, Madam. Because you see, whilst people accuse others of mischief and confusion, it is exactly what they are engaged in, [*Desk thumping*] in statements that were made. And so the hon. Prime Minister in his contribution, told this House and by extension the nation, that this matter came—and it is at page 8 of the *Hansard*, page 8 from the last sitting on this Bill. I quote from the *Hansard*, with your leave, Madam:

“He talks about whistle-blowing”—I quote from the hon. Prime Minister—
“and the shortcomings of the appointment. I want to remind my colleague from Oropouche East, on this question of appointment of whistle-blower. There was a Solicitor General called Donaldson-Honeywell who wrote complaints to a Prime Minister; serious complaints about misconduct in a serious Government department, criminal conduct, and the Prime Minister sent it to the Attorney General to deal with it. That was a whistle-blower and the Attorney General was the subject of a complaint and that was how...”—
she dealt with it.

Nothing is further from the truth, Madam Speaker. [*Desk thumping*] Nothing is further from the truth. I have here with me the correspondence. [*Crosstalk*]

Madam Speaker: Members, everybody who wishes to speak will have an opportunity. I would like to hear the Member for Siparia. Member for Siparia, please.

Mrs. K. Persad-Bissessar SC: Thank you, Madam. Madam Speaker, the first point is that the Prime Minister sent it to the Attorney General; that is true. But the Attorney General was not the subject of the complaint in the letter. [*Desk*

thumping]

I quote here from the *Guardian* of Tuesday, April 29, 2014:

“Attorney General Anand Ramlogan has called on former solicitor general Eleanor Donaldson-Honeywell to clarify whether she sent an October 28, 2013 letter to Prime Minister Kamla Persad-Bissessar on the prison litigation issue as she had advised him that it was sent and had forwarded a signed copy to his office. The AG made the call in a statement last night, after Donaldson-Honeywell yesterday issued a press release on the letters she wrote to the PM in August 2013 seeking an investigation into her claims...involving attorneys in prison litigation cases and her apparent subsequent amendment to this. In her statement yesterday, which seemed to be spurred by continued raging public debate over the matter, Donaldson-Honeywell said at no time did she withdraw her call for a probe into the matter. She confirmed she did draft a letter, headed ‘Confidential and Without Prejudice’, on the issue but she said that she was ‘no longer in a position to have the records checked to determine whether it was sent.’”

—The hon. lady, had by then, resigned.

“Questions about the issue have arisen after an August 30, 2013 letter by Donaldson-Honeywell to the Prime Minister emerged in the media recently. In that first letter, Donaldson-Honeywell requested a probe into attorneys involved in litigation against the State.”

—And then, Madam Speaker, in that same newspaper article:

“Donaldson-Honeywell”—the goodly lady who—“was appointed solicitor general in 2010...the post was vacant for four years... resigned from the AG’s office November 12, 2013...When Donaldson-Honeywell had

resigned she told the T&T *Guardian* she resigned for ‘personal reasons’ and that she did not make any report of alleged corruption in her resignation letter. She had said then that she and the AG were on cordial terms and she had found him to be a person she did not have a problem with.” [*Desk thumping*]

That is one part of the newspaper article.

And in reports in the newspaper on that very said day, Madam, Donaldson-Honeywell indicated that she, as far as she was concerned, the matter had been sent to the AG. The AG was to work together with the Commissioner of Police, the DPP and other officials, and that as far as she was concerned the matter had been dealt with. All these I will put into the public domain in good time, I do not want to spend all my time on this mischief and confusion narrative that is coming forth. So here we are then on whistle-blowing.

And there is another matter that I would like to raise when it comes to this issue of retroactive legislation. Now, retroactive legislation which is in clause 5, I believe, here saying that this deals with matters before the coming into force of the Act and so on, it is really repugnant to the law as we know it. However, there are circumstances when you can have retrospective legislation. The problem is, when you have retrospective legislation, that now makes unlawful something that was not unlawful at the time when it happened.

In other words, you are going ex post facto to make something which at the time when it was done or being done was not unlawful, but then a subsequent law now says, “Hey, this thing is unlawful”. And I will give some examples here, and it is tied in, in fact, with CPC Macintyre’s opinion which those clauses are repeated. And what was said there is that, when we look at the range of wrongdoings

contemplated by the Bill, which is set out in the definition of “improper conduct” in the definition section, what it does is it goes beyond the commission of criminal offences and breaches of the law and they now include, for example, and I am reading from the definition of the word “improper conduct”. For example:

- “(c) conduct that is likely to result in a miscarriage of justice;
- (d) conduct that is likely to threaten the health or safety of a person;
- (e) conduct that is likely to threaten or damage the environment;
- (h) conduct that tends to show unfair discrimination...
- (i) willful concealment of any act described in paragraphs (a) to (h);”

This is included in the definition. The CPC tells us—and they are repeated in the present Bill—that these do not relate to the commission of a criminal offence or a breach of the law.

So if it is now *ex post facto*, suppose one of those things that happened prior to the coming into force of this Act, would not have been a breach of the law, but today from the time this goes into effect when it is proclaimed, it has now become “improper conduct”, actionable in the way under this law. That to me is totally against any tenet of our jurisprudence that deals with retroactive legislation.

The AG cited the case he calls the “locus classicus”, *Liyanage v The Queen*—I think he said *Liyanage v The AG*, but I think it was *Liyanage v The Queen*—a Privy Council decision which just says exactly the same thing in that case. *Ex post facto* after some kind of a coup had taken place in Ceylon, that that government passed law to keep people in jail for 60 days, but backwards. They had kept them for 60 days and they came to make legal that which had been not legal previously. And several things they had done in that new legislation after the fact,

and so in that retroactive law, the Privy Council held, “okay, we have to strike it down, because what you are doing now, things that may not have been unlawful then, you are now making them lawful after the fact”. And we see in this definition of “improper conduct” that there are indeed some provisions that would not have been considered improper conduct until this law comes into effect. I move on, Madam Speaker.

I am reading the newspaper today, this is the online version, this is the *Express*, a woman who helped solve a murder, hunted down and killed; today’s *Express*, the online version:

“Women who helped solve a murder, hunted down, killed.”

So I will ask, again, through you, in addition to these legal kinds of protection, what kind of physical protection will be given to whistle-blowers? [*Desk thumping*] What kind of physical protection?

“A 32-year-old woman shot and killed on Sunday night in Barataria. Police were told that at about 7.30 p.m. Franco was standing in her family’s yard...”—and so on, gunmen shot her down and so on.

And there are several cases. Like last week there was another one, of a gentleman, a story—

Mr. Deyalsingh: Madam Speaker, Standing Order 55(1)(b), please. Again, all this has been traversed today.

Madam Speaker: Member for Siparia, I will allow you to continue.

Mrs. K. Persad-Bissessar SC: I thank you, Madam. I am saying just last week I read of another case of a man who witnessed a murder, again, a witness. I know the issue has been raised about witness protection. Yes, St. Joseph, but again I am asking the AG, please, because we are seeing more of it happening, even as we are

telling people, “stick our neck out, blow your whistle”: What is the physical protection? There is nothing contained in this law with respect to that. We know that there is a Witness Protection Programme, how is that going to be beefed up to help these people.

And I go back, again, now, to whether this law is proportional or disproportional, and to whether we satisfy 13(1) of the Constitution that it is reasonably justifiable in a society with the respect for the rights and freedoms of others.

The CPC had told us that several things were not constitutional, and I know that we were shut down, Members were shut down from reading his opinion because we were told it is another Bill.

Madam, I just want to raise, again, and to show that the clauses are identical and therefore, the concerns raised by the CPC are still germane and very relevant to the issues of constitutionality.

The CPC told us, A, the long title—and I am saying 2015, and I am reading and just inserting what is the current provision in the 2018 Bill. The long title is identical to the 2018 Bill before us. The definition of “improper conduct” in clause 3 is identical to the definition now contained in clause 4. Clauses 6(1) and (2) are identical to the now 7(1) and (2). Clause 9(2), identical to now 10(2); 10(2) from the old one, identical to 11(2); 12(3), identical to now 13(3); 13(2) then, identical to now 14(2); 15(1) from then, identical to 16(1) except we have now added a few words “with the consent of the whistleblower”; and I will return to that point, Madam.

And what the CPC told us is that all these clauses which have been reproduced in the 2018 Bill:

“...when read together, permit the disclosure, collection, processing and sharing of personal or confidential information of a person without his knowledge or consent;”

—And this is where we get into the breaches of privacy rights and so on.

Clause 4, CPC tells us of that 2015 Bill, is now the same identical to clause 5 of our 2018 Bill:

“...which permits a disclosure to be made in respect of improper conduct...coming into force of the proposed Act;”

—Dealing with retroactive legislation; I have already raised that issue.

CPC talks about clause 6(6), that has been removed, but clause 16 now 18; clause 25, now clause 27, these:

“...make contractual provisions voidable, unenforceable and void...”

Finally, clause 16 which is now our 18, and 17(1) which is our 19 (1), they:

“...limit the right of persons to initiate civil or disciplinary proceedings.”

This is a severe indictment on this Bill. You are depriving a citizen of his fundamental right enshrined in the Constitution [*Desk thumping*] to go to a court of law to initiate civil proceedings. You are saying no such proceedings can now be initiated and you look to 19(1) of our present Bill—and I need to read it—which is a breach of protection of the law and your right to access a court of law. That is the tenet, that is a cornerstone of any democracy, Madam Speaker. [*Desk thumping*]

6.40 p.m.

Madam Speaker: Member for Siparia, your original 30 minutes are now spent. You are entitled to 15 more minutes. I just want to remind Members of the front bench, Member for Siparia has a pretty fine voice so it is difficult with the constant talking to hear her. Please continue.

Mrs. K. Persad-Bissessar SC: I know that. Thank you for that compliment, Madam. I am aware that I have a very fine voice, thank you for that compliment. Madam, I am saying it is the cornerstone, you know, a democracy. The cornerstone of a democracy is the right of the individual's access to a court of law, for the determination of your rights and so on. Before that happens—aware, the justice system does not really operate. What you have is strong-man tactics. What you have is the law of the jungle, the strongest and the fittest survive. What really distinguishes a civilized and modern society from the law of the jungle is in fact that right of access to the court to determine the right to do that. [*Desk thumping*] And so we come to 19(1) here:

“Notwithstanding any other law,...a whistleblower who makes a protected disclosure is not liable to any criminal, civil or disciplinary proceedings for having made such a disclosure.”

Not subject to any criminal or civil proceedings. Madam, you cannot take away the right of an individual to go to court to have their rights determined. [*Desk thumping*] A whistle-blower does something that is contrary and against your rights, you cannot take away that right, and this is what CPC Macintyre—you know they could frown and scream and twist their faces, this is the view and opinion of CPC Ian Macintyre. [*Desk thumping*]

I am just transposing it into the new provision—into the new clause number of the identical clause 20, and I will read it. So 19(1) has now become 17(1) in the Bill, 2015—17(1)—identical to what is now 19(1), which I just read; 17(1), which is what Ian Macintyre spoke about and wrote about—wrote his opinion about—is identical to this clause I have just read, where you seek to deprive a person of their rights to access to a court and to a—civil or criminal court. So, let me quote from Senior Counsel, Chief Parliamentary Counsel Ian Macintyre—19(1) is now 17(1).

So, with respect to clause 17(1), Senior Counsel McIntyre told us, in his opinion, retroactive. One moment please, Madam. Yes, and I read from that opinion of the CPC which dealt with clauses 16 and 17(1) of the old Bill, and I am now indicating to these now related to the present 19(1) here, Madam Speaker. Identical clause 16 is now clause 18. Identical. And 17(1) that CPC Macintyre spoke about is now identical to 19(1), and this is what the Senior Counsel CPC had to say:

The final issue for consideration is whether clauses 16 and 17(1)—now I am seeing reproduced in the new Bill as discussed—infringed the right to protection of the law by removing the rights of persons to initiate proceedings in court. Essentially, the issue is whether limited access of persons aggrieved by the actions of a whistle-blower to judicial proceedings or administrative remedies is a breach of sections 5(2)(e) and (h) of the Constitution.

I continue quoting, sections 5(2)(e) and (h) of the Constitution state as follows, (2):

“Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not—”

Parliament may not, that is us here and the other House. Parliament may not:

“(e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;”

Further, (h):

“Parliament may not—

deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.”

I continue from CPC Macintyre:

The Constitution therefore provides that every person has the right to have a dispute that can be resolved by the application of law decided in a fair public hearing before a court or where appropriate another independent and impartial tribunal or forum.

It is submitted that both these clauses abridge sections 5(2)(e) and (h) of the Constitution, detrimental action is defined in the earlier interpretation clause to include subjecting the person to disciplinary action.

Clause 16, therefore, prevents an employer from initiating disciplinary action against an employee who in making a protected disclosure breaches a duty of confidentiality owed by him to his employer under his contract of employment. Similarly, clause 7 deprives the employer of access to criminal, civil and disciplinary remedies for such a breach. These clauses are therefore unconstitutional, and even if they were passed with a special majority it may fail the test of being reasonably justified [*Desk thumping*] in a democratic society, because, why?—this is what the CPC said—because it tolerates the commission of criminal offences for the purposes of making a protected disclosure.

So you are saying, that whistle-blower guy, I am protecting you so well you could commit a criminal offence, you could “hack into a man computer”, you could break down his door, you are tolerating a criminal offence for the purposes of making a protected disclosure. These are not my words, Madam Speaker. All the grumbling there will not change the words of CPC Ian Macintyre in his opinion given to the Joint Select Committee. [*Desk thumping*]

I have indicated through you, Madam, which Bill? Both Bills. The provisions I have listed in the 2015 Bill are identical to the provisions found in the

2018 Bill. So you are not getting away with that. [*Desk thumping*] They are identical. I listed that at the start. I showed how each one was identical; come and tell me it is not different. The only difference I saw is in a clause which says that you will now add the words in 15(1), which is now 16(1), to add the words “with the consent of the whistleblower”.

Madam, the issue raised by CPC Macintyre was not that you can disclose— let me read the clause, I think it would make more sense for us; 16(1), it is not the consent of the whistle-blower, you know. It is not the gathering and analyzing and collating and sharing the information of individuals with the consent of the whistle-blower, you know. That is what you now want us to say, you could do all of that, but guess what, we slip in a lil clause here, because you want to use the word “consent”. It is the consent of the persons whose individual private confidential data is being shared. It is being collated. It is being run all over the place. So, in this Bill, the '18 Bill, all that has happened for that clause, 16(1), is to add the words “with the consent of the whistleblower”. It appears to me a complete misunderstanding of what CPC Macintyre had said, that if you are going to use people's private and personal and confidential data you should have the consent of the person. Not the consent of the whistle-blower. Whose rights are being damaged and affected? Not the whistle-blower. It is the person whose data and information is being shared. [*Desk thumping*]

And now, another very serious matter here which has to do, and again CPC dealt with it, which has to, making contractual provisions voidable, unenforceable and void, and these are to be found was then in clause 16, now clause 18, and then in clause 25 identical now to 27. So it is the same clause that was impugned by CPC Macintyre, 18 and now 27. And let us read 18 what it does. It breaches all

your contractual arrangements. 18 says:

“Subject to the exceptions provided for in this Act, despite any prohibition of, or restriction on, the disclosure of information under any written law, rule of law, contract, oath or practice, a whistleblower shall not be subjected to detrimental action on account of his having made a protected disclosure.”

In spite of any provision. In spite of any law. In spite of any contract. Go ahead, it is okay. You are saying none of that matters, the whistle-blower trumps everything else, a contract, a provision in another law. Central Bank Act has confidentiality prohibitions. A lot of laws have these confidentiality provisions. What is going to happen? You are now taking with one swoop, forget everything in the law, in the framework of our law, just forget it, whistle-blower come forth. Come forth, that is what you are saying, Oh ye who have something to tell, come forth, come forth, [*Desk thumping*] break the law, commit a criminal offence. We are going to give you immunity. We are going to give you the immunity; you are not going to be able to be subject to any disciplinary, civil or criminal questions on your behaviour. How can that be right in a society that has the proper respect for the rights and freedoms of the individual? [*Desk thumping*] How can that be right, Madam Speaker? I ask of you.

And so, that what I read for you was what was 16 now 18, and then 25 now it is 27. So they were just shifted around. They were not removed, you know. The only change that this Bill has of any substance, it now includes a clause which says this Act is inconsistent with the Constitution. And having made that change, the numbers of the clauses shifted accordingly, but the clauses remain, so here is what 27 says, in similar vein:

“Any provision in a contract of service”—so you are trumping any

contractual arrangements between a company and another employer/employee trumpet, wipe it out in other words—“or other agreement between an employer and an employee is void in so far as it—

- (a) purports to exclude any provision of this Act, including an agreement to refrain from instituting or continuing any proceedings under this Act; or”—insofar as it—
- (b) “purports to preclude the employee or has the effect of discouraging the employee from making a protected disclosure.”

Any provision in the contract, Madam.

There is a case in our West Indian Law Reports, I believe it is *IRC v Lilleyman*, which talks about what is property, and contractual agreements are seen as property. The terms in the contract, in that case, *IRC v Lilleyman* reported in the West Indian Law Reports, which tells us money is property, yes, and contractual obligations, that is also property. And if through this law, these two sections I have read, you are now going to void contractual terms, then again, you are being deprived of your right to property without due process, Madam Speaker, in breach of the Constitution. So you are making contractual provisions voidable, unenforceable, and void under these provisions, 18 and 27. Thank you. Thank you.

Madam, as I close I heard a very strange kind of convoluted logic coming from a Member, and it is not the first time I have heard it, from a Member opposite, talking about projects. I think that is when the MP for Oropouche West was objecting under 48(1) when another MP from the other side was speaking, and it was about savings. We saved so much money on the road to Valencia. We saved some money on the Curepe interchange. We saved money. It is the first time I hear people saved money where no money was spent, whatsoever. [*Desk thumping*]

How can you have savings, how you are going to save if no work was spent, no money was spent? How can you save? The only time you can save, and you show—[*Interruption*—well that is it, you know, you really, is a do-nothing Government, blame everybody in the world, say “we fraid your whistle-blowing thing”. Well, yes, the people of this country are afraid of you. We do not trust you, and we will act accordingly. I thank you very much. [*Desk thumping*]

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, just to remind the public of Trinidad and Tobago what it is that we are currently debating in the House here today, least they forget as a result of all of the misrepresentation of fact that has taken place over the past few hours. We are debating a Bill to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector to protect persons making those disclosures from—

Dr. Khan: 48(1); that was said already.

Madam Speaker: Thank you. Member, please proceed.

Hon. S. Young: Madam Speaker, as I said, this debate here today is a debate that goes to the heart of corruption. [*Desk thumping*] This debate here today is a debate that has all of those who may have engaged in acts of corruption in the country quite nervous. This debate, Madam Speaker, is to go directly against the scourge, the disease of corruption. A disease that affects the whole of society.

Madam Speaker, respectfully, when money is misappropriated, when money is stolen, when the Treasury is abused and moneys are misappropriated, it means less for the children, less for education, less for sports, less for hospitals, less for travel and infrastructure, less for the police service, less for teachers, less for doctors,

nurses, sanitation workers, and unfortunately, less for the young children who will have less opportunity as a result of the misappropriation of money from the Treasury of Trinidad and Tobago. And this Bill here today, Madam Speaker, that we are debating, is an important and crucial pillar in any country's fight against corruption, and in particular, corrupt acts of misappropriation of taxpayers' money.

You see, Madam Speaker, from day one, this administration has told the public, even before becoming the administration, that the corruption that was committed previously would be something that eyes would be focused on. This administration had said prior to coming into office that what we would be focusing on—

Mr. Lee: Madam Speaker, 55(1)(b) please. 55(1)(b).

Madam Speaker: Member, I would allow you some leeway.

Hon. S. Young: Thank you very much. I understand why the word “corruption”, [*Interruption*] I understand why the word “corruption” has a certain effect on certain people in this House. [*Desk thumping*]

Madam Speaker, whistle-blowing is one of the most critical pillars in a fight against corruption. You see, Madam Speaker, when corrupt acts have taken place they usually involve more than one person. There are normally fingerprints left, there may be footprints left, but there are always persons who have assisted or are aware of corrupt acts being committed. And in order to fight corruption and turn information, to turn old talk, intelligence even, into evidence for prosecution of corruption, you have to provide safe avenues for persons who want to speak the truth. Persons who want to speak to the authorities and to tell them what has taken place.

Madam Speaker, there is a terminology called “dog whistling”, and I am

sure that the public is aware of the concept of dog whistling. And dog whistling is when people blow a silent whistle, silent to certain ears, but those that they want to hear the whistle will hear it and react. It disheartens me as a citizen of Trinidad and Tobago, and as an elected Member, one of 41, to have sat in this House on two occasions, on the last occasion, and through the whole of today, from 1.30 this afternoon, or from 2.30 when the debate began, or thereabouts, to hear every single Member of the Opposition who contributed, every single one of them, blew a dog whistle, that any whistle-blower that comes forward, be careful about your safety and your health. I sat here and I wondered [*Interruption*] and the Leader of the Opposition is saying it out aloud again. Is it a warning that is being sent by the Opposition, that any person who wants to come forward under this Bill, any snitch as they put it, anybody who has evidence of corruption that was committed, be careful. [*Interruption*] And look, Oropouche East, are these threats, Madam Speaker? Is this the dog whistle effect that is taking place? I put the country on notice, because every single member of the Opposition blew the dog whistle here today. [*Crosstalk*]

Madam Speaker: Member, please continue.

Hon. S. Young: Madam Speaker, is the message, the clear message, the clear mantra being portrayed and protracted by the Opposition today, is it a warning to those who want to do what is right for the country, and come forward and give evidence of wrongdoing, do not do it, because something may happen that they know about? So, I would like to correct it immediately on the record—Madam Speaker, as we stand here today in this debate, and the Leader of the Opposition, the Member for Siparia referred to an *Express* article about a young women who lost her life in

Barataria last night, and the claim that she was under witness protection. I correct the record here today, not a single person who is under the witness protection of Trinidad and Tobago, from its inception to now, not a single life has been lost.

[MR. DEPUTY SPEAKER *in the Chair*]

So, all of the dog whistling in the world about witness protection that is constantly put forward by those on the other side is completely misplaced. So any whistle-blower who wants to come forward in Trinidad and Tobago and give evidence, and they can be subjected to the Witness Protection Programme of Trinidad and Tobago. To date there is 100 per cent record of every witness being kept alive and being kept safe. So there is that safe haven. Of course, the Witness Protection Programme, Mr. Deputy Speaker, contains sometimes very onerous terms for you to be maintained in a safe environment.

I have listened for two days now of debate, and it is as though whistling-blowing policies and procedures are something new, something novel, something that is abnormal, something ground and earth shattering, but I would like to tell the public of Trinidad and Tobago, as they probably already know, many corporate entities in Trinidad and Tobago have whistle-blowing policies and procedures. Massy, Sagikor, BP and other oil and gas multinational, Angostura, Atlantic LNG, in the financial institutions, FCB, Unit Trust, WASA, Republic Bank, all of these private entities have whistle-blowing procedures and policies. Many of them actually hire independent suppliers that the whistle-blowers can go to outside of the institutions, outside of the country. In fact, as the Member for San Fernando West reminds me, prior to me being the representative for Port of Spain North/St. Ann's West, I was on the panel for oil and gas multinationals in whistle-blower programmes, that when someone in the programme wanted to blow

the whistle internally, I sat on the panel to investigate and determine those whistle-blowing occasions.

So I assure the public of Trinidad and Tobago, there is absolutely nothing to fear with this Bill and with this proposition, and this Act here today. In fact, the only people that are going to be fearful of this type of legislation here today are those who have in fact committed the ills and the wrongs, and have engaged in corrupt action. And I say that without fear of contradiction, despite all of the Cambridge Analytica type of mantras we have heard, all of the fearmongering that we have heard taking place here today.

Mr. Deputy Speaker, if you would now allow me to deal with some of the misinformation that is being put forward over the period since the first debate all the way to today, even from what I have seen reported in the newspapers over the weekend. The first one, which is the most ridiculous of propositions, that I see the newspaper, the *Express* newspaper today reporting that the hon. Member, and she is actually reading the newspaper there, so if she turns to page 3 of the *Express* newspaper, the hon. Member for Siparia said at a function on Saturday, in the attempt to fearmonger amongst the population, the proposition was that anyone who has any form of employment or employs anyone—so if you only have two employees you have to set up a whistle-blowing unit, and this type of proposition, that no matter how many employees you have you have the responsibility to set up a whistle-blowing unit. Completely false. Misinformation being spewed by none other than the Leader of the Opposition, Senior Counsel, former Prime Minister of Trinidad and Tobago, to the public of Trinidad and Tobago. [*Desk thumping*]

It is very clear in the proposed Bill, Mr. Deputy Speaker, that we are saying that there are designated authorities that will have the responsibility to set up

whistle-blowing units for exactly those types of situations, for the people who only employ one or two persons, for anybody in Trinidad and Tobago, and you do not even have to be a national of Trinidad and Tobago to go forward to one of these designated authorities and to give the whistle-blowing evidence the information, and these designated authorities now have the responsibility to investigate the allegations that have been raised.

So, I would like to dismiss and dispense immediately this falsehood, this misinformation being given by the Opposition that everybody has to set up a whistle-blowing unit in their organization. That is completely untrue, inaccurate, false, and is misleading. The fearmongering that we have heard taking place throughout the course of last week, over the weekend, into today's debate. The continued attempts by the Opposition to frighten the population about anticorruption legislation, and I say again, that if you have not engaged in wrongdoing you have nothing to be afraid of, and I turn immediately to clause 23(1)(e).

Mr. Deputy Speaker, they have been pushing a story, a narrative, that anyone can go and make up a story on someone else and put them through a whole whistle-blowing operation. They can go and give false evidence to the authorities and then you would be susceptible to the law. I would like the public to know that that is provided for in this legislation. Clause 23(1) says:

“A person commits an offence if he—

- (e) purports to make a disclosure under this Act knowing that it contains a statement that is false or misleading, or being reckless as to whether the statement is false or misleading.”

Mr. Deputy Speaker, the provision that I have just read says in the clearest

possible terms that if anyone gives false or misleading information under the whistle-blowing legislation they are susceptible to being charged and found guilty of a criminal offence. So the law provides, the law provides to make sure that anyone who decides to engage in providing false information will be susceptible to a criminal charge. So again, complete falsehood, complete misinformation in the fearmongering attitude of those on the other side. Another one is the continued calling of harm to whistle-blowers by the Opposition is to be condemned. We on this side condemn the continued calls, every single speaker on that side—

Mr. Padarath: Mr. Deputy Speaker, 48(6), no one—

Hon. S. Young: Every single speaker on that side—

Mr. Padarath: Mr. Deputy Speaker, 48(6).

Mr. Deputy Speaker: Overruled. Proceed.

Hon. S. Young: Thank you very much. Mr. Deputy Speaker, the truth is the public would have seen the debate. The public would have noted that every single speaker of the Opposition made the call about the harm that would come to anyone who blows a whistle, and they cannot deny it. It is there on the *Hansard*. We condemn that type of behaviour. The attitude of this country cannot be, do not pass law, do not do anything to fight corruption because of the potential harm that can come to witnesses. The attitude that is being espoused is do not do anything to disrupt—

Mr. Padarath: Mr. Deputy Speaker, 48(6), no one of this side has ascribed harm to whistle-blowers. He must withdraw that.

Mr. Deputy Speaker: Overruled.

Mr. Imbert: Every single one of you all said that.

Hon. S. Young: I would not worry to respond it.

Hon. Member: What, Diego Martin?

Whistleblower Protection Bill, 2018
Hon. S. Young (cont'd)

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Mr. Imbert: I was awake, you know.

Hon. S. Young: It was amazing as well, Mr. Deputy Speaker, with the greatest of respect, in fact my—[*Crosstalk*]

Mr. Deputy Speaker: Members, Members. Hold on, one second. As the Speaker in the Chair I have ruled based on the Standing Order that the Member has identified. Kindly proceed.

7.10p.m.

Hon. S. Young: Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, my colleague from Chaguanas West spent almost the whole of his contribution focused on the whole procedure of how this left a joint select committee and then why was the Joint Select Committee not allowed to complete its work, and why was this Bill brought back to the Parliament. Mr. Deputy Speaker, this is a continual submission, again, by those on the other side and by the Opposition. And, again, I would like to tell the public of Trinidad and Tobago, through you, Mr. Deputy Speaker, it is, in fact, a weak submission. As the hon. Member for—

Mr. Padarath: Mr. Deputy Speaker, 55(1)(b), please. We have dealt with the issue of the Joint Select Committee—55(1)(b). [*Crosstalk*]

Mr. Deputy Speaker: Member, now that the proper Standing Order has been invoked, I would like you to tie in your point quickly and move on.

Hon. S. Young: Mr. Deputy Speaker, with the greatest of respect, this is me responding to what they have said. [*Crosstalk*] There has only been—

Mrs. Persad-Bissessar SC: The Speaker has ruled. [*Crosstalk*]

Mr. Deputy Speaker: Member, please. [*Crosstalk*] Members. Hon. Member, I have so ruled. Again, tie in the point and then you can proceed.

Hon. S. Young: Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker,

the point is this. The Bill has to go to a full committee of the House in the full glare of the public in live proceedings of Parliament. Everybody has the opportunity at that stage, not only a few select members of a joint select committee. Forty-one Members of the House will have the opportunity, in full committee of Parliament, to go through on a clause by clause basis and to make any suggestions they want to amendments. And I will say at this stage, for the public, not a single proposed amendment has been made by any Member of the Opposition as at this stage. When we go to full committee, any amendments they want to make—they talk about they will support good law—it is open at the full committee stage for them.

[*Crosstalk*]

Mr. Deputy Speaker: Member for Siparia, please. I will give you a certain leeway but, again, it is continuous. Please let the Member finish his discourse.

Hon. S. Young: Mr. Deputy Speaker, with the greatest of respect, it is the public of Trinidad and Tobago who will judge what goes on in the House. They will look very carefully at the behaviour; they will listen very carefully to the dog-whistling and ignore it.

So the point that I am making, Mr. Deputy Speaker, is for them to say—for the suggestion to be made that we should not proceed with the Bill because it came out of joint select committee, is a complete non-starter. Let us deal with it in full committee. Furthermore, what I would like to say is that a lot of the submissions being made—and I will come to it in a short while, in particular with the CPC's contribution. The CPC's advice was with respect to a Bill that was initially laid in 2015.

Mrs. Persad-Bissessar SC: The provisions are identical.

Hon. S. Young: I now deal with the point of retroactivity. Mr. Deputy Speaker, the

submission was being made again by the Member for Siparia with respect to retroactivity, and the suggestion that this Bill is now creating offences, that if passed, or when passed, would mean that persons now can be charged with something done in the past. Again, completely inaccurate. This Bill is about whistle-blowing. This Bill is about providing procedures to protect persons who want to come forward with evidence. The evidence would be of crimes and offences already committed in the past; crimes and offences that, when committed at the time they were committed, were already crimes and offences.

So the whole dispute, the whole debate, with respect to retroactivity, does not arise here, with the greatest of respect, Mr. Deputy Speaker. That is if we were creating a new offence today for something that you did in the past that you now stand to be captured for. At the time when you did it in the past, it was not an offence, that does not apply here. The retroactivity is the protection for the whistle-blower who comes forward with the evidence now, of a crime and offence that was committed in the past. So it is a blanket of protection.

You can come. Come freely. The Member for Siparia and others saying, “Come ye, come ye, and bring all the evidence”. Yes, do that. Do what is right for Trinidad and Tobago. Come forward and give us the evidence of the wrongdoing that took place in the past and the offences that were committed in the past; the kickbacks that took place in the past, and all of the other acts against the Treasury that took place in the past: the over-pricing, the inflation of the lands that took place in the past; all of the contracts—

Mr. Padarath: Mr. Deputy Speaker, 55(1)(b) please. We have been through this with several speakers on Government side.

Hon. S. Young: Nobody said that.

Whistleblower Protection Bill, 2018
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Mr. Imbert: Nobody.

Mr. Padarath: 55(1), please.

Mr. Deputy Speaker: Member, again, as the speaker mentioned, he is responding based on what your last speaker said, the Member for Siparia. Proceed. Overruled.

Mr. Padarath: Tedious repetition.

Hon. S. Young: Thank you very—Mr. Deputy Speaker, the Member for Princes Town could come forward—

Mr. Deputy Speaker: Member, no. I have ruled. Proceed. I have ruled.

Hon. S. Young: I am contributing. The Member for Princes Town could come forward and give evidence, you know.

Mr. Padarath: Mr. Deputy Speaker—

Hon. S. Young: You could come and tell us what was going on.

Mr. Padarath:—48(6). Please do not draw me into the debate.

Hon. S. Young: We are giving you protection—

Mr. Padarath: 48(6).

Hon. S. Young: Come and tell us what was happening.

Mr. Padarath: 48(6). “Why yuh doh tell us about yuh stepdaughter”—

Hon. S. Young: Member for Princes Town, if you want to tell us—

Mr. Padarath: “—and all de drugs”—

Hon. S. Young: If you want to tell us what was happening—

Mr. Padarath: “—and de money. Why yuh doh tell us about dat one.”

Hon. S. Young: Tell us.

Mr. Padarath: Tell us. Tell us about “dat” one.

Mr. Imbert: Put him out.

Mr. Deyalsingh: “Yuh getting personal, boy.”

Mr. Padarath: “Dat one ah want tuh hear about.”

Mr. Deputy Speaker: Members, Members, again, I have ruled. And Member for Princes Town, I have ruled. I would like you to retract every statement that you just made.

Mr. Padarath: Mr. Deputy Speaker, I retract, but also I rise on Standing Order—
[*Crosstalk*]

Mr. Deputy Speaker: No. Hold on. Hold on. One at a time. I would like you to retract your statement.

Mr. Padarath: Mr. Deputy Speaker, I retract the statement.

Mr. Deputy Speaker: You have something else to say, Member?

Mr. Padarath: Yes. Mr. Deputy Speaker, 48(6). The hon. Member is imputing improper motives by calling on me to become a whistle-blower. I am in no way involved in this debate.

Mr. Deputy Speaker: Okay, Member. I will so rule. [*Crosstalk*] And again, Member, again, based on the Standing Order, I would like you to move on to your point. Move on from that point.

Hon. S. Young: Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, the truth is, in the whistle-blowing world, the persons who are around the acts, who are around the corrupt acts that are being committed, are the ones who would come forward. The ones who were carrying the bags; the ones who were carrying the documents; the ones who were on the travels, those are the persons that we expect to come forward and do what is right for Trinidad and Tobago. [*Crosstalk*] Come forward and tell us what it is that was going on.

Mr. Deputy Speaker, the next point I would like to deal with is the view of the CPC. Mr. Deputy Speaker, the Chief Parliamentary Counsel, Mr. McIntyre SC,

at the time in 2015, providing an advice based on a Bill at that time, I have laughed—I have laughed—and it is ridiculous to listen at times to what is being said, Mr. Deputy Speaker. They say no changes were made. But the change that was made—and just to go back in time to give the public the full context, the Bill that was first brought in 2015 that went to a joint select committee, that the CPC's advice was based on, had no constitutional provision in it. It had no constitutional protection. It did not provide for the protection and a special majority. The CPC then said, "Well, hold on. The Bill, without any constitutional protection, infringes constitutional rights." At that time there was a debate, because all of the legislation that was looked at through all of the jurisdictions that made up that Bill: Jamaica, Malaysia, Australia, Malta, none of them—and all of them have written Constitutions—had any constitutionality provision in it; not a single one of them, not Jamaica, Malaysia, Malta; none of them.

But the CPC was of the view and opinion that the Bill that was before the Joint Select Committee required a special majority. The Bill that we have been debating over the last two days, Mr. Deputy Speaker, it may surprise some if they have been listening to the debate and hearing about this CPC's advice and about the breach of constitutionality, starts off with the insertion of the special majority provision. So the big change between the Bill that the CPC was looking at and the one that we are currently debating is that the Attorney General has inserted the constitutional protection provision. So, therefore, to say that it was not answered; it was not dealt with, again a completely false misrepresentation of the reality of what we are debating here.

Furthermore, to refer to, and to have Senior Counsel refer to section 13(1) of the Constitution and talk about proportionality, just for the public, Mr. Deputy

Speaker, section 13(1) says:

“An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5...”

Pause. That is exactly what this Bill has. This Bill has the provision of that declaration at the start of 13(1). And it goes on and says:

“...and, if any such Act does so declare,”—which this Bill does—“it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.”

Mr. Deputy Speaker, what that means is, you look at other jurisdictions—you look at other like jurisdictions around the world to see what is the law that they have brought into play. That is the test. That is how it is tested in the courts. And maybe I would let the vast majority who have not practiced in the courts get away with the submission, but not a Senior Counsel. Because the way the court applies section 13(1) is, it looks at other jurisdictions to see what is applicable and whether, in those societies, they have similar provisions.

And as I just said, Mr. Deputy Speaker, and I say it here today for the *Hansard* and for if anybody decides to take it to court, all of the legislation that we looked at in order to prepare this Bill, from Malaysia, from Malta, from Jamaica, from Canada, Australia and all of those Commonwealth jurisdictions, not a single one of them took the precaution that this Attorney General has taken and inserted a need for constitutional protection. So I can say, without a doubt, that if this were tested in court it would pass the section 13(1) test because it is reasonably justifiable by the fact that all of those Commonwealth jurisdictions have similar law.

What that is meant to do is to protect you from having a law that has come out of the blue, has fallen from somewhere that you can find no other jurisdiction that has similar provisions. Every single provision in this Bill and in this proposed Act, Mr. Deputy Speaker, has come from a Commonwealth jurisdiction where the law has been passed, is being applied, is being implemented, utilized, without constitutional protection that we have imposed on it. So, again, that submission is a completely baseless one in law. [*Desk thumping*]

Mr. Imbert: That is a good point.

Hon. S. Young: Another point that was made on that same—the second half of that point that was being made is with respect to clause 20, and the end of the submission of the Member for Siparia that what you are doing is, you are breaching the Constitution because what you are allowing is a person—an employee—to give evidence, to blow the whistle on its employer for something that has taken place in breach of confidentiality provisions and then to somehow be sacrosanct from any criminal charge against them or any civil action. Mr. Deputy Speaker, again, a completely wrong submission, completely false submission. And I turn to clause 20. Clause 20 of the Bill says:

“Subject to subsection (3), nothing in this Part shall prevent the institution of criminal proceedings against a whistleblower, where the whistleblower was the perpetrator of, or an accomplice in, any improper conduct—”

So the person being spoken about there is captured. There is no protection in this. If you have breached—if you were part of the act, et cetera, the immunity is not a complete immunity. If you have committed an act on your part, if you have carried the handbag with the money, or you have carried the wire transfer in the handbag with the scarf, it does not give you full immunity, but still come and talk

to us. A deal could be worked out.

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

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

Mr. Deputy Speaker: Proceed. [*Desk thumping*]

Hon. S. Young: Thank you very much, Mr. Deputy Speaker. So, Mr. Deputy Speaker, in a very short period of time, what we have done is dismantle every single submission that we have heard repeated over and over, and over in the last two days and we have shown that every single one of them is baseless in fact, baseless in law, and, in fact, what it is, in my respectful submission, is the dog-whistling and the fearmongering, and we have heard it repeatedly.

So, Mr. Deputy Speaker, what I tell the population, and I tell the people, as the representative—as the person for Port of Spain North—the people of Port of Spain North/St. Ann's West—is, have nothing to fear with this legislation. Like the other legislation that is directed to fighting corruption, this is being done to protect the future of Trinidad and Tobago. This is being done to protect and to provide opportunities for the young children in Trinidad and Tobago. Because when you see billions of dollars are misappropriated from a treasury and hundreds of millions of dollars go missing—and I have heard the laughing when my colleagues have submitted and when the hon. Prime Minister submitted, the savings that have been made. One contract alone, an interchange, \$300 million saved—

Mr. Padarath: Mr. Deputy Speaker—

Hon. S. Young: Yeah, jump up again.

Mr. Padarath:—55(1)(b). We have heard about these projects and about these contracts and about these contractors—55(1)(b).

Whistleblower Protection Bill, 2018
Hon. S. Young (cont'd)

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Mr. Deputy Speaker: Member, kindly move on, please?

Hon. S. Young: Thank you. So the point is, Mr. Deputy Speaker, when these hundreds of millions of dollars were misappropriated, billions of dollars are misappropriated, legal fees going up to the tune of \$1.4 billion, with misappropriation, we are providing a safe path, a safe haven and protection for those who have a conscience. That is the best way to put it.

Hon. Member: Well said.

Hon. S. Young: Those who have a conscience for the future of Trinidad and Tobago and to provide a future and opportunity for the children of Trinidad and Tobago in the future, that is what this Bill, in a nutshell, is about.

Just one last thing I would like to correct. Unfortunately, the Member for Siparia has left, probably to caucus. That incident that took place in 2013 with the Solicitor General, I would like the public to understand what the office of Solicitor General means. In the Attorney General's office, the highest public officer—

Mr. Deputy Speaker: Leader of the House, your discussion there with the Minister of Finance, I am privy to it.

Mr. Imbert: Sorry.

Hon. S. Young: Thank you very much.

Mr. Deputy Speaker: The speaker is right next to the Minister of Finance.

Mr. Imbert: I am?

Hon. S. Young: I am. I am the speaker. The person speaking is the one he means. The Solicitor General is the highest public officer in the Office of the Attorney General; highest legal officer. In 2013, what the facts are, that the then Solicitor General, Ms. Donaldson-Honeywell, went to her line Minister, the Attorney General, and said, "Look, I have unearthed something that is not looking right

here”. “I have unearthed what seems to be a scheme in the prisons, a scheme where I am seeing cut-and-paste of witness statements. It is so sloppy a job of these witness statements that the same facts are being utilized throughout all of the proceedings being filed by a couple attorneys; by two attorneys. They are filing these actions over and over against the State on behalf of prisoners. Mr. Attorney General, something is wrong here and it needs to be investigated.” Blanket silence. Nothing. And that is why the Solicitor General then wrote to—who is above a line Minister? Who has the ultimate accountability for a Cabinet? The Prime Minister. She did not start by writing to the Prime Minister. She wrote to the then Attorney General, Anand Ramlogan. Completely ignored. Then wrote to the Member for Siparia as the Prime Minister, “Ramlogan, take a look at this”. You know who is the lawyer that was being accused of the cut-and-paste? You know who is the lawyer that the Solicitor General, the public officer—legal officer—in the land of Trinidad and Tobago, dealing with a crime, a scheme being perpetrated on the prison system of Trinidad and Tobago was?

Mrs. Newallo-Hosein: 48(1), Mr. Deputy Speaker.

Hon. S. Young: Gerald Ramdeen. It was Gerald Ramdeen—

Mr. Lee: Mr. Deputy Speaker, 49(1), please.

Mr. Deputy Speaker: Now, I got 48(1) and I got (49)(1). Chief Whip, which one would you like on the table?

Mr. Lee: 49, please.

Mr. Deputy Speaker: 49?

Hon. S. Young: That is not sub judice. “It eh ha no court action yet.” [*Crosstalk*]

Mr. Deputy Speaker: One second. One second. Chief Whip, your Leader of the Opposition identified that same topic in her debate and the Member now is, I

presume, trying to go down that road. So let me hear him and I will give you a lil ruling, shortly. Proceed.

Hon. S. Young: Thank you very much, Mr. Deputy Speaker. So, Mr. Deputy Speaker, we heard from the hon. Member for Siparia a short while ago. She raised the context within which a complaint arrived at her. But what the population needs to know is that we have heard an admission, in 2013, a complaint was received from the Solicitor General to the then Prime Minister, now Leader of the Opposition. The complaint identified who the persons being complained were. And what did the Member for Siparia then do? She made him a Member of the Senate; made Mr. Gerald Ramdeen a Member of the Senate for this, that is currently being investigated. It is not sub judice because it is not before the court as yet. I just needed to say, Mr. Deputy Speaker—

Dr. Rowley: And taxpayers paid.

Hon. S. Young:—that taxpayers paid hundreds of thousands of dollars, millions of dollars, in those circumstances. So, Mr. Deputy Speaker, to wind up and to conclude my contribution, I say to the population of Trinidad and Tobago this whistle-blowing Bill is an important pillar in the fight against corruption. There is nothing to fear, citizens of Trinidad and Tobago, with respect to this whistle-blowing legislation unless you have committed an act or engaged in acts of corruption. To those who witnessed it, to those who have a conscience, to those who care about the future of Trinidad and Tobago, and in particular the children of Trinidad and Tobago, we besiege you, with or without this whistle-blowing legislation, do your civic duty to Trinidad and Tobago. Come forward and tell the right authorities—the law enforcement authorities, the Attorney General's office, or if this legislation is passed, any one of these designated authorities—the truth.

Provide the way. Tell us where the fingerprints can be found, where the footprints would have been, and save the future of Trinidad and Tobago. Save us from the taxpayers and the Treasury having to see the misappropriation of billions of dollars more.

I thank you, Mr. Deputy Speaker. [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Attorney General. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you. Mr. Deputy Speaker, I wish to start off by thanking my colleague, the Minister of National Security, for an excellent response. So excellent was it that he has actually put a lot of what I needed to put on the wind-up on the record. So I concur with the vast majority of submissions made and I think I only need to add a few points to it.

Mr. Deputy Speaker, let me jump directly into constitutionality in a way that just needs to be slightly enlarged from the perspective of my colleague, the Minister of National Security. The Member for Siparia, the Leader of the Opposition, in making a submission to this honourable House, says there is no way that the UNC is going to support this legislation. The Member for Pointe-a-Pierre says, "We are now seeing the puzzle that the Attorney General has put together come to life". And that caused me to pause. And I want to know what is so troubling for the Opposition? What would cause the Chief Whip, the Member for Pointe-a-Pierre, to say in that stark manner that he did, that we are now seeing the puzzle that the Attorney General and that the Government has constructed, come together?

You see, sometimes Freud was right. The slip happened so innocently from the mouths of certain people that you only need to look a little bit harder at the situation to understand what is causing panic and fear amongst certain members of

the society, echoed here in the Benches opposite us. So, the Member for Siparia says, on behalf of the entire Bench, “No way; not supporting the legislation. It is unconstitutional”. The Member for Siparia says that the unconstitutionally lies insofar as subsections 13(1) and (2) of the Constitution say, that it must be reasonably justifiable in a society such as Trinidad and Tobago, and that even though you have a three-fifths majority, that you are not going to have this thing safe. [*Interruption*] Exactly. The hon. Prime Minister is hitting the nail on the head. Proportionality in law, reasonably justifiable, first limb, exactly as the Minister of National Security said, the courts will look to other jurisdictions to see what happens in those jurisdictions as examples of proportionality.

But the 1976 Republican Constitution of Trinidad and Tobago is rather unique. Unlike some other jurisdictions, we have no exceptions for national security purposes. In Jamaica they can pass a law with constitutional majority and they can say in the context of their Constitution, no majority required for national security purposes. We go a little bit further. We require degrees of entrenchment, and entrenchment, the level to which you are protected, is set out in section 54 of the Constitution.

Now, I want to underscore this. I can respectfully excuse every Member opposite, save the Member for Siparia, for the contributions made, and I join the Minister of National Security in underlining the fact that Senior Counsel has an obligation to assist on the law, and Senior Counsel cannot misrepresent the law. [*Desk thumping*] You can say you do not agree with a point, but you cannot misrepresent the law.

And let me give you two examples of a gross dereliction of duty from an inner member of the Bar. Mr. Deputy Speaker, let me remind you what goes along

for members of the inner bar. When you are given “Senior Counsel” by virtue of the Prime Minister of the Republic of Trinidad and Tobago deeming you fit to be a member of the inner bar—let me repeat that. The Prime Minister of Trinidad and Tobago must deem it fit to give Silk. We have an hon. Member opposite, Siparia, who has Silk. I will pause there at the irony of it, to say that the gift of Silk comes with it the ability to, Mr. Deputy Speaker—

Mr. Lee: Mr. Deputy Speaker, 48(1). What is the relevance—

Dr. Rowley: Sit down there. You might learn something. If you keep your seat you might learn something.

Mr. Deputy Speaker: Overruled. Proceed.

Hon. F. Al-Rawi: Coming from the inner bar, when you have Silk—and I am talking about the need to not misrepresent the law, Mr. Deputy Speaker—you are entitled to charge extra money to people. You are the recipient of enlarged awards for costs.

[MADAM SPEAKER *in the Chair*]

Junior counsel charges two-thirds of the fees for Senior Counsel. And when they give an award for costs, you are given an enlarged amount of money for costs. So listen to the two examples of a dereliction of duty on constitutionality and other provisions, and I will tell you why I am being as scathing as I am on the Leader of the Opposition. Point number one. I will deal with the most obvious one, the smaller of the two points. The Leader of the Opposition, the Member for Siparia, learned Senior Counsel, past Attorney General of Trinidad and Tobago, past Minister of Legal Affairs, past Minister of Education, past Attorney General, on a second occasion, came to this Parliament and says, in relation to constitutionality, that she is violently upset, deeply concerned, that section 7(6) as a point raised by

nobody, breaches the Constitution. The hon. Member said that the Constitution was going to be breached because 7(6) says this:

“A disclosure made in relation to a Member of Parliament shall not amount to a breach of privilege.”

The Member went on to quote what the Member for Caroni East had to say, went on to quote what I had to say, went on to quote my own contribution, and then made the following, most astounding submission in law. Listen to what the Leader of the Opposition, Senior Counsel, member of the inner bar, had to say as to why this Bill is so violently flawed. The hon. Member said that this Bill was going to impliedly amend the Constitution.

Let me repeat that. The Leader of the Opposition, Senior Counsel, said that this Bill is going to impliedly amend the Constitution. Madam Speaker, Lord God Almighty, help me to understand that submission because I am most in need of trying to understand that.

7.40 p.m.

Madam Speaker, I want to know if the hon. Member has ever bothered to crack the pages of the Constitution of the Republic of Trinidad and Tobago. Just crack the pages. Hazard a chance to maybe read the context of Constitution. Listen to this. The hon. Member went so far as somebody having written, I would imagine her researcher, section 13 of the Constitution, reasonably justifiable, stop, close the book. Oh Lord! Section 54 of the Constitution, “Alteration of this Constitution” is the marginal note:

“Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution...”—in a particular manner.

And section 55, which is what the Leader of the Opposition was referring to as

being impliedly amended by clause 7(6). Clause 7(6), the hon. Member went on to say runs to the root of democracy. Parliamentary privilege is the cornerstone. How could this Government be amending parliamentary privilege, effectively throwing it out the window? Because section 55 of the Constitution says that you have privileges and immunity in Parliament for Members whilst they are in the course of exercising their duties. Members of Parliament do not have a blanket privilege. Members of Parliament have a specific form of privilege in a particular place, in a particular context.

But listen to this one. The hon. Member, in making that argument by Senior Counsel, could not bother to look at section 54. It just comes literally a few lines before section 55. Listen to what section 54 of the Constitution says:

“(2) In so far as...”—any law purports to effectively—“alters—
(a) this section;”

And I will read, several sections, the one that jumps out here:

(b) sections...55...”

Madam Speaker, section 55. I am reading from section 54(3)(b):

“In so far as...”—you want to amend section 55 which is the privileges—
“a Bill for an Act under this section shall not be passed by Parliament unless it is supported at the final vote thereon—

- (i) in the House of Representatives, by the votes of not less than three-fourths of all of the members of this House; and
- (ii) in the Senate, by votes of not less than two-thirds of all the members of the Senate.”

And listen to the chorus from Pointe-a-Pierre: “She said that”.

Mr. Imbert: She said no such thing.

Hon. F. Al-Rawi: If she said that, why is she referring to a three-fifths majority and implied amendment? The argument makes absolutely no sense, it is intellectually vapid to say that a three-fifths majority Bill could impliedly amend section 55 of the Constitution when section 54 says you must do it by three-quarters majority and that is the quality of legal argument offered by the Member for Siparia, Senior Counsel, so gifted by the hon. Prime Minister who then considered it fit to offer Silk in that fashion. [*Desk thumping*]

So, Madam Speaker, let us go to the second egregious breach of the Constitution. [*Interruption*] Yes, please.

PROCEDURAL MOTION

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Thank you very much kindly, Madam Speaker. Madam Speaker, in accordance with Standing Order 15(5), I beg to move that the House do continue to sit until the conclusion of the matter before it.

Question put and agreed to.

WHISTLEBLOWER PROTECTION BILL, 2018

Hon. F. Al-Rawi: Thank you, Madam Speaker. I will go to the second dereliction of duty for Silk and I say that with the greatest of respect because I am singling out the category of Senior Counsel in this debate. The hon. Member for Siparia goes on to say that this law is unconstitutional. The hon. Member was properly and squarely addressed by the Minister of National Security for all of the reasons given but I want to remind this. Constitutionality, as passing muster under 13(2) of the Constitution, is rooted in proportionality. Proportionality is the phrase you use to say that your society will uphold it because it values things like that, and proportionality, in the umpteen cases that define it, has three limbs. One, there must be a legitimate aim. Two, the Bill must have a rational connection to the aim.

Three, the Bill must go no further than it ought to go in terms of infringing the rights. What is the legitimate aim in this country? And I want to thank the hon Prime Minister for putting it squarely the way he did to me.

The hon. Prime Minister, in his contribution, reminded the population of the 2017 FIU report, \$22.5 billion in suspicious activities and suspicious transaction. Let me repeat that. Half of the annual amount of money that this country could earn, because we earn about \$45 billion a year. Half of the money that this country earns is in suspicious transactions for one year. This country is crying out for salvation. This country is most exposed in the public sector. The private sector has a certain amount of management but it is the public sector, as the largest spender of money in this country, [*Desk thumping*] that is most exposed. And the Leader of the Opposition cannot see that as a legitimate aim, with a rational connection, with the least intrusive mechanism? Really?

But let me ask the Leader of the Opposition this. One of the qualification limbs for proportionality is that the laws of the country recognize laws of this type. In other words then, do you have another law in your country that does kind of the same thing? Are you going so far off the boundary that this is so brand new? Madam Speaker, we have a website, we have printed laws. They give us the laws of Trinidad and Tobago for free as parliamentarians. You could pull it up on your phone, on your iPad. You could ask an orderly here for any volume of the laws of Trinidad and Tobago. You stand up day and night and chastise the Minister of Finance about the public procurement laws in this country knowing fully well that the regulator that has to discharge that function and the Government is urging it but you could not be bothered to read the public procurement law? You could not?

So what does the public procurement law says? Act No. 1 of 2015. Again, at

the feet of Senior Counsel Siparia. Prohibition of victimization. Let us go. The public procurement law is an Act No.1 of 2015. What does it define? It defines a very few important things. It says what a public body is. A “public body” includes:

- “(1) a body corporate or unincorporated entity in relation to any function, project, scheme or arrangement which involves the use by it, of public money;”

What does that mean? Any body that gets Government money, a private body that gets Government money, is a public body. Two, the “procuring entity” as defined in this law:

- “...means a public body engaged in procurement proceedings;”

Three, the “public money” has to be treated in a particular way. But when you get down to the public procurement law and you get to section 40, section 41, section 42, Madam Speaker, look at what it says:

- “A person shall not be...”

I am reading from section 40:

- “A person shall not be dismissed, suspended, demoted, disciplined, harassed, denied a benefit or otherwise negatively affected because—

- (a) he, acting in good faith and on the basis of reasonable belief, has—
(i) notified...”—DPP—“...Police, the Integrity Commission or the Office that his employer or any other person has contravened...about...this Act.”

Let me translate that quickly. The public procurement legislation has equal material to this whistle-blowing legislation. So Siparia could not figure that out? It is embarrassing, Madam Speaker, to be subjected to the advice of Siparia. Forty-five minutes of serious misrepresentation and shortcomings on the law. I have to

protest on behalf of every right-thinking citizen in this country against the advocacy of the Member for Siparia, and I must demonstrate, as I have done, from the Laws of the Republic of Trinidad and Tobago, that the Member's arguments are to be rejected out of hand. [*Desk thumping*]

So let us strip past constitutionality for a moment, having intellectually rubbished the arguments put at the Government, destroyed them. Let us now turn to a few things. You know, I really do wish—I enjoyed the contributions coming from the Member for Chaguanas West, showed some research, good delivery. Having a hard case to deliver, the best thing to do is to make it sound good. So the hon. Member for Chaguanas West gave a good batting, it sounded all right.

Dr. Rowley: “You look like yuh believe it.”

Hon. F. Al-Rawi: It sounded but when you strip it down to what it actually says, I could not get to a point but it was eloquently delivered. [*Desk thumping and laughter*] So let me put it this way. What I find a little bit disturbing from my friend from Chaguanas West and Siparia, and every other speaker that spoke to the issue of retrospectivity. Madam Speaker, it is true that this law has, in clause 5:

“This Act applies to any disclosure made after the coming into force of this Act, irrespective of whether or not the conduct or the improper conduct to which the disclosure relates occurred before or after...”

But, Madam Speaker, the advice coming from the Chief Parliamentary Counsel, Mr. Macintyre, specifically—and albeit in relation to an earlier Bill—said, consequently, that clause is not objectionably retrospective and does not infringe the right of the individual to protection of the law. In other words then, hon. Members, do us the favour of reading the whole piece of advice. If the Member for Chaguanas West did, the Member for Siparia certainly did not. Again, I invite

whomever prepares the notes for the Member for Siparia, exercise a little bit more diligence before one adopts a self-righteous approach on what the law ought to be and declared to be.

Madam Speaker, we dealt with the issue of retrospectivity. The issue of contractual voiding was another one that came up. Now, I have touched upon it in the context of clause 27 of the Bill. I have demonstrated that clause 27, in treating with the particulars of avoiding of contracts, that clause 27 is a particular clause. On the face of it, it appears to sidestep contractual obligations. I have shown that the Public Procurement Act does the same thing, but I want to put clause 27 on its proper footing. It is nothing of what the Member for Siparia said it is; nothing at all. Listen to what clause 27 says:

“Any provision in...”—any—“contract of service or other agreement between an employer and an employee”—as defined—“is void in so far as it—

(a) purports to exclude any provision of this Act...”

What does that mean? For you to have the protection for the contract to be void or voidable, it must be that you are making a proper disclosure in proper circumstances, and if you do not make a proper disclosure in proper circumstances, you are not covered by this provision. And therefore, it is, again, a dereliction of Senior Counsel’s duty in telling the Parliament what the law ought to say and it must be rejected out of hand. Madam Speaker, there is very little else to say in terms of constitutionality, void or voidable. *[Interruption and laughter]* The architecture of this legislation is a hybrid approach to a decentralized system. This law does not require every small entity to have a public procurement law—

Madam Speaker: Order.

Hon. F. Al-Rawi:—type of structure. This law does not require a two-person entity or a one-person entity or a snow cone vendor to hire a whistle-blowing protection person to manage it.

And the hon. Prime Minister spoke about the designation. The fact is, are we far off from any other law? Under the procurement legislation, Act No. 1 of 2015, there is no qualification described for a procuring entity officer. So under the public procurement law, fathered by the UNC when in Government with the assistance of the PNM in Joint Select Committee for a whole five years, the public procurement law does not have a qualification for a person to exercise function. So why should the whistle-blower protection law have it? And the reason is, in the public procurement legislation, we realized that one size could not fit all, and therefore we provided, in the clauses of the Whistleblower Protection Bill, you can have an internal unit but if you do not have an internal unit or if you do not trust that internal unit or there is a conflict of interest in that unit, go by the 21 people identified in the Schedule as a designated authority. But all of a sudden, everybody in the UNC, everybody in the Opposition wants to have prescriptions and definitions and job title and security of tenure and salary. It was not good enough for the public procurement law that they spent a whole five years and three months trying to create, without implementing it, even though they had a special majority for the entire time, it was not good enough for that law but all of a sudden: help us, *Chicken Little*, sky going to fall, whistle-blowers watch out.

And, Madam Speaker, let me say this. I noticed something that caused me deep concern in the contributions opposite. The reference to the Jamaican aspects of, effectively, “ah snitch ah fi dead, whistle-blower ah fi dead”. I heard that and I cringed on behalf of every citizen in this country. What do you mean by “snitch have to die” in this country? What do you mean by whistle-blowers? What did

Pointe-a-Pierre mean in saying that this Government is going to hang its hat on clause 23? What did Pointe-a-Pierre mean in referring to the offences provision in clause 23 that he knew that the Government had some ulterior purpose?

Madam Speaker, this law frowns upon inducement. This law specifically says, as the Minister of National Security put in clause 20, the antithesis to clause 19 exists, you, the perpetrator of the crime are not given a get-out-of-jail card. At best, you could have some degree of mitigation in your circumstance if a court of law considers it appropriate. But I condemn out of hand the position repeated over and over again and worst yet, catalysed, amplified on public platforms coming from the UNC.

Madam Speaker, I heard the Leader of the Opposition talk about my constituency, Gulf View, where events happened over the weekend and as a member of the National Security Council, I am confident that when the truth as to what happens comes out, people will say thank you to the Commissioner of Police and I would not say more than that. But to hear the Leader of the Opposition, in the public domain, tell people this Attorney General and this Government passing laws without three-fifths majority that are allowing homes to be raided in circumstances alleged to be in an unconstitutional or unlawful fashion is not only a dereliction of duty, it is exactly what the Minister of National Security said. It is blowing a dog whistle of the worst kind. What does the Leader of the Opposition mean by “yellow house” and “ethnic versions” when spoken outside this Parliament? Why is it that when similar action happens in Westmoorings and Glencoe, no dog whistle was blown or when it happens in Sea Lots or Laventille or Marabella train line, no dog whistle is blown? [*Desk thumping*] The laws of this country are only for a few?

Madam Speaker, this law, as promoted by this Government, subjects this Government to the application of this law retroactively. We did not bring it in year one or year two or year three because we were putting together the pieces of the puzzle. How do you expect a law to work if your criminal justice system cannot work? If you do not have rules of court, if you do not a criminal division, if you do not have plea bargaining legislation to encourage whistle-blowers to step forward and tell the truth? So in bringing this law as we do now, the Prime Minister today in Prime Minister's Questions time saying the AV Drilling matter is in the hands of the Director of Public Prosecutions and if you want to take the case at the highest, which we do not accept coming from the Opposition: that is a PNM board, Petrotrin, referring a PNM matter to the DPP via Senior Counsel. In other words then, what is good for the goose is good for the gander. [*Desk thumping*] But that is not said by anybody else.

When we had a contract in NP, in 2010, for garbage trucks [*Interruption*] in a particular contractor's equation, [*Interruption*] nobody went and referred that to the DPP. [*Interruption*] I would not call people's names here, [*Interruption*] I am not inclined to do things like that. The population remembers. But this Prime Minister, in this Government, made sure that the law applies to all and I want to reject out of hand, completely, any allegation that this law is to suit PNM purpose. [*Desk thumping*] One thing that is sure, we are people in revolving doors and these doors turn quickly. Our obligation is to improve the strength of the system of governance. The system of governance applies to all out of us. Civil asset explain your wealth law applies to all of us. Plea bargaining applies to all of us. Whistle-blowing protection applies to all of us. Police investigations and in doing a police manpower audit and in doing a police prosecutorial audit, and in funding the TTPS

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to create a division of the type that has never been seen before, with complete arm's-length distance, respectful of section 123A of the Constitution, supporting a prosecutorial white collar unit, transferring the Anti-Corruption Investigation Bureau out of—

Madam Speaker: Attorney General, your original time is now expired. You have 15 more minutes to complete your contribution if you wish.

Hon. F. Al-Rawi: Should it please you.

Madam Speaker: You may proceed.

Hon. F. Al-Rawi: I would not be much longer. Transferring the Anti-Corruption Investigation Bureau out of the hands of the Government, the Attorney General, but more than that, Madam Speaker, judge us by what we bring. What is the Government's position as it relates to whistle-blowing as it ties into the Income Tax (Amdt.) Act where we had to fight tooth and nail to give the police the power to treat with prosecution of income tax offences as they relate to money laundering and proceeds of crime? Our position, yes; Opposition's position, no. PNM's position, Government's position on FATCA, on Global Forum, yes; Opposition's position, no until they have to get it kicking and screaming with public anxiety and calls from the banking sector where the term "death by ah thousand cuts" came about.

You see, Madam Speaker, the record is there for all who want to see. Today, today, we have a very unusual situation. This Government is, time and time again, told the standing mantra: 'more consultation, take it to Joint Select Committee, bring ah three-fifths majority, wheel and come again, why yuh hurrying'. On this occasion, the first Bill that we brought was simple majority. Why? Because we have due process in the Bill. It is a court of law to decide if you get whistle-

blowing protection under due process within the descriptions of Baroness Hale in Surratt or you take Maraj or you take the court of appeal in Trinidad and Tobago in northern construction. Anyone of them say due process can save you from the need for a three-fifths majority because not every entrenched right needs to be treated with a section 13 position. We did not listen to that, we said out of an abundance of caution, we will insert the three-fifths majority, we will bring it out of the committee stage.

Because, Madam Speaker, there is a particular talent that the Opposition exercises in the committee when certain Members of the Opposition attend there. They can test the patience of the Lord God Almighty's best and finest. [*Laughter*] I will just say it that way. To sit down and listen to the positions that come out of the mouths of some of the Members opposite is to test your patience beyond measure. So what did we do? We brought it out of committee, we brought it with a three-fifths majority. We are content that it matches up with the laws of Jamaica, Malta, umpteen jurisdictions: the United Kingdom, et cetera, Canada, the United States of America. We are the only country in the world, it seems, under the leadership of Siparia who is fighting not to bring witness protection legislation. The only country in the world that does not want to have whistle-blower protection seems to be that country where the UNC's vote is required to pass the law and they said no. So what will we do?

As the hon. Prime Minister says, there is nothing to replace a committee of the whole. There are 41 Members present here, 41. In a committee of the whole, all of the Bill can be considered. The 23 votes on this side are ready, willing and able to pass this law. But just to tell you this. The population will judge the UNC tonight. [*Crosstalk*]

Dr. Tewarie: And you also.

Hon. F. Al-Rawi: The population will judge us tonight, as Caroni Central says that. [*Crosstalk*] The population is crying out for justice. [*Desk thumping*] The population wants its value for money. Witness protection is a necessary strengthening of evidence. Evidence leads to prosecution. Prosecution leads to acquittal or conviction. Whistle-blowing is one of the critical tools to get there.

So, Madam Speaker, we are ready, willing and able to sit all night in the committee stage. We have sat here for two days. We have not had notice of a single amendment from those opposite. We have spent two days on it. We understand that there may be an atmosphere of difficulty that prevails for some on their side. That is not something to be cherished. There is a requirement for due process in this country and you must respect the law within the confines of the law and the Constitution with the arm's-length distancing. Madam Speaker, I will invite you, particularly at committee stage, to pay attention to the Standing Orders where we ought to have circulated amendments if there are to be any, because as the representative in the Chair tonight to handle the amendments, I would like to have the best form of assistance with your guidance, both from Members opposite and from Members on this side.

Madam Speaker, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

8.10 p.m.

House in committee.

Madam Chairman: Hon. Members, might I enquire, seeing that I do not have any

written amendments, do we take this Bill en bloc, or do we go clause by clause?

Mr. Al-Rawi: Should it please you, Madam Chair, there are no amendments on the Government's part and we have received no amendments from the Opposition.

Madam Chairman: Any amendments? Okay, good.

Clauses 1 to 29 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill be reported to the House.

House resumed.

Hon. F. Al-Rawi: Madam Speaker, may I enquire whether the Whip is lifted?

Hon. Member: We want to know who it is for.

Hon. F. Al-Rawi: Of the Leader of the Opposition?

Hon. Member: Is it limited to people talking?

Hon. Members: Yes.

[Madam Speaker rises]

Madam Speaker: Attorney General.

Hon. F. Al-Rawi: Madam Speaker, I wish to report that the Whistleblower Protection Bill, 2018, was considered in Committee of the whole and approved without amendments. I now beg to move that the House agree with the Committee's report.

Bill reported, without amendment.

Question put: That the Bill be now read a third time.

Madam Speaker: This Bill requires a three-fifths special majority.

The House divided: Ayes 22 Noes 16

AYES

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Al-Rawi, Hon. F.

Rowley, Hon. Dr. K.

Robinson Regis, Hon. C.

Imbert, Hon. C.

Young, Hon. S.

Deyalsingh, Hon. T.

Hinds, Hon. F.

Mitchell, Hon. R.

Cudjoe, Hon. S.

Garcia, Hon. A.

Crichlow-Cockburn, Hon. C.

Forde, E.

Dillon, Hon. Maj. Gen. E.

Gadsby-Dolly, Hon. Dr. N.

Mc Donald, Hon. M.

Francis, Hon. Dr. L.

Jennings-Smith, Mrs. G.

Olivierre, Ms. N.

Antoine, Brig. Gen. A.

Leonce, A.

Cuffie, Hon. M.

Webster-Roy, Hon. A.

NOES

Lee, D.

Persad-Bissessar SC, Mrs. K.

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Rambachan, Dr. S.

Karim, F.

Tewarie, Dr. B.

Moonilal, Dr. R.

Newallo-Hosein, Mrs. C.

Gopeesingh, Dr. T.

Gayadeen-Gopeesingh, Mrs. V.

Indarsingh, R.

[*Continuous crosstalk*]

Madam Speaker: Could we have a little silence, so that the Clerk could accurately record the votes, please? Clerk.

Division continued.

Khan, Dr. F.

Padarath, B.

Bodoe, Dr. L.

Paray, R.

Ms. Ramdial: No, to political witch hunt. [*Crosstalk*] It is obvious. It is obvious. Explain your 143—

Madam Speaker: Ms. Ramdial, Member for Couva North.

Ms. Ramdial: I apologize.

Madam Speaker: Just kindly, let us take your vote without your other comments. You would have had an opportunity to speak in the debate if you wished. Clerk.

Division continued.

Singh, G.

Madam Speaker: Hon. Members, with a division, 22 Members voting for, 16

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voting against and no abstentions, the Motion for the third reading of the Whistleblower Protection Bill, 2018, is not approved.

Question negatived.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Madam Speaker, I beg to move that the House do now adjourn to Friday the 10th day of May, at 1.30 p.m. at which time we would be doing Private Members' Day. Can you tell us which Motion we would be doing please?

Mr. Lee: The one on the economy by Caroni Central—Dr. Tewarie.

Hon. C. Robinson-Regis: Sorry, before I complete my Motion, I would like to indicate that on Wednesday we will have Standing Finance Committee which, of course, is not a Sitting but I am just letting the Members know.

Mr. Singh: Time?

Hon. C Robinson-Regis: 1.30.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 8.22 p.m.