

*Leave of Absence*

*Friday June 08, 2012*

**SENATE**

*Friday, June 08, 2012*

The Senate met at 1.30 p.m.

**PRAYERS**

[MADAM VICE-PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Madam Vice-President:** Hon. Senators, I wish to inform you that the President of the Senate, the Hon. Timothy Hamel-Smith, is currently out of the country. I have granted leave of absence to Sen. Corinne Baptiste-Mc Knight who is ill.

**SENATORS' APPOINTMENT**

**Madam Vice-President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards, T.C., C.M.T. Ph.D.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ George Maxwell Richards  
President

TO: MR. DON SYLVESTER

WHEREAS the President of the Senate Timothy Hamel-Smith is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DON SYLVESTER, to be temporarily a member of the Senate, with effect from 8<sup>th</sup> June, 2012 and continuing during the absence from Trinidad and Tobago of the said Sen. Timothy Hamel-Smith.

*Senators' Appointment*

*Friday June 08, 2012*

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 6<sup>th</sup> day of June, 2012."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ George Maxwell Richards  
President

TO: MR. ALBERT WILLIAM BENEDICT SYDNEY

WHEREAS Senator Corinne Baptiste-Mc Knight is incapable of performing her duties as a Senator by reason of illness:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALBERT WILLIAM BENEDICT SYDNEY, to be temporarily a member of the Senate, with effect from 8<sup>th</sup> June, 2012 and continuing during the absence by reason of illness of the said Sen. Corinne Baptiste-Mc Knight

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 6<sup>th</sup> day of June, 2012."

*Senators Don Sylvester and Albert William Benedict Sydney took and subscribed the Oath of Allegiance as required by law.*

**PAPERS LAID**

1. First annual report of the Trinidad and Tobago Police Complaints Authority for the period December 29, 2010 to September 30, 2011. [*The Minister of Justice (Hon. Herbert Volney)*]
2. Annual audited financial statements of the Government Human Resource Services Company Limited for the year ended September 30, 2011. [*The Minister of Public Utilities (Sen. The Hon. Emmanuel George)*]

**ARRANGEMENT OF BUSINESS**

**The Minister of Public Utilities (Sen. The Hon. Emmanuel George):** Madam Vice-President, I seek leave of the Senate to deal with Private Business before Government Business.

*Agreed to.*

**Sen. Al-Rawi:** Madam Vice-President, I am not sure where this falls as to the point. Is it that questions are going to be deferred, just for clarification?

**Sen. Deyalsingh:** Written.

**Sen. Al-Rawi:** Sorry. Madam Vice-President, I was enquiring insofar as the agenda item for questions arose, then we went to a statement for request for Private Business first. I know there are only written questions on the Order Paper, but I have only seen one circulated by way of answer, and there are several of them, some of which have also been deferred from previous occasions; oral questions, so it is in that context that I seek your clarification.

**Madam Vice-President:** This time Senator, there are no oral questions and the proceedings will follow as indicated.

**Sen. Al-Rawi:** Madam Vice-President, I understand proceedings following, which means we leave this item. So my enquiry for clarification is insofar as there is a written reply for question No. 87 only, and we have 1, 2, 3, 4, 5, 6, 7 others on the Order Paper, including others which were adjourned previously, I think five more, my question is whether a statement in respect of the circulation and answer of those written questions insofar as we have only one before us is going to be answered now or at a later point?

**Madam Vice-President:** I will advise the Leader of Government Business at a subsequent time during this sitting. If there is anything forthcoming in response to your answer, we will do it.

**WRITTEN ANSWER TO QUESTION**

**Traffic Offences 2005—2012  
(Moneys Collected)**

87. Could the hon. Minister of National Security indicate to the Senate the amount of moneys collected for traffic offences for the years 2005—2012?

*Vide end of sitting for written answer.*

**ASSOCIATION OF REAL ESTATE AGENTS OF  
TRINIDAD AND TOBAGO  
(INC'N) (NO. 2) BILL, 2011**

**The Minister of Planning and the Economy (Sen. The Hon. Dr. Bhoendradatt Tewarie):** Thank you very much, Madam Vice-President. I beg to move:

That a Bill for the incorporation of an association to be known as the Association of Real Estate Agents and for matters incidental thereto, be now read a second time.

Madam Vice-President, it is my privilege to say a few words on an Act for the incorporation of an association to be known as the Association of Real Estate Agents and for matters incidental thereto.

Madam Vice-President and hon. Senators, the Association of Real Estate Agents, or AREA, was established for the purpose of elevating the real estate industry from its previous position, where each agency was in complete isolation one from the other, and to make it a more vibrant, efficient and reliable organization, capable of reflecting a more meaningful image by raising the bar of professionalism, thus benefiting the real estate industry and the public throughout Trinidad and Tobago.

Prior to the formation of the association, there were no documented guidelines for the conduct of real estate in Trinidad and Tobago, and this is one of the big accomplishments of the association, that is to say, AREA. When they came into being as an organization, they established rules, regulations and standards of practice for the conduct of real estate between brokers, and between brokers and vendors, and/or purchasers, thereby ensuring a better level of service to the public, higher standards and more informed ethical practices.

The objectives of AREA are:

1. to promote the highest level of professionalism and honesty in real estate by insisting on principles of fair dealing;
2. to educate and guide the membership in improving its professionalism through continuing educational programmes;
3. to increase public awareness and to develop confidence in the real estate profession;
4. to provide quality service to both sellers and buyers of real estate, by providing them with access to brokers who are knowledgeable, who have integrity, and to provide access to the latest information and technology available; and

5. to work with Government and the private sector and organizations within both, to assist in the development of Trinidad and Tobago.

Legislation for the incorporation of the association by an Act of Parliament is presented here today, because this legislation would be in keeping with the move within Caricom to have all professional bodies self-regulated. I should mention as well that a broker's course is being developed in conjunction with Roytec which is now UWI Roytec, UWI Institute of Applied Studies, and the pilot course is scheduled to begin in September 2012.

Madam Vice-President, having made this presentation, I beg to move. [*Desk thumping*]

*Question proposed.*

**1.45 p.m.**

**Sen. Faris Al-Rawi:** Thank you, Madam Vice-President, I rise to make a very short contribution to the Bill before the Senate, which is a Bill for the incorporation of an association to be known as the Association of Real Estate Agents and for matters incidental thereto.

The Bill—one of two before us today, without anticipating the other—provides a very interesting reflection upon where we are as a country. As the hon. Minister, Sen. Dr. Tewarie, has told us, this Bill comes in the context of the need and necessity for degrees of predictability amongst real estate agents in transactions under their belt. The real estate agents, their association, has been around since 1990 and, in being around since 1990, they have seen the course of this economy's growth and development in the real estate sector through, arguably, lean times and also profitable times.

The association's incorporation as a body corporate, as this Bill proposes to make it, is very timely indeed; in particular when one has reflection upon the state of confidence in the real estate market. That, of course, is one of the pivotal markets which moves our economy. As a practitioner in the area of law to deal with property transactions, mortgages and conveyances, and also a practitioner in the family law arrangements, I am able to say with some degree of certainty that the regularization of this area of law could not have been at a more opportune time.

I am happy to say that it came about as a way of consultation in a period which spanned governments, existing both in the prior Government and in the present Government; and that the discussion between the Association of Real Estate Agents and those persons that constitute government at any one point in time has been a continuing discussion.

Going back to the point of reflection of a practitioner in the area, Madam Vice-President, I take this as a convenient opportunity, married with the statement of objectives in the Bill in clause 4(a), to remind that the confidence in the economy is critical and that, reflecting upon experiences in court, I noted with some concern in recent cases that the state of the real estate market is such that, whilst you may require on average \$500 per square foot for upper-end residential development, valuation of properties now comes in at some \$65 per square foot.

So you are seeing, on the one hand, just to ground it to practical terms, real estate being valued, if you had to build it, at somewhere close to \$500 a square foot in some instances; and if you had to value it for purposes in litigation, et cetera, \$65. That is a massive disparity, Madam Vice-President, saying that if you have to sell something that you own, you would get less money than it would take you if you had to build it.

If you reflect upon the objectives of this Bill set out in clause 4 of the Bill, the aims and objectives; in doing “all things necessary to promote the interests in the marketing of real estate in all its aspects”, in paragraph (b), it is of particular note to appreciate that every step possible by the Government to encourage a return to confidence in this country is required at this moment, and that it would be incumbent upon the Government in particular to make sure that the citizens of this country can have a return upon their hard work usually put into the substance of land and house, as we call it, to ensure that that is maintained at a viable level.

Relative to the Bill itself, I notice that the rules of the association are to be formed under clause 9 of the Bill and that the business of the association, how it is run, is to be tied into that. I would hope that future contemplation of this Bill is had; after it is passed that amendments will become necessary—as Sen. Dr. Tewarie has told us, there are moves afoot for the running of courses, et cetera; the academic institutions. I am flagging the point that there is going to become the need to revise this legislation and, in particular, to develop rules which are more binding and a statement of rules, perhaps, can be had along the lines of that suggested by the law associations Act.

The Legal Profession Act, Chap. 90:03, provides for a similar form of rubric for the establishment of a body corporate, but it is to be noted that in that Act the rules for the development and management of the association’s business are set out with specifics into a schedule of the Act. I would humbly recommend that, in terms of a second pass at the legislation, which is sure to come, I would think it important to drill down to better forms of rules, particularly insofar as the

establishment of rules under this Bill provides that the rules “may be” done as opposed to “shall be” done. I would think it mandatory that you ought to have rules in the first instance and that they may, from time to time, be amended thereafter.

I think there is some room for improvement in the drafting of the Bill and in the regulations which must come. I note, in particular, that there is a disparity between the use and manner of the seal between this particular Bill and that which is to come in discussions which my learned colleague, Sen. Beckles, will deal with under the Ramleela Bill without anticipating it. I think that this piece of legislation, now coming upon our plate, we must be conscious to come with the best form of rules of regulations.

If I can also reflect, Madam Vice-President, quickly, I do believe that the pronouncement of these rules will have a sincere benefit to our society insofar as litigation may be encouraged to go downward. There is a vast amount of litigation in Trinidad and Tobago concerning real estate, in particular agents’ fees and commissions, the establishment of contract or not, and I do hope that this particular Bill, when it becomes law will see a downward trending in litigation in particular.

If I were to quickly end in a point of recommendation to the Government, through you to the hon. Minister of Planning and the Economy, Dr. Tewarie, I do hope that the Government sees its role in the same way that I do, which is the entity to encourage confidence and building in our society, in particular that it does its very best to return a state of confidence and surety with respect to our real estate market, so that every citizen of Trinidad and Tobago can be blessed with ownership of his or her own property.

With those few words, I thank you.

**Sen. Terrence Deyalsingh:** Thank you, Madam Vice-President. I rise to make a very brief intervention on this Bill for the incorporation of an association to be known as the Association of Real Estate Agents and for matters incidental thereto.

In a newspaper article recently, real estate has been brought under the ambit and gaze of the Financial Intelligence Unit. The unit has reported, I believe, two suspicious transactions in the real estate industry, together with some suspicious transactions in the banking industry and a few other industries.

My contribution has to do mainly with the current position and legality of the FIU, the Financial Intelligence Unit, and the Act that governs the unit. I will not be speaking as to the inappropriate appointment of Susan Francois. It is not about

her; it is about the process used to appoint her. What is more critical is that when we debated this Bill last year, Tuesday, April 12, we were debating the Financial Intelligence Unit Bill and the hon. Attorney General at that point in time asked this honourable Senate to allow the Bill to go through without amendment, particularly amendment to clause 7, which was the savings clause, which all sides had issues with. The Senate was asked by the Attorney General to give him the Bill so that the Minister of National Security could have gone to a CFATF convention, I believe, in Honduras.

**Sen. Abdulah:** Standing Order 35(1), Madam Vice-President. We are debating a very simple Bill and I am not sure that getting into the discussion on the FIU Bill is related to this directly.

**Madam Vice-President:** Senator, I am going to lean towards that, but I am going to afford you a minute or two to at least bring your point towards the relationship with this piece of legislation.

**Sen. T. Deyalsingh:** Thank you, Madam Vice President. The activities of real estate agents were flagged by the Attorney General together with jewellers, supermarkets, et cetera, when we were debating the FIU. My question is—and I will be brief—the Government had asked for our cooperation in April of 2011. He had promised faithfully to bring back the FIU legislation before the end of that term. It is now 14 months later and that Bill has not come out.

I thank you Madam Vice-President.

**Madam Vice-President:** In response, I was just going to stand to interject, but I would suggest that if you do have a question as to when a next Bill or piece of legislation is coming, kindly pose a question and I am certain it will be answered. I do thank you.

**The Minister of Planning and the Economy (Sen. The Hon. Dr. Bhoendradatt Tewarie):** Thank you very much, Madam Vice-President. I will seek to respond very, very briefly to some of the issues. I think that in the last Central Bank Report, which was the subject of inclusion in the debate that we had in this Senate recently having to do with additional appropriations, the point was raised in that particular document that the services sector had been doing fairly well and there had, in fact, been growth in that sector. Two of the sectors that were mentioned specifically were banking and real estate.

You are correct, Sen. Al-Rawi, that this would be an appropriate time to do this because what we are doing here is simply creating the grounds for incorporation so that this association, this institution, can begin its life. I am sure, as you yourself

indicated, there will be opportunity for evolution and change in the process. When that happens, I am sure that amendments will come. You raised the point about rules to guide the work of the association having to do with standards and ethics. I am sure that is a matter that will also be taken into account by the association.

The business of incorporation, as you well know—you are a legal practitioner and you very well know—is really to vest in the body that is being incorporated, when established, the power to sue and be sued; to contract and be contracted with by its corporate name; to have a common seal and to alter or change it at pleasure; to have perpetual succession; to acquire and hold real and personal property for the purposes for which the body corporate is constituted and to dispose of such property; and to regulate its own procedure and business.

There are other matters, but I simply mention that to indicate that the whole purpose of this is really to get the Association of Real Estate Agents going and give it the legal life it needs in order to continue to conduct its business and in order to practise its profession.

With that in mind, I do not think at this point we should worry too much. The idea is really to give this association an opportunity to establish itself so that it can proceed with its business as it sets out its rules and its regulations. As I indicated earlier, this is a self-regulating body and this is something to be encouraged in the society.

**2.00 p.m.**

The more institutions we have and the stronger these institutions are in which the various things that we do in this society are well managed—there are guidelines for their operations—and to the extent that these are self-regulating entities, I think that is also very important, because it means that institutions and the people in them, professions and the people in them, are taking responsibility for their own governance. Ultimately, that is what independence is about. And that is why societies that evolve and develop try to develop institutions such as these, and facilitate the process. The idea is that as a country becomes independent, many independent institutions will also emerge as people take more and more responsibility for their own lives, and their own business. It is in that spirit that we take this opportunity to facilitate this incorporation, Madam Vice-President. So, with that, 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 Senate.*

*Senate in committee.*

*Clauses 1 to 5.*

*Question proposed:* That clauses 1 to 5 stand part of the Bill.

**Sen. Al-Rawi:** Madam Chairman, just a quick enquiry; clause 5(c).

**Madam Chairman:** All right, we will deal with clauses 1 to 4 and then we will come to clause 5.

**Sen. Al-Rawi:** It may be that it can be accepted in a different rule. So if you just bear with me for one moment, if I just point it out; clause 5(c): “sell, exchange, demise,” et cetera, Coming down to the fourth line: “vested in it subject to any restraint”.

Sen. Prescott just pointed out, and I was wondering as well, and it may be that this can be taken care of as a typographical aspect, just the insertion of a comma after “it”, because it changes the reading of it in a particular way. I think it can be done under the rule of an insertion by the drafters. And if it cannot be done that way then we could move clauses 1 to 5 in entirety.

**Madam Chairman:** That can be a typographical insertion. We will do that. So can we proceed with clauses 1 to 5?

**Sen. Al-Rawi:** Yes.

*Question put and agreed to.*

*Clauses 1 to 5 ordered to stand part of the Bill.*

*Clauses 6 to 10.*

*Question proposed:* That clauses 6 to 10 stand part of the Bill.

**Sen. Prescott SC:** Madam Chairman—*[Interruption]*

**Madam Chairman:** Sure.

**Sen. Prescott SC:** I am sorry I should have brought this one up as well. In clause 7(3), I prefer the word “affixed” to the word “fixed”, the last word in 7(3). Is there a distinction in the mind of the drafter—that the seal should be affixed?

**Sen. Al-Rawi:** And perhaps, you can take that as a typographical as well.

**Madam Chairman:** Okay.

**Sen. Prescott SC:** Thank you.

**Madam Chairman:** Sen. Prescott, we would do it as a typographical insertion as well.

**Sen. Prescott SC:** Thank you.

*Question put and agreed to.*

*Clauses 6 to 10 ordered to stand part of the Bill.*

*Preamble approved.*

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

*Senate resumed.*

*Bill reported, without amendment, read the third time and passed.*

**NATIONAL RAMLEELA  
COUNCIL (INC'N) BILL, 2011**

**The Minister of Planning and the Economy (Sen. The Hon. Dr. Bhoendradatt Tewarie):** Madam Vice-President, I beg to move:

That a Bill for the Incorporation of the National Ramleela Council of Trinidad and Tobago and for matters incidental thereto, be now read a second time.

*[Cell phone rings]*

**Madam Vice-President:** The owner of that cellphone, could you kindly remove the phone and yourself possibly outside, thank you.

**Sen. Ramlogan SC:** And put some better music on it too. *[Laughter]*

**Madam Vice-President:** Proceed.

**Sen. The Hon. Dr. B. Tewarie:** Madam Vice-President, it is with pleasure that I move this Bill for incorporation of the National Ramleela Council of Trinidad and Tobago and for matters incidental thereto.

Ramleela—as many hon. Senators will know, and as the general public will know—is the epic dramatization of the story of Shri Ram taken from the Hindu epic, the Ramayana. The Leela, or story, or play, shows the happy times, the adversities encountered, the triumph over these adversities and the purpose of Lord Rama's incarnation on earth.

The story of Ram's life provides humanity with a plethora of valuable lessons and many ideals, such as the qualities of an ideal son, ideal brother, student, husband, friend and, of course, as a ruler and king, among many others.

*National Ramleela Bill, 2011*  
[SEN. THE HON. DR. B. TEWARIE]

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Ramleela in Trinidad and Tobago is said to have had its roots in the Northern States of India; in Bihar and Uttar Pradesh. These are the very places from which our forefathers came as indentured immigrants, about 167 years ago. In Trinidad and Tobago, Ramleela traditionally was celebrated annually in large open airfields in rural Indian villages—that is to say communities with an Indian population—for a period of 10 days, during the day, and in the religious period called Navratri.

The 10-day celebration usually culminates with the burning of a giant size effigy of the evil king, the villain in the story, Rawan. And I think that is the part that has come into popular imagination. People tend to go on that day to see the burning.

Many changes and developments have taken place during the years in Ramleela celebrations. Some performances are now done on stage, some of the group performances may not strictly adhere to the performances done in the Navratri period, so that Ramleela has become, you might say, a generic opportunity for artistic creation.

Performances are not now confined only to communities in which you have dominantly Indian populations in Trinidad. Performances are now done in schools, and in other institutions. It is now studied at the University; these have been written about it. It has been done from time to time in performing centres, et cetera, throughout Trinidad and Tobago. Therefore, a wider cross section of the population of Trinidad and Tobago is now exposed to Ramleela, and the media has also played a part in promoting Ramleela in Trinidad and Tobago. One of the reasons for that is that it has been a persistent and consistent outdoor theatrical performance in the country at a certain period in time.

Ramleela utilizes every possible known artistic expression. It also engages a number of professional skills such as marketing and public relations, event management; so that it is well supported by an array of human resource, talent and development. As such every ability, talent, potential abilities in the community are harnessed during the Ramleela celebrations. Moreover, Ramleela can be utilized as a strong unifying force because of its appeal among all ethnicities in Trinidad and Tobago.

I want to take the opportunity to highlight a few achievements of the National Ramleela Council of Trinidad and Tobago, because some of the members are here in the public gallery, including the President, whom I have known for a long time, and I think it would be good for us to read into the record some of the things that they have been able to do.

In 1991, 12 existing Ramleela groups came together and formed an organization called the National Ramleela Council. The main objective at that point in time was to access state grants for the member groups.

### **2.15 p.m.**

By 2001 the membership had increased to 17 groups, and the organization was renamed the National Ramleela Council of Trinidad and Tobago (NRCTT) and that organization now has a membership of 37 registered groups.

Some of their major achievements include the production of a Ramleela magazine annually between 1991 and 1994. They were also able to capitalize on the international exposure of Trinidad and Tobago Ramleela when Nobel Laureate in 1992, Derek Walcott, in his acceptance speech spoke about the fact that he was seeing the Ramleela at Felicity as theatre when it was faith. That is to say, in describing it, he was talking about what we might call an outsider's eye looking at something as a theatrically knowledgeable person as outdoor theatre when, in fact, the people who were involved in the practice were really doing it as an act of faith.

In 1993, 12 large groups assembled at a Ramleela Melaa and also performed Ramleela together at a common venue, and that would have been a first, because generally these things would be isolated in individual villages.

In 2003, the NRCTT constitution was ratified and an election was held producing the first female president of the Ramleela Council.

In 2004, we had the upgrading of skills and the learning of new skills. You had it dramatized and also strengthened with training by the Strolling Players. Wire bending skills from members of the Carnival fraternity were introduced into the Ramleela preparations. The Ramleela movement itself benefited from an Indian classical dancer so that choreography was taken to a different level, and lecturers at the IOB, sponsored by the Hindu Women's Organization, strengthened the organizations involved in this at the community level in events management, again to raise the standard.

In 2004, the president represented the National Ramleela Council in a 16-member business and cultural delegation to India. She participated in discussions and presented a paper on Ramleela in places such as Lucknow, Patna, Veranasi and Delhi. So, our Ramleela got exposure in the place of its origin in some of the cities of India.

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In 2005, Trinidad and Tobago's Ramleela was declared as an intangible cultural heritage of humanity. In 2007, NRCTT participated in Carifesta IX hosted by Trinidad and Tobago, and the magazine was launched to commemorate 127 years of Ramleela. A Ramleela contingent, in fact, performed at Carifesta X in Guyana. Nineteen persons travelled to make that possible.

The drama training by the Department of Festival and Creative Arts at UWI began, and we now have graduates and certification for Ramleela related studies.

In 2012, not only is there going to be a Ramleela competition and a Ramleela theme song competition, but this incorporation, if we agree here today, will, in fact, redound to the benefit of the strengthening of this organization.

Madam Vice-President, it really is a pleasure for me to present this Bill to this honourable Senate, and I ask that it be given the consideration and appreciation that it deserves in order to create this institution in Trinidad and Tobago.

Thank you very much. I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Penelope Beckles:** Thank you very much, Madam Vice-President. I join this debate on a Bill for the incorporation of the National Ramleela Council of Trinidad and Tobago and for matters incidental thereto, and, like my colleague, the Minister of Planning and the Economy, Sen. Dr. Tewarie, it is a pleasure for me to contribute to this Bill.

Madam Vice-President, as Sen. Dr. Tewarie indicated, the Ramleela celebration has its genesis taken straight from the holy scripture, the Ramayana and, of course, the main player of that story is Shri Ram. Those of us who are familiar with this cultural activity know that it is largely an open air festival celebrated for about 10 days and it is culminated with the burning of the giant effigy of the king, the villain of the story, Rawan.

Sen. Dr. Tewarie gave most of the history of it, so I am not going to go into it, but suffice it to say that this legislation is coming shortly after we celebrated Indian Arrival Day and, of course, we all had the opportunity to reflect on the importance of the role that our Indian brothers and sisters have played in terms of bringing the rich cultural heritage of India to Trinidad and Tobago, and what it has done for us in terms of developing a multicultural and multiracial society.

Madam Vice-President, it is of particular pleasure for me, because in 2003 whilst I was the Minister of Culture and Tourism, for the first time we celebrated the pioneers of Ramleela. I know that there was one person there who was 90-something years old. I do not know if he is still around today, but the point is that it was a very

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exciting time for the founders, and it was the first time that they were actually given recognition for the work that they developed over the years in terms of Ramleela.

One of the things I always like to talk about is the issue of recording our history, and with the incorporation of this council it may be that the Ministry of Arts and Multiculturalism would see it fit to document a little more about the history, not just of Ramleela, but of the national council and the pioneers and those who played a very important role in maintaining that festival and ensuring that the people of Trinidad and Tobago understand a little more about Ramleela.

Madam Vice-President, at clause 4 of the Bill it says:

“The Organisation shall have the power to—

(a) acquire by purchase, transfer, exchange, bequest, grant, gift, conveyance, lease or otherwise, any real or personal estate or interest therein;”

And at clause 7(1) it says:

“The Organisation shall at all times have a fixed address in Trinidad and Tobago...”

Now, the reason I raised this issue is that the council does not have a home and it is the persons who have been really dedicated to the cause, where meetings are held at respective homes of members of the executive and other persons who have been loyal to the cause. So, as we debate the Bill, if we would like to ensure that the intent and the purpose of the Bill is cemented, clearly, that is a matter that has to be addressed.

There is a word in Hindi called “trowire”, I hope I am pronouncing it correctly, which speaks to moving from place to place, and the organization has been such. I know they have made an application for a parcel of land in the Couva heritage area, so it is probably something that should be given consideration by the Government to ensure that they comply with this piece of legislation that we are passing today. I know that there are other organizations like the Emancipation Support Committee and others that have also applied for land, but I am sure that their request will be given equal consideration.

Madam Vice-President, as someone who grew up in San Fernando, Borde Narve Village, and attended Ramleela every year, I do not have that luxury as much as I had then, because it is an activity that we all looked forward to as children, to walk together through the sugarcane and go to the village of

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Manahambre which has been synonymous with Ramleela, and, of course, another village is Felicity, where I have visited quite a couple of times, and they have really taken Ramleela to another level. Persons can go there now and realize that over the years they have taken the skill, the theatre and the drama to the point where it has gotten some international recognition.

I know the members of the council are here today, and I would just like to congratulate those who have stuck with it, those who have been loyal and who have brought it to this level; and the Members of the committee of the Parliament and the staff and others who have seen it fit to bring this piece of legislation to incorporate the National Ramleela Council. I know that over the years they have complained about not having their funding on time. I think we have come a long way and, hopefully, that issue of funding whenever the event comes up, is no longer a problem.

Sen. Dr. Tewarie read out the various successes of the council, and I know that they have been making a greater effort every year to celebrate it. He spoke about the revival of the Ramleela groups and we now know that it is not a festival that is exclusively associated with rural communities and it has now moved from the traditional rural areas and it is now celebrated in Diego Martin, St. James and some other areas where it might not have originally been celebrated.

So, I want to join with the Senate and others in saying I think for the council it is probably one of their happier days. I think they have seen their efforts come to fruition. I recall that in 2003 when the Ministry of Culture developed a concept of the open school for the arts, some of those who were skilled in wire bending and being able to design all those artefacts that are necessary for Ramleela, they were able to share with some of the persons who were interested, and some 200 persons graduated the following year from the Ministry of Culture in relation to the area of the skills and training of Ramleela. So, clearly, it is no longer the type of activity, as I said, that is just in the background. It is something that is on the calendar of our cultural life of Trinidad and Tobago, and we all look forward to it.

So, Madam Vice-President, with those few words, I would like to say that we wholly support this Bill to incorporate the National Ramleela Council of Trinidad and Tobago and for matters incidental thereto, and to congratulate the members of the council. Thank you kindly. [*Desk thumping*]

**2.30 p.m.**

**Sen. Subhas Ramkhelawan:** Madam Vice-President, it is with pleasure that I rise in support of this Bill for the incorporation of the National Ramleela Council of Trinidad and Tobago and for matters incidental thereto. My colleague, Sen. Dr. Tewarie, has painted the picture of the history of Ramleela, followed by a somewhat personal account, and I would not say not surprisingly so, of my friend and colleague, Sen. Beckles. After all, it is people like Sen. Penelope Beckles and myself who probably know the meaning, more than most, of a “rim of water”. [Laughter] That is when you come from rural communities, and water was such a scarce and precious commodity, that you measured it by a third of a barrel of water, a third of a barrel being a rim of water.

So I am especially pleased to rise today to give support to a celebration that has been, in essence, a rural celebration within the Hindu community. Of course we all know that the Hindu community comprises some 25 per cent of our population. This is a celebration that has gone on for as far as I can remember and well beyond, and it is the story, as Sen. Dr. Tewarie said, of the continuous fight for good to defeat evil: evil in the form of Rawan, the demon king, and goodness in the form of our Lord Rama in his pursuits in ensuring that good will always conquer evil. No matter how pervasive it may sound and be, and for how long it may subsist, in the end that is what we strive for.

I recall as a young man, as I share my thoughts along with Sen. Beckles, my *aajee*, who as you know, Madam Vice-President, is the mother of my father, dragging me along to the Ramleela site in La Romaine. It was then the Chandroo Lands, which were empty lands. It was on those lands you would have the Ramleela celebration. Thereafter, those lands were cleared and a cinema was established. While the cinema has gone by the way, the Ramleela celebrations continue and flourish in this country. [Desk thumping]

Madam Vice-President, there is something that I would like to say, which sometimes is lost to us as a country: what a great country we live in! [Desk thumping] What a wonderful country of tolerance and harmony we live in, that a celebration, when I was a young man I was not sure would last, did last. Because there was such a dearth of funding, the people who wanted to engage in and carry on the celebration of Ramleela would have to go throughout the nearby villages to seek to raise funds, and you would make a significant contribution of 25 cents to ensure that it went into the pot for the celebration of Ramleela.

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Today, I stand here being able to support an organization, and by dint of this organization being formed and incorporated, the celebration will now receive some element of direct support from the State. That is why I say we live in a great country that is so tolerant. I wish that we continue to be so, and even more so, as we go along in the formation and building of this yet 50-year young country.

I support the Bill open heartedly, if that is how it should be done, and I speak on the basis that I hope other institutions and organizations that contribute to our cultural enrichment and diversity, would also be given some modicum or some level of support.

I thank you, Madam Vice-President.

**Sen. Faris Al-Rawi:** Madam Vice-President, I rise to make a very quick contribution on this, because I feel that I must.

Madam Vice-President, through you, even though we do not have this habit, I would like to also join in acknowledging the extreme hard work and dedication of the council whose members are, in fact, to my knowledge, well represented; the president of the council being here in the Parliament Chamber. This is a very important Bill, and while we all support it, I think it incumbent upon us to recognize, for those members who are not Hindus, what the true meaning of this Bill is.

The purpose of this Bill, as set out in clause 3, is to recognize the work of the Holy Ramayana. In particular, we are seeking to look at the festival of Ramleela. Ramleela means the play of Lord Rama. The Ramayana, of course, is one of two ancient texts, the other one being Mahabharata, which speaks to the Vedic traditions handed down over thousands of years through generations dealing with, as Sen. Ramkhelawan has told us, the struggle of light over darkness.

In fact, it is on occasions like this that we recognize that our names come from a distinguished heritage—Bharath as one of them—[*Laughter*] being foremost a name, if I could say so, meaning the disciple of light or worship; Bharath meaning the original Sanskrit name for mother India. So on an occasion like today, we are looking at Ramleela, the celebration of Rama's play. We are looking to that classic icon image of Lord Rama, who is the Veda of Lord Vishnu sitting on the shoulders of Hanuman in the battle against Rawan being the Lord of Lanka, who was the personification of evil.

Madam Vice-President, I could go on and on about the history. I was regaled with stories, by my grandfather in particular, of there being 50,000 lines in the book itself, of their being 24,000 verses. He telling me that, as a child of an indentured labourer, he was required, with his *choorkee* tied to the ceiling, to memorize the

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verses of the Mahabharata and the Ramayana, and that you had to do so at night with a little wick of flame burning, and that his father, in fact, would pick him up in the morning, and if he got one sentence wrong, a board was broken on his head. Such was the dedication to those disciples—*[Interruption]*—I am serious—of learning Hindu Vedic tradition.

Madam Vice-President, in making sure that we get this right for the benefit of those members of our Hindu community that have persevered to keep our traditions alive, I wish to reflect very quickly on two short clauses of the Bill; the first is clause 5 of the Bill. In our euphoria to support, let us not lose sight of the work of Rawan, or the devil's detail, as I call it in other Bills.

Clause 5 has “the transfer or vesting of property” and says that “The Organisation shall have the power to own real or personal property.” I think that is a little too limited. It should include “or any estate or interest therein”, which is the usual formulation. You then have the vesting in subclause (5)(2):

“All real or personal property of whatever nature conveyed to the Organisation for the use and benefit of same is hereby transferred to and vested in the Organisation.”

Dare I say, I think that is too limited. The wording in there should really be to capture the intent of whatever is held to the benefit of the organization prior, because the organization as created by this Bill did not exist before, and it is conceivable in our history of people passing things on in a benevolent way, by way of deeds of gifts, et cetera, to members of the Ramleela Council, holding things in trust. This clause will not actually vest that property in, and you would find that if you sought to vest it, you may have to pay stamp duty by way of transfer on the market value of the property. So I fear that subclause (2) may have those wishing to give benevolent purpose to the institution, with the jeopardy of having to pay stamp duty to do so. I would recommend sincerely that we look at including words to the effect of “whatever property was now held or vested in any other person for the use and benefit of the Organisation”; that would probably take care of it.

The other one that concerns me greatly is clause 7(3). Clause 7 makes it a requirement for the service of documents on the organization, for you to tell the Registrar General where your office is, but subclause (3), for the record, says:

“Failure to register the address and any change thereof is a summary offence and renders the Organisation liable to a fine of one hundred and twenty dollars and to a further fine of ten dollars for each day during which the offence continues after conviction.”

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My question is really: why would we want to put in an offence provision here for something that is as simple as that? It is not the same under the Companies Act, for instance, which provides for a simple administrative fine. I do not know if we want to make it a summary offence per se. We need to be careful about automatically putting this. I can understand the need to reduce the fine downward from that which would prevail in the Companies Act or in the Registration of Business Names Act, but I am not quite sure that you want to go as far as creating it as an offence.

The authority I will draw for that, in fact, is the Bill which we just recently concluded. There is no statement in either of the sections which deal with the incorporation as a body corporate of the real estate agents of anything of the type that I have just reflected on. If we could at committee stage understand, through the hon. Minister who is piloting this Bill, the intent behind those two particular clauses, one in the case that it has gone a little too short and the other in the case that it has gone a little too far, we could please reflect upon that, so we do not find ourselves supporting unwittingly the work of Rawan as opposed to the work of Rama.

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

**Sen. Dr. James Armstrong:** Madam Vice-President, I did not intend to speak on this Bill really, but given the education I have received this afternoon, I thought I would make a few observations.

It has been mentioned that this is indeed a great country, and I think that part of the greatness that we speak of really has to do with the diversity of our culture. I am quite pleased to support this Bill, but also to indicate that I was not aware actually of the activities of this group. I have never really observed, in fact, any of these festivities.

I am wondering whether we could not, and I am going to ask my colleague, Sen. Dr. Tewarie, who is piloting this Bill, to also take into consideration how we can actually use some of this information, where it says under 3(e):

“establish Ramleela centres and arrange exhibitions, seminars and lectures relating to the tenets of the Holy Ramayana...”

whether we could not try to use that, perhaps even at the elementary level, so that we could understand the diversity of this country better. We could appreciate it at a very early age.

Very often I find that politicians tend to use the differences, rather the things that are our strengths, and turn them into weaknesses. Clearly what has been demonstrated this afternoon for my own self, my own ignorance, is that I am not very familiar with these practices and festivities, and would like to see this really included, if even in the curriculum, where we are able to understand each other much, much better.

For instance recently I was looking at something introduced at the elementary level, VAPA, the Visual and Performing Arts under the Ministry of Education. I was trying to wrap my mind around exactly what that would involve, and here is a very good opportunity or example, where the Visual and Performing Arts could be used at the elementary school level to begin to introduce the diversity that exists within us, to some of the things that are evident and should be appreciated in the cultures and groups that we have in the country.

**2.45 p.m.**

Madam Vice-President, I strongly support—I have no objections, really, to anything contained herein, but simply request that we give consideration to how best we might expose all the cultures, the groups that we have, to each other and appreciate and recognize that as our strengths, rather than the things that divide us.

Thank you.

**Sen. Albert Sydney:** Thank you, Madam Vice-President. I just want to make a brief contribution on this Bill, an Act for the Incorporation of The National Ramleela Council of Trinidad and Tobago and for matters incidental thereto.

I have to confess that I am at a loss about anything dealing with Ramleela and the festivities around it or surrounding it; having attended secondary school, we knew nothing at all about the festivities of Ramleela.

My eye-opener to the Ramleela festival was when Derek Walcott won the Nobel Prize in 1992, his Nobel Lecture called, I think, “The Antilles: Fragments of Epic Memory”, the introduction and the first opening paragraphs of his Nobel Lecture focused on the epic of the Ramleela, and it was very, very interesting for me.

Subsequent to that, I had served on various committees of Carifesta and I remember going to Suriname and to Guyana, where I heard of the work of the Ramleela council and they had done a lot of contributions in those countries and the performances were well received. But Carifesta is something like the Olympics, there are so many things going on. I was involved with the philatelic element, so I did not have the opportunity to actually see a live performance of the Ramleela.

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But I am in support of this Bill and I am of the opinion that—I am sure there may be, like myself, many other people in the country, especially coming up from primary and secondary schools system, depending on where they are located in the country, they might not have an opportunity to attend an actual Ramleela festival. So, I think it would be important if the Ministry of Education—during times when the Ramleela festivals are around, it should be part of the curriculum that they should actually go and visit or have the opportunity to visit. [*Desk thumping*]

I know that the Ramleela council itself or the epic of the Ramleela is very family oriented, it is a positive contributor in the family and in the society, where the theatrical performances are held, and anything that promotes positive values in our democracy I think well deserves the support.

So, Madam Vice-President, this is my very brief contribution and I thank you. [*Desk thumping*]

**The Minister of Planning and the Economy: (Sen. The Hon. Dr. Bhoendradatt Tewarie):** Thank you very much, Madam Vice-President, and thank you very much all the Senators who contributed.

I must say I found the contributions on this matter quite moving from the point of view that Senators responded to it in a very personal way in terms of their experience. Secondly, the articulation of the position, for instance by Sen. Dr. Armstrong, that in a fundamental way this had been going on all the time and he had missed it, and making the call for the society, basically in this multicultural environment to engage each other so that we discover each other and we learn about each other and we get to know ourselves as a collective much better, and I found that also in Sen. Sydney's contribution. I think that in itself is a very valuable—what can I say—lesson coming out of this particular Bill.

I thank the Ramleela council for making this possible by giving us the opportunity to incorporate this. I mentioned earlier that the members of the Ramleela council are here and I do want to take the opportunity to mention them since they are here and to acknowledge their work, because without their work since 1991, we would not have had the opportunity to debate this Bill and to try to support them.

With us today are: Mrs. Kamalwattie Ramsubeik who is the vice-president, and I have known this lady for a long time because I had the opportunity to teach with her when I taught in a secondary school many years ago. I know her family and I know the sterling contribution that they have all made over generations in

her own family; not just to things like Ramleela which they love and they cherish, but to society itself in almost every sphere in Trinidad and Tobago—her husband, herself, and her children.

I want to acknowledge as well, Mr. Rodney Ramjit who is the president here, and the work that he is now doing to support this organization; Miss Dhanraji Ramlakhan, who is the secretary; Mr. Deosaran Sankar, the PRO and Mr. Ken Mungroo who is a floor member, but who was interested enough to come here and to see this through, so to speak, as we debate this simple Bill, but a very, very important Bill from their point of view, in giving them the opportunity to incorporate their organization to establish its legal status and to be able to do things.

Now, I noted the comments of Sen. Al-Rawi, about the possible amendments, and I am sure that at the committee stage we could look at those things, but I do want to make a couple points because of my own advice about these things.

This clause, 5(2):

“All real or personal property of whatever nature conveyed to the Organisation for the use and benefit of same hereby transferred to and vested...”

Sorry, the first one, clause 5(1):

“The Organisation shall have the power to own real or personal property”.

He made the point that this needed to be expanded; and the second one:

“All real or personal property of whatever nature conveyed to the Organisation for the use and benefit of same is hereby transferred to and vested in the Organisation.”

And the third one:

“The Council shall be responsible for the control”—that is to say, clause 5(3)—“and management of the property referred to in subsections (1) and (2) and of the assets of the Organisation.”

These clauses, from what I have been advised, became necessary because of the fact of what Sen. Beckles mentioned, which is to say they do not now have a piece of land or home that belongs to the organization. All of this is done through the generosity of Mrs. Ramsubeik, and they did not want to create a situation in which Mrs. Ramsubeik’s property, being now the legal address of this entity, would find itself in a situation in which they would now have to vest her property

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in the organization. I am advised that this is why there has been this thinking in the clauses here. In the committee stage you might want to raise other issues because you might have a legal interpretation of it, but this is what I am advised is at stake here.

So I suspect that as they evolve and they acquire their own property or are granted property and they then have their secure address and they have their legal holdings, they may, at some point in time, wish to make amendments to the Bill that we are now passing here today for their incorporation.

The other matter that you read, I really do not know, which is to say on the penultimate page, 7(3), “Failure to register the address and any change”, et cetera; I would leave that to the legal people in the Parliament, including, of course, the Attorney General, to see whether there is some issue there. I, myself, am not aware of why this was put in, but my advice again is that the attorneys for the organization, that is to say the Ramleela council, asked that this be included. I cannot really explain why. Okay?

I do want to make a few points though about Ramleela, because the debate, which I had not anticipated would go on for so long was, although we had short contributions, I found very, very rich. In my own experience, I remember—as a child I grew up in Curepe, which is a very complex place.

**Hon. Senator:** Diverse.

**Sen. The Hon. Dr. B. Tewarie:** It is a complex place because everybody lives there, if you understand what I mean. It has always been that way and it has evolved in that way and perhaps even more so as the university itself has grown and the life around the university and Valpark.

So, the whole place has changed and I watched the place changed over time. I do not now live there, but in growing up there it was a very, very diverse place. The place that I went to see Ramleela was really what we used to call the Bhadase grounds the Bhadase Sagan Maharaj grounds, in what we used to then call Morang, which was—what can I say?—east of Spring Village. Of course, those big grounds, I think it was about 25 acres of land, you would see literally thousands of people who would gather around the perimeter of these grounds, and then you would see this reenactment every year of the Ramleela, and basically the occupation of close to 20 acres of land in this dramatization of Ramleela there.

That is how I experienced it personally when I was a child. Of course there were many areas in which subsequently I went to see it, which would be Dow Village, where they have had Ramleela for, God knows how many years; it was probably

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one of the early ones, this was in California now called Point Lisas, and then, of course, in Felicity, which Morton Klass used in one of his early writings about East Indians in the Caribbean and in Trinidad and Tobago, and called it Amity Village. But that is where, again, you had the home. And this is where Derek Walcott saw it, this is where he went to experience it. If you go into Felicity when they are having Ramleela, again you would see literally thousands of people around the perimeter of that big savannah and the Ramleela taking place in the centre of it, in this big landscape, this big piece of land.

It really is a very, very joyous festival, and one of the things that we do not appreciate is what we have, and that is why Sen. Dr. Armstrong's contribution is so significant.

Suriname, Guyana and Trinidad and Tobago, because of the concentration of East Indian communities that came here with the indenture, what they have been able to do over time with something like the Ramleela, is that they have been able to save—in the western hemisphere, in Trinidad and Tobago, in Guyana and Suriname—this festival as a festival that dates back to thousands of years.

**Sen. Ramlogan SC:** “Doh let Divali come and meet you eh.” [*Crosstalk and laughter*]

**3.00 p.m.**

They have been able to save this festival that goes back for thousands of years and to give it life in the western hemisphere. That is why I think, not just Walcott engaged it in that way, but that is why it has gotten the recognition internationally of being this intangible asset. We need to recognize that there are more like that. It is not just like that.

Before the Amity Village issue of Morton Klass, Herskovits had written about African retentions in Trinidad and Tobago. He had really gone back to see the connection between the community of people of African descent in Trinidad and Tobago, in places like Toco and so on, and the extent to which they remain connected with ancestral practices and memories, and these things are very important things. We take them for granted, we take ourselves for granted, we take our communities for granted, we take all the things that we have created for granted and as a result we do not discover ourselves, we do not know each other and we do not even understand the society that we are living in and we really have to put an end to that.

I want to say that one of the things that we are doing with this 50th anniversary celebration is trying to put an end to that. That is to say, trying to bring all the cultures to the fore. So one of the things that we are doing is actually supporting

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the Ramleela council, in the Ramleela festivals that are going to come here in November, to make sure that they basically are centre stage in the process of national celebrations, as we are going to do with other things all over the country.

I do not wish to be long. [*Laughter*] The hon. Attorney General already told me not to talk until Divali gets here. [*Laughter*] So I would not do that, but I do want to draw to the attention of the national population and our Senators here, Madam Vice-President, the fact that the beginning of the East Indian presence in Trinidad and Tobago dates from 1845—and that is 167 years—and you would see that Ramleela came into being about 127 years ago. That is a very important fact.

What it means is that it took 40 years after the first arrival of indentured Indians in Trinidad and Tobago, and after some of them had been able to get out of the plantation and begin to build communities, to recreate this art that they had known in the villages from which they had come. And it explains to you, really, how art and freedom come together. It really shows how you can only get to the point of artistic expression and self-expression when you begin to taste the opportunity of freedom. And it is an important thing to remember that artistic creation and freedom and the consciousness of being free go together in a society.

So what we need to aspire to, if we want to create great art, is to have a society that really can celebrate its freedom every day. And we are committed to that idea—[*Desk thumping*]—of democracy, diversity and freedom. And with that commitment, I thank the Members of the Ramleela council for the tremendous contribution that they have made—[*Desk thumping*]—in developing Ramleela in the country and in sustaining it, but also for bringing organization, form and strategy to it. With that, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

*Clauses 1 to 4.*

*Question proposed:* That clauses 1 to 4 stand part of the Bill.

**Sen. Prescott SC:** Madam Chair, may I speak on clause 4? I am sorry.

**Madam Chairman:** Sure.

**Sen. Prescott SC:** Clause 4 seems to require a provision—I am sorry, within 1 to 4—that there be established a council, and the composition of that council should be included. By comparison, the Bill which we had looked at only a moment ago, The Association of Real Estate Agents Bill, makes such a provision.

So it says that the council has been established by this Act. It shall have a president and a secretary or as the case may be. You will note in the further provisions, for example, clause 6, there is a reference to a president and a secretary and we have not yet established the body. So I will urge that the Attorney General or the Minister, consider introducing either a new clause 4 that says something about the establishment and composition of the council, similar to clause 3(1) of the AREA Bill. Thank you.

Further, in clause 4, the current clause 4, it is sometimes regarded as superfluous, but a body corporate would have the power to sue or be sued in its corporate name. I have not observed a similar provision in this Bill. Language exists, once again, in the AREA Bill at 4(b). In 4(b) there is another aspect that I did wish to raise—that thing about promoting the interest—doing such things as are necessary and expedient for the conduct of the affairs of the organization. Those provisions could be included in this Bill.

**Sen. Al-Rawi:** Hon. AG, just to provide some guidance for Seniors' contribution, Senator seniors'; I would say that, if you look at the AREA Bill which we dealt with a little while ago, clause 5(d) provides the power to sue and be sued in its corporate name, which is perhaps a clause which we could add into the powers clause, which is clause 4, perhaps of a paragraph (d) itself.

So the insertion of a paragraph (d) to read, “sue and be sued in its corporate name”. And if we are looking to a new clause 4 of the Bill, it would be similar to clause 3 of the AREA Bill—*[Interruption]*

**Sen. Ramlogan SC:** I was about to suggest that perhaps we can really just transplant clause 3 from the previous one into this. Sen. Prescott?

**Sen. Prescott SC:** I do not know whether, for example, the quantum of persons, whether the offices are what the council requires.

**Sen. Ramlogan SC:** I think that should be fine.

**Sen. Prescott SC:** They certainly need a secretary and what the AREA Bill has is a president and a vice-president. So, yes, I accept that that might be the example to follow, but you will need to be more careful about what the council requires.

**Sen. Al-Rawi:** What we could do hon. AG—[*Interruption*]

**Sen. Dr. Tewarie:**—president and secretary.

**Sen. Ramlogan SC:** Well 10 members is more than enough, 5 to 10. I think that is fine.

**Sen. Al-Rawi:** Is there a requirement to put a *de maximis* provision? In other words then, would it suffice to say, a minimum of 5 without a maximum?

**Sen. Ramlogan SC:** No, it is wise to put a maximum. It is wise to put it to prevent, you know—[*Interruption*]

**Sen. Prescott SC:**—Otherwise everybody would want to be on it.

**Sen. Ramlogan SC:** otherwise everybody would want to be on the executive.

**Sen. Al-Rawi:** Okay, I would think then 5 to 10 is a safe number in view of other things that we have done, but I would not necessarily say that we need the office of secretary, because secretary is something which is done under rules. So it would be appropriate to put president and vice-president.

**Sen. Ramlogan SC:** Yes, but that is what clause 3(1) has.

**Sen. Al-Rawi:** Somebody across the floor had said secretary.

**Sen. Ramlogan SC:** I would leave it as that.

**Sen. Prescott SC:** Madam Chairman, I would differ from Sen.—[*Interruption*]

**Madam Chairman:** Possibly, if you can probably stop after the 10 members rather than identifying a president or a vice-president or even a secretary.

**Sen. Ramlogan SC:** It may be wise to put a president and a vice-president.

**Sen. Prescott SC:** I am seeking to persuade you to put a secretary. They seem to have been existing on the basis that a secretary has official functions—[*Interruption*]

**Sen. Ramlogan SC:** We can put in the secretary. That is fine, because they would need a secretary, but they would also—then you could go on, because they will need a treasurer and all sorts of things. That is why I because—was hesitating.

**Sen. Prescott SC:** I would draw the limit at secretary.

**Sen. Al-Rawi:** So, “President, vice-president and secretary”?

**Sen. Ramlogan SC:** Yes, that is fine.

**Sen. Al-Rawi:** If you are transplanting 3(1) across.

**Sen. Ramlogan SC:** We can transplant 3(1) across and say, “president, vice-president and secretary”.

**Sen. Al-Rawi:** Clause 3(2) of the AREA Bill:

“Members of the Board shall be elected by an annual general meeting in accordance with rules made...”

We could just look at the reference to clause 9.

**Sen. Ramlogan SC:** We will have to insert that at clause 9.

**Sen. Al-Rawi:** The correct clause would be—yes, clause 9 as well, an organization shall have AGM—so it would apply here as well.

**Sen. Ramlogan SC:** Yes, we need that.

**Madam Chairman:** Do we insert that clause 3 as a separate clause 3, and then move clause 3 as it stands in the Bill to clause 4.

**Sen. Ramlogan SC:** It will now become the new 4.

**Sen. Al-Rawi:** Or it could be 3(A), either one.

**Sen. Ramlogan SC:** Perhaps you could put it as clause 3 following the sequence of the previous Bill.

**Madam Chairman:** So then the current clause 3 would now be clause 4.

**Sen. Ramlogan SC:** That is correct—the aims and objects, yes correct.

**Madam Chairman:** The marginal note will read:

“The establishment and composition of the board”?

**Sen. Ramlogan SC:** Yes.

**Madam Chairman:** Right, okay.

**Sen. Prescott SC:** Of the council?

**Madam Chairman:** Of the council.

**Sen. Prescott SC:** The board of the council.

**Sen. Ramlogan SC:** It would be the council itself, or the council alone.

**Sen. Al-Rawi:** It is now called the organization in this Bill. So the new clause 3 should be, “establishment and composition of the board”. We could just leave it as is in the AREA Bill for instance.

**Sen. Ramlogan SC:** Sen. Abdulah is pointing out 5(3), uses the word “council”.

**Sen. Prescott SC:** Madam Chairman, I was going to invite, in any event that we either delete it or decide which one. If we want to distinguish between council and organization, 5(3) speaks to council and I suspect it is doing so unwittingly. Let us use the word “organization” throughout and as Sen. Al-Rawi suggested we will then say “the composition of the board”.

**Madam Chairman:** So the marginal notes will be the composition of the board.

**Sen. Ramlogan SC:** It would be the same, you add after vice-president and secretary.

**Madam Chairman:** That would be a new clause 4, and then renumbering after.

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3.*

*Question proposed:* That clause 3 stand part of the Bill.

**Madam Chairman:** Clause 3 is amended by inserting a new clause as follows:

“Establishment and composition of the board” are to read:

“3(1) The business of the Organisation shall be executed by a Board, consisting of a minimum of five and a maximum of ten members including the President, Vice-President and Secretary.

(2) Members of the Board shall be elected by an annual general meeting in accordance with the rules made under section 9” *[Interruption]*

**3.15 p.m.**

**Sen. Al-Rawi:** Section 9 of this Bill—actually it was very unusual, because other Bills do not usually include the AGM as a part of the Bill. But this Bill establishes the fact that we are going to have an AGM: “The Organisation shall have its Annual General Meeting on the first Saturday in June of each year or where it is impossible or impractical to do so on the date specified...” But it does not deal with the rules. The rules are dealt with under clause 8: “The Organisation may from time to time make rules and regulations...” So it is either that we are going to say “shall be elected at the AGM in accordance with section 9”, or we are going to say “in accordance with rules under section 8.”

**Madam Chairman:** So subclause (2) would read:

“Members of the Board shall be elected by an Annual General Meeting in accordance with the rules made under section 8.”

**Sen. Al-Rawi:** Madam Chair, just a quick question. I believe that our practice—I do not know if this affects by way of irregularity, but I believe our practice for the insertion of a new clause is done at the end of the Bill. There is no complication for the way we are doing it now, right?

**Madam Chairman:** No, that is fine.

**Sen. Al-Rawi:** Okay, good. Because it is not clause 3 as amended; it is a new clause.

**Madam Chairman:** Yes, inserted.

**Sen. Al-Rawi:** That is what I meant, Madam Chair.

**Madam Chairman:** That would have been inserted, right. As it was inserted we have a new clause 4.

**Sen. Al-Rawi:** It usually would read that clause 3 be renumbered to be clause 4. We would then have inserted the new clause 3 at the end of the Bill. So that is why I was pointing you to that, because we are technically not amending—unless someone has something to say—the old clause 3. Sorry, Madam Chairman, what is clause 4 now?

**Sen. Prescott:** I think we should say “new clause 4”.

**Madam Chairman:** The aims and objectives.

**Sen. Al-Rawi:** So from a procedure point we should say: “clause 3, as amended, to now read as clause 4 by the renumbering, stand part of the Bill.”

**Madam Chairman:** I am just wondering, Attorney General, if the side note should be “aims and objectives” rather than “aims and objects”.

**Sen. Prescott SC:** Yes, we could do that. It is just the wording, right—aims and objectives.

**Madam Chairman:** So the new clause 4 would read:

“Aims and objectives. The aims and the objectives of the Organisation are to—”

So now I am advised that we call all the clauses as in the original and we will renumber accordingly. Thank you very much, Sen. Al-Rawi.

*National Ramleela Bill, 2011*

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**Sen. Al-Rawi:** The question is that clause 3 stand part of the Bill. We did clauses 1 and 2, which stood part of the Bill, now it is clause 3, Madam Chair. *[Interruption]* Madam Chair, I would suggest that clause 3 be renumbered to clause 4 now.

**Madam Chairman:** What the clerk is advising is simply that we will continue as is and the numbering will flow at the end of it. They will do the numbering after.

**Sen. Ramlogan:** We will do a consequential renumbering.

**Sen. Al-Rawi:** I understand that, but as I understand our practice to be, we propose what is listed as the clause on the Bill as standing part of the Bill. So we did not do clause 3 of the Bill already. That is what I was just trying to get clear. So we are now doing clause 3.

**Madam Chairman:** Yes, that is what we are doing.

**Sen. Al-Rawi:** Which is, clause 3 as written here, “Aims and objectives”, and we are asking for that to stand part of the Bill. But what you just read was now the question that clause 4 stand part of the Bill, which we have not gotten into yet.

**Madam Chairman:** That is why we went back to clause 3.

**Sen. Al-Rawi:** I see. Thank you, Madam Chair.

*Question put and agreed to.*

*Clause 3 ordered to stand part of the Bill.*

*Clause 4.*

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

**Sen. Prescott SC:** Madam Chairman, for my own edification, is that the one that read in the marginal note: “Powers of the Organisation”?

**Madam Chairman:** Yes.

**Sen. Prescott SC:** If it is, may I seek to have it amended to include a new paragraph (d) that says: “sue and be sued in its corporate name.”

**Sen. Ramlogan SC:** That is fine.

**Madam Chairman:** Clause 4 is amended by inserting after (c):

“(d) sue and be sued in its corporate name.”

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5.*

*Question proposed: That clause 5 stand part of the Bill.*

**Sen. Al-Rawi:** Madam Chair, I thank Sen. Dr. Tewarie, through you, for the explanation given, the mischief being to make sure that persons who have stood to allow benefit to the organization do not find themselves compelled to convey their land. The point that I was dealing with in subclause (2): “All real or personal property of whatever nature conveyed to the Organisation for use and benefit of same is hereby transferred to and vested in the Organisation”, is restrictive and potentially subjects any persons, who we may be unaware of presently, who may have gifted or held in trust, property for the benefit of the organization and, therefore, not have exercised a right of conveyance. In seeking to pass that across to the organization at present, they will subject themselves to the payment of stamp duty at market value of the property.

So I looked instead to the provisions of the AREA Act, which used the wording: “All real or personal property of whatever nature now held by or vested in any other person for the use and benefit of the Organisation is hereby transferred to and vested in the Organisation”, as a more palatable expression, because I think that we can take care of the mischief which Sen. Dr. Tewarie alluded to by realization of the fact that anybody who said that the property is not to be given cannot be compelled to give the property. So that it would be a wider phrase which we could probably consider, subject to what the AG has to say in relation to this.

**Sen. Ramlogan SC:** We met and we discussed this and it is fine. It simply speaks to the power of the organization. There is no compulsion in it.

**Madam Chairman:** So it stands.

**Sen. Ramlogan SC:** No, we can include it—and the reason I did that is that in the future if anyone wants to bequeath any land or give anything, when you do that transfer, you would avoid paying the stamp duty.

**Sen. Al-Rawi:** Exactly.

**Sen. Ramlogan SC:** So it is for the benefit of the organization, that is why we will amend it.

**Sen. Al-Rawi:** And the guidance for the wording can be had from clause 6 of the Bill which we dealt with previously, Madam Chairman, and that would be the wording there: “All real or personal property of whatever nature now held by or vested in any other person for the use and benefit of the Association prior to the coming into force of this Act is hereby transferred to and vested in the Organisation”, substituting the word “Association” for “Organisation”.

**Madam Chairman:** That is the replacement of clause 5(2) into that.

**Sen. Prescott SC:** Yes. Clause 5(2) would be replaced with that.

**Sen. Al-Rawi:** And then amending in subclause (3) the word “Council” to read “Organisation” instead.

**Sen. Ramlogan SC:** “Board.”

**Sen. Al-Rawi:** “the Board.”

**Sen. Prescott SC:** If you would permit me, just one of those typos; the word “assets” is spelt incorrectly.

**Madam Chairman:** Thank you very much.

Clause 5 is amended by replacing subclause (2) to read:

“All real and personal property of whatever nature now held by or vested in any other person for the use and benefit of the Organisation prior to the coming into force of the Act is hereby transferred to and vested in the Organisation.”

In subclause (3), “Council” is to be replaced by the word “Board”.

**Sen. Al-Rawi:** And Madam Chair, just for the benefit of *Hansard* to assist the mischief that Sen. Dr. Tewarie alluded to, that is, specifically not to compel a conveyance or vesting of property by people who may have facilitated use. So we do not intend to compel persons who may have been lending assistance to the council to give their property across. Just for the benefit of *Hansard* so that it is clear on the record.

**Madam Chairman:** Thank you.

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clause 6.*

*Question proposed:* That clause 6 stand part of the Bill.

**Sen. Al-Rawi:** Madam Chair, just a question on subclause (2). We have an unusual formula here:

“All documents requiring the seal of the Organisation shall be sealed with the common seal of the Organisation in the presence of the President and Secretary for the time being in office or in event of incapacity by some other person or persons authorized...”

We are introducing the concept of incapacity, which is not necessarily unavailability, et cetera. If you look to the AREA Act which we dealt with, you will see in clause 7 (2), the wording is instead:

“Every document requiring the seal of the Association shall be sealed with the common seal of the Association in the presence of the President and the Secretary (or any other person appointed for that purpose)...”

That is a more palatable phrase than introducing a concept of whether someone is incapable or not. So I just wondered if we would prefer to have that one instead.

**Sen. Ramlogan SC:** It does seem a bit wordy and complex and also you can be unavailable without being incapacitated, and then I worry having regard to how some of these things operate in local areas when somebody wants to hold on and makes themselves absent and the business grinds to a halt.

**Madam Chairman:** So we are taking clause 7(2)—

**Sen. Ramlogan SC:** Clause 7(2) becomes clause 6(2).

**Sen. Al-Rawi:** Madam Chair, what we could do, we could delete clause 2 entirely and insert instead the same wording from the AREA Bill, clauses 2 and 3, as they are, because that will take care—substituting the word “Association” with “Organisation”.

**Sen. Ramlogan SC:** Yes.

**Madam Chairman:** Clause 6 is amended as follows:

Delete the existing subclause (2) and replace with:

“(2) Every document requiring the seal of the Organisation shall be sealed with the common seal of the Organisation in the presence of the President and Secretary (or any other person appointed for that purpose) who shall both sign the document.

(3) The signing of a document shall be *prima facie* evidence that the lawful seal of the Organisation was duly affixed.”

**Sen. Prescott SC:** When Sen. Al-Rawi read it, he appeared to introduce the corrections to the punctuation that he knew were necessary. So it should read, for example, “All documents requiring the seal of the Organisation shall be”—no comma—“sealed with the common seal of the Organisation in the presence of the President and Secretary...”

**3.30 p.m.**

**Sen. Al-Rawi:** Yes, in the AREA Bill there is no offending commas or otherwise.

**Sen. Ramlogan SC:** We are taking it from there so, the punctuation is correct.

**Sen. Prescott SC:** Make sure you do not slip.

**Madam Chairman:** No, it is actually coming from the other piece of legislation.

**Sen. Ramlogan SC:** Yes, it is a cut and paste.

**Madam Chairman:** So, all these things are being removed completely.

*Question put and agreed to.*

*Clause 6, as amended, ordered to stand part of the Bill.*

*Clause 7.*

*Question proposed:* That clause 7 stand part of the Bill.

**Sen. Al-Rawi:** Just a quick question on subclause 7(3).

**Sen. Ramlogan SC:** Bhagwan!

**Sen. Al-Rawi:** Bhagwan's aid invoked by the AG and all. Question is, do you want to make it a summary offence with the fine? I do not know why we want to be as onerous as that.

**Sen. Ramlogan SC:** I think we had agreed on that. That will come out.

**Sen. Al-Rawi:** So my suggestion is to delete subclause (3).

**Sen. Ramlogan SC:** We had agreed on that.

**Sen. Al-Rawi:** Thank you.

**Madam Chairman:** Clause 7 is amended by deleting subclause (3).

*Question put and agreed to.*

*Clause 7, as amended, ordered to stand part of the Bill.*

*Clause 11.*

*Question proposed:* That clause 11 stand part of the Bill.

**Sen. Prescott SC:** I wish to be heard briefly on 11 please.

**Sen. Al-Rawi:** Clauses 8 to 10?

**Madam Chairman:** Yes; let me hear what he has to say.

**Sen. Prescott SC:** Nothing of great substance. The word “effect” is used in line 2; it may be that it was meant to be “affect”. And in the third line, “corporate or any other persons except such as are mentioned”; it might be that those should be addressed. That is all.

**Madam Chairman:** So it is simply to change the word, “effect” to “affect” and correct the spelling of “other”.

**Hon. Senator:** And “a” to “are”.

**Sen. Prescott SC:** Correct the typos.

*Question put and agreed to*

*Clauses 8 to 10 ordered to stand part of the Bill.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*New clause 3.*

**Sen. Dr. Tewarie:** Madam Chairman, I propose a new clause 3 which reads as follows:

A. Insert after clause 2 the following:

“Establishment and composition of the Board

(1) The business of the Organisation shall be executed by a Board, consisting of a minimum of five and a maximum of ten members including the President, Vice-President and Secretary.

(2) Members of the Board shall be elected by an annual general meeting in accordance with rules made under section 8.”

*New clause 3 read the first time.*

*Question proposed:* That the new clause be read a second time.

*Question put and agreed to.*

*Question proposed:* That the new clause be added to the Bill.

*Question put and agreed to.*

*New clause 3 added to the Bill.*

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*Preamble approved.*

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

*Senate resumed.*

*Bill reported, with amendment, read the third time and passed.*

**ADMINISTRATION OF JUSTICE  
(ELECTRONIC MONITORING) BILL, 2011**

[Second Day]

*Order read for resuming adjourned debate on question [May 29, 2012]:*

That the Bill be now read a second time.

*Question again proposed.*

**Madam Vice-President:** Those who spoke on May 29, 2012: Hon. Herbert Volney, Minister of Justice, the mover of the Motion; Sen. Penelope Beckles; Sen. Elton Prescott SC; Sen. The Hon. Brig. J. Sandy; Sen. Faris Al-Rawi; Sen. Corinne Baptiste-Mc Knight and Sen. Jamal Mohammed. Any Senator wishing to join the debate may do so at this time.

**Sen. Terrence Deyalsingh:** Thank you, Madam Vice-President, as I rise to make a contribution on this Bill, an Act to make provision for the implementation of a system for electronic monitoring in Trinidad and Tobago and for related matters. Madam Vice-President, this Bill has to do with the whole issue of crime, criminal behaviour and how we as a society try to contain such behaviour.

Madam Vice-President, I have always said in this Senate that it is impossible to legislate for everything under the sun. And an incident that took place yesterday, while I was driving out of the area where I live, brought this starkly into focus.

I was driving out behind a car trying to get on to the Churchill Roosevelt Highway. The car in front of me had the green light and was proceeding as she ought to. A car driving east to west, deliberately broke a red light and almost collided with that female driver who was in front of me. I could not believe the total and callous disregard for life. But, what was striking, was on driving and passing the person who was in front of me and who could have been killed, thinking that that person would have been rattled, I was stunned to see that she was busy texting. She almost lost her life or could have lost her life; she was not fazed by it and she was busy texting and driving at the same time. [*Crosstalk*]

What has happened to human beings, what has happened to adults—and if I link it to the Bill it was an electronic message. What has happened where adults, even if you do not have regard for your own life, what about the lives of others that you are impacting by your criminal behaviour, illegal behaviour, your crass behaviour or quite plainly your stupid behaviour? How do you legislate for that?

Madam Vice-President, that does not only happen in Trinidad and Tobago, it happens all over the world. People are having breakfast, putting on lipstick, putting on make-up, and we have the old story from Paul Keens-Douglas where he was giving a woman a driving lesson and she “pull out the choke. So he, think, well boy, she know about driving. But, she hang-up de handbag on the choke.” That is the kind of thing that goes on. [*Laughter and crosstalk*] “Yeah. She pull out the choke to hang up the handbag.”

**Sen. Al-Rawi:** That is called, “ah fire de wuk.”

**Sen. Ramlogan SC:** That is a real old vehicle boy.

**Sen. T. Deyalsingh:** Old vehicles had chokes, so you pulled out the choke to start.

**Sen. Al-Rawi:** Zephyrs had chokes.

**Sen. T. Deyalsingh:** Zephyrs had chokes, hon. Minister.

**Hon. Volney:** Austin Cambridge.

**Sen. T. Deyalsingh:** Madam Vice-President, we are here to look at legislation to deal with electronic monitoring. While we on this side fully support the concept of electronic monitoring, as Sen. Al-Rawi said in his contribution, we are putting the cart before the horse in that we do not have a parole system as yet. So I do not intend to go into that.

Sen. Al-Rawi and Sen. Corinne Baptiste-Mc Knight also spoke about the technological difficulties we are going to face in implementing this Bill. So I just want to reiterate that as I move forward.

Madam Vice-President, this Government came into office promising certain things regarding crime, their manifesto—largely written or co-authored or fathered by Sen. Dr. Tewartie—spoke about a 120-day crime plan. We had the false dawn of a state of emergency; we had the reversal of positions, re: the OPVs, which led to a total loss of confidence; we have the whole issue of double standards when it comes to crime, which I will come to later on and I will refer to specifically the Keith Noel 136 Committee.

What struck me most in this debate, Madam Vice-President, was the opening statement by the hon. Minister of Justice, because we were promised in the lead-up to the election that there were some solutions for crime. What struck me was that two years into the administration of this Government, and I am quoting Minister Volney now, he is speaking about the proliferation of crime and criminal activities.

How could there be a proliferation of crime and criminal activity when we hear from Government's spokespersons all the time that crime is on the wane; that we have things under control; that coming out of that state of emergency would have been some sort of long-term plan to control crime? But, here we are today, in June 2012, after two years and an opening statement by the mover of this Bill, there is a proliferation of crime and criminal activity. That is what I meant when I spoke about false dawns and double standards.

Madam Vice-President, also talking about crime has to do with the politicization of crime and the use of the suffering of victims of crime for PR purposes. It was well known before the last election and one year after the election, it was common practice for Members of the then Opposition, who soon became Members of the Government, to come to the Parliament with tales of how they would visit the victims and the families of victims of crime. They would come and regale us with stories about the victims of crime and the hardships these families were going through.

Has anybody realized in the past year that Government Ministers no longer visit the homes and families of victims of crime and no longer come to the Parliament and speak about the horrors of crime? [*Desk thumping*]

**Sen. Al-Rawi:** Shame!

**Sen. T. Deyalsingh:** None! Nobody comes to the Parliament again and speaks about it. Nobody!

**Sen. Ramlogan SC:** "Yuh was sounding better when yuh was talkin about the texting."

**Sen. T. Deyalsingh:** Nobody, Madam Vice-President, went to the home of the 93-year-old man and 76-year-old wife beaten at home for pension cheques which the *Newsday* called "savage."

**3.45 p.m.**

No more newspapers are being produced in this Parliament of this: *Newsday*: “8 murders in 4 days, Young Blood Flows.” This Bill envisages the use of electronic monitoring to people under the Constitution, like murderers who may be granted pardons, but we hear no more stories about that. These people no longer exist for PR purposes. It is only under the last administration that homes were visited.

Madam Vice-President, we are speaking about—as I spoke before—the loss of confidence in the Government to handle crime, and this has to do with several things. One of the first areas or instances where confidence was lost has to do with the appointment of ill-suited people to high office, because this Bill speaks about the appointment of what we call “suitably qualified persons”, which Sen. Prescott SC, I believe, in his contribution spoke at length to, who is a suitably qualified person, and the whole issue of Resmi Ramnarine comes up again. *[Interruption]*

**Sen. Ramlogan SC:** “Oooh Lord!”

**Sen. T. Deyalsingh:**—and we are seeing—*[Interruption]*

**Sen. Ramlogan SC:** It is a stuck record.

**Sen. T. Deyalsingh:** It is a stuck record you say. That incident is characteristic of the disregard that this Government has for appointing people. The same mistake you made with Resmi, the T&TEC Board and the EFCL boArd, you are going to make with this board.

Madam Vice-President, coming back to crime; it is convenient to speak about crime, but it is not convenient to come here to tell us what you are going to do about crime. What about the dismantling of SAUTT? When we had SAUTT and the AKS, kidnappings went to zero. That was an initiative under the last administration. *[Desk thumping]*

Under the Homicide Investigative Task Force, set up in October 2009—because this Bill, again, speaks about, possibly people who are on murder charges, who may get pardon may have to be bearing, what we call, “government bling”. There was a 25 per cent reduction in homicides, but what is crucial about the dismantling of SAUTT is that there are 69 gang members currently in detention, who may have to be freed because of the dismantling of SAUTT—*[Interruption]*

**Sen. Al-Rawi:** Tell them.

**Sen. T. Deyalsingh:**—and that is going to be a crucial, crucial issue that we have to deal with. These cases may collapse because the officers may no longer be there to give evidence. [*Interruption*]

**Sen. Al-Rawi:** They are not there right now.

**Sen. T. Deyalsingh:** Right! So that is going to be a very, very crucial issue.

Madam Vice-President, in trying to control crime, we are seeing the increased use of joint army and police patrols which we have no problem with. It was done under the last administration, even with the objections of persons sitting opposite me now. When they were in Opposition, they were calling about the illegality of joint army/police patrols, but now we are using them again. If we are going to control crime, this Government has to stop playing games with crime. [*Desk thumping*] What they spoke about was illegal then; is it illegal now? That is the question we need to ask.

We have a Government which is clearly unable to control crime and clearly unable to determine its way forward. As I said, I will refer to the opening statement of the hon. Minister of Justice, there is “a proliferation of crime and criminal activity”. This was on the same day that an *Express* editorial wrote about the celebration that took place in Mid Centre Mall, “amidst unstaunched crime”. The editorial of the *Express* of Thursday, May 24, “unstaunched crime”. So what we have here is possibly an OJT government, on-the-job training, trying to grasp [sic] with crime. We have seen no coherent crime plan.

We are seeing policies articulated by Members of the Government on the fly which lead us to believe there is no crime plan, and I will refer specifically to an article in the *Newsday* of Tuesday, May 22, 2012. The headline goes:

“Devant: Fine bar owners

Jack: I know nothing of that”

In this article, the hon. Minister of Transport is recommending that bar owners be fined if their patrons leave their premises drunk and cause accidents. Good idea. He is a Minister of Government—[*Interruption*]

**Sen. Al-Rawi:** Cabinet.

**Sen. T. Deyalsingh:**—Minister of Cabinet, but another Minister slaps the idea down and this is what I mean by on-the-job training, Government by OJT—plans being enunciated by one Minister, totally contradicted by his Cabinet partner.

That is what I mean by loss of confidence when it comes to crime. And if you want me to link this to the Bill, is that, if you turn, Madam Vice-President, to the Sentencing Handbook on page 217, there is a case, *Geewan Kathwaroo v PC Wayne Mohess*, No. 84 of 2009. It was a case of drunk driving and the penalty imposed on that person was \$1,000 and three months imprisonment. This type of person may be contemplated in this Act. Persons on drunk driving charges—as Sen. Devant Maharaj might want to criminalize that practice for bar owners—may be subject to electronic monitoring. But the point is, where is government’s policy in all of this? To show you the conundrum that we have as a population in determining government policy—we have had many contradictory statements by Government Ministers—one day one Minister would talk about gay rights; abortion, and the next day her acting Prime Minister says he knows nothing about that. Where is the consistency in policy when it comes to this?

I refer specifically now to this Bill because it refers to possible exemptions, and it goes to the whole issue of the Constitution, section 86, because under the Constitution—and this Bill contemplates certain exceptions for murder. Clause 11 of this Bill talks about electronic monitoring as a lawful condition of pardon under section 87(2)(a) of the Constitution—that is what this Bill specifically refers to—and that part of the Constitution speaks to the whole issue of the President may grant a pardon for offences inclusive of murder, and that is where we are today with close to 180 murders which is in excess of the same period of 2011. [*Desk thumping*] More murders for the same period of 2012 as opposed to 2011, and this is after a state of emergency where we were promised a comprehensive, long-lasting crime plan. That is what I mean by Government by OJT.

If it is we are talking about crime plans, and this Bill envisages murderers—murderers, possibly under presidential pardon—being the recipients of these anklets, I am asking the question: at what murder toll will this Government take action? It was when they were in Opposition that their magical figure was 136. One hundred and thirty-six figure was the bar that was reached, where one Member decided to launch the Keith Noel 136 Committee.

### **3.55 p.m.**

What is the bar that they consider appropriate now? Why are no more coffins being dragged through the streets with Peter Minshall having productions outside of the Red House with red cloth being put down on Abercromby Street? Madam Vice-President, in looking back at some of the articles written about murder, I refer to a *Newsday* article of May 22, 2010, where he spoke about:

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“Cadiz also said a coalition government would make ‘the process of referendum’ a permanent fixture on the country’s political landscape.”

Madam Vice-President, we have a serious problem with crime. This Bill envisages the use of electronic monitoring instead of incarceration. Where is the referendum to deal with this issue? It goes back to my point about the lack of a coherent Government policy.

In the lead-up to the elections, constitutional reform was high on the agenda of the then Opposition—constitutional reform. We were hearing about term limits, referenda. But how could a Government with a coherent crime plan come to the people and suddenly declare that the Caribbean Court of Justice, for murder, which may be exempted under this Bill, we are now suddenly going to use them? Then, you have the hon. Prakash Ramadhar calling for a referendum on the issue. How are we going to deal with crime if the Government themselves do not know what their plan is? To referendum or not to referendum, that is the question. But it was popular to use it then.

Madam Vice-President, this Bill, in clause 10, speaks about the imposition of a sentence for electronic monitoring. Question is: who are these people? Do we have a database of these people? I refer again to the loss of confidence that this country feels in the Government’s ability to manage crime. I refer specifically to the break-in at the SIA where we were told that \$2 million worth of equipment was stolen. The quantum or value is totally irrelevant. What is relevant to me and to us is the information stolen, because you could have a \$5,000 laptop with a database of criminals and their criminal activity so that we can impose electronic monitoring on them. But how could you break into the SIA? Is that not a guarded facility?

**Sen. Al-Rawi:** Not under this Government.

**Sen. T. Deyalsingh:** Should the SIA not be a secured facility? Should the SIA not have guards around it, perimeter fencing and perimeter guards? So, I have no problem with the quantum, what I am concerned about is the information that has been stolen, and we are hearing nothing.

Madam Vice-President, coming back to the incoherence of policy; I had no intention, when this debate first started, to speak about the Selwyn Ryan Committee. However, Sen. Al-Rawi, in his contribution of May 29, 2012, and if I may quote from his *Hansard*, said:

“The latest crime plan is to be produced by Dr. Selwyn Ryan and others at a cost of \$2 million.

So, Madam Vice-President, the Government has now outsourced a crime plan preparation.”

Sen. Brig. Sandy rose:

“Madam Vice-President, this is erroneous. This is news to me.”

That is what he said on May 29. “This is news to me”; so he did not know about the Selwyn Ryan crime plan.

“...there is no truth in Dr. Selwyn Ryan doing a crime plan for the Ministry of National Security.”

Madam Vice-President, to say I was stunned that the hon. Minister of National Security did not know about a Selwyn Ryan crime plan is absolutely amazing.

I read from a *Mirror* article dated May 13. Now, I had no intention of bringing the Selwyn Ryan crime plan into this debate. It was raised by Sen. Al-Rawi and countered and rebutted by the Sen. Hon. Brig. John Sandy. [*Interruption*] Point of order? Go ahead.

**Sen. Dr. Tewarie:** If you would give way, Senator? There is a committee established by—sorry, with Selwyn Ryan as the Chair that is working on a project having to do with the east Port of Spain area, some of which include the hotspots. It has nothing to do with any crime plan. It is not true to say that Selwyn Ryan and his committee are working on a crime plan. It is just not true.

**Sen. T. Deyalsingh:** Thank you, hon. Senator. Madam Vice-President, this issue has to be taken in the vacuum of an absence of a crime plan. [*Desk thumping*] That is what it has to do with. I am raising the point that I cannot see how Government Ministers can talk about—and I quote the *Hansard*, again, from Sen. Brig. Sandy:

“Madam Vice-President, this is erroneous. This is news to me.”

That is, the Selwyn Ryan crime plan. That is news—[*Interruption*]

**Sen. Brig. Sandy:** There is no Selwyn Ryan crime plan.

**Sen. T. Deyalsingh:** If you would let me finish. I do not like, maybe, how the *Mirror* articulated this position, but their headline was “RYAN EATS A FOOD”, and if I may quote:

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“Professor gets \$1m to write”—sorry—“The five-member Committee appointed by Cabinet to ‘enquire into the root causes of the problems identified and shown by crime statistics, particularly as it affects Trinidadian males, and to suggest solutions to problems they identify’...”

Does not that sound vaguely like a crime plan?

“The Committee, which is chaired by UWI St. Augustine Campus Professor Emeritus Selwyn Ryan, with vice-chairman Dr. Indira Rampersad and members Professor Patricia Mohammed, Dr. Lennox Barnard and Dr. Marjorie Thorpe...”

**Madam Vice-President:** Senator, I think, just as a point of clarification that was brought to the attention of the Parliament, Standing Order 34(b) identifies that a Minister or any Member is able to clarify on a matter, and seeing that there is clarification offered to this Senate in referring to the crime plan, can you probably desist from using the words “Selwyn Ryan crime plan” until any further information comes. But, at the point in time, I believe Minister Tewarie has identified that it is not a crime plan by Mr. Ryan; it was just clarification. So, I thought, in proceeding in your contribution, you may wish to make that.

**Sen. T. Deyalsingh:** Madam Vice-President, are you, indeed, vouching that there is a crime plan?

**Madam Vice-President:** I am simply saying that he clarified the issue.

**Sen. T. Deyalsingh:** Madam Vice-President, it is common practice that we are allowed to read from newspaper articles; that is all I am doing. Thank you.

“The Committee, which is chaired by UWI St. Augustine Campus Professor Emeritus Selwyn Ryan with vice-chairman, Dr. Indira Rampersad and members, Professor Patricia Mohammed, Dr. Lennox Barnard and Dr. Marjorie Thorpe, is yet to produce any work, or hold any public consultations, but has so far negotiated a budget which will see chairman Ryan being paid \$1,000,000 while Rampersad is expected to get \$400,000 for her work as vice-chairman and the other committee members, \$200,000 each.”

I am just reporting to show the hon. Minister of National Security that prior to his making a statement that he did not know about a crime plan that the public at large knew about it, and I will leave it at that.

Madam Vice-President, what is more baffling about this? Even if we do not have a coherent crime plan, even if on May 13, the *Mirror* announced to the

country about this crime plan, how on May 29, the Minister of National Security does not know about this plan?

**Sen. Brig. Sandy:** It does not exist.

**Sen. T. Deyalsingh:** It does not exist! Great! The hon. Minister says it does not exist. Is the Minister aware that on May 23, during a contribution to the Children Bill, the hon. Attorney General, in this Senate, made reference to the selfsame Selwyn Ryan crime plan? The Attorney General who sits next to the Minister of National Security—and that is my problem. The public knows about the Selwyn Ryan crime plan, the Attorney General knows about the Selwyn Ryan crime plan, but the Minister of National Security does not know about the Selwyn Ryan crime plan. [*Desk thumping*] Is that not staggering? Absolutely staggering! And we are expected to have confidence in this Government's ability to deal with crime. We are expected to have confidence.

So, the Attorney General knows about the plan, the Minister of National Security does not know about the plan, and this Bill has to do with how do we control crime, so therefore, we have to have a crime plan. Where is the plan? Madam Vice-President, it is passing strange that after two years, as I said, we are here to debate crime plans after we were promised so many things to do with crime, and everything that they have done has failed and failed miserably.

Just to reinforce what I am saying about the existence of this plan, and this is the last time that I will refer to that plan because the hon. Minister of National Security needs to get his facts right.

**Sen. Brig. Sandy:** You need to get your facts right!

**Sen. T. Deyalsingh:** I refer to May 23, 2012, Children Bill, Sen. The Hon. A. Ramlogan SC, and if I may:

“And that is why when we see bullying in schools, abuse of children by children, we sometimes look at it in isolation, in a vacuum, and we look at it without realizing that it is a symptom, but we do not go behind it...”

It is for that reason the People's Partnership administration, under the guidance and distinguished leadership of the hon. Prime Minister, Kamla Persad-Bissessar, has appointed a committee chaired by Prof. Selwyn Ryan to analyze our socioeconomic conditions, with a view to looking at the at-risk young males in our society, to see what are the root causes, and what can be done.”

This is right next to the hon. Minister of National Security where his Attorney General speaks about the Selwyn Ryan plan. Amazing!

**Sen. Mohammed:** Amazing! Absolutely amazing!

**Sen. Al-Rawi:** Sen. Mohammed is talking about amazing.

**Sen. T. Deyalsingh:** I will come to that. Madam Vice-President, if we are serious about crime, if we are serious about controlling crime, I would recommend to the Government that we look no further than the ANSA McAL Psychological Research Centre. They have done a lot of work on the root causes of crime and potential solutions, and it will cost you, literally, nothing. *[Interruption and crosstalk]*

**Sen. Dr. Tewarie:** None of which was used by *[Inaudible]*. *[Continuous interruption and crosstalk]*

**4.10 p.m.**

**Sen. T. Deyalsingh:** Madam Vice-President, as I move—*[Interruption]*

**Sen. Hinds:** Madam Vice-President, your protection for my colleague.

**Sen. Dyer-Griffith:** Protection?

**Sen. Brig. Sandy:** You of all people?

**Sen. T. Deyalsingh:** As I move on, there was a very worrying contribution in this Senate on this very same Bill. I make reference to that contribution in the context of what happened under the state of emergency, where both guilty and possibly innocent were herded, where no one was prosecuted, the assassination attempt, and comments made by the hon. Minister of Justice, since his assumption to office, about shooting people on sight and hanging people in the square. What is bothersome is the attempt by this Government to continually take away rights from citizens, and I refer directly now to a contribution by Sen. Jamal Mohammed.

Madam Vice-President, before I rebut his contribution, his contribution has to be put in some sort of context. Whilst Sen. Jamal Mohammed might be a neophyte as far as the Senate is concerned—*[Desk thumping]* he is a mature individual with some degree of wisdom. He comes from a family with a long tradition in politics, so I will say he is politically astute.

On his maiden contribution he was praised lavishly by the then Presiding Officer as producing possibly one of the best—or the best—maiden contributions. He spoke from his heart, as the Presiding Officer then said. So, when he made his second contribution, I took his contribution as someone who I said has a long, proud political history—*[Interruption]*

**Sen. Al-Rawi:** As acknowledged by the Chair.

**Sen. T. Deyalsingh:**—who was lauded by the Chair.

**Sen. Hinds:** Which Chair?

**Sen. T. Deyalsingh:**—as opposed to someone who is nervous, probably prone to lapses of concentration. I quote his *Hansard*.

“This Electronic Monitoring Bill, and this facility of the electronic monitor, we should snap it on all those we suspect, so we can monitor them 24 hours of every day.”

**Sen. Al-Rawi:** That is amazing!

**Sen. T. Deyalsingh:** Madam Vice-President, given our experiences out of the state of emergency, is Sen. Jamal Mohammed, a proud member of the Congress of the People, now saying for this Bill, in support of this Bill, that if we suspect somebody of criminal activity the old adage of innocent until proven guilty—*[Interruption]*

**Sen. Al-Rawi:** And due process.

**Sen. T. Deyalsingh:**—and due process are thrown out the window? *[Interruption]*

**Sen. Al-Rawi:** PP style.

**Sen. T. Deyalsingh:** Is that this Government’s position as announced by the sincere Sen. Jamal Mohammed? On that basis alone, if I had any intention of supporting this Bill, I would not! I would not! *[Desk thumping]* *[Interruption]*

**Sen. Dr. Tewarie:** Senator, would you give way?

**Sen. T. Deyalsingh:** “Eh?” Again?

**Sen. Dr. Tewarie:** Just for one minute.

**Sen. T. Deyalsingh:** Go ahead.

**Sen. Dr. Tewarie:** You know that does not represent Government policy.

**Hon. Senators:** Oooh!

**Sen. T. Deyalsingh:** Oh dear!

**Sen. Dr. Tewarie:** You know that it was an error on the part of the Senator and that it was really, what would you call it, an error of judgment, or a slip of the tongue? It had nothing to do with anything in the history of Government policy or anything articulated by Government policy. It was an error.

**Sen. T. Deyalsingh:** Madam Vice-President, is this another misstep, a miscommunication? [*Desk thumping*] You have a Government Senator from a rich political heritage—[*Interruption*]

**Sen. Al-Rawi:** Whose votes count here.

**Sen. T. Deyalsingh:**—who is voting on legislation and we are now told we should excuse him as an error—[*Interruption*]

**Sen. Al-Rawi:** An error of judgment?

**Sen. T. Deyalsingh:**—speaking about a crime Bill? I think not! I do not accept Sen. Tewarie’s word on this at all. [*Desk thumping*] If that is the case then do not have a neophyte speak on Government policy in the Senate, simple. [*Desk thumping*] I must forgive him, and that is an error? Why did you not correct the error the same day he made it? But yet, you all thumped your desks in support. [*Interruption*]

**Hon. Senator:** Yes, they did.

**Sen. Dr. Tewarie:** We did not.

**Sen. T. Deyalsingh:** Of course you did.

**Sen. Al-Rawi:** Not a man made a reservation.

**Sen. T. Deyalsingh:** No one got up to rebut him on your side.

**Sen. Dr. Tewarie:** We knew that we would speak.

**Sen. T. Deyalsingh:** Sen. Jamal Mohammed:

“We do respect the rule of law...but this is an opportunity for us to try and to monitor—for example, if police has a suspicion that there is a possibility... that a person may be involved in untoward activity—” [*Crosstalk*]

**Madam Vice-President:** Sen. Hinds, could you give your colleague some protection for silence, please? [*Crosstalk*]

**Sen. T. Deyalsingh:** Is that what Government policy on a serious Bill is about, that we will now slap on electronic bracelets on people whom you suspect?

**Sen. Al-Rawi:** Yeah, that is PP style.

**Sen. T. Deyalsingh:** I do not subscribe to that type of justice. I do not. [*Desk thumping*] But it gets worse. [*Interruption*]

**Sen. Al-Rawi:** Tell us.

**Sen. T. Deyalsingh:** It gets worse, Madam Vice-President. It goes on to say; Sen. Jamal Mohammed:

“Try it out on ordinary citizens.”

**Sen. Al-Rawi:** Just so.

**Sen. T. Deyalsingh:** “Try it out on ordinary citizens, let us see what would happen, put the things in place, and try it out.”

I live in a democracy. This is 50 years of Independence. The PNM did not bring Independence to Trinidad to have ordinary citizens arrested and to have electronic bracelets put on innocent, ordinary citizens. [*Desk thumping*]

**Sen. Al-Rawi:** To try it out.

**Sen. T. Deyalsingh:** That is a total miscarriage of justice.

**Sen. Al-Rawi:** Shame!

**Sen. T. Deyalsingh:** It speaks to a totalitarian state. It speaks to countries like Nazi Germany and North Korea. I do not want to live there.

**Sen. Dr. Tewarie:** Terrence, behave yourself!

**Sen. Hinds:** One of his colleagues said so.

**Sen. T. Deyalsingh:** That is what your colleague said.

**Sen. Al-Rawi:** With desk thumping.

**Sen. Dr. Tewarie:** Behave “nah”, the man made an error.

**Sen. T. Deyalsingh:** The man made an error. He votes on the Bill.

**Sen. Al-Rawi:** And that is the rationale.

**Sen. T. Deyalsingh:** He votes on the Bill.

**Sen. Al-Rawi:** His *Hansard* is rational to the Bill.

**Sen. Hinds:** Take your errors out the Parliament then.

**Sen. T. Deyalsingh:** This is not a place for errors on policy.

**Sen. Hinds:** “Doh bring him back here!”

**Sen. Dr. Tewarie:** But he makes errors all the time.

**Sen. Dyer-Griffith:** All the time.

**Sen. T. Deyalsingh:** This is not a place for having a person enunciate policy on an important Bill. I am sorry, Sen. Tewarie. I am sorry, very, very sorry.

**Sen. Al-Rawi:** When Hansard interpreting you will see “try it out”.

**Sen. T. Deyalsingh:** Madam Vice-President, I am hoping as a very last reference to Sen. Jamal Mohammed, that if it is he wants to put electronic bracelets on people he suspects of being involved in activity—[*Interruption*]

**Sen. Hinds:** Put it on Bhoew Tewarie.

**Sen. T. Deyalsingh:**—or on innocent people, that the sariied women who had to be moved away from the Prime Minister’s path would not be subject to this. [*Desk thumping*] That is what this country will come to if that position is adopted, as enunciated by Sen. Jamal Mohammed of the Congress of the People. I hope that is not the Congress of the People’s position on this Bill. [*Interruption*]

**Sen. Al-Rawi:** It cannot be.

**Sen. Hinds:** Otherwise I would get bracelets “fuh yuh eh.”

**Sen. T. Deyalsingh:** I hope not. The Minister, in moving this Bill, and I quote Minister Volney, spoke about not discriminating on crime, on income. He said the Government does not discriminate on poverty or youth. Those were his exact words, Government does not discriminate on poverty or youth. Madam Vice-President, nothing is further from the truth, because we saw, under the state of emergency, people with shallow pockets were detained, innocent and guilty. As I have told this Senate once before, and I am rebutting the hon. Minister’s statement, this Government has a clear policy, as enunciated by none other than the hon. Attorney General, that when there are people with deep pockets, the State is not going to pursue the matters, and I refer specifically to the Piarco Airport case.

How could the Minister of Justice in his presentation on this electronic monitoring Bill make the statement that the Government does not discriminate on poverty or youth? When a particular decision in that case came down against the Government, the Attorney General said these people have deep pockets and we are not going to go after them. That is what I mean, there is no coherent policy on crime. None! There is one rule for the poor and one rule for the rich—[*Desk thumping*] one rule for the people in these lower socio-economic groupings and one rule for the people who live elsewhere. There is one rule for the little boys around the place and there is a different rule for people who are bringing in container loads of marijuana through Plipdeco, either below a state of emergency

or not. The hon. Minister's statement that Government does not discriminate on poverty or youth, rings hollow. That is what I mean by "we have lost confidence in this Government to tackle crime."

As I talk about tackling crime, and going back to the hon. Minister's statement about the Government does not discriminate on youth or poverty, as I have said before, this Government—and I make a clear distinction now, I take out the MSJ from this, I take out the COP from this, I take out the TOP from this and I take out NJAC from this—the United National Congress is going to have a very serious conversation with themselves on the issue of crime, white-collar crime. The activities launched over the last couple of nights where we are getting guns and drugs, yes, do that, I have no problem with that. Collect all the drugs from the street people. But you know what? They are going to be resupplied because they are not touching the importers of the guns. They are not touching the importers of the drugs. That is my point when I say we have to have a serious conversation about the root cause of crime. [*Desk thumping*] Because what you are tackling is what I call the retail end of crime, not the wholesale end of crime.

Madam Vice-President, the issue—[*Interruption*]

**Madam Vice-President:** Senator, before you go on to your next point let me move your speaking time.

Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. F. Al-Rawi*]

*Question put and agreed to.*

**Sen. T. Deyalsingh:** Thank you, Madam Vice-President. I will not take my whole 15 minutes.

**Sen. Al-Rawi:** Nah, nah, nah!

**Sen. T. Deyalsingh:** We are coming up to teatime. No, no, no, no. I want to make a few last points about the lack of a coherent crime plan and the total incompetence in dealing with crime. As I said at the start of my contribution, I spoke about false dawns of the SoE, reversal of positions, and I come back to that. If it is we are serious about crime, we have to protect our borders. Our borders are known to be porous. We heard when this Government came into power, that "we will fight the war on land not on sea".

**Sen. Al-Rawi:** We do not need to.

**Sen. T. Deyalsingh:** That was one of the criteria or reasons given for the cancellation of the OPV contract. Now, on page 33, I believe, of the *Medium-Term Policy Framework*, we are seeing about the acquisition of two long-range patrol vessels. If we are serious about containing crime, we have to stop this duplicitous talk. “OPV, long-range vessel, is the same thing.” As I have said before, “call it ah three canal, call it ah *pooiyaa*, is ah cutlass.” Whether you call it a long-range vehicle, an OPV, “is the same vessel to protect our borders”. That was part of the plan. *[Interruption]*

**Sen. Al-Rawi:** We needed it two years ago.

**Sen. T. Deyalsingh:** We could have had those vessels now, but where are they? Protecting Brazilian waters!

People under Schedule One of this Bill—because Schedule One of this Bill speaks about the type of people we may want to include under electronic monitoring or not, we could have been having the gunrunners, the drug traffickers. We may have caught those two people bringing in containers of marijuana through Plipdeco. We could have caught those people. But what do we have?—an escalating crime situation, a murder toll, which is higher than it was a year ago, despite the protestations of many and total and complete lack of confidence in the police.

**4.25 p.m.**

So, Madam Vice-President, where are we going? This Bill is a poor attempt at this time to close the barn door after the horse has bolted. *[Desk thumping]* When we recommended this issue—because in one of my earlier contributions, when I did not make a mistake, when I was new, I recommended electronic monitoring. If you look back at my *Hansards* you will see it, but I recommended it in the context of an overall parole plan. You do not impose electronic monitoring without a parole system; it works hand in hand with a parole system. Let us look at a parole system, bring that first, get the experience with a parole system before we talk about electronic monitoring, which is a good idea. The idea is good, but the timing and the implementation issues, as highlighted by Sen. Al-Rawi and Sen. Corinne Baptiste-Mc Knight, are going to make this Bill an impossibility. We do not have the telecommunications infrastructure, it does not exist, so why not look at the parole system first?

As I come to a close, it is difficult to support this Bill on two grounds:

1. we need the parole system first, bring that first; and

2. because of Sen. Jamal Mohammed's contributions and the total eradication of people's rights, mistake or not, he enunciated Government's policy. I cannot support this Bill.

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

**Madam Vice-President:** Hon. Senators, it is 4.27 p.m., I propose to take the tea break and resume at 5.00 p.m.

**4.27 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Madam Vice-President:** Sen. Ramkhelawan, you were going to start.

**Sen. Subhas Ramkhelawan:** Thank you, Madam Vice-President. I welcome the opportunity to speak on this Bill to make provision for the implementation of a system for electronic monitoring in Trinidad and Tobago and for related matters.

I start by saying that any measures that the Government brings in the fight against crime, I am supportive in principle, because we cannot continue with the talk, the talk, and not be able to bring to the Parliament, initiatives, measures and legislation that would provide for enforcement and execution subsequently. [*Desk thumping*] It is important that we take note of the fact that we have so many bits and pieces of very, very significant legislation in the pipe for so long, sometimes as much as 10 years, that it is necessary that we do not strive necessarily for perfection, in the initial run, but to steer as close as possible to enhance effectiveness in several areas. [*Desk thumping*]

Two areas create for us as a nation great and significant challenges, one we spoke about in our last debate on the economy, and the need to grow the economy, but the other is crime, and the psychological and traumatic impact it is having on our society, that is the commission of crime, but the root causes of crime which we have to deal with will take us a much longer period of time.

So it cannot be that we as a nation get caught as it were in the flashlight that freezes the manicou, that we can no longer do anything, but be caught up in the thought of if we make one misstep what is going to happen. [*Desk thumping*] So the issue of social engineering comes to the fore, and we all know, Madam Vice-President, that social engineering is not as precise as the other forms of engineering in terms of the area of physics, mechanical, civil and all of those other forms of engineering.

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Social engineering is subject to degrees of efficiency, and degrees of certainty as opposed to the other kinds of engineering. Therefore, we as a nation must come to grips that perfection is really a dream, and we can come close to that, but we could never achieve it; that is the nature of perfection. Even in legislation, we will be hard-pressed to get to that stage of perfection. Are we going to make progress and move forward on the crime front; or are we going to become frozen like that manicou? I choose not to be that manicou. I choose to be going forward, confident that we can get there, but also mindful that along the way we will make some mistakes. [*Desk thumping*] If we make mistakes and those mistakes are not of such magnitude that they derail what we set out to do, then I think I can live with that. I think the society would want us to live with that. [*Desk thumping*]

I see my friends on the other side thumping the desk and so on—  
[*Interruption*]

**Sen. George:** “Because yuh right on”—[*Inaudible*]

**Sen. S. Ramkhelawan:**—and it gets me worried. [*Laughter*] This is the basis on which I make my contribution. Further, Madam Vice-President, I want to say a little about technology and its use. In various areas the debate about technology and its use to push forward the pencil has been in the foreground, not least of which, as it is the time of the European Cup, not least of which is in football, whether the ball crosses the line or not, leaving it to the naked eye to decipher when there is technology to determine what is the actual story as far as that is concerned. We have seen technology being used in cricket to improve the quality of decision-making and the fairness of the game, and we have seen it used partially in other areas. When you talk about basketball, when you talk about American football, why can it not be used in crime, when it has already been tried and tested in other areas?

I am of the view that subject to some adjustments to clauses in the legislation, we should put our best foot forward in terms of dealing with this matter of crime, and this is one element of the areas that we would have to pursue. So let me start by looking at some of the clauses in that context in terms of what we need to look at, and what I might invite the hon. Attorney General to consider, in making it a better piece of legislation from my viewpoint.

I start with the definition of electronic monitoring in clause 3, and that definition speaks to the question—well, it defines what electronic monitoring is, if I could get to it:

“‘...electronic monitoring’ means the use of electronic or telecommunication systems to assist in the supervision of an individual;”

But when I look at that definition in the context of the First Schedule—I believe it is, the Third Schedule, (3E), there is a lack of harmonization in terms of the definition, because in (3E):

“‘...electronic monitoring’ means the use of electronic or telecommunication systems to track or supervise a person.”

So it is speaking to another element or a better defined element of the supervision. And I ask the hon. Minister to look at that and make sure that we have a harmonized definition in terms of what is this electronic monitoring, because certainly, it is to track and if track is a subset of supervise, well, then I do not have a particular problem, with it but I would certainly like to see the definition clarified.

I am concerned, like many others, about the whole management process, and the organizational structure that is being crafted to do this supervision, and I draw your attention, Madam Vice-President, to clause 4(2) which addresses the question of an electronic monitoring manager.

### **5.10 p.m.**

Now, some of my colleagues—whether on the Opposition Benches or on the Independent Bench—have raised this matter before and I simply want to endorse, without embellishing further. I want to endorse the view that the electronic monitoring manager, who is being charged to do many things with regard to electronic monitoring, is not imbued with any particular set of qualifications. He does not, necessarily, have to have an IT background; he does not have to have any set of qualifications. As a layperson, I am a little concerned about that because I would actually like to see some ring-fencing of what the qualifications should be.

It appears to be a very important job. It is a job where the terms and conditions, as I understand it, are going to be determined by the Salaries Review Commission. So that, if that is the case, most of those jobs for which the terms and conditions are determined by the SRC, are some of the leading job positions in the public sector. Therefore, my point is that first we should establish qualifications. While I do not go so far as to say, that person should not be under the purview of the SRC, but should simply be under the purview of—let us say—the Public Service Commission, I still feel that the law itself must have some clarity as to what those qualifications are.

I say this, because when you look at the duties of this electronic monitoring manager, the Second Schedule sets out what those duties are but, over and beyond the report and what it is supposed to contain in respect of electronic monitoring from the electronic monitoring manager, I think one of the things that I am particularly focused on—I should say concerned about—is that over and beyond what the report from the electronic monitoring manager should contain, I draw your attention to clause 10 of the Bill itself. Clause 10(8) of the Bill requires the electronic monitoring manager to prepare a report:

“...in accordance with the Second Schedule and shall have regard...”

These are additional items—

“to the character, antecedents, physical and mental health of the person or respondent, to any extenuating circumstances in which an offence was committed...”

Now, that is why I raised the question of qualification, because unless it is intended that the electronic monitoring manager should have all these capabilities of assessment, there will be the need for that manager to relate to and draw upon other professional qualifications whether in the public service or otherwise, to make this determination; this determination, as I said, with regard to the mental and physical health, and to the character and antecedents of that person who may be subject to electronic monitoring.

I want to draw the attention of the hon. Minister that we need some clarification or refinement because I cannot see an EM manager, who would most likely have more IT skills than mental and physical health skills, being able to do all of these things. So, we might want to adjust the legislation so that the manager will have certain—if I use the word authority—to draw upon and receive advice and take advice in terms of providing this additional information before the fitting of electronic monitoring devices.

Much has been said about the question of the appointment of the electronic monitoring manager, and this is in regard to clause 5(1). This clause deals with the rather vexatious question of the appointment of the electronic monitoring manager and staff of the unit. We have come across it in terms of the Financial Intelligence Unit legislation, and we have come across it in certain other places as to whether persons should be contracted or in the public service. This piece of legislation says that the person should be within the public service. But, at the core of it is the issue of the transitional arrangements as contained in clause 5.

I think, while we have had this discussion over and over again, I am in support of transitional arrangements because it would hardly be the case that you put in new legislation; you try to deal with the question of enforcement or the question of having resources to give effect to enforcement, and it might take you a year. It might take you two years dependent on the speed, the agility and the commitment to filling that particular position.

So that while it is in the best wishes of the Parliament and, of course, the Executive, to get that position filled, the public service is not known to be the most fleet-footed in its quest to find human resources. I think that is a most charitable statement. Others might craft their language differently, but since I am the Chairman of the Joint Select Committee overseeing the public service, I want to be as charitable as I can.

So, I am supporting the idea. I support the idea of a contract officer. If anything, we might want to look in terms of how long that transitional position should be invoked, that is, it might be not to exceed 18 months, which then puts a certain requirement on the Public Service Commission to be as fleet-footed as possible to ensure that that position is filled within 18 months. I believe it would be a mockery of what we intend to do by having an open-ended position. Transitional means exactly that; that it is for a period of time until you get substantive arrangements in place. Put a time frame to it, hon. Minister.

There are other aspects in terms of the role and function of the electronic monitoring unit. I want to turn to clause 6(2)(b). I am concerned a little about process; meaning that what we want to ensure is a process that is sufficiently efficient to bring about what the Parliament—if it accepts this Bill—is setting out to do; what is intended by the Parliament. I use clause 6(2)(b) as an example, which is the unit shall inter alia:

“(b) report alarm notifications, signal loss and device malfunction forthwith to the EM Manager;”

What if the EM manager is away on vacation? What if the EM manager is incapacitated? I would want to suggest some language that, failing him, there should be a next person, a next person, who—that person—when he reports to the police would have exactly the same effect as the EM manager.

So, we might want to use wording—we would do that when we come to committee stage—or “in his absence the Deputy EM Manager” or failing this, “the next most senior officer of the Unit”. Something to that effect. Because, later on, when we speak to the liaison with the police, the liaison seems to be only from the

EM manager to the police. I am not a legal mind, as you know, but I want to make sure that we capture as much in the legislation to assure its effectiveness. *[Interruption]* I would come to regulations in a little while.

Madam Vice-President, clause 8 deals with the confidentiality of information garnered by persons who are employed in the unit. Really, what it says is that a person who is:

“engaged on contract with the Unit and any individual...service provider”—or otherwise—“shall not disclose any information received from the Unit or service provider in the course of his employment, otherwise than in the proper exercise of his functions.”

Now, confidentiality agreements, as I understand them, subsist for a period of time over and beyond the period of employment. So, what happens if somebody’s contract of service ends today? Does that mean at midnight tonight, he can divulge every single thing he knows about the unit? I would venture to say, no, that is not the intent; that is not what we set out to do.

So I would ask the hon. Minister to draw on other confidentiality agreements which provide a period even after employment that might be reasonable to ensure that he keeps his information to himself, even after he demits service, whether on contract, as a service provider or otherwise. It might be one year, two years, but the thing is, what we do not want is that persons who have sensitive information that could be damaging to the persons whom we are dealing with here, that that sensitive information is divulged in a way that would not be in the best interest or service of justice.

I am particularly concerned about clause 10(6). I will tell you why I am particularly concerned—maybe the hon. Minister, in winding up, will be able to explain this process to the Senate. If my understanding is correct, under clause 10(6) in order to be able to put devices in certain premises and so on, to do electronic monitoring, it says that:

“The EM Manager shall also obtain permission...from the occupier of the premises in which any monitoring instrument is to be installed...”

Now, I am trying to grapple with this. A person agrees to be adorned with this electronic monitoring device in order to avoid having to be incarcerated at the State’s pleasure. But, even if he agrees, and he lives at ABC Street, and the owner of the premises says, “I do not want electronic monitoring devices here”, what happens? Is it that that person will have to then serve at the State’s pleasure or he moves out? If he has no other place of abode, I would like the hon. Minister to clarify for us, that process. I would like him to clarify for us that process because I am uncertain. I

do not think it is the intent that if this person were to move to three or four different premises—you could have a situation where the landlord says no; or the owner of the premises says no.

Is it that then, because of that particular instance, or instances, the person who we did not want to, essentially, find incarcerated at the State's pleasure, that that person, just by dint of this denial will have to go and find himself in a place where we thought, as a Parliament, it would not be the best place for him and, instead, we would have electronic monitoring? It is a very important consideration that I am sure the hon. Minister would want to explain in detail and *ad nauseam*, when he comes to his winding up, in his usual style—or, should I say in his new usual style; his reformed usual style? It is critical to the Bill.

I want to jump quickly to 16(2). In clause 16(2) the definition of tampering, for me, as a practical person, leaves something to be desired. Under 16(2), *inter alia*:

“...tampering’ means any form of interference which is capable of disrupting the transmission of the monitoring signal of the device to the Unit.”

That is the only condition, “which is capable of disrupting the transmission”; in a broad sense, if somebody were to remove the bracelet, but the transmission continues, whether this definition takes into account many of the other conditions that should be captured by the term tampering. I want the hon. Minister to consider, in addition to “monitoring signal of the device to the Unit” consider, “or render ineffective”, whatever it takes to render ineffective, “the electronic monitoring of the individual”—that could be respondent, person or otherwise. Anything which renders ineffective that transmission or that ability to track—I think that is the word you want to use. You want to track; you want to know where somebody is at any point in time. Not “track”, the term you may have used, hon. Minister, in the old days. This is electronic tracking.

You want to be able to track and find out where somebody is at any point in time. That being the case, then you need to make sure that the definition; that the Bill or the legislation is not derailed by an improper or insufficiently wide definition.

Just to jump ahead, Madam Vice-President, to the Second Schedule, I noticed that the EM manager, under the Second Schedule (b) who is not deemed to be a person who, let us say, is a security officer in the sense of physical security, or heads a unit that is in charge of physical security, you would want him to, under (b), determine whether the candidate for electronic monitoring is in a stable place of residence and whether the residence is sufficiently secure.

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Madam Vice-President, from a practical sense, I know of a number of instances where T&TEC officers or TSTT officers would—even at the expense of losing their jobs—say they are just not going to go into that street; they are just not going to go into that place. In other instances, other pieces of legislation, there is the requirement for the person, on request, to be accompanied by police officers and so on, to determine the stability of the place that is involved, because this electronic monitoring manager, will have given him quite a lot of responsibilities and we also put him in rather dangerous situations. I am sure the hon. Minister will answer it.

Those are some of the concerns that I have with regard to the construction of the Bill. But, there are some other things—even though I may incur the wrath of my colleagues on the Opposition Benches—I am concerned about persons, in some places they are called deportees. I am concerned about the return to this country of persons who have been convicted of a crime in other jurisdictions. In particular, out of the US we know that many persons have been returned to this country; whether it be that they have completed their term of sentence or whether it be that they are simply deported.

Some people who have knowledge of security in this country have been saying to me that these are some of the more sophisticated criminals in this country. Some of the more sophisticated criminals, who are amongst the most organized. They have seen it in a developed jurisdiction and they bring back their technology to this jurisdiction. I ask the hon. Minister to comment on what plans, if any, he would have to deal with this particular aspect of the surge in crime in Trinidad and Tobago.

I am sure he would tell me, “Well, these persons are not convicted here” and so on and so forth, but, I want him to consider it as an important area where electronic monitoring, under the right circumstances, may be very useful in our collective fight as a nation against crime. This is something that we have to pay particular attention to. [Interruption] No, I did not say, as I heard it “ordinary persons” and so on. I said persons who have already been convicted of a crime in a jurisdiction, returning home to this jurisdiction, [Interruption] who may or may not have served their full time; who may have been paroled to be sent here.

Those are some of the concerns that I have, Madam Vice-President, with regard to this Bill.

In concluding, I would say, again, that in the fight against crime we, as a Parliament, will pass legislation. Legislation cannot be all comprehensive. [Desk thumping] Legislation, no matter what we do, we cannot perfect that legislation, but I certainly would be prepared to support legislation that takes us forward in a very clear and definitive way in the fight against crime.

I thank you, Madam Vice-President.

**The Attorney General (Sen. The Hon. Anand Ramlogan SC):** Thank you very much, Madam Vice-President.

Madam Vice-President, this is a very important Bill and it forms part of the arsenal in the fight against crime and also in the transformation of the criminal justice system in Trinidad and Tobago. It also has its roots in one of the promises made by the People's Partnership in the election manifesto. Permit me to quote from the Seven Interconnected Pillars for Sustainable Development, Pillar 3, in particular, where we identified the need to transform the criminal justice system as one of our critical success factors. Pillar 3 states:

“We will use GPS bracelets on offenders who are on probation but are still deemed a security risk (so that their movement can be monitored) and if legislation is required, we will take the necessary steps.”

I start with that pledge in the manifesto only to point out and highlight that this legislation is in fulfilment of yet another promise in the manifesto of the People's Partnership. [*Desk thumping*]

Madam Vice-President, I put it in the context by mentioning that this is part of the arsenal and part of the transformation of the criminal justice system because one of the failings and shortcomings we noticed under the previous administration is that much money was spent on the fight against crime; billions of dollars with SAUTT, SIA, and so many agencies; but the one thing they did not understand is that you could never fight crime and be effective and successful in the fight against crime—if you do not have a functioning, effective criminal justice system. [*Desk thumping*] That is what they did not realize.

So, what have we been doing? We have been rationalizing the operational side of crime. We have been trying to put the fight against crime on a legal footing. SAUTT—we said when we were in Opposition and we maintained when we assumed office—was illegal and because SAUTT was illegal, it had to be dismantled. Because the murder rate sky-rocketed, notwithstanding the presence of SAUTT, we had to take corrective steps and measures, because SAUTT became a paramilitary organization that tried to co-exist alongside the police service, but ended up competing with the police service and it had a very demoralizing effect on the very police service.

We had to put the fight against crime on a legal footing. You cannot fight crime if the fight against crime is, in itself, rooted in illegality. So you cannot fight crime by having an illegal SAUTT; you cannot fight crime if you are having illegal wiretaps

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and the interception of private communications is being done without reference to any authorization and sanction by the Parliament. So we had to first ensure that the fight against crime was, in itself, rooted in a lawful foundation. [*Desk thumping*] That is what the People's Partnership has done. That is why the crime continued to soar.

In addition to dealing with these operational aspects, bear in mind that we did not leave many of the acting appointments. We appointed a Commissioner of Police. We appointed Deputy Commissioners of Police. We appointed a Police Complaints Authority. We appointed a functioning Integrity Commission. We appointed a Solicitor General. We appointed a confirmed permanent DPP. All these critical offices form a link in the chain in the fight against crime; and all of that was left undone. We have been trying to do some housekeeping; some very important elementary, basic housekeeping which had been left in the lurch by the last administration. That sense of vacillation; that vacuum which was created when these things were just left to go awry, we have been dealing with them.

In addition to dealing with legalizing the fight against crime; in addition to dealing with the operational side of the fight against crime, we have also been trying to remain true to that one problem we identified that went a-begging. That problem had to do with an effective criminal justice system, without which no fight against crime could ever succeed. That is why we brought the DNA Bill—a new DNA Bill—to this Parliament, to equip the police and the courts, to utilize technology and the DNA weapon in the fight against crime. That is why we brought the abolition of the preliminary enquiries Bill. That abolition of preliminary enquiries Bill is to dynamite the logjam that currently exists in the courts and, in particular, to relieve the overburdened criminal justice system of the preliminary enquiries that snake endlessly through the system with no end in sight.

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We brought the Anti-Gang Act and there is now a dedicated unit in the police service that is looking at gangs and very soon we will be reaping more rewards in that area; but the Anti-Gang Act has also had a deterrent effect in its own right in this country.

We brought the Legal Aid and Advice (Amdt.) Bill, which looks at the rights of the defendants by giving them greater access to legal representation so that they, too, and their rights can be adequately protected. That is an essential part of a functioning, effective criminal justice system. All of that is in the context of transforming criminal justice.

We are coming soon with the prison rules and with parole legislation. What we have, really, is a full panoply of legislation to tackle criminal justice both in terms of the operational side and in terms of the police and law enforcement, as well as the administration of justice itself. All of that has been done in the space of two years and now we come to electronic monitoring which adds to that.

Electronic monitoring, notwithstanding all that has been said, is the way forward. All of the major countries in the world are now going in this direction to have electronic tagging and monitoring of criminal offenders. It can occur at three stages. The first is that you can have pretrial electronic monitoring as a condition of bail. The second is that you can have it as an option at the sentencing stage. The third is that you can have it as an option for early release. That is where the parole criticism comes in, and I will come to it.

I want to point out that it is at three stages in the criminal process that electronic monitoring can be utilized—pretrial, that is when you are charged, but you are not yet tried—you are awaiting trial; sentencing because it gives the judicial officer an option in sentencing; and, thirdly, in terms of early release. Those are the three situations that it can come about in.

What are the benefits and why are so many countries going towards utilizing this technology? The first is that electronic monitoring really is to keep you, in the first instance, out of jail. At the stage where you are granting bail, you will now have the option of saying: “Well, look, I will grant bail conditional upon electronic monitoring”; or “I will allow you to remain outside the prison subject to electronic monitoring”.

That is very important for a country like Trinidad and Tobago. Why? Because it is well known that when you go inside the jail, once you enter that jail, you come out a different person. It is well known that there is a high rate of recidivism for those who are not even yet convicted, but go inside and come back outside. You go in as a first-time offender, but you come out with enough criminal experience to become an eight-time offender. The jail, it is said, teaches you how to survive in a life of crime, because it is hardened criminals you meet there.

That is why people say it is a revolving-door justice system and to prevent that revolving-door criminal justice system and the spin of recidivism, that is why electronic monitoring, in the first instance, really is an attempt to keep you out of the jail itself.

That is important because, in Trinidad and Tobago, the bail system is very archaic. There are two forms—money or an unencumbered title deed to property; and most of the young fellows who are committing crime from the lower end of the socio-economic ladder; most of them that our friends on the other side spoke about

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during their contributions cannot meet those bail conditions. They do not have an unencumbered title deed and they do not have the money to put up. So what happens?

Most of the time they go inside, or they get a friend to pay a bailor with an unencumbered deed and so on to take the bail. When that happens, on both accounts, it leads to disastrous consequences. “Yuh go inside; yuh meetin’ hardened criminals and they teachin’ yuh a life of crime. Yuh remain outside because somebody take de bail for yuh, de money that dey put up or de money dat dey pay de bailor, you now have to find da money because dat person purchase your freedom.”

So what happens? The gang leader comes; he pays the bailor; he takes you out and he inspires loyalty to himself and the gang. So where do you go? You go back into the bosom of the loving gang leader who cared enough to protect you from going into prison. So he comes right back in the full embrace of the gang leader.

And then what? The gang leader says to him: “Well, yuh know, chief, I am happy yuh out and ting; they woulda do you all kine of wickedness inside there, but you know, serious business, it ain’t have nutten like a free lunch. Time to go to wuk.” Then what? You have now to commit further crime to pay back “da” money and then—he then says: “Doh forget, you know, we have to hire a good lawyer”; and that by itself sometimes spurs on even further crime.

So, electronic monitoring will take care of that problem because for far too long in our country there has been an inequality with respect to bail, which is a constitutional right, but there has been an inequality where people from the lower end of the socio-economic ladder, really, the grant of bail means nothing to them because it is better you did not grant them; better you did not say you are granting them bail because it is superfluous. They cannot meet the bail condition. They have no land; they have no title deed; and if they do, it will be mortgaged and they have no money to put up to take the bail, so it is automatic incarceration for them.

That is why this is such a revolutionary piece of legislation. [*Desk thumping*] This will now give those young men and women some hope where the system, not the gang leader, will be throwing a lifeline out to them. It is not that the gang leader will be taking the bail. It is the system which will be saying: “Look, we are throwing you a lifeline and if you are monitored and you keep to this, you can remain on the outside.”

It gives an opportunity for early rehabilitation. In some jurisdictions what they have noticed is that once the person took electronic monitoring whilst they were out on bail, the fact that they were not sent to prison as they expected, that by itself triggered a

rehabilitative mode in that person to want to make use of this second chance given to them by the court itself because the judge has that option. You do not have a right to electronic monitoring, you know. It is not a right that the defendant has. It is, in fact, a matter of judicial discretion that the magistrate could say: “Well, ah givin’ yuh a bligh; ah givin’ you a chance; ah throwin’ out a lifeline to yuh. Yuh young, is yuh first time; yuh wife pregnant or yuh have a young child, why don’t you live for your child?” What good will it make to see this man go to jail? Who will care for these children? The wife then will commit crime? What? So, it throws out a lifeline, but it is the court doing it.

You can then lead a normal life pending your trial. You could work; you could see your children; you could visit your “mudder”. You could live a normal life. Of course, what tends to happen to assist in that rehabilitation is that the old people and the very wife and children, they are the ones now from whom that pressure comes. That pressure comes on the person because you are out, but they know you are in some kind of trouble, so they all start talking to you and because your movement is restricted—you are home; you are forced to spend time with the family, with your children and so on and then that talk penetrates.

We have found that electronic monitoring actually is a pre-emptive measure that inspires rehabilitation early on. Of course, we have the obvious benefit of easing the overcrowding in the prisons and the attendant costs that come with that. That is from the defendant standpoint.

What about from the public standpoint? From the public standpoint, I just mentioned, of course, decreasing the incarceration costs, but from the public standpoint, this is not someone getting off scot-free. We have to be careful when we speak in this Parliament that we do not give the impression that we are here to worry, cry and prop sorrow only for the rude boy and the bad boy. We have to be careful because the time has come to rebalance the scales of justice in favour of the innocent, law-abiding citizen as well. [*Desk thumping*]

That is why I mentioned, inasmuch as he is going to get his liberty conditional on being tagged and monitored, equally, because of the restriction in the freedom of movement, because his movement and personal liberty are going to be restricted, then there is an element of punishment, of some restriction even at that stage. So it is not that there is no bail and you just walk out free; it is not that.

Of course, the public is also better protected with electronic monitoring. As currently obtains, when the person makes the bail, they go out in the street like a free man because of the presumption of innocence. They go out into the street; “nobody know ‘nuttin’; the police ‘cyar’ monitor ‘dem’, ‘nuttin’”; and if they go and commit further crime, well, tough luck.

With the electronic monitoring, the public will be better protected because that person will be out on bail, but subject to monitoring by the police. Of course, that person being monitored by the police, that provides an incentive in its own right for good behaviour because it protects the offender from the corrupting and stigmatizing effects of institutional incarceration.

Madam Vice-President, this innovative technological device of electronic monitoring and utilizing GPS technology is one that has also given rise to serious constitutional arguments in many jurisdictions where it has been employed. It is an invasive technology. It is the physical attachment of, not a bracelet or an anklet—I have heard the term here; people say it is government jewellery and “bling” and so on. No, no, no. I went on the “net” to look at this thing. “Dat ent nutten about jewellery, nah.” It is a big black band they wrap around your ankle. If you google Lindsay Lohan, you will see “big picture and ting with she ankle with this big black ting and she complaining how she cyar fashion, accessorize and dress with this ting.” It is a humbug. It is a nuisance and it identifies you. I will come to that.

People say it is not just a physical invasion, but it is also a psychological invasion because every move you make is subject to and liable to be monitored. I want to tell you that, notwithstanding that, notwithstanding those constitutional implications, that has not stopped all those countries that are serious about the fight against crime from going down the road of electronic monitoring. Why? Because they all recognize, and worldwide now people are beginning to speak with one voice to say: “You have all the rights and privileges to enjoy being a free member of a society of civilized, law-abiding citizens, except when you decide to breach that law and decide to cause injury and harm to another person; then there must be some restriction. You cannot expect to be treated the same way.

**5.55 p.m.**

That is why in some countries they have gone so far as to discuss—you know where electronic monitoring has reached? In some countries right now the debate is not about what we are debating here, you know; we are light years behind. This technology has been around now for over a decade, in actual use. The debate now is not about whether you should have electronic monitoring, the debate right now is whether you should have it by way of surgical implantation. That is where they are going—whether sex offenders and paedophiles after they have served their time, after they are released, whether you should surgically implant a chip to make sure that you would be able to monitor them. “So yuh go have ah pacemaker, and yuh go have ah sometin else”.

But that infringed the argument about infringement of people's constitutional rights. It is a valid argument, but it is not one that can trump the right of the innocent law-abiding citizen to whom harm has been done.

**Hon. Senator:** That is right.

**Sen. The Hon. A. Ramlogan SC:** That is why we say on this side, as far as we are concerned, we have reached the stage where we say if you have breached the social pact—that social pact between the State that guarantees the right of protection to its citizens—then you must pay the price, and electronic monitoring, so shall it be if you choose to commit crime, and you choose to breach that social pact. [*Desk thumping*]

And I want to say when I mentioned that this was a universally recognized trend, permit me to quote, Madam Vice-President, from the Twelfth United Nations Congress on Crime Prevention and Criminal Justice Declaration on comprehensive Strategies for Global Challenges. Paragraph 51 of the Twelfth UN Congress called for an overhaul of the criminal justice system to reduce prison overcrowding and to make it more humane for the treatment of prisoners. But this is what it said:

“We stress the need to reinforce alternatives to imprisonment, which may include community service, restorative justice and electronic monitoring and support rehabilitation and reintegration programmes, including those to correct offending behavior... (of) prisoners.”

So this is United Nations speaking with one voice, with respect to a global challenge, and as far as they are concerned electronic monitoring is recommended.

When we speak about this as though this is something—when I heard my learned friend, Sen. Deyalsingh, saying that he is not going to support this, as though this is some big bad thing; I mean United Nations—many countries in the world are doing it.

We are so backward with this. This is why the hon. Minister of Justice in his wisdom ought to be commended in the short space of two years for bringing something so revolutionary to the books. [*Desk thumping*] Madam Vice-President, this is not an easy piece of legislation. This is a very difficult, complex piece of legislation. A lot of research had to go into it.

Where other countries are is that they give the option to the defendant. In many countries, the defendant has the option to volunteer for electronic monitoring, but “yuh kno wat happen?”, you must pay for it. It is a service that we are providing. You want to remain outside and “doh go in jail”, pay to be tagged; pay us to monitor you. That is where it has reached.

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So, when we complaining—I hear Senators here speaking about the rights of the defendant, and “how dey go be stigmatized and dem poor lil fellas, I say I not concerned about that, you know.” What we on this side are concerned with is the pain, stress and suffering of the people who are suffering daily from the terrifying effects of crime. [*Desk thumping*]

If it is inconvenient to wear that bracelet on your ankle, well you should have “tink about dat” when you created the inconvenience by committing the crime. That is how we feel about it. But in other countries in the world you have to actually pay, you have to pay for the electronic tagging. So you are paying to be tagged, and you are paying to be monitored if you want to be kept out of jail.

We are not doing that, the State is actually picking up the full cost because we recognize why—the hon. Minister of Justice—we are very fortunate to have the benefit of his years of experience having served in the criminal justice system. But he recognizes that the bail system we have is one that is very inequitable. Because it is so inequitable it works great disadvantage and wreaks havoc on those that come from the lower ends of the socio-economic ladder. That is why instead of imposing a fee for it as in some countries the Government did not go with that policy. Why? Only the rich will be able to avoid jail. The rich would then be able to say, “Look, tag me, I will pay for it, monitor me I will pay you for it, but I ain’t going to jail.” Then what happens? The same poor people end up going back into jail.

I hear my learned friend Sen. Hinds grumbling—what is it? I do not know if his spouse will want to tag him so we could monitor him. But I do pause to make that social point because I have actually received emails from a lot of people. A lot of women want to know if they could use this to tag their husband to keep tabs on them.

**Sen. St. Rose Greaves:** They want to make sure they are lost. [*Laughter*]

**Sen. The Hon. A. Ramlogan SC:** Some of them want to make sure that they could keep far from them too. But you see, Madam Vice-President, no technology will ever be perfect. “Yuh computer, and yuh laptop does crash; dat ever stop yuh from usin it? Yuh cellphone sometimes does go a little off; that stop we from usin it?” Does it not have a utility? So, yes, they have problems; by definition technology is evolving and in a state of constant development, and there will be problems, but the disadvantages do not outweigh the benefits of this thing.

In 2004, the State of North Carolina Department of Juvenile Justice indicated from a survey they did that 75 per cent of juveniles who were released from electronic monitoring programmes—that the programme was successful. They were offered the advantage of electronic monitoring, and they thought generally it was a humane, less restrictive alternative to incarceration, and it was a very successful programme; 75 per cent.

Now, if I may turn my focus a bit to some of the criticisms. I heard my learned friend, Sen. Prescott SC make the very important point that whereas bail is money and land, and you are sure the person coming to court—because it is money and land involved—whether or not fact that you want this bracelet off “yuh” ankle would be sufficient to force you to want to come back to court. The answer is—the empirical data suggest that, yes, it is sufficient to come back to court. In any event if you do not come and you miss your court date, the police know where to find “yuh”. But right now I can tell you that we have people who skip bail regularly because it is not their money and their house and land, you know. If you pay the bailor it is a percentage you pay them. So if you get \$100,000 bail, you pay the bailor about 5 per cent or 3 per cent. [*Crosstalk*] How much?

**Sen. Hinds:** Ten per cent.

**Sen. The Hon. A. Ramlogan SC:** Ten per cent. “So, it is not \$100,000 yuh putting up, it is not ah property worth \$100,000; leh we get it clear. Yuh pay de bailor 10 per cent. So yuh payin \$10,000, he take de deed for ah property worth \$100,000, dey put it up and yuh get yuh bail, but it is \$10,000. So, when yuh reading newspapers and yuh see bail granted in the sum of \$300,000, dat doh mean is \$300,000 going to be at risk, you know. No! It is 10 per cent of dat. Is ah bailor who taking it.” [*Crosstalk*]

Now, the point I am making though is that the defendant—the accused—“he eh lossin dat, he eh riskin dat. So if he doh come to court, is a small price for him to pay.” So that when you look at it against that reality, the tag, electronic bracelet or anklet that you will be wearing, that would be sufficient. And bear in mind if you do not come, the police have to know how to find you. In fact, it is better than what obtains now. If you skip bail, “the police eh know whether yuh in Venezuela, yuh in ah boat from Cedros, yuh in Tobago; dey doh know way to find yuh”. But if this guy decides not to show up in court then it simple, you track him down and you find him. So, I say to Sen. Prescott SC, it is a valid point but I think that it is not one that should be a criticism that can hold back this electronic monitoring.

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The next criticism I heard was the issue of the parole legislation and the absences of it. Madam Vice-President, I have heard it repeated from Sen. Al-Rawi, and echoed by Sen. Deyalsingh, and many speakers have raised this point on the Opposition Bench.

What is parole? Parole is a system that “dey does have inside de jail, a little committee ah people inside de jail dat does look at a number of factors, good behaviour, de man studying he work and so on, and the parole board will recommend or grant you early release on certain terms and conditions”. That is what parole is. That is why I stressed at the outset that the major primary benefit of this is to keep you out of the jail. It is at the first port of call in the criminal justice system. It is when you getting bail.

The issue of the parole does not even arise, because if we are trying to keep you out of the jail, we “doh want yuh to go dere so that we will tag you, and monitor you, and give you a little lifeline to rehabilitate yourself then the issue of parole does not arise. Dat the parole applies for people inside de jail who done get convicted, who serving time”, and the parole board will meet and determine whether this person is a suitable candidate for early release.

So the first thing is in granting bail you can tag and monitor so that the person does not go to jail; parole irrelevant. The second thing is, when the magistrate or judge is sentencing they could say, “ah doh really feel this fella should go to jail yuh know”, so you know what, I will sentence him to 200 hours of community service, pay a fine of \$5,000 and be tagged for three years. He does not enter the jail.

A lot of people understand the concept which is why that criticism, ill-conceived and unmeritorious as it is, was repeated almost through almost across the board by all six Senators on the Opposition Bench. “Some ah dem eh even talk, but dey go say it still”. [*Desk thumping and laughter*] But the point is, it is not relevant. The only time the parole concept becomes relevant is when you are inside the jail, and the parole board may take into account—they could grant you early release, and they could say, “Well, we releasing you early and one of the conditions is electronic monitoring.” But in any event, so to say that, as Sen. Al-Rawi said, “Oh, in all dem country dey parole legislation was in place first. It is a necessary prelude”. That cannot be right. It is not right. The whole thrust of this Government’s policy is to keep the “fellas” out of jail, tag them and monitor them, ease the overcrowding and give them a lifeline to rehabilitate themselves. That is what it is about.

In any event, the parole legislation right now is nearing the finish line. That parole legislation will come early in the next session of Parliament. I mean there are competing legislative priorities but we are almost finished drafting that. In any event it will come, it will complement and work in tandem with the electronic monitoring and it will be able to be tagged and monitored at every stage.

I heard my learned friend, Sen. Al-Rawi, make heavy weather about the fact that the programme should be on a pilot basis and all of that. Well, the truth of the matter is that the policy the Cabinet approved is that it will be introduced on a phased basis, over a period of one to three years in selected geographical areas. The EM programme will be a diverse and dynamic programme designed to advance improvements in monitoring and tracking, prison overcrowding, recidivism and a new movement for a more stable re-entry process for the criminal population.

But the pilot programme is what we intend to introduce. Now that, obviously, will be a matter for the administration of the law. [*Crosstalk*] On the Independent Bench learned Sen. Baptiste-Mc Knight—and I think probably Sen. Prescott raised the issue of the de-stigmatization, the coin de-phrase Government jewellery and “Government bling”. “Fellas go be subject to heckling”, and all of that.

You know, nobody says that the father who was tied, bound and gagged, and who had to watch his wife and daughter raped; nobody says that that father is the subject of ridicule “yuh” know. Nobody says, in this Chamber, in this Parliament, nobody says that the mother who could not protect her daughter from the intruder that she is ridiculed. Nobody said that the girl who is raped, that she will be ridiculed and stigmatized. That no man “eh want to married she; dat she mudda and fada trying all how to get a visa to ship she out”; nobody says that.

### **6.10 p.m.**

But we stand here and say that the boy who is accused of committing the crime, we worry that if he gets tagged with that bracelet on his ankle, “Oh God they go heckle the poor fella. They go gih him so much ah taunts”.

I, quite frankly, find that to be astonishing, startling and incredible. For myself, I say that this innocuous bracelet or anklet put on the person to give them a new hope, a new lease on life and give them an opportunity to rehabilitate—and if you are innocent, you will get your day in court to prove that. You are not convicted, but rather than impose bail and send you to prison, we are giving you an opportunity.

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I want to say the criticism of ridicule and stigmatization just does not cut it. Why? Our criminal justice system, as with all other criminal justice systems in the world, operates on the concept of open public justice. It is open public justice! That means there can be no justice in a closed room away from the public. So that as things stand right now, let me ask the question, before we pass this law, “Is it not that we does see fellows when they charged on the front page ah the papers?” When they are charged and are being brought to court in handcuffs, do we not see them? So what? They would not be ridiculed when they get bail and go back to the village? But if they get this anklet, they would suddenly become the subject of ridicule. Is that it? I see no logic in that.

The fact is, in an open public criminal justice system, the population has a right to know, they will know, and they always knew. That is how you see their picture on the front page. If there is social stigma and ridicule, what I am saying is that electronic tagging will not bring that to bear on the defendant for the first time. It will not enhance it because open public justice in our criminal system already has it as a characteristic and feature mandated and sanctioned by the Constitution and all our laws.

That is why in the United States of America, Justice Richard P. Matsch in defence of this principle of open justice said and I quote:

“The crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can occur if justice is ‘done in a corner [or] in any covert manner’.”

That community catharsis to which the learned judge refers is caused, in part, by that person; it is known that he is before the courts.

If he rehabilitates, the community respects and helps, but if he chooses to go down a road of crime and continue a life of crime, the community should ostracize and alienate; but I know of no community, if someone is genuinely trying, and if they have to be indoors because they have curfews and so on, that will say, we must reject this person instead of helping that person.

“If de young fella start to go to church with he wife an chile”, I do not know of a single church, whatever the religion, that would say stay out. We have pastors in this country who are doing so much great social work trying to help, but what happens? They cannot compete with the lure and influence of the criminal gang leaders. “The pastor eh have \$5,000 to gih dem fellas to go an lime, to buy a jeans, and to buy a concert ticket.” But if you know with electronic monitoring you cannot go anyway, then the pastor could have a little more time with you after church to sit and have a little one on one.

So, I say, in terms of the stigma, I do not think that stigma is anything new. I do not think, quite frankly, that the stigma, when you put it in the balance is one that we ought to spend too much time on because, as I say, we need to rebalance the scales of justice. [*Desk thumping*]

The invasion of privacy and all that comes with it: when they interviewed persons who were tagged and monitored, this is what they said. In a study done by Bona et al in 2009, it was found that less than 5 per cent of Canadian participants in electronic monitoring programmes felt that the monitoring interfered with their family life; less than 5 per cent.

In another study done in America: (Rubin 1990), they found that 86 per cent of monitored offenders surveyed felt that their relationships with their families actually improved.

In British Columbia, they said it helped them to rehabilitate, because it removed them from the influence of their criminal peers and forced them to spend more time with their wife and children. So, I say, if that is a hidden benefit, then so be it. It is a good social benefit.

Madam Vice-President, I think one criticism made by Sen. Baptiste-Mc Knight had to do with the issue of domestic violence situations, and the fact that the wife may not know if the husband is coming—"he tagged but she not tagged." To this end, I think that point has some merit, because you really will not know unless they are both tagged. I have spoken to the hon. Minister of Justice and on this matter we propose, at the appropriate stage to perhaps include and propose for consideration, an amendment that would allow for a person other than the defendant to volunteer or apply for electronic tagging.

So that if a wife in a domestic violence situation wants to apply to be tagged, so that they can monitor her husband's movements towards or away from her as the case may be, she can do that. That will be a very simple procedure and the electronic manager can, in fact, grant that. You see, it would not just be in a husband and wife situation.

Suppose, for example, I witnessed a murder or I witnessed some other crime, this "fella" could be coming to bump me off. "My aunt living next door to he or somewhere up de hill, I doh know what going on." He may not be coming toward me, but I may be going toward him. But if you tag us both, you would be able to pick up when we are coming closer. So that is why I think it could serve a multitude of purposes, and we plan to include such a provision that will, perhaps, help in more ways than one. I see my learned friend, Sen. Dr. Wheeler—I think he probably has something else in mind. [*Laughter*]

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Now, one of the points made by Sen. Baptiste-Mc Knight was that we should ask the accused—why do we not ask them permission to wear the device? “You wha we to ask dem fellas dem permission if dey go wear it?” I ask the question, was permission asked when “dey was committing de crime? I do not think that they will say, yes. I mean, I do not see how the permission argument comes in.

More than that, the same argument when it comes to the domestic violence situation, you have battered women syndrome. Do you know how many women from the time they get “beat up” to the time they reach the courthouse, “the thing done change you know”. If you have to ask at that stage, both of them would be begging not to have the man tagged.

So, I do not think the idea that you must ask the defendant, “Look, you want to be tagged?” and it is only if he consents that you could tag, I do not see that really make sense to be quite frank.

#### PROCEDURAL MOTION

**The Minister of Public Utilities (Sen. The Hon. Emmanuel George):** Mr. Vice-President, I beg to move that this Senate continue to sit until the conclusion of the debate on this Bill.

*Question put and agreed to.*

#### ADMINISTRATION OF JUSTICE (ELECTRONIC MONITORING) BILL, 2011

**Sen. The Hon. A. Ramlogan SC:** Thank you very much, Madam Vice-President. Now, one of the criticisms raised repeatedly—I think two Senators raised it—was, “why exclude sex crimes?” It was put across—I saw it in the newspapers like, you know, well, you we are going to tag for all these offences, but you are leaving out buggery and sex crimes and so on. I think that really is a little misunderstanding. If you leave out sex crimes, then what you are saying really is when you put bail, if they cannot make it they will go straight to jail and they will not be out on tagging.

In any event, insofar as the matter was raised, I spoke with the Minister of Justice and there are many permutations in terms of how and when sex crimes can occur. If it is the wish of the Senate, at the appropriate time, we may be prepared to consider including sex crimes for the defendant to be tagged and monitored. I want to point out that this will, in fact, create a situation where the person who may have ordinarily gone to jail, where they cannot meet the bail will, in fact, be out and tagged and monitored, but we will deal with that at the appropriate stage.

Our position when we drafted the legislation was that sex crimes ought to be excluded because we view them as serious matters, and we thought that they should be subject to the normal bail conditions.

Another criticism had to do with the qualifications of the EM manager. A lot, including my learned friend Sen. Subhas Ramkhelawan, raised the absence of the qualifications of the electronic monitoring manager from the legislation. But, Madam Vice-President, you know, the last time we put qualifications in the law, we ran into so much trouble that the law itself became unworkable and unrealistic and for many years nothing happened, and that was really the DNA board. You may recall that the DNA legislation of 2007; we legislated the qualifications and then we could have never constituted the board because we put the qualifications in the law.

Now, I have looked; checked to see—*[Interruption]*

**Madam Vice-President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes.  
[*Sen. The Hon. E. George*]

*Question put and agreed to.*

**Sen. The Hon. A. Ramlogan SC:** Thank you very much, Madam Vice-President. It is not a good idea to put the qualifications for an office in the law itself. Why? Electronic monitoring and this whole area, this whole field is one that is in a constant state of evolution and development. What happens when you put a qualification here, but five years down the road they start offering a different kind of degree in universities that is specifically designed for electronic monitoring or GPS technology, or a GPS expert, or a GPS technician? What happens if the technology as we know it today changes altogether and you can then have the monitoring and tagging done by some other means, then what happens?

Permit me to just highlight a few examples where we have used the phrase "suitably qualified" in laws that have been passed by this Parliament. In the Homes for Older Persons Act, section 21(2) says:

"A Manager...shall possess such qualifications as may be prescribed by the regulations..."

The Accreditation Council of Trinidad and Tobago Act, section 13 says:

"...the President shall appoint on such terms and conditions as the Minister may approve a suitably qualified person as Executive Director."

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That is the accreditation board. That is a law passed when the Opposition was in power. [*Desk thumping*]

The Occupational Safety and Health Act, 2004, when they were in power: section 65:

“The Authority...

(c) engage persons having suitable qualifications and experience as consultants on such terms and conditions as are approved by the Minister.”

Again, when they were in power, the OSH Act.

The Police Complaints Authority Act, 2006, when they were in power:

“The Authority may, on such terms and conditions as it thinks fit, engage any suitably qualified person to provide it with services and assistance in the exercise of its functions.”

The DNA Act, 2007, again, when they were in power:

“The President shall appoint the Custodian under subsection (1), from amongst suitably qualified persons on such terms and conditions as he thinks fit.”

again, when they were in power.

The Miscellaneous Provisions (Minimum Age and Admission to Employment) Act, 2007, when you all were in power and a law that you all passed; section 92A(1):

“The Minister to whom responsibility for labour is assigned may designate in writing a suitably qualified public officer as an inspector in his Ministry.”

**6.25 p.m.**

The Teaching Service Compensation Act, 2008; again when they were in power: section 5 says that the committee shall comprise a medical practitioner under a Medical board or other suitably qualified person. I can go on and on; our laws are replete with examples where the phrase “suitably qualified person” is used. If you could use it with accreditation of tertiary educational institutions, from old people to university, what is the problem here? You have to trust in the Government that the people elected; that is their problem. They do not understand that the mandate given to us is to govern, and govern we shall. [*Desk thumping*]  
We have to trust in the elected reps. [*Desk thumping*]

**Hon. Senator:** It is all right if they do it, but we must not do it.

**Sen. The Hon. A. Ramlogan SC:** It is not that this would be done in a vacuum; obviously, there would be consultation with the relevant bodies and stakeholders—obviously, the PMCD, the Department in the Ministry of Public Administration. We all know how the public sector operates. The PMCD The Division in the Ministry of Public Administration, would have to get involved to approve the qualifications, and this is just transitional. Then the Public Service Commission comes into play when they are making the permanent appointments, Madam Vice-President.

“Then on the technical side, I hear all dis ting about the drift phenomenon. I eh no big technical person, but I go and I look it up and so on. It says a drift causes multi-part effect often resulting from highly reflective surfaces such as glass buildings and large bodies of water. What dat mean really is that in dem concrete jungle and ting, when they have big, big, tall skyscraper with glass and yuh living in the big, big, concrete jungle, tall, tall building and ting, you will have problems. De signal go reflect off the glass, it go be blocked by this building and ting. Well, be reasonable, nah. Where in Trinidad and Tobago ha all dem big, big, tall glass building in a cluster, such that it forms a concentric circle and ring-fences the thing so that it would produce the drift effect?” Port of Spain maybe, and where else?

So when we go and read all this literature on the Internet and we come here and, “Oh God, the drift phenomenon” and “Dis ting cyar work in Trinidad and Tobago.” How? How? Man I say, “Drift off.” [*Desk thumping*]

**Hon. Senator:** “Yuh drifting, yuh drifting.”

**Sen. The Hon. A. Ramlogan:** Even in those countries where this drift problem and this drift phenomenon exist, they are dealing with it.

In the Journal of Computers, Vol. 6, No. 1, January 2011, the article entitled, “New Algorithms on the Solution to Drifting Problem of GPS Positioning”, what are they doing? They are improving:

“...the quality of the hardware, GPS chip designing, the receiving mechanism and position data processing algorithms, which all should be considered... hardware providers.”—and so on.

Even there it is a problem they are dealing with, but it is not a problem, I dare say, that would replicate and manifest itself in Trinidad and Tobago, on the scale that it does—I mean, this is not downtown Manhattan. We do not have that. [*Interruption*] I know they under the PNM wanted it to look like that, but it just does not.

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I heard my learned friend, Sen. Deyalsingh, talking all this “ting about who dragging coffin and what about de 136 people and all dis ting.” Well, I want to tell him something: the people of this country know that they gave us a mandate and we are doing our best. We inherited eight years of continuous increase in crime; eight years of continuous increase in crime and we cannot solve that overnight. But I want to tell him one thing: the people still dragging a coffin, but the one coffin “dey” dragging in the country right now is the coffin for “de” PNM. [*Desk thumping and laughter*] “Dat is de coffin dey dragging.”

**Sen. Hinds:** You were going good all the time.

**Sen. The Hon. A. Ramlogan SC:** “It come out dey.” [*Laughter*]

You see, Madam Vice-President, the drift technology will not cause any serious impairment in the function, but in any event bear in mind that we will be assessing this properly on the pilot project. [*Crosstalk*]

**Hon. Senator:** Is Maraj who say so. Is Ralph Maraj who say dat.”

**Sen. The Hon. A. Ramlogan SC:** My learned friend, Sen. Prescott SC made the point about whether in the presidential pardon you can have—[*Interruption*]

**Sen. Deyalsingh:** Hon. Senator, would you give way?

**Sen. The Hon. A. Ramlogan:** Not really.

**Hon. Senator:** “Yuh now come.” [*Desk thumping and laughter*]

**Sen. Deyalsingh:** I was listening to you.

**Sen. George:** You were not in the Chamber. You now come. Sit down and relax.

**Sen. The Hon. A. Ramlogan:** “You drift all over, and want to come here—[*Desk thumping and laughter*] and like driftwood you finally arrive here, and want to cause confusion, eh.” [*Laughter*]

**Hon. Senator:** Nice one.

**Sen. Deyalsingh:** All right, brother.

**Sen. The Hon. A. Ramlogan:** Sen. Prescott made the point about the presidential pardon, and whether or not you can have a conditional release. The answer is yes you can. One such example is Felix James who was granted a conditional pardon. The President, acting on the advice of the then Attorney General, granted him a pardon subject to conditions such as he must report to the St. Ann’s Psychiatric Hospital for periodic evaluation and the kind; so it can be done.

This would help us, because I serve on the Mercy Committee and we often get applications. Sometimes the people are old, they are infirm, they have some illness inside the prison, and you want to put them out, but because of the nature of the crime you have a little doubt. So if you could tag them and put them out, it would allow them to die peacefully, in dignity, to have some measure of dignity about the rest of their lives. They really may not pose a threat to society, so it could actually be properly utilized.

I dealt with the point of the possibility of it becoming any fashion statement. I want to point out that in America we have had big and small, just to call some names of persons—billionaires: Paris Hilton, Martha Stewart, George Zimmerman, Dominic Strauss Khan and, of course, Lindsay Lohan, but they have all been tagged and monitored successfully. Of course, the major beneficiary has been those defenders who come from the lower end of the socio-economic ladder.

Madam Vice-President, my learned friend, the hon. Minister of Justice, will no doubt deal in greater detail with some of the other criticisms that have been levelled. One criticism levelled by Sen. Prescott was the inclusion of functionary. You would be happy to know, Senator, that we have agreed with that point you have made, and that will, in fact, be deleted. So that “functionary” will be deleted from the definition of “competent authority”. We have listened to what our friends have had to say on the other side. We believe that notwithstanding all that has been said, we know that deep down in the collective conscience and wisdom of this Senate, we all know that the time has come for electronic monitoring, for Trinidad and Tobago to try something different.

The one thing that distinguishes this Government from the previous administration is that we are not afraid to try new and different and bold and innovative measures in the fight against crime. [*Desk thumping*] I feel sufficiently certain that this measure, as part and parcel of the arsenal brought forward by the hon. Minister of Justice in the fight against crime, where we are trying to abolish preliminary enquiries, new DNA legislation, amendment to the Legal Aid Act, duty counsel for young offenders, that entire package is now going to kick in. We have been doing it on a piecemeal basis, but when electronic monitoring becomes a reality in this country, when we make this law, it is going to have a positive effect on rehabilitation, ease the overcrowding in our jails, and it is going to give young people a second chance, a new lease on life.

Madam Vice-President, in closing, the fight against crime is not an easy one. We are aware of what is taking place outside. One murder is too many, as far as we are concerned. But we equally know that what we have inherited is disastrous,

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catastrophic and bound to lead only to social decline and destruction. What we have been doing is reversing that slowly but surely, and we feel very confident that in the coming months, when this package of legislation kicks, we are bound to see the benefits of the laws that we have been passing as a Government.

The time has come in Trinidad and Tobago for us to give electronic tagging and monitoring a chance. It exists in the Bahamas. Many of our Caribbean neighbours are considering it, and in the Bahamas it has served its purpose well. We paid a visit to the Bahamas before we introduced this Bill, and we are learning from their experiences. This legislation incorporates the best practices. We are learning from their experiences and building it into this.

I urge all Senators, support this measure of electronic tagging and let us move forward as one country, as on the eve of our 50th anniversary of independence we must make this place safer for law-abiding, innocent citizens.

I thank you very much.

**Sen. Fitzgerald Hinds:** Madam Vice-President, this debate has largely turned on issues of criminal law. I remember an old criminal law concept known as “recent fabrication”. You would have noticed that the Attorney General, in his very belated contribution, after the speakers on the other side had their say and long after the Minister presented this Bill, told us today, in response to Sen. Al-Rawi’s call for a pilot project, which is the norm in other countries where this was implemented, that the Cabinet had, in fact agreed. We have not seen the Cabinet documents; we do not know what happens in that place, but he tells us now that Cabinet agreed to do it on a pilot project. We consider that to be a recent fabrication. [*Desk thumping*]

The Minister, a former judge and attorney-at-law, of necessity, piloted this Bill. He told us nothing about a pilot project. How are we to believe the AG? Assuming that he is correct, but not accepting that, how will they do this pilot project in Trinidad and Tobago? What does he want to do, try it out in Beetham and Sea Lots and Valencia and Laventille and Carenage? How will they decide where? How will they demarcate the area, given some of the technological and geographical difficulties of which we spoke? Which group of people do they intend to try this out on, the same group of people who they viciously attacked during their failed state of emergency?

The Attorney General told us that we were in power and that we passed a number of pieces of legislation where we used the concept of suitably qualified. Let me tell you, never in the history of this country did we have a Resmi

Ramnarine; never. It is the phenomenon of Resmi Ramnarine that has generated the deep concern and the fears about using terms like “suitably qualified”, because the Prime Minister, the National Security Council, the Minister of National Security and the Attorney General saw the wisdom in appointing a rookie, a technician in the SIA, to the highest position, and that that is the reason why we must insist on qualification. [*Desk thumping*] It is their misconduct in Government that has led to that, on behalf of all the people of this country.

Madam Vice-President, the Attorney General came here again today to untruthfully tell this country that SAUTT was illegal. I want to make it clear again that the Special Anti-Crime Unit of Trinidad and Tobago was not illegal. [*Desk thumping*] Every single time a SAUTT officer arrested and charged someone for murder in this country and they were taken to court, the judges of this court, the Court of Appeal, if it got there, accepted the evidence of those officers in the SAUTT, who charged people for murder and gangsterism and all manners of serious things in this country. [*Desk thumping*] All the officers in SAUTT, as I must say again, were either police officers, defence force personnel, prison officers, immigration officers; all sworn in accordance with the laws of Trinidad and Tobago. [*Desk thumping*]

All they did, just like the Inter-Agency Task Force which they use today, was to bring them together under one roof so that they could deal with crime in a coordinated fashion. That is all it was.

I am not saying it was legally incorporated as a body, but every single officer of SAUTT was a sworn serving officer, who was trained as a police officer or specialized trained elsewhere, so this nonsense about SAUTT being illegal, and if there is any threat—right now, as Sen. Deyalsingh told us, there are a number of murder cases in the court, where SAUTT officers had charged persons, the matters are pending, they have dismantled SAUTT and sent home some of the officers, and those matters are now at risk. Those files are lying down somewhere taking cobweb, and nobody to prosecute them, while some persons languish in jail. When it comes up, that would be another matter of this Government’s incompetence and mismanagement.

Let me conclude on that by saying that SAUTT was a victim of political and professional jealousy. [*Desk thumping*] That is all it was. They destroyed it because they came into office believing the foolishness they still speak here tonight, and they dismantled it on that basis. They did not dismantle the helicopters, they still use them. I heard Deputy Commissioner Ewatski boasting that the Air Support Unit of the police service is now using the same SAUTT helicopters to great effect, and as we know it is also used as the private transport service for the Prime Minister, from Port of Spain to her home on a regular basis.

**6.40 p.m.**

Madam Vice-President, the way the Attorney General spoke today about electronic monitoring being a lifeline, you would—“hear nah, any of the little fellas in this society who listen to him would feel they should go and commit crime, because the Attorney General will lovingly look after them and do them favours.” But I want to warn them two things, I call upon them to stop perpetrating and committing crime because Trinidad and Tobago has provided opportunities for everyone and there is no need to do that. [*Desk thumping*]

There is no need, but I also want to warn them, never trust that Attorney General, that Prime Minister, that Minister of National Security, do not trust that Government at all; they have nothing good in store for you. That is what I think. They are a threat to you and the evidence is what they did during the state of emergency; they picked up thousands of them; no bail, no evidence, locked them up, destroyed some of them opportunities for jobs, their family and when they were released after the failed state of emergency, and some of them threatened to take the Government, as is their constitutional right, to court for false imprisonment, wrongful incarceration and the like, the Attorney General, leading the charge on behalf of the Government, told them, “I, Attorney General, will expend all the resources I have at my disposal in the AG’s office and the Solicitor General’s office to ensure that you get no redress in the court and to make sure all yuh doh end up millionaires.”

**Sen. Deyalsingh:** But you would not go after Ish and Steve.

**Sen. Maharaj:** Madam Vice-President, Standing Order 35(5), please.

**Sen. F. Hinds:** Look, just—Madam Vice-President, could you tell that—  
[*Interruption*]

**Sen. George:** [*Thumps desk*] No, no, you cannot do that. Let her rule; let her rule.

**Sen. Ramlogan SC:** The man just raised a point of order—[*Inaudible*]

**Mr. Volney:** Have some behaviour; sit down!

**Hon. Senator:** Yes, there is a certain decorum in this Senate.

**Madam Vice-President:** I do not really see the inappropriate motives, but continue and tread carefully. [*Desk thumping and crosstalk*]

**Sen. F. Hinds:** That is how they behave. They do not want us to speak in this Senate. They do not want us to remove their mask and to reveal their ugliness. They do not want that! Every time we get up to speak here they want to take us to the privileges committee, they want to shut us down, and when we speak outside they want to send pre-action protocol letters of which I now have many, including one from the Minister, but I am not afraid, I have court clothes. He knows that.

**Sen. Maharaj:** I have too. *[Laughter]*

**Sen. F. Hinds:** I am not afraid.

**Sen. Maharaj:** I am not afraid either.

**Sen. F. Hinds:** I know, and you are not a lot “ah” other things. You are not about this society either.

**Madam Vice-President:** Senator!

**Sen. F. Hinds:** I am not divisive. *[Crosstalk]* I just said I am not, “I never accused nobody”.

**Sen. Ramlogan SC:** “Ay, I go tag you, you know, behave yourself.” *[Laughter]*

**Sen. F. Hinds:** This is a serious matter, you know. *[Interruption]* This is a very serious matter, because we have little confidence in this Government’s respect for people’s human rights and people’s civil liberties. We have little confidence; their track record in the state of emergency is evidence enough *[Interruption]* and now members of the media are under attack.

Madam Vice-President, I heard the Attorney General say—“leh me proceed, eh”—that these young—*[Interruption]*

**Sen. Ramlogan SC:** “Hear, you now start, yuh know.” *[Laughter]*

**Sen. F. Hinds:** Madam Vice-President, they are trying to distract me.

**Madam Vice-President:** Hon. Senators, could you allow the Senator to speak in silence, please?

**Sen. F. Hinds:** This is not a playing matter, you know. *[Interruption]* Madam Vice-President, I heard the Attorney General almost tell us how he would lovingly embrace them and give them a lifeline and an opportunity to rehabilitate themselves while they are outside with these shackles or whatever he calls it.

You know something, Madam Vice-President—and he used the example of rape when he was criticizing the comments of Sen. Corrine Baptiste-Mc Knight when she spoke about the bling and these “fellas” will be ridiculed and so on, and nobody in here spoke about ridicule of the victim and he used the example of rape. But then came back later on to let us know that it is not available for sex offences, so he contradicted himself horribly, as he always does. [*Desk thumping and crosstalk*]

“Yeah, yeah.” This Government is confused, tongue-tied, tongue-twisted in metaphor. [*Interruption*] Look, Madam Vice-President, this Government is confused. [*Interruption*] They do not know what they are doing.

**Sen. Al-Rawi:** Misstatements in the Senate and all.

**Sen. F. Hinds:** Misstatements and all, but I do not want to waste time on Sen. Dr. Tewarie and my friend. I have some regard for the political pedigree of his family. I want to leave him alone. You see, he is COP, so he is under enough pressure from the UNC in the Government already, so I do not want to add to his troubles. [*Desk thumping*] I have sympathy for “he and MSJs”.

But, Madam Vice-President, let me proceed to demonstrate the frailty of the Attorney General’s arguments—the frailty of it.

**Sen. George:** Frailty?

**Sen. F. Hinds:** Yes, frailty of it. Look, Sen. George, I want you to leave me alone in my contribution. Just leave me along, please. I ask you, please.

**Sen. Ramlogan SC:** You are drifting. [*Laughter*]

**Sen. F. Hinds:** Madam Vice-President, at page 6 of this Bill Part III, under the rubric Electronic Monitoring, at clause 10(3), it says:

“The Court shall not however, impose electronic monitoring in respect of any of the offences listed in the First Schedule.”

When you proceed to the First Schedule you would see the list of offences for which electronic monitoring may not be imposed by way of a sentence or in lieu of sentence. It starts with treason, for which the penalty is death; offences against the individual; murder, and I see here at (2)(b) “Conspiring or soliciting to commit murder;”

Now that soliciting to commit murder is unknown to law in Trinidad and Tobago as far as I am aware. I know of conspiracy to murder and so on. So, it appears as though this is a take from some other jurisdiction that has not been

well thought out, but we would come to that at a later stage. Manslaughter, shooting or wounding with intent to do grievous bodily harm, unlawful wounding—and the list continues; offences involving kidnapping—kidnapping for ransom; knowingly negotiating to obtain a ransom; offences of a sexual nature of which the first is rape.

So, telling us about electronic monitoring and using the example of rape, when in front of us the law says you will not enjoy the ability to use it, [*Continuous desk thumping*] demonstrates the confusion in the bosom of that Government and one of the other reasons why they must never be trusted.

**Sen. George:** “Yeah man”, repeat it. You would convince yourself.

**Sen. F. Hinds:** Sen. George! I crave your protection.

**Sen. George:** Sorry, sorry, Senator.

**Sen. F. Hinds:** I thank you very warmly. Grievous sexual assault and all the sex offences, and I see at (j), buggery as well. Hear this, (e) “Sexual intercourse with a male under sixteen years; and (j) Buggery.”

I know that we have had some excursions into these issues but as far as I am concerned they are one and the same, but that is a matter that we would come to a little later, perhaps in another debate, but, for me, those two are one and the same. Good!

Madam Vice-President, the point is that the Attorney General, he suffered from drift, intellectual drift, when he used the rape example in relation to the monitoring in his criticism. [*Interruption*] He too was drifting, was he not?

**Hon. Senator:** Driftwood.

**Sen. F. Hinds:** “Nah, nah!” I listened to the Attorney General today with great patience and I must say a measure of admiration. Today is one of the first days—he is not listening—when I listened to him without becoming ruffled.

**Sen. George:** He was quite logical.

**Sen. F. Hinds:** Yes, he was impressive up until almost the end when he jumped on the PNM and started to talk about coffin for the PNM and so on.

**Sen. Ramlogan SC:** “That hut yuh; that hut yuh.” [*Laughter*]

**Sen. F. Hinds:** Yes, other than that he was going quite well. He started to sound like an Attorney General after two years, “eh”, but that is all right. [*Laughter*] That is all right.

**Sen. Ramlogan SC:** “Yuh sounding like yuh discombobulated.” [Laughter]

**Sen. F. Hinds:** Madam Vice-President, he also told us that he was absolutely astonished that anyone who would say that the criminal would be humiliated. He was attacking the contribution of Sen. Corrine Baptiste-Mc Knight, and he was astonished that she would express concern for the offenders as opposed to the victims. He was effusive in his description of the circumstances of the victims of the crime. He went on to describe the tagging as innocuous, meaning harmless; but earlier the very Attorney General, when it was convenient to him, told us that it was not any bling, as Sen. Baptiste-Mc Knight had said. It was not that. It was one ugly looking piece of black thing with metal. He went on the Internet and he saw it. So, even in his 45-minute contribution, at one point it was innocuous, neat and harmless and on the other hand it was this ugly piece of equipment. I told you they see the inconsistencies.

**Sen. George:** Come on man, you do not like—[Inaudible]

**Sen. F. Hinds:** That is all right; that is all right. That is okay.

**Sen. George:** I know “Faris” would never make a point like that.

**Sen. F. Hinds:** I know, but I take note of all of these wonderful things. Trust me, I take note of them. [Desk thumping] I take note.

Madam Vice-President, the Attorney General told us that SAUTT was illegal. I just want to remind him, he went in the other place and he launched a serious attack on the former head of SAUTT, who got the permission of this honourable Senate to issue a statement, all of which was denied—his attack on that man. Worse than that, after the statement was read, the Speaker of the House reinforced it by pointing out to him and all Members that we ought to be careful in terms of casting aspersions on people in their absence.

I want to read for the benefit of the hon. Minister who piloted this Bill, and the Attorney General, and the Minister of Public Utilities, and the Minister of National Security. I am reading from a document entitled, “Policing a New Century: A Blueprint for Reform” published by the Home Office of the UK in 2001 and it was presented to the Parliament in December of 2001, and I am reading from the foreword of the then Home Affairs Minister. Listen to what—[Interruption]—yes. Look how old, 2001. But I want to demonstrate something that is why I am quoting from it. He begins by saying in this foreword:

“If there is one single expectation of Government which we share throughout our lives, it is security and protection.

Detection and conviction rates have fallen drastically over recent years. We must reverse this trend and once having established that it is not inevitable, set new targets for all those involved in the process.”

At item 6:

“Our task is clear. We want to prevent, detect, apprehend, and convict the perpetrators of crime. We need and will have a process that enables those undertaking the basic task of protecting our homes, our streets, and our persons, to do the job more effectively. Whether in dramatically slimming down bureaucracy and reassigning tasks in a way that frees up police officers to do their real job more effectively, or in extending what we are calling the ‘police family’ to engage others in policing, or in adopting more modern techniques: we will bring about change.”

Item 9—and this is important here too.

“By April next year”—this is the home secretary talking as far back as then “eh”—“we should reach the highest level of police numbers in our history. We already have the highest number ever of support staff in the police service. No one need be worried that we are substituting support staff for trained police officers, but behind the record numbers of officers we will reach, will be support staff trained and focused on reducing the burdens that keep officers off the streets... We can encourage the recruitment of many more Special Constables”—in this case SRPs as we call them here—“as part of that drive to use the strength of the community as part of that solution. Above all, we can see the drive against the disintegration and fracturing of decent behaviour, of acceptable standards, of mutual respect and decency, as something for all of us. Whether in tackling the scourge of hard drugs and the human misery and crime which it brings in its wake, or stamping out the petty crime and abuse of youngsters whose families have failed them by not providing a framework and structure for acceptable behaviour, we all have an obligation to act.”

Madam Vice-President, I quoted from this because as they were approaching police reform in the UK it is this document, a study with the foreword from which I have just quoted liberally, that supported it. This Government came to power two years ago in this country; we were working on certain reform initiatives for the police service before they came. They scuttled all of it. Minister Martin Joseph came to Parliament, piloted amendments to our Constitution, the Police Service Act, the police service pay and conditions; all kinds of work was done; once they came to office they scuttled it all because, according to them, crime

figures were going up. But you see, we have a problem with crime in the society, and that was our response to it along with some other operational things. Right, Madam Vice-President; since they came to office they scuttled it all and right now nothing by way of reform is taking place in the Ministry of National Security. Nothing! Nothing! And if it is, it is the best kept secret in town.

**6.55 p.m.**

Now we have gone to something new called 21st Century Policing. On what basis? On the basis of what study? How is it working? What is it doing? You are hearing protests from the police officers. Police officers are complaining to us every day about the unworkability and unsustainability of it. But this Government is a Government of “voops, vaps and vaille-que-vaille”. That “eh” no joke.

One of the problems I want to say, in passing, in my own estimation with managing crime in this country, is the out and out and abject low productivity in the police service. That is not a criticism of the police service alone. I am bold enough, courageous enough to say in this Senate, that across Trinidad and Tobago we have never fired on all cylinders; we are not as productive a workforce as we should and could be.

The police service is not immune from that. Part of the problem from managing crime in this country has to do with the low productivity. Twenty per cent of the police service does all the work. And the challenge is to get them going, to get them working. I am being reminded they have become so prone to making excuses.

We were responding to a crime problem, the police reported to me when I was in national security, that they had information that one young man, who is now deceased, killed at least 23 people, from the intelligence they gathered. When we were grappling with those issues we saw the problem, so we decided to put things in place. We said, you know what, drugs and guns coming into the country fuelling the murders and the gang warfare and the crime. So we would take action to protect our borders.

We had a plan, everybody—we talking about crime plan, whether it is Selwyn Ryan crime plan or what, they have no plan. [*Desk thumping*] We had one. Now you are hearing the Attorney General saying it “cyarh” happen overnight. The Minister of National Security is telling the country now, apologetically, that crime cannot be judged by the number of murders. We told them that a long time ago, but when they were belligerent and pounding us and aiming to become the Government they were not hearing that. Now the shoes are on their governmental feet, they are making excuses, because the reality has set in.

The good thing is when they came to office, the same murder statistics had begun to go down, because we had begun to suppress it, the facts are there. Yes! And they benefited from it! But because they have no plan, and because they dismantled SAUTT, and because they removed the OPVs, and because the psychological advantage is now with the criminals rather than law enforcement, “de ting out ah hand again”, because everybody in South America and all the criminals in this country know that it “eh ha nutten going on now, and they walking through carts and horses, doing people what they want”. I could go into the newspaper now like the Prime Minister used to do, and like others on that side used to do, and go through so many articles: rape, break-in, buggery, murder, theft, all kinds of things. I could do that—and white collar crime too. I could do that, but that is not the way the PNM conducts it.

Let me tell you this, Madam Vice-President. [*Desk thumping*] I am proud to say I am PNM every minute of the day. [*Desk thumping*] We have conducted our affairs in this country with responsibility and with dignity and we did it to the best of our abilities, and this country must by now, after two years that, know that when it comes to governing this country, managing the economy, managing Government doing the things in a certain way, you have to call the PNM, man, you must. [*Desk thumping*]

So he could talk about coffin if he wants. The decent and sensible and serious people in this country have seen the J’ouvert morning band that they are and the Carnival and the madness for the last two years. [*Desk thumping*] They are seeing it, and they know in their hearts that they made terrible mistakes. And when we proceeded to do police reform it was backed by research and study and it was a systematic approach, from constitutional reform, amendments to the Police Service Act and a whole number of operational things. Right now nothing is happening in Trinidad and Tobago and you are surprised that the criminals are getting on top of us again. Nothing is happening.

Madam Vice-President, before I continue to be distracted, let me say a few things on the Bill—by some of the foolishness I have heard on the other side to which I was forced to respond.

**Sen. Deyalsingh:** Vasant, stop it “nah”.

**Sen. F. Hinds:** Madam Vice-President, this thing with crime is a serious thing. I saw the residents of Harpe Place, Beetham, some of whose businesses were destroyed during the failed state of emergency—[*Interruption*]

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

**Sen. F. Hinds:** No, no, no, the thing is open; I heard the Attorney General, I heard everybody, so I am responding—and they are crying out for attention; jobs—a lot that was happening in those communities are now gone. I think the Minister when he spoke, or somebody on that side, made mention of that community centre down on the Beetham and commented. We have some challenges, and electronic monitoring is part of their plan to deal with it.

The Attorney General was careful today to tell us that you can use it in three circumstances: pretrial, for bail issues; so the court decides whether, rather than keeping you in custody, I can monitor you as a bail condition; parole or early release, which is essentially what Sen. Al-Rawi and others spoke about, and where it is largely used. We release people early. There are many persons who committed murder and were sentenced to death, had it commuted to life imprisonment on the basis of *Pratt and Morgan*, who are now walking the streets of Trinidad and Tobago again. There have been many persons—up to about a month ago they released someone.

When I was last in national security we had begun the process—had some assessments and reviews leading up, and one of them was a gentleman whose name escapes me now, who was recently released. The Minister would know. He is looking at me with a bland look there. But he would know.

**Hon. Senator:** The President's pardon [*Inaudible*]

**Sen. F. Hinds:** Yes. Madam Vice-President, that is one of the ways in which the thing is used. And if you are talking about early release for murder and you are saying in legislation that you will not use electronic monitoring for persons who commit murder—just by way of one example—it means that when persons like him are released early he will never be able to be monitored electronically. That is a major flaw with this legislation as far as I am concerned, because it excludes the use—well no, it says as a pre-sentencing option, so I suspect this is confined. It will not be used as a sentencing option. I recognize that.

And then in terms of releasing people, there are experiences in the world where persons were released and went on to commit heinous crimes yet again. So when I heard the Attorney General rather flippantly, almost, walk through and say you know it is just—somebody will look at them and decide whether they will be released or not on certain terms and conditions, “eh, eh” the thing is far more serious and more detailed than that. There are some very scientific tests and circumstances that have to be observed if you are going to consider releasing persons and I suspect you would be able to use your electronic monitoring, because the exemptions for this have to do with sentencing or in lieu of sentencing.

But of course, if a man is sentenced to life imprisonment and you are going to release him in lieu of his life sentence—that is the point I wanted to make. If a man is sentenced to life imprisonment and you decide you are going to early release him, the President will pardon him, not pardon, he will be released, an early release or when parole legislation comes in place he would be put on parole, it will be in lieu of his sentence and, therefore, he may very well not be able to be monitored based on the legislation we have before us. Maybe the Minister could clarify that going forward along with if he is released early for all other offences as I had earlier read. So I think that that is a major issue with this Bill that has to be looked at.

The Attorney General spoke about overcrowding, and Sen. Jamal Mohammed, again I do not want to be hard on my friend, but he spoke about prisons overcrowded. That is to some extent correct. But I will tell you this as a fact—found it out in preparation for this debate—typically, remand prisoners used to be about 25 per cent of the 4,000 or so population. Today, remand prisoners are more like 45 and 50 per cent, so that the overcrowding is in the remand prison more than in the regular full-time convicted inmates. There is where the problem is. That tells you that something is happening in the society. Something is also happening with the police, because in fairness to the police, based on the training that was provided by SAUTT and other training that they were exposed to under the Mastrofski initiatives, and I heard police officers of great experience tell me personally, that those elements of training revolutionized everything they ever knew and taught about policing when they had joined 25 and 20 years ago. So it was very well worth it.

What we saw was an upsurge or an escalation in police activity, so they would pick up more people and, therefore, you see more persons going into the remand yard, so there is where the bulge really took place. But the conviction rate is what is lagging in Trinidad and Tobago, which is why we had passed the DNA legislation, which is why we want to improve issues for detection of crime and as well, prevention of crime. But if the Minister and his team allow me an opportunity outside of the combative forum that we experience here, I would be quite prepared to share with them some of the things we followed. So they would not be “vooping” in the dark like they are doing now. [*Desk thumping*] According to “Brigo”, walking in the dark I “tell” this Government already, they behave like a drunken man, at midnight, in a dark room looking for a black cat that does not exist. They are lost—[*Laughter*—totally lost. This Government is drunk and blind. And those words are not unparliamentary, neither the combination thereof, Madam Vice-President.

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It is the administration of justice, the process that has to be speeded up to avoid the overcrowding that Sen. Mohammed talked about. Now, I thought his maiden contribution was quite good, I still think so. I was a little embarrassed that a Cabinet Minister would get up today and knock him over the head as he did.

**Sen. Dr. Tewarie:** Do not be ridiculous!

**Sen. F. Hinds:** I thought it was quite out of order on the part of Sen. Dr. Tewarie, and I want to apologize to the new Senator on your behalf. It was quite reckless, no thinking.

**Sen. Dr. Tewarie:** You are absolutely—[*Interruption*]

**Sen. F. Hinds:** Madam Vice-President, unheard of in the Westminster system; you would never have seen that under the PNM. That is the virtue of the PNM. How you could do that? [*Desk thumping*] And for a moment I thought it was UNC attacking COP, but then someone told me that Sen. Dr. Tewarie is a COP, but then someone tells me again that he is more a COP of the Minister of Sports branch, because you are not too sure. Somewhere in a state of “inbetweenity”. [*Laughter*]

So the Senator—“I ha he to study”. [*Laughter*] I speak my truth. I speak it frankly. I have no fear of that Government, everybody knows that. I told them I already made a black and white suit, I am ready to go. I am fighting in defence of the people of the East-West Corridor—[*Desk thumping*] the people of Penal, the people of Barrackpore, I am fighting to protect their interest—[*Desk thumping*] without fear and I feel a sense of sadness for those women who they carted away and then called a “sack of aloo”. I am defending them here. [*Desk thumping*]

**Sen. Deyalsingh:** They did that?

**Sen. F. Hinds:** The Member for Oropouche East—[*Interruption*]

**Sen. Deyalsingh:** He said what?

**Sen. F. Hinds:** He described those women—you know the women were pointing out—and Sen. Mohammed told us about suspects and so on. The women were pointing out suspiciously—[*Laughter*] that at least three Government Ministers who were MPs had objected to the highway passing where they are objecting to now, but now they are in Government they quiet as a lamb.

**Sen. Al-Rawi:** Recent fabrication again.

**Sen. F. Hinds:** Yes! You calling it fabrication, I have the “L” word, but that might be unparliamentary.

**Hon. Senator:** Did they blame the PNM for that?

**Sen. F. Hinds:** Fabrication is the better word, not the “L” word?

[*Madam Vice-President nods head*]

**Sen. F. Hinds:** Okay then it is a fabrication.

**Sen. Deyalsingh:** No neither. It is an untruth.

**Sen. F. Hinds:** Okay, an untruth. [*Interruption*]

**7.10 p.m.**

Yes, as my friend, Ferdie Ferriera would say, it is a terminological inexactitude.  
[*Desk thumping*]

Madam Vice-President, Sen. Mohammed—and I thought his contribution was rather apposite. I enjoyed it and I listened keenly to his suggestion that we should electronically monitor persons who were suspected of crimes, and I saw in that his own attack on the UNC, because I told you before, one of the problems this country has is that we have to deal with their infighting and their issues between UNC and COP. He knows that a certain Minister is a suspect; he knows that the police have investigated a certain Minister of Government regarding certain matters that took place next door here in the Hyatt. He knows that. And he knows that the Commissioner of Police is at the moment having to explain to the Police Service Commission and the country how he gave an interpretation of what the DPP is supposed to have said in relation to that Minister, but he gets up here and suggests that we should tag suspects, and I saw that as an attack on the Minister of Works. [*Desk thumping*] He wants him to be monitored!

Many people in this country would share that view, but I was surprised to hear it coming from inside the Government, because the Attorney General tells this country—he is neither judge, jury nor DPP, but the Attorney General, using the weight and might of his office as Attorney General, tells this country that there is nothing against that Minister, and we are talking about crime. But when a 13-year-old girl, during the state of emergency, had said something awkward, that same Attorney General was on the television demanding that the little “Granny Quila”: “Give up yourself! Turn in yourself to the police!” Frightened the daylights out of the little child! And all the softness about rehabilitation that you heard coming from him today did not then exist—not a word!

To make matters worse, and what is really driving me crazy, Madam Vice-President, although I remain calm and smile, the same Attorney General is spending a large chunk of a \$200 million budget that the Minister of Finance and

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his Cabinet gave him to investigate Landate, when the person involved—my political leader, the Member for Diego Martin West—was cleared by a commission of enquiry completely; investigated twice by the Integrity Commission, who issued a letter to him saying, “We regret it; we apologize, because now we realize we had no basis not even to suspect that you were involved in anything wrong.” He has that letter. He won damages against them! He got costs! A whole integrity commission resigned, and that Attorney General is telling us that there is nothing against Minister Warner; still wants to invest money to investigate my political leader. But let them come! We could handle that too! [*Desk thumping*] We have no fear of that!

The *Mirror* carried a story last week where a Minister of Government was accused of taking a \$900,000 bribe in this country. Front page; \$1.1 million! And the Attorney General or the Minister of Justice or the Minister of National Security, nor Prime Minister, nobody has said a word about it so far. Not one word! So it is possible that it is true! A Member of the Government is sitting here, watching us today talking about crime and monitoring? I agree, he, too, should be monitored electronically, Sen. Mohammed. He too! [*Desk thumping*] “And yuh doh have to go far. Call name and ah will whistle!” [*Desk thumping*] “Ah serious!” [*Interruption*] “Yeah, yeah.” You see, the Minister of Justice, I think you could come when you want, if possible. You could do what you want, but just leave me alone let me speak.

Madam Vice-President, at clause 6, I just want to point out a little typographical error—minor matter. Going forward, at clause 6, under the side note “Responsibilities of the Unit” it says, you know, that:

“In furtherance of its responsibility for the implementation and maintenance of the system of electronic monitoring, the Unit shall be responsible for—

- (a) ensuring the security of the system for electronic monitoring;...and
- (c) reporting any non-compliance with a decision of the Court or competent authority and breaches related to the use of a device.”

I think the last word in subclause (2)(a) should be “respondent” rather than “respondents”. Just a small matter I observed going forward.

Madam Vice-President, at clause 10, again, (4), it says:

“Where a respondent is arrested and charged with an offence under section 20 of the Domestic Violence Act, the Court may grant bail with or without electronic monitoring, but in making its decision, the Court shall not request the consent of the respondent.”

In other words, Madam Vice-President, in circumstances where someone is arrested and charged with an offence under section 20, which has to do with a breach of the court's order—then is when it becomes criminal—then the court shall not request the consent of the respondent in terms of recommending electronic monitoring.

“Before making a decision under –

- (a) subsection (1) or (2), the Court shall request a Report from the EM Manager concerning the person or respondent which the EM Manager shall cause to be provided as soon as practicable;”

Now, Madam Vice-President, from a practical standpoint, this is not going to be easy. Right now, we have serious delays in the domestic violence jurisdiction when you are awaiting probation officers' reports. Sometimes when two persons, or if they are sent for mediation—when two persons are engaged in an issue before the court in the domestic violence jurisdiction, very often a probation officer's report—the probation officer acts as the ears and eyes of the court and they conduct an independent investigation to present to the court. We have issues with shortages of those. This is the reason I thought by now this Government must know. In some ways this Attorney General reminds me of former Attorney General, Ramesh Lawrence Maharaj. And this Government is only about PR and wanting to look good. All this Government wants to do is to make its résumé look good.

They did not prepare and pass parole legislation, but they are here before us with this already. [*Desk thumping*] Last week my friends told me that while we were here at four in the morning, of Thursday, May 24, when they had planned their big celebration at Mid Centre Mall, they already had in a pullout in the newspaper of that day that they had already passed the Children Bill. So that we realize the reason they kept us until four o'clock on that morning of their jubilation and celebration was again for PR, to tell their supporters that “We did it.” And before it was passed it was already in the newspaper. They come here today with this electronic monitoring Bill, without parole legislation, for the same reason. We told them, and they should know by now, “legislation doh fix social problems”. [*Desk thumping*]

**Madam Vice-President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. P. Beckles*]

*Question put and agreed to.*

**Sen. F. Hinds:** [*Desk thumping*] We told them this: legislation does not fix social problems. That is only a small part of it. It is the institutional improvements that would do it, and there is no suggestion from the Minister who piloted this that there is any programme to train more probation officers and to train more persons who will provide—because while they say the EM Manager shall cause a report, it is not the EM Manager personally. He or she has to have a whole number of support staff, which is the point I was making when I had read the foreword in the Policy Review document here in the UK. You have to have support staff in order to make this happen, otherwise you will end up with problems and backlog, because an allegation would be made that someone breached a domestic violence order; the court now wants to decide whether they should incarcerate the person or whether the person should be electronically monitored, but they are now awaiting for weeks and sometimes months, the report of the EM Manager. So the whole system is stifled, and it does not require, as I have said, the consent of the other person.

Madam Vice-President, in clause 10(7) it reads:

“While making the report of the EM Manager...”

I think it should be “awaiting” or something else. I do not understand the word “making” in that context. The drafters could look at it and see whether “making” makes sense in the context of the legislation or the paragraph that is in front of us. That is 10(7).

I have already indicated in the First Schedule this idea about soliciting to commit murder, unknown to our jurisdiction as far as I am aware, and we need to take a look on that. We have some challenges alluded to by my colleagues. Recently, we heard reports about hackers getting into the Government’s—which Ministry was it?

**Hon. Senator:** The Parliament website.

**Sen. F. Hinds:** The Parliament website, yes. So these are technical issues. But could you imagine somebody hacking into this system and sending the thing berserk? And the next thing you know the police are arresting people for breaches? Right? You have issues. And the question of deciding to monitor someone has to hinge on the question of a proper assessment of the risk of the person before the court: if it is in lieu of sentencing; if it is in the pretrial stage for bail. Because the court will want—right now, when the person appears before the court and the court has to decide whether to grant bail or not, the court listens to submissions from a defence counsel; it listens to the response from the police or the prosecutor. The court may at times, in certain circumstances, want an independent probation officer’s report.

But essentially, the court does not have much information. It looks at whether the persons have previous convictions; whether they have any other pending matters and whether they have a fixed place of abode. Those are the three basic things that the court would look at. But if you are going to decide now whether you will electronically monitor someone, then it will require far more analysis in terms of the risk. If this is a domestic violence situation as we discussed today, you do not want somebody going—because we have cases now where there is a domestic violence order against someone and he “still go and kill the woman”, or something like that.

So you have all kinds of technical and other issues around this, Madam Vice-President, and this Government is just, as I say, running to the Parliament, wanting to pass legislation only for the sake of PR. Right? Only for the sake of PR, and not getting down to the hard work that is required to put it in place, because we have—we will see, you know, they will pass this Bill and nothing would get going for a long time, and when that happens—it has happened in this country before. Look we are now talking about rehashing the Dangerous Dogs Bill, a Bill that was passed since I was a representative sometime in 19—when was the Dangerous Dogs Bill passed?

**Hon. Senator:** About 2000.

**Sen. F. Hinds:** In 2000. We are now talking about rehashing it; doing it over, and this is 2012. Trinidad has a way of behaving like that, through us as parliamentarians, and what that does is to bring law, the lawmaking process, the Parliament, the Government, and the so-called system into grave disrepute. But you see, right now there is a reshuffle or a reconfiguration in the air and I see a look of intimidation, fear and trepidation upon the face of the Minister of Justice.

**7.25 p.m.**

He is worried about whether the Prime Minister’s hatchet would justifiably fall upon him. So he is probably here—I am not imputing improper motives—wanting, when she raise the hatchet to say, “I pass that you know.” Yes, these things happen in that Government. They are all very discomforted. They do not know where they stand. And it is affecting the governance of the country. You all are a disaster. [*Desk thumping*]

**Hon. Volney:** Stay out of our business.

**Sen. F. Hinds:** And telling me—this visitor to the Senate—that I must stay out of their business. Your business is my business—[*Desk thumping*—you govern this country, and to the extent that you are going wrong is my business; you cannot manage the economy, “dah is my business; crime out of control, dah is my business.” [*Desk thumping*]

**Hon. Senator:** Tell them! Tell them!

**Sen. Beckles:** If they do not bring proper legislation.

**Sen. F. Hinds:** And when you bring bad legislation to the Senate as—we demonstrating here—which we cannot and will not support for the reasons we have stated, that is our business too, on behalf of the people. [*Desk thumping*]

So, Madam Vice President—I am not sure, did I get an extension as yet?

**Sen. Beckles:** Yes, you did.

**Sen. F. Hinds:** “And I eh break a sweat yet, yuh know.”

**Sen. Beckles:** “Yuh warming up?” [*Laughter*]

**Sen. F. Hinds:** I am now feeling to make my contribution. However, I am assured by my friends in the absence of a second extension my time may have run. Therefore, I want to conclude by saying, we have demonstrated very coherently, rather compellingly, some technical issues in respect of the database and the IT platform—we have demonstrated that. I heard the Attorney General unashamedly, flippantly dismiss that as a small matter. No problem. “If it have a blip, if it have a drift, no problem.”

So a man from Laventille is told that “you cyah cross Frederick Street, there is drift. He by the old Besson Street Police Station—within the bounds, eh—but, there is the drift that the Attorney General dismissed lightly. The people monitoring inside the office on the platform seeing the man as appearing outside the Hyatt, they go and they arrest him.” As far as the Attorney General is concerned that is a small matter. No problem.

But I am not surprised because this is a Government that went out there and picked up 466 persons. They were told that there was no evidence—and some senior police officer told his troops—no doubt with the encouragement of the Minister and the Attorney General who were in front the media everyday in the early stages of that failed emergency campaign, and, the Minister of Justice who told them, “Shoot on sight.” But recently when one of his constituents was shot in Mount D’Or, he is on record as saying, “the police too trigger happy.” They are confused!

**Sen. Deyalsingh:** It was a homicide. It looked like a homicide.

**Hon. Volney:** You do not know what that means, so stay out of it. [*Laughter and crosstalk*]

**Sen. F. Hinds:** They are confused! I cannot retain my seat if I do not call out again, as I am determined to do on every occasion, to the citizens of Tobago and tell them that we in Trinidad made the mistake of bringing a UNC Government with a few hangers-on into Government.

**Hon. Volney:** What is the relevance of that?

**Sen. Al-Rawi:** Suspects.

**Sen. F. Hinds:** We are paying a dear price for it. I call on the people of Tobago—where? He wants to know the relevance—electronic monitoring exists to cover both Trinidad and Tobago. [*Desk thumping*] I want the people of Tobago to beware that they could be electronically monitored.

In addition to that, I want to tell them, “God has blessed you Tobago, to be able to look not with hindsight, but to look on real time and see the mess that Trinidad and Tobago is now in at the hands of that unthinking, reckless, vaps, voops, vaille-que-vaille” Government; who does not know how to manage the economy; who does know how to suppress and manage crime; who told this country that it had all the answers, and now clearly confused, does not know left from right, up from down, like a drunken man.

I call on Tobago, when the opportunity comes do not be fooled by the one from Tobago who is leading the charge on behalf of the UNC, because the UNC believes everybody has a price. Do not be fooled! Keep your wits about you! Keep your consciousness about you, and let the sins of Trinidad be paid for in Trinidad and do not bring the UNC inside of your Tobago. Keep it clean and keep it sweet.

Madam Vice-President, with those few words and the few suggestions that I have made for the improvement of the legislation and the responses that I have put to some of the foolishness that came from the other side, in a time when the public are all anxious and afraid, at a time when as I began by saying the first duty of the Government is to protect its citizens, I felt particularly sad when I saw in their own constituency in Freeport, where a man 93 years of age and his wife 76—I have seen many a horror story on the front pages of the papers, from time immemorial. I have had to deal with many of them when I was in national security, but there is one story that stands out, many do, “eh”. But, you see this story about this old woman who was beaten and a photograph of her looking like a swollen baby, that one touched me. They use to say when they held these up, that, “The blood of these people are on the hands of the PNM.” We are not so reckless—[*Interruption*]

**Sen. Al-Rawi:** Challenged.

**Sen. F. Hinds:**—and challenged. We would not say that; we regret it all. We are prepared to continue to give this Government support and encouragement as we have always done responsibly in Opposition. We are prepared to support them. Madam Vice-President, things are out of control and the centre is falling apart. The centre cannot hold. So we are not too sanguine about the future at the hands of this Government: in economic terms, in social terms and particular in relation to crime management. For the time being we cannot support this legislation.

This Government is dangerous and we have a suspicion that they would use this legislation the way they use the anti-gang legislation, to terrorize certain people in this country, as the statistics from the state of emergency showed, because we accuse this Government not only of being reckless, not only of being incompetent, but I accuse this Government of racism too.

**Sen. Dr. Tewarie:** Oh my God, you of all people!

**Sen. F. Hinds:** Yes! Madam Vice-President, for those reasons I cannot support these measures unless and until they return with a serious demonstration of how it intends to support this, support staff, proper technology, and to make it safe as it should be in a civilized democracy like ours. Madam Vice-President, I thank you. [*Desk thumping*]

**Sen. Helen Drayton:** Thank you, Madam Vice-President. Let me say that I have done a lot of soul-searching with respect to the Administration of Justice (Electronic Monitoring Bill, 2011). A lot of thought has been given to every single clause and what the intent is or what the stated intent is. In the final analysis, I feel that the net good outweighs the net bad. [*Desk thumping*]

Now, like the previous speakers, I have some issues and hope that these issues will be addressed at the committee stage. In his presentation, the hon. Minister of Justice advocated that the electronic monitoring plan is part of the Government's programme, or their emphasis on reducing crime. Now, I certainly would not want to second-guess the Government, second-guess the Minister of Justice, but I will certainly not be timid in saying that I do have some doubts in that regard.

All too often we tend to forget the culture of Trinidad and Tobago. There are certain things and there are certain systems which may work very well, in this context a system to reduce crime, but that does not mean to say it would necessarily work as we intend it to work here. Nevertheless, given the intent, given the stated advantages and the known advantages of an electronic monitoring device, it is certainly worthy of the pilot, and later on full implementation depending on how it has worked.

Now, the last time I researched the technology competency within the police system, I came up with a result that there is a great deal of hardware and a great deal of software but we are starved of the everyday skills in the context of policing. So that building computer literacy skills among the police officers is something that is long overdue and I do hope that the authorities are moving apace in that regard.

Another observation I have is that in bringing Bills, often the basic infrastructure that underpins the smooth operation of a particular law is not in place. I have to assume that the attitude is that once the Bill has been passed, once it has been proclaimed and it is law, efforts will be made to put things in place, which I think is very much regrettable. Certainly, I can give an example in that regard with respect to this particular electronic monitoring device Bill.

My understanding is that we have a very good system in terms of juvenile probation. We have dedicated people just like we have a number of social workers. The problem is that they are very stretched. Again, I understand that one probation officer may have as much as 60 to 80 cases to manage, and that the interlocking systems, the technological systems with the social services, Children's Authority, the police, these are virtually non-existent. So this is what I am talking about when I speak about the underlying infrastructure to support an efficient system of electronic monitoring.

Among the benefits the Minister mentioned, he mentioned a reduction in domestic violence and the improvement of the quality of life of domestic violence victims. Again, I have to say that while I am very supportive of the Bill, I certainly would not share the Minister's and the Government's optimism in that regard. [*Desk thumping*]

I think that the public and the victims of domestic violence must be aware that while the system will detect persons when they leave a designated area there are weaknesses. I am not just speaking with respect to any potential system here. I am not talking about Internet research, about a body of research; all the research that I have been able to gather on this particular item would show that there are weaknesses in GPS systems worldwide. Due to those weaknesses, it is quite possible, depending on how the manager of the electronic management system goes about doing his research and issuing his report, where you have an abuser who is electronically monitored in the same building block with his or her victim there are issues to be concerned about. I have no doubt that the Government is mindful of this.

So that there has to be efficiency, there has to be synergy of policing and synergy with the social system, with probation officers, et cetera, in order for the system to work properly.

**7.40 p.m.**

Now, with regard to reducing overcrowding in the prisons, well, I think that has much more merit, and that is a credible reason for having such devices. Based again on what the hon. Minister said with respect to first time offenders, it is a more humane approach in that regard depending on the offence that was committed, and this provides an opportunity for, you know, more restitution and restorative type of justice than incarcerating first-time offenders for crimes which may be victimless, and putting them with hard-core criminals. Now, it is reasonable to say that no crime is victimless, all crimes would have a victim, but in the case of the first-time offenders and juveniles it provides an opportunity as an alternative form of sentencing.

Let me, maybe just aside here, mention something that I read about very recently, and it had to do with a man who allegedly had an outstanding 32-odd thousand dollars in child maintenance and allegedly hanged himself in prison. I am just citing this in the context of what I just mentioned. I also want to say upfront that, child maintenance is a serious matter. There are too many children living in poverty, and too many children suffer as a result of a lack of proper maintenance. I also recognize that the threat of jail time may be a deterrent to an errant parent.

However, when I read about that situation, I had to ask myself a question. When the father is sent to jail—and I say father because it is usually the father—and when, ultimately, he loses his job, I am asking: who does that help? How does it help the child? How does it help the other children with the new woman he is living with? You know, one may very well say, “Well, okay, he committed a crime”, but exactly what is the bottom line? Is it something that is productive? What is the impact on the children? So why not focus totally on a system more of garnishee [*Desk thumping*] where the parent is working, and the parent should be and can afford to provide something to maintain that child? If the parent is already jobless, then what is the point of jail? What good is that to society? So, I just thought I would mention that.

Now, the merit of the electronic monitoring system is its value as an alternative form of sentencing. It certainly could be a more humane option for offenders of lesser crimes. If I recall all that the hon. Minister of Justice said,

when he was tabling this Bill, a lot of focus was on exactly that—lesser crimes. The very schedule in the Bill has listed a whole number of crimes which are, by and large, your sexual abuse, rape, kidnapping, arms and things like that, and that was not the focus. This is why I would refer now to what the hon. Attorney General said, and also my colleague, Sen. Prescott, because I do not share the view, given the stated purpose by the Government of the electronic device, that these devices should be something that are so obnoxious that they are visible to Tom, Dick and Harry.

I am saying this also in the context that prisoners who are incarcerated are not exposed to the public, and yes, public ridicule on a regular basis. So that the suggestion to have devices, based on all that I have heard, that would, in fact, be an embarrassment—I do not want to use the word “ridicule” in that context, or one could use it because it was expressly said that this is an excellent option for juveniles. I am not talking about the blood crimes because the blood crimes are exempt, so the issue about rape and murder, all that the Attorney General expressed, is not relevant in this context. So that it goes contradictory to what the hon. Minister said. [*Desk thumping*] You talked about a more humane approach; you talked about juveniles; you talked about lesser crimes. The strategy of an electronic device has the potential, yes, to impact families more positively—this is what you said. So why do you want to expose a child to ridicule? And this is my response to what has been said.

Now, with respect to clause 10—just getting to the clauses, and this refers to the manager of the electronic monitoring unit who has to submit a report—the question I want to ask here is: when a judge imposes a sentence of electronic monitoring, how long thereafter would the manager submit a report? I think that some time frame should be in the Bill, otherwise you are defeating the purpose of the sentence that the judge gave, in that that person would have to stay incarcerated depending on how long the electronic manager takes to come back with a report. So that I feel that there should be some time frame, and it is good to put in a time frame because you said that this is a pilot, and if it is a pilot, then it provides a basis for measuring the performance of the electronic monitoring unit and the manager. So I think we need that performance standard there.

Under clause 6(2), I do not understand what is meant by near real time. It is either real time or not real time. Near real time is not real time. [*Interruption*] That is clause 6(2). The other query that I have, I think it is under clause 4(5), the Bill speaks to confidentiality must be maintained. But if you are hiring persons solely on contract, and I would imagine this has to be a 24/7 service, there might

very well be issues of commitment and loyalty, so that we need to rationalize that. If we are doing a pilot and we want this thing to work, we want it to be successful because of all the benefits that we have stated, then you want to give the system the best opportunity to work and to work reasonably well. So, I am just sticking a pin there. I think it is an area that needs to be addressed.

Under clause 10(9)—pretty much a pet subject of mine—which deals with the court getting the consent of the parent or guardian in the case of a child; okay, I have no problem with that, but I think it is time the Government decides when a child is a child. As we have stated on another occasion, between 16 and 18, the vast majority of your secondary school graduates are in the workplace. Some of them have left their parents' homes; some of them are living common law and with a child.

Now, the Bill expressly says—it leaves no discretion for a judge in dealing with a child who should have this device, if they deem that to be so, between 16 and 18 years, and I will come back to that. I will come back to that in a while, because I feel that a young adult, age 16 to 18, depending on the circumstances and where that child is living, could make such a decision. But, in addition to that, we have to decide on what is the role of the Children's Authority here. Who is going to determine the psychological state of a child before arriving at such a decision? The parent may not be in a position to do so. So I want to know whether the Children's Authority has a role here at all.

I want to address, very briefly, the contribution by Sen. Jamal Mohammed. The reason I want to address that is because the Attorney General, in his contribution, has actually confirmed what Sen. Mohammed proposed in his contribution. He spoke about bail. Now, a number of our laws, and very recently passed, gave the police the power to arrest on suspicion, to put them in jail for as much as 120 days and maybe more depending on the submissions made to the judge. The Attorney General did make reference to pretrial and to bail, so that the Attorney General has confirmed what Sen. Jamal Mohammed—*[Interruption]*

**Sen. Al-Rawi:** Suggests.

**Sen. H. Drayton:** —said. *[Laughter]* I am not letting anybody put any words in my mouth, okay. Now, using the electronic device because the police have suspicion, that was not the basis on which the hon. Minister of Justice proposed this Bill. *[Desk thumping]* The Minister of Justice has to be very specific in clarifying the matter for the purposes of the *Hansard* record, and the intent of this proposed legislation, *[Desk thumping]* because what the Attorney General has said, and based on what laws we already have, yes, a person can receive an electronic device even when the police have no evidence.

**Sen. Ramlogan SC:** Senator, may I please?

**Sen. H. Drayton:** Sure.

**Sen. Ramlogan SC:** That would not be correct. The concept of bail only arises when someone is charged and brought before the court. Bail involves a judicial intervention, and the concept of bail comes only after someone is charged and brought before the court; it is only then the concept of bail arises. So that it is not correct to say that anyone else could be liable to this or that the police on mere suspicion could electronically tag persons. That is not it.

There must be reasonable grounds for suspecting the commission of a criminal offence. The person must actually be processed and charged, or once they are brought before the court, then the magistrate, in deciding whether to grant bail or not, would have the option of electronic monitoring. That is the only time it occurs.

**7.55 p.m.**

**Sen. H. Drayton:** But, excuse me Attorney General, you certainly are a brilliant legal mind and I am nowhere near there. I am merely applying common sense, based on what you said and based on what is already the law—the very fact the police could arrest on suspicion—yes? Now, on what basis then would you put a person in jail for 120 days? Because, in previous submissions made by your good self, in a number of Bills that came before us, that given what is happening out there, the seriousness of the crime situation—and when reference was made to witnesses being taken off and all the sort of language that was used, it was said—and the Bill was passed, law proclaimed—that if the police have reasonable grounds to suspect it is jail time. And it was also said the reason the Government wanted an extension, I think from 30 days, then 60 to 120, was to give the police sufficient time to gather evidence.

All I am saying is that what I heard from you, and based on the laws on the books, all confirmed what Sen. Mohammed said, and all I am asking is that the intent of this law needs to be clarified by the hon. Minister of justice and recorded in the *Hansard*. Because I have to be frank, I have to be very frank; I understand the seriousness of the situation out there, every day we see it, but we are all mindful of what happened under the state of emergency. *[Interruption]*

**Sen. Ramlogan SC:** But if you apply that they would be tagged and they would be let out.

**Sen. H. Drayton:** Sorry, well, they would be tagged and let out. So, the question is: what is the intent of this proposal?

**Sen. Ramlogan SC:** To prevent them from going to jail.

**Sen. H. Drayton:** Okay, or monitor them.

**Sen. Ramlogan SC:** Yes. To target is more like it, once you are charged.

**Sen. H. Drayton:** All I am saying is let us be clear as to what is the intent of the Bill.

**Sen. Ramlogan SC:** Sure.

**Sen. H. Drayton:** I do not want the Government to come here and tell us: "Oh, it is for reason of humaneness and for juveniles, et cetera," when, in fact, comments were made by the Government and subsequently confirmed by the Government and confirmed by the laws that are already on the books. That is all I am saying. That does not mean to say I will not give the support.

**Sen. Ramlogan SC:** Sure, sure, sure.

**Sen. H. Drayton:** It is just that I want clarity.

**Sen. Ramlogan SC:** You want clarification.

**Sen. H. Drayton:** I want to just refer to the First Schedule on page 14, items (d) and (e). These are crimes or offences for which the electronic device will not be used. Item 4(d) speaks to:

"Sexual intercourse with female between fourteen and sixteen years;"

and (c) says:

"Sexual intercourse with a female under fourteen years;"

I am trying to figure out what is the purpose of the two clauses here. Why not simply: sexual intercourse with a female under sixteen years?

Okay, the other question is sexual intercourse with a minor employee. I am raising an issue for clarification. What do you mean by this exactly? Because, according to the Children Bill, a 20-year-old can have sex with a minor who is 17 and there is no liability. Now, the clause cannot be referring to rape, or the fact that it was not voluntary, because you already have rape in the schedule. So, what do you mean by age? And this brings up the question again, why in the first instance I had a serious problem with that Bill because I do not think we have made up our minds as to when a child is a child and when a child is not a child. You know? So that if one law you say that sex between someone 17 and 20, yes, three years, there is no liability, without even due regard for the pregnancy and the liability of the father who might be working, in terms of child maintenance. There are so many things that are conflicting. So, I ask for clarification: what do you mean by this?

I just want to say a brief word on the crime situation, and, really it is more of a suggestion. I am speaking with regard to communication and the police. I am speaking about communication with some degree of authority because I teach the subject as one of the subjects at a master's level. What I want to recommend is that the police authorities, in communicating on the status of crime-fighting initiatives and particularly achievements, that they pay attention to the prevailing conditions, that is the context, the societal values and the sensitivities, because while all crimes are of concern and the public wishes to see a drastic reduction in all crimes, the public's concern is with blood crimes. So, when you have senior members of the police standing in front of a camera and saying crime is down, and you open the papers and there are two murders and three, and a weekend, eight, and the authorities want to continue to stress reductions, in that context, under those conditions, a couple of things happen. The public then thinks that the police are clueless. They think that they are insensitive and it actually becomes a provocative statement. I am talking about sensitivities, the police authorities and the police, they are none of those things. I think that they are really trying hard. I think there is a great deal of sincerity in trying to reduce crime. Nobody wants to live under these conditions.

I want to suggest that the focus should really be on, if you dealing with this thing at a very professional level, then in your evaluation what has given rise to a spike and more so what infrastructure do you have in place that you could leverage, or what clues have you gotten from the current situation that would mitigate crime in the next circumstance. Do you see what I am getting at? Because the statement is really provocative and insensitive when we say that crime has reduced is what we used to tell the last Government and we on this Bench, me, tapped them up all over their heads any time the Minister came in here and said that crime has been reduced and you open the papers and you see three more murders.

The next question I want to ask, again, it is really very innocent. I do not understand why it has never been done, that is we have identified hot spots, raging hot spots of crime. The difference between Trinidad and Jamaica is that Jamaica's crime is pretty much concentrated. In Trinidad, you have these hot spots all over the place. I know you could have the next murder or rape emerging from anywhere. But I want to ask, why has the police not set up permanent, fully-equipped, well-manned stations in those hot spots? In other words, you now want to show them (the criminals) that this community is not yours. It is not yours.

Now, if it is that there are fears of sniping and things like that, well it does not say much for competence. So, it is an innocent question and I hope I could get an answer as to why it is irrational, because I think that the statement to the effect that neither Bail Bill or electronic monitoring Bill—looking at our culture, our situation, increased sentencing; we have brought a lot of laws—will make a difference when it comes to the type of blood crimes we are seeing. “Dey doh care. Dey know you bring ah Bill? Dey doh care. Dey know you increase the sentence tuh life? You think dey care about dat? You think those little boys know about that? You think they do not know they are going to die before they are 25?”

This is why I could support this Bill in the context of your first offenders, your juveniles, in terms of family situations, the impact on children. But I think it is time our security forces make a decision and a determination that we are taking back our communities. And the only way to do that, they have to physically take it back. You set up your station in there, well-armed, no civilian, only well-armed well-trained forces.

I ask the question because what ideas have come on the table since when? It is not that I believe that police strategies should be made public helter-skelter, that in itself—I am not saying talk about all the strategies that you have to put in place to catch the criminals, no. I am not one of those who ask for a crime plan. I believe the crime plan is the police business. What I would like to know is if am told that between now and the end of the year, our target is to get down the detection rate, or get it up from 20-something to 60-something and at the end of the year, you measure your performance and I see where you are, you did not make the 60 but you hit 40, kudos. So I am not interested in your strategies and I do not think anybody should be interested, quite frankly, in seeing and knowing what your crime plan is. That is not public business. That is police business to deal with the criminals. But all I am saying is that there are certain things and we need some ideas. We need some innovations.

As I said, I think there is more net good, with respect to the electronic monitoring device Bill, if it is used with the intent that the Minister proposed. If it is to, and I say openly, target people and monitor them that way, I then have a serious issue in supporting the Bill. I thank you, Madam Vice-President. [*Desk thumping*]

**8.10 p.m.**

**Parliamentary Secretary in the Ministry of Foreign Affairs and Communications (Sen. Nicole Dyer-Griffith):** Thank you very much, Madam Vice-President, for affording me the opportunity to contribute to this Bill titled “An Act to make provision for the implementation of a system for electronic monitoring in Trinidad and Tobago and for related matters” piloted by the hon. Minister of Justice.

Madam Vice-President, my objective this evening, with respect to speaking to this Bill, was to remain purely pseudo-technical and to relate to issues pertaining, specifically, to electronic monitoring. However, one or two of the contributions this evening widened the debate and I just felt I wanted to say one or two words, in my very brief contribution, towards that.

Before I do so, Madam Vice-President, I just wanted to congratulate some of the content that came forward from the Independent Bench which were very strong and very technically sound. [*Desk thumping*] We did take notes and I am sure the hon. Minister of Justice would have been taking notes of some of those contributions to speak to when he winds up with his presentation.

I would also like to recognize the contribution by the Leader of the Opposition Bench, Sen. Penelope Beckles. I read her contribution in *Hansard* and I also felt that her contribution was solid, as is usually the case. [*Desk thumping*] However, the same cannot be said for some of the other things that I have heard. It takes me to something that Independent Sen. Ramkhelawan mentioned, where he spoke to the issue around perfection of legislation.

Sometimes we come to this honourable Chamber and we hear from Senators of the Opposition in a sanctimonious tone, where they speak as though they have full moral authority to come here and state that the legislation must be perfect. They would speak for hours and hours and pontificate and insist that you must have a 100 per cent piece of perfection in this honourable Senate. I was very happy that Sen. Ramkhelawan made mention of the fact that the important thing is that this Government is moving towards the future and that we are making things happen—[*Desk thumping*]—because, Madam Vice-President, we do not want to get caught in a system of analysis paralysis; that gets us nowhere. [*Desk thumping*]

Madam Vice-President, this is why I recognize the hon. Senator’s contribution and why I underscored the hon. Sen. Penelope Beckles’ contribution because she always comes to this honourable Chamber and advances things without the

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analysis paralysis; and without the hours and hours of linguistics. [*Desk thumping*] Sometimes I wonder if she is, perhaps, in the correct party. [*Laughter and Crosstalk*]

**Hon. Senator:** “Nah, nah, she in de wrong party.”

**Sen. N. Dyer-Griffith:** Madam Vice-President, we have heard over and over again about this issue of a crime plan: “Where is the plan?”, “We ent not seeing the plan” and “What is the name of the plan?” You know something, Madam Vice-President? This Government is not going to be bogged down by having to lay a name to a crime plan so that you can see that there is crime plan. [*Desk thumping*] You are not going to hear from the People’s Partnership that, “Today, we have Anaconda”; and then next week, “We change our mind, we have Baghdad”; and then two weeks from now, “We buy the blimp” and then three weeks from now, “We meeting with community leaders”; and then four weeks from that, “We buy ah OPV”; and then we come back and we have SAUTT; and then, at the end of it all, we have zero tolerance. That is not the way this Government operates. [*Desk thumping*] So, for those who might be waiting on the verbiage and a name and a media conference to announce a name, and then weeks after you change; that is not going to happen. We operate in a strategic manner. We have a plan, we know where we are going and we know how we are going to institute that plan.

**Hon. Senator:** Take a drink of water.

**Sen. N. Dyer-Griffith:** Yes, I was fired up. [*Desk thumping*] I do not appreciate the way in which some of the information came across. It was disingenuous, Madam Vice-President. [*Desk thumping*]

**Hon. Senator:** And distasteful.

**Sen. N. Dyer-Griffith:** Yes, it was; distasteful at some points as well.

I just want to remind this honourable Senate and, by extension, the national community—because I mentioned earlier on about moral authority—that the debate was opened by Senators on the other side. In 1991—1995, under the Opposition PNM, the rate of crime rose every single year, then, when they were out of office, and the UNC came into power, the rate went down every single year. So much so, that at the end of 1999, I think the homicide rate was about 100. Then, you had the PNM come into office again, when in 2001 to mid-2010 the crime rate went right back up. I heard the hon. Minister of National Security, in a retort to an hon. Senator on the other side, mention that at the end of 2009 or

thereabouts the homicide rate was over 500. This speaks to: do you really have the moral authority and the moral grounds to want to come into this honourable Senate and question; and cast aspersions? [*Desk thumping and crosstalk*] I think not.

Finally, on that point, before I go into my substantive contribution, [*Crosstalk*] the hon. Sen. Hinds pleaded, very dramatically and theatrically—as he has been known for—with our brothers and sisters in Tobago to think before they make a choice. I would like to add to that, Madam Vice-President. I would like to add to that plea and add to our brothers and sisters in Tobago; I plead with you, please get a copy of the report of the Auditor General of the Republic of Trinidad and Tobago, on the financial statements of the Tobago House of Assembly for the year ended September 30, 2004. Get yourself a copy and have a read! [*Desk thumping*] Astonishing, if not appalling! That is my plea to my brothers and sisters in Tobago. Get yourself a copy and have yourself a read of that document.

So, with that, and with a drink of water, I will go into my substantive contribution. [*Desk thumping and laughter*]

Madam Vice-President, this Bill has been introduced to achieve a number of very specific objectives, as indicated by the hon. Minister of Justice. For the purpose of clarity, and for those members of the national community who would be listening in, I would like to itemize some of those very clear objectives that were articulated by the hon. Minister: one was as a complement to the introduction of a parole system—I believe that question would have been clearly articulated, the electronic monitoring Bill will be introduced as a complement to that; to increase and enhance public safety and offender accountability while encouraging positive behavioural changes—so, you have a duality of objectives here; the other objective is to promote public safety by utilizing technologies and supervision strategies to effectively monitor and supervise offenders.

The other objective, as articulated by the hon. Minister, was to reduce the financial burden on the State and the prison service by reducing the population. This is where they spoke to the issue of recidivism, the revolving-door technology and so on. Another objective is to improve the cost effectiveness of correctional programmes; to provide enhanced opportunities for offender rehabilitation; and to extend the range of services that are available to the courts.

Now, these are all very noble and forward-thinking objectives, for which I would like to congratulate and recognize the hon. Minister of Justice for his trilogy of criminal justice Bills. [*Desk thumping*]

**Hon. Senator:** It is his birthday today.

**Sen. N. Dyer-Griffith:** Madam Vice-President, it was just brought to my attention that today is the birthday of the hon. Minister of Justice. [*Desk thumping*] ?

**Hon. Senator:** Thirty-five years.

**Sen. N. Dyer-Griffith:** How much?

**Hon. Senator:** Thirty-five years.

**Sen. N. Dyer-Griffith:** So, on this very special day, and on this very special occasion, I am sure that we would ensure the passage of one in his trilogy of criminal justice Bills. Happy birthday, hon. Minister, on behalf of all of us here in this Chamber. [*Desk thumping*]

Sometimes, Madam Vice-President, criminal justice authorities may wish to control or to monitor the location of an individual without resorting to imprisonment. After the conviction, a judge may wish to place limits on an offender's freedom whilst not employing full-time custodial sanction. Upon release from prison, a parole board may want to impose restrictions on that specific offender. The electronic monitoring, as you would have heard time and again, is a means of technologically enforcing such conditions. Utilizing these tracking systems, criminal justice agencies can monitor an individual's location and can be alerted to any unauthorized movements. Technology, thus, can be used in detention, restriction, and surveillance, as was identified by the hon. Attorney General.

Madam Vice-President, according to the Australian Institute of Criminology, there are three main rationales behind the use of electronic monitoring, these include detention, surveillance and restriction. I would just like to give a little brief on each one of these areas of rationale.

When we speak to detention, we are speaking about the use of electronic monitoring where the individual remains in a designated area or within a place in the community. I would just like to quote from a document titled Technologies of Control, by the University of Leicester, Criminology Department, that speaks to the use of electronic monitoring with respect to public safety and offender accountability. You would find that I would be linking each one of these areas of rationale to the specific objectives that were articulated by the hon. Minister.

“Padgett et al (2006...) showed that electronic monitoring ‘significantly reduces the risk to public safety from offenders living in the community’ as they reduced the likelihood of individuals committing a new offence and acted as a deterrence in relation to absconding from a curfew.”

So that you had a duality in terms of objective here.

“When offenders were asked why they complied with curfews their responses fell into four categories: threat of punishment, monitoring potential, conventional ties and offender characteristics...Technology facilitates compliance as they help offenders promote the view that any breaches of the curfew”—when they say curfew, they are speaking to any illicit movements outside the bounds of where they will be monitored—“will be instantly detected and an appropriate sanction would follow. The study found that some offenders perceived that they had too much to lose by trying to escape...”

This is what the hon. Attorney General would have spoken to with respect to the psychological impact of the electronic monitor. So that you not only have the physical and physiological impact that the monitor will be able to track and trace the movement of offenders, but so, too, the psychological impact of the person knowing that “I will be traced” or “I can be tracked”, you have that psychological impact as well.

“and...technology can make the offenders experience the sanction as omnipresent.”

Let me just repeat that because that is an important point, that:

“technology can make the offenders experience the sanction as omnipresent.”

So whereas, Madam Vice-President, if, perhaps, you have an offender, and they are out, perhaps on bail, you do not have the sense of omnipresence if someone looking over you all the time, whereas with the use of electronic monitor it acts as a further deterrent because you know that you can be tracked; you know that you can be traced and so it acts as an equal deterrent for that offender.

It also goes on to speak to the rehabilitation of offenders because we are still looking at one of the rationales in terms of detention.

“The advocates of electronic monitoring suggest it offers offenders the opportunity to rehabilitate at home...”

The hon. Minister of Justice would have identified the strengthened social characteristics as they relate to the use of electronic monitoring, underscored by the hon. Attorney General, because you also have to look at the rehabilitative aspects and the pro-social aspects speaking to the use of EM. So, we are speaking to:

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“families engaging in pro-social activities away from criminal associates within custody or the community that may prove a negative influence and lead to further offending...”

So, you are removing the offender from within that realm that might give them the opportunity to commit an offence again. In essence, you are reducing the rate of recidivism; you are taking the impetus away from the potential offender again.

**8.25 p.m.**

Now, the second rationale that spoke to restriction says:

“Alternatively, electronic monitoring can be used to ensure that an individual does not enter proscribed areas...”

So in addition to detention, where they are confined in a specific area, you have a restriction where they do not enter proscribed areas.

“or approach particular people, such as complainants, potential victims or even co-offenders.”

Excuse me. [*Senator drinks some water*] And this, Madam Vice-President, speaks particularly to a number of areas, but one area in particular is that of gender-based violence and domestic abuse.

The hon. Attorney General would have made mention of that, where he looked at some victims of gender-based violence, speaking to the issue of—they also wanted to know where the offender might have been. So I highlighted and did some research on a few areas, because I found this to be a very important point, because you know we have the issue of—what you call it—a restraining order. A restraining order is basically this. [*Senator Dyer-Griffith holds up a piece of paper*] If I take out a restraining order on someone, how is this piece of paper going to protect me? So that is one of the key areas of importance when we speak to the issue around electronic monitoring, and the potential impact it can have on victims of gender-based violence.

I looked at some areas and some jurisdictions and how it worked for them, and one of these is from the *New York Times*, and it speaks to: “More States Use GPS to Track Abusers”. It just gives a little story which I am sure could be replicated right here, because we have heard these stories time and time again. So this story, you can just replicate the results of it and see the potential positive impact it may have for some of our own people who might have to undergo this type of abuse on a daily basis.

“When Theresa, a 51-year-old mother of two living near this coastal town, filed for a restraining order against her husband, she thought it would help put an end to the beatings, death threats and stalking that had tormented her family for years.

She won the order, but her husband, Joel, a West Point graduate...”

Well West Point is their security university.

“with a master’s degree who police reports say hid 17 guns in their home, did not seem to care. He violated the restraining order three times, she said.

‘He’d come to our child’s school and beat both of us up in front of everyone,’...

In Massachusetts, where about one-quarter of restraining orders are violated each year, according to the state’s probation office, a recent law has expanded the use of global positioning devices to include domestic abusers and stalkers who have violated orders of protection. A judge ordered Joel to wear a Global Positioning System monitor, alerting law enforcement officials if he went near his wife’s house, her work or their children’s school.”

Theresa, the victim went on to say that it was the first time she feel safe within her own home.

I recall the hon. Attorney General mentioning the consideration with the hon. Minister of Justice for use of duality of systems. In my research I did see a few pieces of equipment that can be utilized, hon. Minister, through you, Madam Vice-President, for that specific purpose where the actual victim does not have to wear a bracelet, but can have a tracking device, somewhere fitted in their homes, or their cars or anything, so that they would be able to monitor that.

Another area that I found to be interesting came from the “Programme area – 29. Domestic and Gender-based violence,” that spoke to GBV, or “Gender-based violence prevented and tackled”. And it says here that:

“Violence against women represents a major challenge for modern societies, because it is ubiquitous and pervasive. Violence affects women and girls in all European countries, across all ages, cultures, ethnicities...”

“The Council of Europe estimates that 45 percent of all women in Europe have been subjected to and suffered from gender-based violence.”—45, per cent—“Between 40 and 50 percent of women in the European Union report some form of sexual harassment in the workplace...”

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And it goes on to speak to the issue around domestic violence and gender-based violence. One of the areas of suggested activities under this United Nations Programme Area 29 was:

“Support the use of technical aids in the fight against domestic violence i.e. mobile violence alarms and electronic monitoring of offenders, including financial support for...”— for use of these technological [*sic*] aids.

So this is in support of what the AG would have mentioned from a United Nations perspective, looking at these technical aids for the support of the use of electronic monitoring as it pertains specifically to gender-based violence.

The last one in this area of restriction is from a document titled: “Violence in Our Homes”. Madam Vice-President, I just want to segue again to mention the importance of the link between the use of electronic monitoring, and looking at how we can control the stem, or ebb the stem of domestic violence and gender-based violence, so that is why I did a little more research around this area. This document speaks to: “Violence In Our Homes: Protecting The Vulnerable,” it is a “WA Labor Discussion Paper”, and it speaks to looking at addressing the problem. It tells what electronic monitoring is and so:

“EM has been used to enforce protection orders relating to domestic and family violence in several US states and in Spain...the major premise of EM—which is electronic monitoring.—is that respondents will comply with protection orders because they know they cannot approach a victim without detection.”

So you put the element in place.

“This is an important feature of EM that reduces recidivism and gives victims an assurance of safety.

Various studies show the success of EM in preventing respondents from reoffending.”

You also have the link with the decrease in recidivism.

“For instance, since the implementation of EM in Pitt County, North Carolina, there have been (only) two homicides resulting from domestic violence. Prior to the EM program, one in five domestic violence victims were killed by an abuser ...”

Madam Vice-President, these are very significant statistics that demonstrate a huge percentile decrease in homicide rate for victims of domestic violence, when the use of an electronic monitor was put in place.

So, again, I reiterate my 100 per cent support for the use of EM technology particularly as it relates to gender-based violence and domestic violence. And this speaks to another policy area of this Government, where the hon. Prime Minister in her wisdom would have seen the importance of ensuring that issues of gender are placed on the forefront of our nation. [*Desk thumping*] [*Senator drinks water*]

**Sen. Ramnarine:** Take some more.

**Sen. N. Dyer-Griffith:** Thank you. Hence the reason, at every opportunity the hon. Prime Minister always speaks to looking at gender and ensuring that we keep gender at the forefront of our policies and our programmes. So in this respect, you know there is a saying that: “You need to give Jack his jacket,” well, in this respect, based on the tremendous and significant work that the hon. Prime Minister and, of course, the hon. Minister of Gender, Youth and Child Development have been doing we need to, “give Kamla her coat”. [*Desk thumping*]

The third rationale for electronic monitoring—I mentioned two before, restriction and the other one, I think it was detention. The third rationale for the use of electronic monitoring is that of surveillance.

“...electronic monitoring may be used so that authorities can continuously track a person, without actually restricting their movement.”

Now, this rationale is extremely important because it is linked to something called the breadcrumb trail. Whereas you have detection where you can identify the location of the person, and then you have surveillance where it is the perpetrator or the person who would be tagged with the electronic monitor, you would be able to actually identify the movements of that person. The reason this is called the breadcrumb trail or you marry it with the use of the breadcrumb technology, is—let us pause for a moment and recall any heinous act that would have taken place within recent time.

Utilizing this technology, Madam Vice-President, if you have a perpetrator who would have been outfitted or let us say a repeat offender, who would have been outfitted with the electronic monitor bracelet, and you utilize the breadcrumb trail technology and something happened, so you have the act perpetrated; if you would have had that monitor, then you would be able to track any persons who would have had the electronic tag on their person, and be able to limit the number of suspects to that particular crime that would have taken place, and then it even becomes more advanced.

If you limit the number of persons wearing that particular tag in that particular vicinity where a crime might have taken place, you would then be able to utilize DNA technology to connect the dots. And in that instance there is another saying: “Dead men tell no tales”, in that instance dead men do tell tales, because when

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you create that link with the use of the GPS technology, the electronic monitoring and the breadcrumb trail technology, and you link that and strengthen that with the use of DNA tracking and DNA technology, you would be able to, therefore, find the perpetrator. Yes. [*Desk thumping*]

Some more water while I am at it. [*Laughter*]

**Hon. Senator:** Drink all.

**Sen. N. Dyer-Griffith:** Madam Vice-President, in the piloting of the Bill as I mentioned before, a number of strategic objectives were itemized by the hon. Minister of Justice, and I just wish to relate a few points to one or two of the objectives, particularly the one that spoke to increasing and enhancing public safety and offender accountability, whilst encouraging positive behavioural changes. This objective is one of duality, it is based on a premise of a link between the reduction of recidivism and that of public safety. Essentially, that former objective that I spoke to, seeks to have as its outcome a decrease in the rate of recidivism, whilst it reinforces rehabilitation; so you have reduction in recidivism and increase in rehabilitation.

I will just repeat recidivism—basically, it speaks to the tendency to slip back into previous criminal type of activity. You have an offender and the offender might be out on bail, and whilst out on bail you commit another crime, and then you come back in, so it is a revolving-door type of scenario. In developing recidivism, there are four key concepts that you need to take into consideration. One is what is actually counted as recidivism; the other concept is what is the time frame for recidivism, because when you are speaking to the issue of recidivism, there is also another theory that speaks to that of failure, but the issue of failure is something you deal with more within the actual prison system.

The other concept that you need to take into consideration is what is the basis for making sense of the information around recidivism and, of course, electronic monitoring, and how it can be utilized to decrease the rate of recidivism. I would just like to expand on the last point which is the use of EM, particularly as it relates to recidivism.

Madam Vice-President, I have a document here that I received from the Crime and Problem Analysis Branch of the Trinidad and Tobago Police Service that looks at a global percentile average of the rate of recidivism in Trinidad and Tobago, between 2010 and 2011. These are really provisional figures and go across a number of years, and our average—when I say average, it goes across—it is a global average, so instead of breaking it down—I have all the divisions, but

instead of itemizing, I will just give a global average and it says here—it is about 46 per cent rate of recidivism, and these as I mentioned are provisional figures, so we do have a pretty significant recidivism rate.

I also spoke a little with the Vision on Mission, a non-governmental organization, and as you know VOM, or Vision on Mission, has been doing very good work with respect to decreasing the rate of recidivism and prosocial programming for prisoners.

**Hon. Senator:** “Dey get ah national award yuh know.”

**Sen. N. Dyer-Griffith:** So I would like to underscore the good work they have been doing, and this is why I believe they would have been supported by the Ministry of the People and Social Development and, of course, the Ministry of Justice. So I want to congratulate those two Ministries for recognizing the work that this NGO has been doing. This NGO also itemized some of the reasons that recidivism might continue to be a revolving-door scenario as it speaks to this, and their percentiles were also around similar rates of about 46 per cent.

**8.40 p.m.**

I would like to quote something else from a document, the US Department of Justice that undertook a study to look at electronic monitoring and how it impacts on the reduction of the rate of recidivism.

In this study, around five million offenders were under supervision and after the impact of the study, there were one or two key findings and the overall finding in this study done by the US Department of Justice is that electronic monitoring reduces offenders’ risk of failure by approximately 51 per cent; electronic monitoring based on GPS systems typically have more of an effect on reducing failure and recidivism.

Now the reason why they itemized utilizing GPS technology is because there are other methodologies and other types of technologies that can be utilized as a complement to electronic monitoring. I believe that the hon. Minister has indicated that he will be utilizing GPS technology and that electronic monitoring remains statistically significant in the reduction of the rate recidivism moving forward.

One or two of the other objectives I would like to speak to very briefly is that of the reduction of the financial burden on the State and the prison service by reducing the population; improving the cost effectiveness of correctional programmes; providing enhanced opportunities for offender rehabilitation; and

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extending the range of sentences available to the courts. These, Madam Vice-President, speak to the issue of the impact of cost savings, and the cost benefit analysis as it pertains to the use of electronic monitoring as against other methodologies.

I also have information from the National Audit Office of the United Kingdom that had conducted a very comprehensive study, and a Value For Money report in the UK and the impact of the cost benefit analysis for the UK pertaining specifically to the use of electronic monitoring. If I may quote here, Madam Vice-President, the main conclusions of this report are that:

“Electronically monitored curfews are considerably cheaper than custody. Ninety days in custody”—this is according to the UK—“costs nearly five times as much as 90 days on Home Detention Curfew or Adult Curfew Order.”

So five times as much is what they quantify their cost to be when you look at the balance as against the use of EM technology.

“The new contracts for electronic monitoring, which came into force in April of 2005, are also cheaper than the previous ones...Electronic monitoring equipment and systems are robust and perform well in relation to what they are expected to achieve.”

Another paragraph that also speaks to the cost benefit analysis from a United Kingdom perspective as itemized by their National Audit Office is that electronically monitored curfews are much cheaper than custody. It goes on to state that:

“Home detention curfew during which the offender is electronically monitored is considerably cheaper than custody. The magnitude of this savings depends on the length of time an offender is on electronically monitored curfew instead of remaining in custody. A 90 day curfew period for example is around 5,300 cheaper than the same period of custody. These savings reflect in part the cost reductions negotiated by the Home Office when it re-tendered the electronically monitoring contracts...”

That was by the National Audit Office and Value For Money Report that itemized that the use of electronic monitoring technology took the cost of custody down five times.

I have another document that also speaks to the pros and cons of the use of electronically monitored programmes, but I would not bother to go into that because I believe that we do understand that electronic monitoring is much more cost effective in the use of custody hearings and so on.

With respect to the modernization of systems, I read some of the contributions, as I mentioned, by Senators of the Opposition, in particular the Leader of the Opposition whose contribution was quite good. With respect to some aspects of this Bill, I am sure that the hon. Minister of Justice would have heard the issues raised by both Senators on the Independent Bench and the Opposition, and I commend the hon. Senators who chose to contribute with a view to looking at offering methodologies for areas of improvement for the implementation of this very advanced system.

Madam Vice-President, there is very little purpose for us to utilize this very important and precious parliamentary time in areas that really lend little to the strengthening of this Bill. If it is that we are utilizing our parliamentary time, in essence, we should utilize the time to strengthen the areas of legislation to ensure that our legislation comes out in a more robust manner because, at the end of the day, the objective should really be what is in the best interest of the people of Trinidad and Tobago. [*Desk thumping*]

This, as the hon. Minister has pointed out, is part of his legislative arsenal in ensuring an improved, efficient, modern and technologically advanced criminal justice system and for this, hon. Minister of Justice, I am sure that the Senators of this honourable Chamber would have seen the merit of the implementation and passage of this Bill.

Madam Vice-President, with these few words, I thank you.

**Madam Vice-President:** For the attention of the Senate, I am awaiting word on when dinner will arrive. As soon as it is here, I propose to take a 45-minute dinner break. As soon as it comes, I will inform Senators.

**Sen. Shamfa Cudjoe:** Thank you, Madam Vice-President, for the opportunity to speak on this Bill. I must say it was not my intention to contribute today, but after hearing Sen. Ramlogan, I was inspired to just throw in a few words.

Before I go there, Madam Vice-President—[*Interruption*] They are trying to distract me—I am going to use Sen. Dyer-Griffith's word, "disingenuous" for Sen. Dyer-Griffith to say some of the things she said.

Sen. Dyer-Griffith went the length and breadth to give us examples from the US and other countries outside of our region that have been very, very successful at implementing this electronic monitoring initiative. What she forgot to tell us is that these countries would have had at least 15 years of experience in having a parole system. [*Desk thumping*] So we are pretty much comparing apples and oranges; worse yet, apples and nuts; something that is not even in the same category as apples the fruit.

Madam Vice-President, before I go into my contribution, too, I want also to comment on her advice to the people of Tobago to go back and read the Auditor General's Report of 2004—2005. I must say: yes, that is something, that questions need to be answered; and that is a challenge we have had in this country for a mighty long time. Time after time, I hear Sen. Drayton—it seems to be one of her pet areas—scold the Government and scold commissions and so on about handing in reports. We have not seen, as a country, the urgency in submitting these kinds of administrative reports and so on.

So, Madam Vice-President, that is a call for all of us, for the Tobago House of Assembly and for the Government, because if you read the newspaper, under the *Express* report of that whole Auditor General's Report for the Tobago House of Assembly, other people put up other statistics and information from the Auditor General's Reports from Works. The Tobago House of Assembly welcomes any probe, but before you make all your pontifications and all your statements to go read this and go read that, let us wait and see what will be the result of the probe. [*Desk thumping*] We would stand any day to any probe because there is nothing to hide and, in the end, you will eat your words. [*Crosstalk*]

**Sen. Hinds:** “Doh study this Senator—[*Inaudible*]”

**Hon. Senator:** Ask them for your one per cent.

**Sen. S. Cudjoe:** “Also, let me make it clear that Tobagonians doh need no advice from nobody to know how to vote.” We are smart people. We watch, we listen and when the time is right, we draw for—[*Interruption*] [*Desk thumping*]

Madam Vice-President, while we welcome the advice of Sen. Hinds especially—let me welcome the advice. Let me tell you—no, I will tell you—while we welcome the advice of Sen. Hinds—[*Interruption*]. [*Desk thumping and laughter*]

**Sen. Hinds:** It is good advice.

**Sen. S. Cudjoe:** “Sen. Hinds doh even have to speak, you know. Sen. Hinds doh even have to speak.” Tobagonians are smart people; we are not as silly as they think we are. We watch them; we have been taking notes and we are the most unpredictable voters. We would jump up in your motorcade; we would show up in some car park “because Machel is there”, but you see that day to draw for that voting finger, we know exactly what to do. [*Desk thumping*] We would not get carried away about all this fighting up. [*Crosstalk*]

Sen. Dyer-Griffith told us she commended the work of Vision on a Mission and all this love for Vision on a Mission, but in the *Guardian*, January 22, 2012 it is the same Vision on a Mission complaining to the Minister of Justice about funding. This love and so on for Vision on a Mission and “I congratulate the work that Vision on a Mission is doing”—and no funding for Vision on a Mission? Let me read the first line:

“Justice Minister Herbert Volney has threatened to shut down a \$1.5 million Mt Lambert facility that is earmarked to house deportees, rehabilitated convicts, delinquent youths, battered women and fire victims managed by the Vision on Mission.”

**Hon. Senator:** Did you say shut down? Shut down?

**Sen. S. Cudjoe:** So all this love for Vision on Mission and no funding is no different from this love for Tobago and not a cent in your budget for Tobago. “So I eh know” no—advice from Sen. Dyer-Griffith on how Tobagonians supposed to vote; that is a waste of breath, waste of time, waste of energy, waste of space; just a total waste. [*Desk thumping*]

Now, Madam Vice-President, I want to deal with a couple things said by Sen. Ramlogan. Sen. Ramlogan came here and spoke glowingly about the legislation; all these things that this legislation purports to do. He spoke about treating with recidivism and the whole idea of repeat offenders. When you read the legislation, anybody who has read this legislation would recognize that this legislation does not speak anything about that because the legislation does not deal with post sentencing.

So, what happens after you get off bail with this electronic monitoring device? It does not deal with post sentencing. Sen. Ramlogan also spoke about controlling the prison population and lessening the number of people in prison and so on. That will only be temporary because this Bill does not deal with sentencing.

It is obviously clear that the Attorney General did not read the legislation because he went on and on to tell us about electronic monitoring for rapists. He gave an example about electronic monitoring for rapists; what would happen to the victim and so on. The schedule speaks clearly, that this excludes sexual offences. [*Desk thumping*] It made me very, very concerned as to this Government promoting a Bill and promoting these measures that they obviously have not researched, and probably know not much about. [*Interruption*]

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Madam Vice-President, let me go right into my notes. In reading the legislation and taking a look at the approach of other countries, I have an understanding of what the Government is trying to do. It is a noble endeavour and it seems to be progressive, but there is so much to be done to get this legislation, to give effect to this legislation so that it does what the Government expects it to do.

Sen. Ramlogan spoke glowingly about “This is an excellent option for young offenders, an excellent option for juveniles.” I took the time out, while I was here, with my headphones—I do not know if that is permissible, but it is already done—to listen to some interviews relevant to the Bill, with some young people on YouTube—[*Interruption*—Any time we are doing a Bill on crime and youth delinquency, I try to find out what young people think about this, so I took the opportunity to do some research on YouTube and I came across a little community of people who were under house arrest and wearing the electronic bracelets.

**8.55 p.m.**

I came across a young man—well, actually, the name of this YouTube video is “The guy that beat the house arrest bracelet.” This gentleman or this guy came up with a way to unlock this bracelet, take it off his ankle without the beeper going off, and the other people were making comments on the video asking him for step-by-step directions as to how to beat this system. I came across other videos and other news reports from *Eyewitness News* in the US about people who would have used vaseline on their feet to slip the bracelet off; who would have taken the bracelet off and put it on the cat. They are the electronic monitors that work with your body temperature. So he took it off really quick and slipped it on the cat and he was about doing whatever it is he had to do; and this is *Eyewitness News*.

Madam Vice-President, I have some questions and they raise some concerns as to whether or not we are ready for this kind of thing. I was looking at another video where a young woman—she was making a video and the beeper went off, and when she looked on the floor her dog had chewed on the—[*Interruption*—I am being distracted by the birthday boy. [*Laughter*]

**Hon. Senator:** Is it your birthday? It is your birthday today?

**Sen. S. Cudjoe:** Now, Madam Vice-President, do we have measures in place to treat with this, but I go right on. [*Crosstalk and laughter*] This high tech form of policing calls for the synergy of so many different departments and so many units. I did some reading, and I am wondering in the case of Tobago, how is this

going to work since we are located, surrounded by water and so on—I know that especially in the early stage of this initiative, the headquarters may not be built in Tobago; most times for parole officers and so on, they come from Trinidad. So, I am wondering, if something happens in Tobago, if there is a breach in Tobago, about our ability to respond to this quickly. I will give you a little example.

Today, the second flight leaving Trinidad, came to Tobago—as I mentioned on Tuesday when I contributed, we are having some mechanical and technical difficulties with these flights and I asked the Minister to please look into it because it is causing public scare, and it is raising some concerns for people who travel frequently.

I do not know Sen. Wheeler, or Sen. Baynes would have experienced that this morning on their way to Trinidad, but all the flights had to be delayed. The flights came from Trinidad and took the passengers back to Trinidad; came from Trinidad to Tobago and took the passengers back.

**Hon. Senator:** What?

**Hon. Senator:** Without landing?

**Sen. Hinds:** Rabindra Moonan did that.

**Hon. Senator:** Link it, link it!

**Sen. S. Cudjoe:** I got this information from somebody who was supposed to pick up an officer coming to Tobago to do work in Tobago. So everything has to work in synergy. There are other things that need to be looked into so that Tobago can benefit from this thing as much as Trinidad does.

I had an experience last week that raised some concerns as it relates to this 21st Century policing and our ability to respond to this kind of 21st Century initiative.

Now, Madam Vice-President, last week Tuesday night my vehicle was crashed by a drunken driver. He ran into the back of my vehicle. [*Crosstalk and laughter*] Now, one good thing is that the police came to the scene in good time; the two police officers were very professional. But I asked, when can I get a copy of the police report? Can I get it tonight? Can I get it tomorrow? They said, tomorrow is a holiday, “the administrative staff doh work tomorrow”. It raised some concern as to—if I am supposed to play—not me—but if somebody is supposed to play or tamper with their electronic device on a day that is a holiday, and the administrative staff is not there to ensure that the response is timely; how do we treat with that?

So there are minor things that do not cost too much money that we need to deal with before we introduce something as high tech as this. [*Desk thumping*] I will go even further with the very same police report. In order to get a police report you have to pay \$50, and they will give you a—[*Interruption*]

**Sen. Hinds:** Certificate of character?

**Sen. S. Cudjoe:** No, no, no—a copy of the report. I wanted a copy to take to the insurance, so that they would know that this accident happened since the person that bounced me refused to report the accident.

**Sen. St. Rose Greaves:** “Yuh fighting yuh case in the Parliament gyul.”

**Sen. S. Cudjoe:** [*Laughter*] No, no, no. I am using it as an example as to how slow our system is, especially from the Tobago point of view. From the Tobago perspective, how is this going to work for us? So, it took me about a week to get this police report and to be able to pay the \$50. Why? The receipt book has to go up to another police station to be audited. They would not allow me to pay this money unless the receipt comes from that book. I found it rather interesting. I was there waiting and waiting for a receipt book to return from another police station.

Now, I do not know if the auditors come up from Trinidad or what, but my business was just to pay the \$50. That is not 10 years of—[*Interruption*]—no, I want to deal with it, “doh tell meh doh deal with it”. Thanks for your advice but I will tell you something; that is to tell you this Government knows no nothing about Tobago. [*Desk thumping*] The police service and so on in Tobago do not fall under the Tobago House of Assembly. [*Desk thumping*] All they want to know is that they are in power in Tobago. They take no time to read the Act, they take no time to know the people, take no time to know or respect our institutions, take no time to cover [*Inaudible*]. You can take note—[*Desk thumping*]

**Sen. Hinds:** Yes.

**Sen. Al-Rawi:** Where is your 1 per cent?

**Sen. S. Cudjoe:** And if they cared any bit about Tobago, we would have our \$100 million that was allocated in the budget. It is almost the end of the financial year and it was not released. [*Desk thumping*]

**Sen. Al-Rawi:** Tell them!

**Sen. Hinds:** Shame!

**Sen. S. Cudjoe:** The Minister of Tobago Development is telling us that we do not need that money.

**Sen. Al-Rawi:** [*Inaudible*] implementation of police and services.

**Sen. S. Cudjoe:** But anyway, let me move right along before somebody calls a Standing Order. I am saying that much for 21st Century policing. When you look at these other countries that Sen. Dyer-Griffith would have mentioned; they have the tracking, the monitoring equipment in their vehicle and so on. There are these different units that focus specifically on that. Now the technology is a very powerful tool, but the human factor, the human part of it, you need the trained officers to really make this thing work. [*Interruption*]

Now, I saw examples of where—“is your birthday, I will let you do what you want to.”

**Sen. Hinds:** He has no birthday. [*Laughter*]

**Sen. S. Cudjoe:** Now, Madam Vice-President, there are cases where offenders have to call the police station and call the different units to remind them to come and put on the electronic monitoring device. So we have to make sure that we have the manpower, the trained human resources to really deal with this; the GPS stations throughout the country, not just in Trinidad, also in Tobago, if this thing is supposed to be a national—[*Interruption*]*—yes—if this is supposed to be a national programme. Sen. St. Rose Greaves, just reminded me because the Attorney General spoke about this being a pilot project. This was not mentioned when the Bill was laid.*

If this is supposed to be a pilot project in certain hot-spot areas, geographical areas; Madam Vice-President, how do you predict where the next offender would come from? Suppose you are doing this in Morvant or in Trincity or in Diego Martin—[*Interruption*]*—that is it. You cannot even say the whole of Tobago because that is something that the Government needs to learn also.*

Tobago has an east, and a west, and a north and a south. We are not just homogenous. [*Desk thumping*]

**Sen. Al-Rawi:** Tell them! Tell them! Educate them!

**Sen. S. Cudjoe:** Madam Vice-President, how do you predict which area the next offender is going to come from? The technology is a very powerful tool. We have to make sure our mapping is up to date, that the GPS systems are up to date, that the police are trained to do this kind of work.

Also, there are a lot of places in Tobago that do not have that kind of coverage to pick up those signals. Even now, in the current—"I doh know if it is a pilot project or what,"—where the police stations close at nine o'clock, some of them close at nine o'clock. Then they would send a signal or call the others who are patrolling. If you are in Charlotteville or some of these areas you would not get the signal.

**Sen. Hinds:** What?

**Sen. S. Cudjoe:** This is not of the mouth of Shamfa Cudjoe, this is from talking to police officers. I would have mentioned this in a previous debate. [*Desk thumping*]

**Sen. Al-Rawi:** Tell them! Tell them!

**Sen. S. Cudjoe:** Now, Madam Vice-President, I listened to the young people in the online community on YouTube complaining about this electronic monitoring system. One of the main questions was, what do you do while you are on this thing? Because in the first session of this Parliament, if we all can remember clearly, this Government took a decision—I do not know, it was probably a part of their policy to implement harsher jail terms, long jail sentences and fines, and longer bail period. So, somebody using this as a pre-sentencing tool, then that person would be on bail—in some of the legislation we carried the bail even up to 120 days. An offender would have on this monitoring equipment for this long, and the question on the YouTube was, "What do we do during this time?" Let us say it is not 120 days—since the hon. Minister is having some difficulty with that—let us say it is 30 days; what do you do as a young person? This is supposed to be—what did the Attorney General say?—excellent for the juvenile offenders. This is supposed to be excellent.

**Sen. Al-Rawi:** Nothing in the schedule on that, "eh".

**Sen. S. Cudjoe:** When you look at the other countries, there are different programmes under this system where they can take classes online during that time. They have counsellors come to them at their homes. They can work from home, Madam Vice-President. What is the Government's policy? What is the Government's plan to treat with this? Hence the reason I have some difficulty with this.

**9.10 p.m.**

I want to go straight to juvenile justice. This electronic monitoring initiative, which is supposed to be so youth friendly, I have a problem with it. I think to even mention this as a good thing for young offenders, better than a prison term, I

think we are being lazy, because from the get go, from the onset of this new Government—I remember the first time the Minister made his presentation to this Senate, we spoke about a juvenile justice system, and it has been about two years or so since, and I have not heard anything about it. I have a very, very, keen interest in establishing and improving the juvenile justice system within the region and here in Trinidad and Tobago.

Now, Madam Vice-President, we cannot speak glowingly about restorative justice and rehabilitation, and all we continue to do is add more and more punishment or introduce these kinds of initiatives [*Desk thumping*] that do not have any meaning or strategy to really cater to the needs of the offender, and to treat with the welfare of that offender to reintegrate them into society.

So I want to really stress tonight on implementing a strong and steady juvenile justice system. [*Desk thumping*] We cannot treat with youth offenders like we treat with adults. The Government has to establish some kind of policy for young people, young offenders and for the juvenile justice system as a whole.

Right now, I know the Government is embarking upon this project to review the National Youth Policy, and as far as I understand, much of the focus has been placed on teenagers and children. I want to remind this Government, please do not forget those in their 20s and getting close to 30, because if you check the statistics of murderers and victims and so in the newspaper lately, we are having some trouble with that age group there. Now, we need better statistics to make informed policy but, in the meantime, I just want to remind the Government, do not forget the people who are in their 20s and getting close to 30. Even early 30s might be stretching it, but just pay some specific attention to that age group, because for the most part these young people just need some guidance, some support and somebody to show that they care and some mentoring also.

There was a reporter here earlier today and his cellphone rang, and the song was Lil Wayne's "John Lennon". If you know the lyrics of that song, it is a very popular song among the young people, and part of the song says, "If I die today it is going to be a holiday", like I am willing to die in this thing. They plan to die; it is something celebratory. I pulled up the song on the Internet and I cannot read what this thing says, but what was striking to me was the gentleman who had the phone playing the song, he probably sees this as just entertainment. When I heard the song, I saw it as, "Okay, this is Lil Wayne's song, it is just entertainment", but there are young people who feed on these messages and live their lives according to these messages.

So, it is not that they are hard criminals but they are being led astray by cable TV, by examples from other adults, by the songs and so on. I am not talking about the murderers, I am talking about the people who do the little petty crimes and so on. If we can catch them while they are early, and the crimes they are committing are still petty, then maybe we can make some kind of impact.

Now, I just want to finally say that if we shirk our responsibility to implement this juvenile justice system, we could lose everything that we have been working on; everything that we have been trying to preserve over the last 50 years. We boast about 50 years of independence and we talk about the strides that the nation has made, and if we do not take the necessary steps to treat with the scourge of crime and all the different tiers and—the different—hmm, what is the word I want to use there?—all the different problems that we are having that relate to our social development—we can lose everything that we have been trying to work on.

I want to say that the statistics is very important. You hear Ministers and public figures saying “the young people not doing this and the young people not doing that, and they are not the same as the young people when I was growing up”. But did we really do any investigation on this? Because young people would beg to differ; they would tell you that “in my father days or in my uncle days they used to do the same thing”. So I really feel the need for us to do our research and do our homework and get the statistics. If it was not done before, it is not too late to start, because you need those statistics and you need the information to make informed Government policy. [*Desk thumping*]

**Hon. Senator:** Well said! Well said!

**Sen. S. Cudjoe:** You might stand and say, “But the PNM did not do it,” as you like to, but you have to start somewhere, and besides the People’s Partnership needs to find something to call its own, to build its own legacy. So, Madam Vice-President, some of the questions we really need to ask are: are young people today actually committing more crimes than they did a decade ago? Are these crimes more violent? Are these trends the same or different for various offences? Do these trends differ from the trends of adult crime? So, we cannot treat youth crime as we do adult crime. Are we recording sufficient data about crime that adults commit? So, we need to make the comparison and we need to have the necessary information. This kind of information influences our attitude, it impacts on our strategy and it guides Government’s policy.

Now, Madam Vice-President, we need all this to respond appropriately. With that said, I want to touch on one final issue as it relates to crime statistics. I join Sen. Drayton in being concerned about communication within a Government and the police service. You hear these advertisements on the TV all the time, and somebody always has a report to give you, and sometimes they have a newspaper pull-out talking about how good the police is doing. These days, way too often, you hear Government officials getting in the public and talking about crime is down. I heard sometime this week the Assistant Commissioner of Police talking about homicides down. I do not know if that is killing in the home [*Laughter*], but I know the word to be “homicide” and we tend to look at crime from the number of murders and so on.

Madam Vice-President, as I said on Tuesday, we live in these communities and we know what is going on, so to try to use these figures to fool us is disingenuous, according to Sen. Dyer-Griffith, and it reminds me that during the state of emergency Gillian Lucky, who is the head of the Police Complaints Authority, was concerned about under-reporting of crimes and downgrading of serious crimes.

**Sen. Hinds:** “Ah ha!”

**Sen. Al-Rawi:** Nothing on detection rates?

**Sen. S. Cudjoe:** And you do not want Government officials to be getting into the public domain and trying to politicize this whole crime situation, because you lose the confidence of the public and you miss many opportunities to really make a difference to implement the necessary programmes; to employ the officers and to train people in the specific areas that we lack; and to even train people to be knowledgeable about a certain area. If we have the right statistics and if we tell the truth about what is going on, then you would get a better buy-in from the community. [*Desk thumping*] You do not want people feeling that, okay, these deaths do not matter. We will end up in the same position as the NYPD, specifically precinct 41 and precinct 81, Bedford-Stuyvesant.

**Hon. Volney:** You are very knowledgeable.

**Sen. S. Cudjoe:** Yes, I know Bed-Stuy. Madam Vice-President, I bring to the attention of the Senate an *Eyewitness News* report, and it is also on the Internet dated March 26, 2012, a report by Jim Hoffer that speaks about the NYPD precincts being called into question for intentionally under-reporting crimes and systematically downgrading the severities of some crimes, so that serious crimes would be down. So where you had a shooting, they reported it as “reckless

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endangerment” and where you had assault, they reported it as “violation of harassment”. So sometimes you hear the Minister or you hear Members of the Government get in the public and say, “Serious crimes are down”; what is your definition of serious crime? It makes us question, what is your definition of serious crime?

I think that this new PR sham is a dominant driving force to make the Government look good, to make the police service look good, but at the end of the day, it does not make the nation look good. As much as you hear, “If you do not vote for me blood would run in the streets”, that is what the Prime Minister told us; they voted for her and blood is still running in the streets. [*Desk thumping*] So it does not make much sense to politicize the crime and to politicize murders in this country. [*Crosstalk*] Oh my God, I do not want to repeat it because I have a liking for Sen. John Sandy. [*Crosstalk*]

**Hon. Senator:** You have what? You have like to waste!

**Sen. S. Cudjoe:** Madam Vice-President, they said not much. I also heard the same ACP saying in the press, “We need to bring murders down to an acceptable rate.” It seems like in this country we have accepted or have agreed that a murder a day is okay. So when it goes over [*Interruption*]—I am telling you what I recognize in the newspaper. As long as it is less than the PNM, and as long as it is a murder a day, it is okay. This is not okay. [*Desk thumping*] And to see that the Government is even taking the time and energy to try to promote that kind of thing is just disgusting.

**Sen. Hinds:** Less than the PNM!

**Sen. S. Cudjoe:** This is less than the PNM, so it is okay.

**Sen. Hinds:** That is their policy.

**Sen. S. Cudjoe:** That is the new politics for you. Anyway, Madam Vice-President, I want to urge the people in Government that treat with crime, the police service and everybody who is in on this whole PR joke to stop it, it is not funny. [*Desk thumping*] We are losing lives; we are losing young blood, as the newspaper says.

**Sen. Hinds:** As the Archbishop said.

**Sen. S. Cudjoe:** We are losing the Trinidad and Tobago that we used to go all about the world and be so proud of. So I urge Government Ministers to speak the truth; I urge the police service—the officers, the Commissioner of Police—to

speaking the truth so that, at the end of the day, we can do what is necessary to deal with the scourge of crime and to treat with everything that we do not like as it relates to crime and the development of our country.

Madam Vice-President, with those very few words, I thank you. [*Desk thumping*]

**Madam Vice-President:** Hon. Senators, I propose to take a dinner break at this time and resume at 10.00 p.m.

**9.25 p.m.:** *Sitting suspended.*

**10.00 p.m.:** *Sitting resumed.*

**Sen. Dr. Rolph Balgobin:** Thank you, Madam Vice-President, for allowing me to rise and make a short, as prompted contribution on this Bill. Once again I feel compelled to observe that we meet to set aside sections 4 and 5 of the Constitution, and this of course joins a long list of Acts which so do. That being the case, every time we do it, I think it merits very close and serious deliberation.

We have very recently seen the advent of the FIU. We have had the Interception of Telecommunications Act. We have had DNA legislation and the anti-gang laws that we have passed, and so when I take these things in totality, to my mind it very clearly amounts to a diminution, if you will, of our freedoms and, in many material respects, our rights to privacy. But if I did have to consider that and to think about that critically, what I would say is that our wounds appear to me to be largely self-inflicted; put another way, we look for that.

We have allowed ourselves to lose control of ourselves in some very significant ways. While I believe it was Sen. Jamal Mohammed who expressed some views in our last sitting which some may find intemperate, I am also minded to consider that many people are so totally fed up and vexed by crime and the threat of crime, the very fear of crime, that they advocate very radical steps. I do not agree with what he has proposed, but I can as an affected citizen, understand that many people would, in fact, feel that way.

Madam Vice-President, we have very serious problems here, and I do not see the media really addressing that. They address and report on the symptoms of these problems, but we have very serious problems here.

If you take this thing that we call the Constitution and you look at it, you would probably come to the conclusion that a state of emergency is about the most radical, drastic, heavy tool that a government can bring to bear on an internal

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set of conditions. In fact, I think we actually strained to the point of any kind of credibility, the definition of crime as a condition that would merit a state of emergency.

What was interesting about that, is not that we had one; we have had one and for good or ill it has come and gone, and I think there were for me some very telling lessons from that; but what was most important about it, in my humble view, is the limited success of it. By the end, we were arresting as many people for traffic violations. This was not to my mind the purpose of such a thing. [*Desk thumping*] As a society we took about the only nuclear device, if you will, and put it very squarely in front of this problem and realized afterwards two things: one is that even with a state of emergency we could not stop the criminal wave that has affected all of us. I do not think that is something that we should make light of or make fun of. I think that this is a problem that transcends parties and Government and sectors of the society, [*Desk thumping*] and we have to confront this.

The thing with that is coming out of a state of emergency we appear to have reverted or in the process of coming back to typical and standard patterns of criminal behaviour. The observation that I would make there, Madam Vice-President, is that people are very fond of criticizing the police service. We have many fine police officers with us here tonight keeping us safe. People are very fond of criticizing the police, and saying that the police are not enforcing the laws, but even with limited enforcement, the society has not figured out why the courts are full and the jails are full. So what are we looking at? Even with limited enforcement of the law our courts are full and our jails are full, are we not staring at a kind of rampant criminality that we need to address? Obviously, it has gone beyond even what a state of emergency can yield in terms of benefits.

However, for me, one very important lesson for me about the state of emergency, which has gone largely unobserved in the media, is that things seem to run better in many material respects. It occurred to me, in thinking about it, that one benefit coming out of the state of emergency is a very clear demonstration to us that we need a bit of discipline here; that we need some discipline here. Okay fine, we must attack problems, yes, but we must also attack symptoms. This is what this Bill really does. It does not treat with a problem per se, it is really treating with a symptom of a problem, that is, we now have a criminal, or someone who we think is a criminal, and we wish to tag them as a part of an enlightened justice system, which is what the Minister of Justice has come to us to say. This is a part of an enlightened kind of framework within which justice is dispensed.

I would certainly like to see, therefore, a rebalancing of what happens in the other elements of the justice system as well. I heard a very clear acknowledgment from the Attorney General earlier this evening, that you can go into jail a petty offender and come out a hardened criminal. We know that, and we acknowledge in our everyday language, as if that is how it is supposed to be. And the people in charge of these systems bump their gums and talk about restorative justice. I do not know what that is, when I talk to a prisons officer and he tells me that the No. 1 seller in the prison pharmacy is baby oil. So you are going in there, not just to learn to be a criminal, but to be dehumanized, to be further criminalized, to be raped. That is what we are doing with criminals. Then we say, “Well, you know, we are an enlightened society,” and we put on our shirt and tie and come in here and stand and talk.

So I have sort of a broad question. In here we have ex-judges, we have principals of universities, we have leaders in labour, we have lots of educated people. I am just a bit confused about one thing, sitting here and looking at all these things, and hearing again some of the contributions which say that these are things that have been operating in other jurisdictions for up to a decade, all of which is true. My question is this, why, Madam Vice-President, have we not been able to lead? Why have we not been able to lead in anything? Why are we always following someone else’s trail, picking up droppings behind developed societies, like it is manna from heaven, pearls of wisdom that we are incapable of coming up with ourselves? Why have we not as a society made a decision to lead, in anything? Everything we do here is always to comply with somebody else’s watch list or to do something that somebody else is doing.

The thing for me is, there is an argument that says, “Well, you know you could do it because it is proven”, so you are operating your far second strategy, in a world that only rewards leaders. So why do we have to wait?

It begs the question—as I was coming into the Parliament building today, there is a very nice kind of design done over the fountain in front of the Hyatt which says “50 Years of Independence”, and I thought, “Independence from what? “50 Years of Independence”, independence of what; of ideas? We have seen that evidenced in this Chamber for years. Independence of what? We said that some other man was “tiefing” all of our resources, and every single Government since independence has been racked with allegations of corruption. So we have exchanged the proverbial white thief for a black one. So where have we really come to? What is this big independence project that we feel so proud about? This country should have a very mature, objective discussion about whether, in fact, we have really accomplished the things that we set out to do.

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I view this Bill in the context of 50 years of following, 50 years of not leading, 50 years of taking somebody else's ideas, customizing them and making them our own. Are we not intelligent enough? Do we not have world-class mathematicians and statisticians and criminologists and so on? Are we really less? I wonder about that in the context of some of the things we implement.

Even when I think about some of the objections that we have to things like these, why? If electronic monitoring is part of an advanced justice system framework, why not have it? What is the problem? The only issue really is how do we implement it, how do we structure it, how can we make it work for us.

So in that regard, Madam Vice-President, very quickly I just have a few observations that I would like to make. The first one I would begin with is clause 4(2) which really speaks to qualifications. I echoed some of the concerns expressed here where qualifications for the holder of the post ought to be made explicit. As it reads at present it would appear as if a civilian might have this role. I am minded to think about the authorized persons in the Interception of Communications Act. Those authorized persons who are in charge of similar types of data would be the Commissioner of Police, the Chief of Defence Staff and the head of the SSA.

**10.15 p.m.**

So I wondered why we had this particular set of arrangements. No doubt it is internally consistent, but I was not quite sure the extent to which it might have been consistent with other forms of legislation that we have put in place where we set up monitoring capabilities.

I also felt that the current arrangements as put forward in clause 4 generally, appear to make it possible to politicize the post. I think Sen. Abdulah is here, he is a leader in labour and involved in the struggle of labour for a long time, and I would be very surprised if he disagreed with me if I postulated that contracts are really a mechanism that allow you to fire people and, therefore, it bypasses existing law as it relates to public officials. That automatically introduces a degree of politicization into an office which we would like to see or lead people to believe is not or should not be politicized.

So, if that is what we are trying to do, instead of bypassing, why do we not actually change the structure of how we do things in the public service? And that is the kind of courage that we all need to demonstrate if this country is going to go forward. We keep not acknowledging and not confronting the fact that there are huge parts of our public services that are totally inefficient, navel-gazing and absorbed in the perpetuation of their own thing, and I do not see how that helps us. It costs us a lot of money and a lot of efficiency, and probably some lives too.

In terms of clause 5(1) and (2), I feel that the provisions for acting arrangements are quite dangerous and I do not know what the solution is and perhaps we can hammer that out in committee stage. I am just flagging it for the hon. Minister, to say that this kind of thing has been abused before, and, in fact, in one previous administration it was almost an explicit strategy to have people in acting appointments so you can keep them on a short leash. I do not think that it is something that we should seek to perpetuate; so there has to be some sort of limit or something on that.

Clauses 10(8), 12(4) and 22(1) had me a bit confused about whether the electronic monitoring manager was really competent to discharge some of those responsibilities. Presumably, he or she would have outsourced those, and I am hopeful that the regulations would be very clear with regard to the management of information about people who are members of the programme when we talk about privacy. It is on privacy that clause 6(2)(f) sort of confused me a bit, where the electronic monitoring unit ensures that a historical record of monitoring data is kept. It was not clear how long that should be kept for, but a person who has paid their debt to society might reasonably ask, why are you keeping this information on me if I have already paid my debt? So, perhaps some clarification there I would be grateful for.

In clause 10(3), I note that the court should not impose electronic monitoring in respect of any of the offences listed in the First Schedule, and much has been made about this and I would just like to make the observation that either clause 10(3) or the First Schedule would need to be amended if some of the examples put forward by the Government are really to find traction. I do not think as it stands now, it would reconcile easily with the examples given.

In the matter of outsourcing, I was confused—and this is clause 7—as other contributors were. I know it is probably not the intent, so I think it is dangerous to say we would outsource everything. I was not quite clear whether that was the intent. It appeared to be and if so I do not agree with that, and some fetter should be placed on what can and cannot be outsourced, but again, it comes right back to the question, who is going to run this service? Is it going to be run by civilians, by a commercial entity or is it going to be a part of a justice framework where people from the security services are more involved?

Where the breach of confidence is occurring as envisioned in clause 8(2), I felt that I was not clear why the sanctions there were inconsistent with section 18(9) of the Interception of Communications Act, which, for information breached says \$300,000 and five years as opposed to what is in here which says \$100,000 and two years. Hopefully, it is something we might be able to reconcile one way or the other or if not perhaps an explanation given as to why that is so.

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I was also not clear on 10(1)(a), where the court may, subject to subsection (3), which really speaks to the First Schedule, impose a sentence of electronic monitoring. And I wondered whether we really wanted to say that we would impose such a thing on you, that we would tell you that you do not have a choice, you must take this. I understood it to be that you take it or you go to jail.

**Hon. Volney:** Not when it is a sentence.

**Sen. Dr. R. Balgobin:** So you are saying then that you can sentence someone to wearing a tag?

**Hon. Volney:** Instead of going to jail.

**Sen. Dr. R. Balgobin:** Okay, and in lieu of. I was not quite clear on that, because in the United Kingdom very recently a young lady named Natasha Hughes, for example—although an example was given by the Attorney General about Lindsay Lohan, but Natasha Hughes in the United Kingdom just successfully challenged a court ruling that she had to wear an electronic tag on the basis that she wanted to wear skirts and “she doh like to wear the tag.” So, I was not entirely clear whether the in lieu operated there or how that would work.

**Hon. Volney:** Read the second part right below.

**Sen. Dr. R. Balgobin:** Yes, I saw that part so I was not sure if the first part really applied, and it is something that we can sort of hash out and I am more than happy to concede that I am not clear on that. But I just wondered whether we could force somebody to wear a tag as opposed to put them in jail if they did not wish to be tagged for whatever reason. *[Interruption]* Well, it did not say that here.

**Hon. Volney:** You do not consent to go to jail, you know, the judge sends you to jail—*[Interruption]*

**Sen. Dr. R. Balgobin:** No, there is no consent with the tag you see. *[Interruption]* It is a sentence, so is that what our intention is? If so, then that is fine.

But for domestic violence it is clear that no consent is required, but that is 10(4). So, I was not clear how to reconcile 10(4) which explicitly says no consent is required with 10(1), if (i)(a) was meant to be all-encompassing.

In 10(4), I wondered whether we have any data at all on how many examples there are of women seeking protection of the security agencies, specifically the police, from abusive husbands and that protection, or those protection orders and

so on, actually preventing a crime. And how does an electronic tagging arrangement make that any better. This is what I was not clear on, because I think in almost 100 per cent of recent cases that I have read about in the last few years, where a husband kills a wife, there is really very little doubt that the husband killed the wife, and perhaps I stand to be corrected on that. [Interruption] I do not think we have seen very many Dalipsingh kind of cases here if I go back several decades, where a wife is killed and nobody is very clear on what happened.

**Hon. Senator:** You so old?

**Sen. Dr. R. Balgobin:** I read about it in the newspaper.

**Hon. Senator:** “Oh, I wondering. You eh so old.”

**Sen. Dr. R. Balgobin:** So, I was not quite clear, and I am hoping for some clarification, on what mischief that particular arrangement is intended to resolve.

This brings me to the very broad question of, how do we balance this kind of advanced, modern, enlightened arrangement with concern for the victims, where victims can very easily be intimidated by people who are in jail, far less those who are outside and free, who can walk around and see you? Because the tag may control your proximity, your movements from a particular set point, it does not control the movement of other people who may be brought to you.

My next point really related to 17(3)—and I can assure you I would not be much longer—I listened to the hon. Minister of National Security’s example and what came to me was this movie a few years ago, a Tom Cruise film called *Minority Report*, where they identify that you intend to commit a crime and intervene before the crime is committed. So there is no question of *actus reas*; they catch you with just the intent, and the intent may be held in your own mind. So there is no explicit plan with another party, or another person or another group; you just stop and think “yuh know I goin an kill this fella, yuh know”, and they come and lock you away for that. I thought, well, okay, that required very rapid response.

If I took hon. Minister Sandy’s example when he spoke, we would have to have a very, very, very, rapid response capability in order to do what was suggested. Some of the examples given were clearly not consistent with what is in the First Schedule when you talk about child molesters, sexual predators and so on, but let us take it as valid for now, how do you respond that quickly? Can we get there? I only ask the question because we have had a 999 system here, in various incarnations, for many, many years, and still when people call the police

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they do not always get a response, as was stated as an example here. I can tell you, even police will tell you, one of the fastest ways to get the police to come you say, “Look, I just killed a fella you know.” But if you call them and say, “Somebody is killing me”, they turn up the day after. But you just say, “Listen, I just shoot a fella you know”, they turn up right away. So, how do we build a rapid-response capability, and it has to be somewhere resident in the police service.

Whatever its benefits or its advantages might have been, I was not an advocate of SAUTT. I did not agree with it; I did not agree with its development; the way it was implemented, and the reason I did not agree was because I felt that you really had to have one agency with legitimacy to deal with civilian rule, to deal with the powers of arrest and so on. [*Desk thumping*] It becomes a little murky if another or a shadow organization has that capability. And I have seen some capabilities in SAUTT where they were very advanced, and I am talking about, not just investigative skills but capacity for arrest, weaponry use and so on.

**10.30 p.m.**

So, the question I have is, who is going to give us this rapid response? It is going to have to be somebody or something in the police service. I would certainly not support the creation of another—a shadow enterprise to enforce this kind of thing, and certainly would not encourage the outsourcing of it either. If it is that the EM unit is intended to have this capability, this is not something that I would support, and the Bill does not, to be fair, seem to advocate that, because it speaks of a police officer.

So, clearly, it is someone in the police service, but I am just saying that the police, now—and for, I think since forever—have not been able to consistently respond in an acceptable time when someone calls 999 or a police station with an emergency. It may not be that they do not intend to respond, but for whatever reason a response has not been there. It may be improving; it still is not there. [*Crosstalk*]

On that point, I also think that we should be consistent in our language. In the last Bill that we passed, for example, the Children Act, the Children Act, we referred to a police officer—[*Interruption*]

**Madam Vice-President:** Senators, please, allow him some peace and quiet to make his contribution.

**Sen. Dr. R. Balgobin:** Thank you, Madam Vice-President. In the Children Act we referred to a police officer as a constable. Now, here we talk about a police officer and so on. I think we should have some consistency with the language, should we not? What is the difference? I do not know. There is not any. Well, the argument was put forward that the Commissioner of Police is a chief constable and, therefore, all police officers are constables. Therefore, we ought to be—when we are drafting we should be consistent with our language.

In clause 18(1) and (2), I felt that I would have benefited greatly from a little more clarity on what “circumstances” mean. For example, in 18(2) speaks to a child fitted with an electronic monitoring device. What is a change of circumstances for that child? If you go up from Form 1 to Form 2, is that a change of circumstances? If you pass SEA and you go to another school, is that a change of circumstances? If you win an award, pass an exam, you are doing a new course, what constitutes a change of circumstances for 18(1) and 18(2) would have been something that I would have liked a little bit of clarify from.

Finally, in the Second Schedule, I looked at the matters to be included in the report of the EM manager, and felt that it could have—the report should include: why is this person a threat; or why is this person a problem? What is the criminal context here when we are doing reports of this type? I think that this is very—that would to me—because everything else in the report is fairly generic. It is standard, so I think some context, of course, would help, and I am sure that is what was intended, because this schedule is not meant to be exhaustive. In fact, at the start it says matters to be included. I think that we should think about getting some clarity on that by putting in some sense of context into why this person is a threat. You know, the criminal context is important.

Finally, well penultimately, I was not clear why in the Second Schedule, item, (k) “...access to a standard power service...” should be something that ought to be included in a report like that. Is it that we are asking the report to state whether they have electricity or not and why? My understanding of these things is they do not have to plug in anywhere. So unless I am—which brings me really to my final point.

Much has been said about signal drift and our inability to pinpoint someone or something within, you know, and some crazy numbers are touted sometimes. It is a hundred metres; some people say it is a thousand and so on. None of that is really true. None of that is true. You can pinpoint the location of a person with a reasonable degree of accuracy now. What I think complicates matters for us is in a small country everything is kind of cheek by jowl.

So, obviously, the way that the courts rule, where electronic monitoring is concerned, would have to be a little bit different. It cannot tell you, for example, stay 100 feet away from you. It has to say I am to go no further than 100 feet away from some place. In other words, I am now tethered. It has to operate like that, because if my permission to move is based on my location relative to you, then you have to be tagged too, which presumably you do not want.

So I think that if a system that uses GPS, uses cellphone band with capability which is buttressed by Wi-Fi, particularly within buildings, you can resolve a lot of the signal drift problems. Because yes, there is drift with glass and with steel and so on, but if you have Wi-Fi networks that are properly deployed, particularly in areas where there are lots of buildings and so on, you can, in fact, resolve that issue. So I do not think that it is a big technical problem and I do not think that it is something that we cannot get past. It is a pity that the society has to bear these costs, but the cost of incarcerating someone is probably far higher. I think that it is worth a try.

I am, however, minded to note, that we talk a lot about zero tolerance and what happens when someone breaks the conditions of their tagging. What is the sanction and how quickly we can deliver that? If I draw reference to the written answer provided for question 87 by the hon. Minister of National Security, it is very clear in terms of traffic offences and so on, a lot more money has been made by the police in the last couple of years. An interesting statement is made on the back end of the answer to that question and I quote the first part of the statement, and it says:

“As a consequence, the adoption of a zero tolerance approach by the Trinidad and Tobago Police Service...”

And I stopped reading right there, because everybody that drives on the highway I think break these traffic laws. If there is a zero tolerance approach, it has to be a virtual slap or “tap up” that we are getting, because I do not see anything else happening.

So until we are really serious about what zero tolerance actually means, I think that we should not have a crime plan that is known to the public. I do not see how a crime plan is a solution for anything other than a plan that is kept secret by the police and the armed services, and let them deal with their problems. I do not understand why we have all this clamour for a crime plan. [*Desk thumping*] We have had an anaconda and we have had boa constrictor and every other kind of snake, and what? That is a problem with post-colonial societies, and this is

where I will end, where I began by saying, you know 50 years later is this the best we can do, ask for plans and feel as if in plans lie our salvation? [*Desk thumping*] I think that we have to be more mature as a society and get in there and fix problems.

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

**Sen. Dr. R. Balgobin:** No, I am just saying that our problems are problems of execution as much as anything else. We have to get in there and execute and not just plan to execute. And so I am hopeful that the Minister can answer some of my concerns in which instance I would be prepared to lend this my support.

Thank you, Madam Vice-President.

**Sen. Prof. Harold Ramkissoon:** Thank you, Madam Vice-President. I stand before you and I stand before fellow Senators in the twilight of the 24th Sitting, Second Session of the 10th Parliament, when energy levels are low and when staying focused is going to be a major challenge, and coming in the wake of so many hon. Senators who have made contributions to this Bill; they have covered much ground. I, therefore, intend to be brief, unless there is a sudden upsurge of energy. [*Laughter and desk thumping*]

Madam Vice-President, the Bill before us seeks support for a technological tool to deal with certain types of offenders in a more humane manner. If approved, it will enable these offenders to return to familiar surroundings away from the cold walls of prison, once they are tagged and their movements are monitored. This process is called electronic monitoring. It consists of two components—basically the device and a centre: the supply, installation and maintenance of the device and a centre to monitor that device.

In implementing this electronic monitoring system, there are two fundamental questions that need to be asked, in my view. The first question is the cost effectiveness. Does it cost more to have an offender in prison, per day, per week, per month, whatever unit you want to use, than it costs to monitor an individual? I think that is the first question you have to ask.

Well, the hon. Minister has given some figures and I will come back to his figures, but prior to his giving us some figures I did some research trying to get some estimate of what it is going to cost the taxpayers. And what I have done is I have looked at the costing in two countries. One is the UK, and I want to refer to a document here that was mentioned by Sen. Nicole Dyer-Griffith, a very interesting document and very comprehensively done, and for those who have not

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seen it and have a deep interest in this Bill, I would recommend that they read this document. It is called the “Electronic Monitoring of Adult Offenders” a report by the Controller and Auditor General, National Audit Office, the UK, 2006. The costing given there—they actually gave the figure over a 90-day period for one person, £1,400 for electronically monitored offenders, and £6,500 if you are in prison—approximately one-fifth the cost to electronically monitor an individual. In the US a study was done in 2005 and what they found was the cost was approximately a quarter. So the cost should lie somewhere between a fifth and a quarter.

**10.45 p.m.**

Now, the hon. Minister gave a figure, if I remember correctly, of TT \$315 per day to keep someone in prison. Now, if you take that and you add 25 per cent for importing the technology, what you get is an upper limit and a lower limit of \$14 and \$17. So what I am getting as a projected cost in Trinidad and Tobago should be somewhere between US \$14 and \$17.

So I was very pleased when the Minister was fairly spot on when he mentioned, I think, a costing of between US \$12 and \$20. So the cost per person to be electronically monitored, if you take the average, you are talking about somewhere around US \$16, and that is a tremendous cost saving to taxpayers. In terms of US, it is about US \$50-plus per day in prison, so that is a substantial saving for the taxpayers. I must admit, Madam Vice-President, when I worked out the projected cost, I did not factor into the equation an important element—it occurred to me afterwards—the element of corruption, The kickback percentage, but I would leave that for another day and another time.

So the conclusion is that, certainly, you are going to have a tremendous saving with respect to electronically monitoring prisoners. The second question you need to ask is efficiency: how efficient is it with respect to compliance and reoffending? Now, there is not much structured research that has been done in this area. Whatever little research has been done in this area points in a positive direction to compliance and a reduced number of reoffenders. So the few available statistics point in that particular direction.

One of the other consequences, Madam Vice-President, is the reduction in prison population. How is it going to affect our prison population? Well, again, we go to the statistics. In the USA, in 2005, the prison population was 2.3million people; 200,000 or one-tenth, were electronically monitored. If we go to the case of Florida in 2010, there are more recent figures there. One-third of the prison population in Florida was electronically monitored, and that is quite a large size of your prison population.

What I would have liked to see when the Minister was making his presentation was some more detailed information. The size of our prison population in Trinidad and Tobago, I would really like to know what that is; the number of prisons we have, and how many are faced with overcrowding; the approximate cost to taxpayers to get the system up and running; and thirdly the short-term, medium-term, and long-term prediction of the numbers that will be electronically monitored; also the support system required and what part of the support system is in place already and what needs to be put in place. That kind of information, I am sure, would be of interest to the public and other fellow Senators.

Madam Vice-President, I want to get to the Bill and I want to get to clause 4. This clause 4 has been one of the clauses that has attracted a lot of debate, and it talks about the electronic monitoring unit:

“The staff of the Unit shall include—

- (a) the Electronic Monitoring Manager...who shall be the head of the Unit;
- (b) the Deputy EM Manager; and
- (c) such other suitably qualified individuals as may be necessary for the proper functioning of the Unit.”

Let me go to the last part: “other suitably qualified individuals.” Many have commented on it. I think, Madam Vice-President, that that is too open. It is a catch-all phrase. I understand, fully, the need to have some sort of flexibility in case you need some special expertise later on that you cannot predict at this point in time. So you have to be flexible. But, on the other hand, I think it is too wide open and we need to narrow it down, and I hope we can do that during the committee stage. With respect to the manager and the deputy, I think we need to, in some way, identify the fields that we need expertise with respect to the manager and the deputy manager.

Now, when I look at clause 6, which is the responsibilities of the unit, I see three general responsibilities, that is in clause 6(1), and then in clause 6(2) nine specific responsibilities. Among those nine we have the following:

- “(g) improve information technology and electronic monitoring literacy within the Ministry and advance electronic monitoring awareness;”

So I ask the question: will this unit be responsible for building IT capacity within the entire Ministry of Justice? That is the first question I ask. The other question I ask is, again: what sort of qualifications would you want of your manager and deputy

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manager? When you look at these functions, to me, it appears that you want somebody who could handle large data systems: storing data; retrieving data; analyzing data. So it seems to me that you need somebody with an IT background.

When I look at clause 6(3):

“The Unit shall comply with any decisions made by the Court or other competent authority.”

And you wonder if you do not also want someone with some sort of legal background. But I would certainly say that you need somebody with an IT background.

**Sen. Deyalsingh:** You know, we wake you all up so you all are not embarrassed. “You see what you all doing?”

**Sen. Prof. H. Ramkissoon:** Madam Vice-President, if I may continue. So, again, I am suggesting that we should put some sort of requirements on the type of person we want to fill the job of the deputy manager and the manager. *[Interruption]* I should also point out that judging from the functions I see here, the manager has to play a central—*[Interruption]*

**Sen. Deyalsingh:** Madam Vice-President, a point of clarification. Please, if I may, Sir?

**Sen. Prof. H. Ramkissoon:** Sure.

**Sen. Deyalsingh:** Is it permissible for a Senator to use his telephone and his camera to take a photograph of another Senator? Is it permissible?

**Madam Vice-President:** Well, I do not know if anyone here did that. I certainly did not see that—*[Interruption]*

**Sen. Deyalsingh:** Yes, Sen. Terance Baynes.

**Madam Vice-President:** But I would imagine it is just as permissible as using any other device, including electronic computers or a laptop or tablets.

**Sen. Deyalsingh:** To take a photograph of another Senator?

**Madam Vice-President:** I cannot say. If you know that there is a matter, Sir, you can always report it to the Marshal and lodge a complaint. Sen. Prof. Ramkissoon?

**Sen. Prof. H. Ramkissoon:** Thank you, Madam Vice-President. Again, if I may recap. What I am saying is, with respect to (c) “other suitably qualified individuals”, maybe we need to narrow that down a bit. And with respect to the appointment of a manager and deputy manager of the unit, we need to sort of identify the qualifications that that person or persons should have.

Madam Vice-President, I want to go to clause 7. [*Interruption*] If I can go through clause 7 again.

“The Government may, for the purpose of obtaining electronic monitoring services, enter into an agreement with the company (‘a service provider’) to perform any one or more of the functions of the Unit listed under section 6,”

Madam Vice-President, there are two comments I want to make here. There is no doubt that you would need a service provider, somebody to provide services and goods, and from the time you talk about procurement, Madam Vice-President, the first word that comes to mind—it is, in fact, synonymous with corruption, so one has to be very careful with the sort of procurement arrangements that are going to be put in place.

The second comment I want to make is that there are a number of functions given in clause 6, and I would really like to see some demarcation line drawn between the functions of the unit, or the manager of the unit, and the functions of the provider. I think if you do not have a distinct demarcation line you run into problems. It might be a recipe for confusion and chaos. So if possible, I would like to see a demarcation line drawn. For example, the provider can look after the supply, the installation and the maintenance of the device and the unit can look at the other functions. But I would like to see, as I say, a distinct demarcation line if possible. I would just like to mention, Madam Vice-President, that the supply of the device is becoming a big business. In fact, it is becoming a big industry. It is a growing industry. It is a \$1 billion-plus industry now in the USA.

Madam Vice-President, I now want to go on to page 13 and look at, I think it is the First Schedule.

“List of offences for which electronic monitoring may not be imposed by way of a sentence or in lieu of a sentence—”

And it goes on. It starts with “Treason” and No. 4 talks about:

“Offences of a sexual nature, namely—”

And it gives a number of offences. It starts with “Rape” right down to “Buggery”. These, I understand, are all bailable offences and I ask the question: why are these being exempted? Why are these not going to be electronically monitored? That is the question I ask, if they are bailable offences.

But, Madam Vice-President, I want to also quote from an interesting article, a report, submitted to the US Department of Justice, 2012—that is this year—titled:

“Monitoring High Risk Sex Offenders with GPS Technology: An Evaluation of the California Supervision Program.” And I quote—in this case high-level risk:

“The GPS (monitoring) program is more expensive but more effective.”

So it is very effective for this high risk-class. I need to explain. It is more expensive because it is being compared not with prison but with rather those on parole. So the comparison there is made with respect to parole. So the question, Madam Vice-President, again, is the following: if in California they found that the GPS system is effective in the case of sexual offenders, why it is we are not including them in our list? I am comforted, though, by the statement made by the Attorney General in his contribution that he would be willing to revisit this situation.

**11.00 p.m.**

Madam Vice-President, what worries me is not so much the Bill per se, but it is what I call the implementation part of the Bill—that is what worries me. In my view, successful implementation calls for, inter alia, dedicated and competent staff. Let me once more draw your attention to some of the observations made in this same report, the National Audit Office Report; they made some observations at the end, and I want to quote three of the observations, Madam Vice-President, with your permission:

- (1) Maintaining confidence in electronic monitoring as a means of controlling or punishing offenders is heavily dependent on the effectiveness of those engaged in the process.
- (2) It is critical to fit tags on time, monitor operations carefully, and act promptly to deal with breaches.
- (3) Monitor private contractors’ performance rigorously.

For example, audit a random selection of monitored offenders monthly. These are some of the observations and some of the recommendations.

Madam Vice-President, I want to end my short contribution. This legislation has the potential of creating what I call a win-win situation for both the offenders and the State. For the offenders, it either prevents some of them from going to prison or eases them back slowly into society after prison. For the State, it reduces cost, it reduces the prison population and hopefully reduces reoffending. But this win-win situation, Madam Vice-President, can only be achieved if we create the greater enabling environment, and if we get the right people to staff the unit. And

that, to me, is the challenge facing the hon. Minister of Justice—creating that greater enabling environment and getting the right staff.

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

**The Minister of Justice (Hon. Herbert Volney):** Madam Vice-President, I am deeply humbled by the contributions made in the course of the debate on the earlier occasion and also today. It puts in perspective the function of parliamentarians in our constitutional strictures of governance.

On May 24, 2010, the people of Trinidad and Tobago decided on the issue of who was to govern this country. On this side of the Senate, we are the Government, it is our function, and we have the mandate of the people to bring about the changes that are required in order to improve the quality of living of the people of Trinidad and Tobago, not just those who supported and voted for the People's Partnership, but for all the people of Trinidad and Tobago. [*Desk thumping*] Madam Vice-President, it is the function of those of us in Government to bring about those measures, as I said, that will improve the quality of life for our citizens.

When it comes to the passage of legislation, however, there is indeed a role in our Constitution for parliamentarians, some of whom were not elected to Government, that is to the Executive, and others who are appointed to represent the spirit of the people in the form of the Independents, selected by the President. Our function here is to make law. We are not here to govern; we are here to make laws. The Government can initiate, and does in fact initiate the process by which changes are brought about through legislative interventions, and the passage of legislation. Before an Act is passed, is enacted in our parliamentary system, everyone who sits as a parliamentarian has a duty to assist in the moulding of the legislation so that at the end of the day, it becomes an Act of our Parliament, not of the Government, but an Act of the Parliament.

There are certain types of legislation where there are encroachments upon sections 4 and 5 of our Constitution, insofar as certain rights of individuals have to give way to the general right of all the people of our country, and these require special majorities. Without the help of the Independents—that is those Members of the Senate—this type of legislation cannot be passed unless the Opposition in the Senate supports the parliamentary measure. We have it quite clear from the outset, which is mirror reflected from what happened in the other place from which I come, that they, on that side, will not be supporting this measure.

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So, in the circumstances, I address this winding up in particular to the voice of reason on the Independent Bench because here lies the spirit of the people, what the people want. These Independent Senators represent all aspects of our life. They have spoken because they have heard the cries of people. They are not partisan; they are Independent Members of this Legislature. That is why I particularly like to come to the Senate, because at the end of the day, without the intervention of the Independent Bench in the Senate, we cannot pass legislation requiring constitutional majorities, and this is one such Bill.

Many issues have been raised by the Independents. Earlier today, I sat, like all other Senators in this Senate, and I was entertained to politics in its rawest fashion. I sat and I listened to it and I have taken it in stride. That kind of contribution we do not get in the House of politicians in the Lower Chamber. That is not the kind of politics that I know our people want of our legislators in the Senate.

So, I do not propose to get involved in any “rango tango” sort of answering what has been said in that regard. After all, I am the Minister of Justice and I try to be above that sort of politics, except in the Lower House which is a different situation, because there lie the elected Members of the people. But this is the Upper Chamber; this is where the bar, I expect, is higher, where the interventions would be intellectual and academic, but yet down to earth on how we best can serve the people by introducing proper legislative measures.

There is no demon in this bit of legislation. It is but one of a package of legislative measures being introduced by our Government. Why have we felt it necessary to introduce this measure among the other measures? Because we met a criminal justice and penal system that had been ignored by the last Government for the eight or nine years when it enjoyed the facility of taking the initiative to bring about systemic changes, and also to introduce new 21st Century initiatives to our way of dealing with the criminality of our society, insofar as the ordinary citizen has been affected big time. As I have said it before, Madam Vice-President, it would seem that it is a trend that any bit of legislation that we bring that is revolutionary, that brings us up to date with the rest of the world, is opposed by those opposite to us, and I am not referring to the Independent Bench.

**Sen. Al-Rawi:** Hogwash!

**Hon. Senator:** And hog water!

**Hon. H. Volney:** Sen. Al-Rawi, I expect better of you.

**Sen. Al-Rawi:** Rubbish!

**Hon. H. Volney:** In my court, I would have put you out—[*Interruption*]

**Sen. Al-Rawi:** Put me out!

**Hon. H. Volney:** But I cannot do that it here. I just ask that you allow me to complete my presentation in silence.

**Sen. Al-Rawi:** Hogwash!

**Hon. H. Volney:** I may have to ask the protection of the Vice-President—[*Interruption*]

**Sen. Al-Rawi:** Do that!

**Hon. H. Volney:**—because you are being disrespectful.

**Sen. Al-Rawi:** As are you! Hogwash!

**Hon. H. Volney:** Madam Vice-President, can I get your assistance, please?

**Madam Vice-President:** Sen. Al-Rawi, we have a guest in our midst, he is a Member from the Lower House, and as with every other Member, I would ask you to have courtesy and parliamentary decorum while he is presenting his paper and throughout the sitting. But, certainly that level of disrespect is not to be tolerated in this Senate. Kindly restrain yourself. Minister.

**Sen. Al-Rawi:** I will resist the hogwash.

**Hon. H. Volney:** Thank you very much, Madam Vice-President. Now, the purpose of this legislation if enacted with the support of this—[*Interruption and crosstalk*]

**Sen. Al-Rawi:** We fix the Legal Aid Bill!

**Sen. Deyalsingh:** “We done support the Children Bill.”

**Sen. Ramlogan SC:** “Lef de man nah man, oh gosh man,” Deyalsingh and Al-Rawi. [*Continuous interruption*]

**Hon. H. Volney:** Madam Vice-President, the purpose of this legislation is to assist with other measures being introduced and having already been enacted in this Parliament by our Government. It is part of a reform and transformation of the criminal justice and penal systems of our country. Still to come would be the Prison Rules which are going to update the way we deal with offenders by bringing them from 1838 ways of dealing with prisoners straight into the 21st Century.

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We are going to be introducing very soon the Parole Bill. As a matter of fact, it was the intention that the Parole Bill would have been on the floor of this Senate before Parliament is prorogued, but unfortunately, the pressures at the CPC, Chief Parliamentary Counsel's Office, do not permit this.

**Sen. Hinds:** That does not satisfy us.

**11.15 p.m.**

**Hon. H. Volney:** But, Madam Vice-President, one has to bring legislation in anticipation of other legislation. With the Parole Bill, when it comes—and I assure this Senate that the Parole Bill is on its way; it will be here very shortly—when enacted into law, if it should be enacted into law by the Legislature, will require, as an aid in its implementation, electronic monitoring. What sense is it to have the parole legislation enacted when you do not have one of the important tools to make it effective, which is the electronic monitoring Bill or legislation? One has to come before the other.

Our Government felt that the electronic monitoring Bill should be brought first for the simple reason that, when this Bill is enacted, as I trust that it will be enacted by this Senate, it will take some time to have important offices within the Bill, created by the Bill, filled with persons. It will take some time to have a service provider engaged in an open and transparent way of procurement, and it will take some time to educate all the persons involved, not just in the parole way, but also the Judiciary and the other competent authorities envisaged by and provided for in the legislation.

So, Madam Vice-President, the argument: where is the Parole Bill? Why do we not have parole? Why are we having electronic monitoring without parole? That is a non-argument. It has absolutely no weight to it whatsoever, and I trust that hon. Senators in this Chamber will dismiss that argument because it is not one that can withstand any degree of intelligent scrutiny.

This electronic monitoring measure will serve to cut down, not only on recidivism, but it will serve to cut down on the prison population as it stands now. I know that Sen. Prof. Harold Ramkissoon had enquired on the prison population. The last figures available would suggest that they are just under 3,600 inmates.

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

**Hon. H. Volney:** Madam Vice-President, when you consider that number of persons who are in the prison, you will understand how revolutionary this measure is. If we go by the statistics that the goodly Professor was able—and

thankfully able—to bring as to the ratio of persons on electronic monitoring in the State of Florida, as well as in United States generally, you would appreciate that we could cut down on our prison population by this new facility that will become available to competent authorities envisaged by the legislation; whether they be the courts, whether they be the parole board, or whether it be in terms of the President releasing persons early on pardon, on a conditional release.

So, Madam Vice-President, what we are creating is the opportunity to address the issue of overcrowding. Rather than build more prisons, the idea is that we want to start shutting down prisons and taking offender management from where it had been in the past, at a time when it was not addressed by successive administrations, and for the first time, to give it the eminence and the seriousness that our People's Partnership Government is giving to offender management in our country.

Madam Vice-President, as an option to incarceration, judges and magistrates alike will have this option now available to them whereby they can, in lieu of a term of imprisonment or in lieu of part of a term of imprisonment, commit someone to be on electronic monitoring rather than being sent to prison. Now, what are the options available at this time? The principal options available for sentencing in our courts would be imprisonment, the imposition of a fine, placing someone on a bond to keep the peace and to be of good behaviour, and the making of a community service order. Now, all those are options but there is no greater and more revolutionary option than the one that we are bringing as a measure in this Bill.

By this Bill, a judge—given the facts emerging in the trial—can send somebody to his home, and tell him, “You stay at your home; do not move from your home. You are incarcerated in your home under electronic monitoring. You do not have to be in the prison. In that way, you can serve your sentence at your home with your family, with your wife, with your children”. That did not happen before, and this is one of the measures, one of the results, that will come to the fore when judges are given sentencing alternatives as this.

You see, Madam Vice-President, I am very passionate about this. On this historic day, not just in my life, but in the life of our country, a Bill like this serves family life. It will serve to keep families together because one has got to recognize—and this is something that I can speak of without fear of contradiction like no one else in this Chamber—that there are times when men and women who live perfectly decent lives, for one reason or another, one drink more than they should take before they leave, find themselves convicted of a crime which is out

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of character with the lifestyle that everyone else, including themselves, have known them to live. They find themselves in a situation where, presently, the only option really is jail for them. Now, that is 20th Century thinking; that is the way we found it.

With this new measure, we make it possible for persons, as those persons who have committed indiscretions—sometimes a single indiscretion in their life. A man may be pushed to cuffing somebody for touching his wife in an inappropriate way; like any man, may respond in the face of that, the person may fall and hit his head and something may happen to that person. It has happened before, it will happen again. That person is not a criminal; that is a convicted person, and that type of person has to be treated differently. And this is what this Bill is about, to provide the court with real options—[*Interruption*]

**Sen. Hinds:** Not for murder or manslaughter.

**Hon. H. Volney:**—for real options, Madam Vice-President. Obviously, the sentence for murder is death by hanging, and even students who now come out of law school would know that that does not apply, and the law makes it abundantly clear in the schedule, that murder is not one of those offences for which electronic monitoring is an option. Indeed, there are a number—as hon. Senators on the Independent Bench have recognized—of blood crimes. Those are the ones that society wants to see the person locked up and do time.

But, you see, our People's Partnership Government recognizes that even when someone is convicted of the most serious of offences, even though he may not be sentenced to electronic monitoring, there comes a time when, remaining in custody, remaining incarcerated, serves neither the inmate's best interest nor the interest of society at large. If you keep a man who is a decent human being locked up for too long, he will assume the image and the being of a beast. He will forget who he is, who he was, and the longer you keep him in lock-up stage, is the worse he will become. When he comes out, he is destroyed by incarceration, and that is why our People's Partnership Government is introducing parole. That is a word unknown to those in the PNM who have been in Government for the last eight years before the people resoundingly gave us the mandate to govern this country on May 24, 2010.

Parole: how does this work with parole? You see, the idea of parole—the idea of the progressive thinking of our Government, and certainly, those of us in the Ministry of Justice who have a clear understanding of the vision for offender management. Madam Vice-President, the purpose of parole is that when a

prisoner comes in, when an inmate is introduced, depending on whether he is a return inmate or whether he is a new inmate, someone who has never been in the system, he is treated like a human being; from the time he enters he deals with an offender management officer.

In this whole process, it will require rebranding of the prison service to a division of corrections where the idea is to correct as opposed to just punish, because correction is intended to restore a person in the quickest possible time to goodness, and to release them, because any good person can be restored to goodness quickly and return to society in order to make a contribution.

**11.30 p.m.**

So, you see, Madam Vice-President, with the new Prison Rules, a person who comes in as an inmate for the first time would sit with an offender management officer who would explain to them: if you follow the programme, you will be out of here much quicker than you think. If we use the six-year as the example, for the first two years of the six-year term of imprisonment, if you follow the rules, if it is that you understand what is taught to you with anger management, good hygiene, courtesy, where you learn life skills so that you can make a contribution when you come back, basic things like good morning, good morning, Sir. There is nothing wrong with saying Sir, good evening, hello colleague, how are you? Those little things, you do not get that again on the street. People do not even tell you good morning on the street when you walk. They pass you even though they know you. They might give you “ah” hail. That is it, no good morning again, no good evening.

But in our offender management, we will be churning out graduates who are restored to goodness. When they come out, people will wonder where they came from. Well, they would have come from the “University of Corrections” where they will have good manners, where they will know how to manage their anger, where they would have developed life skills, where they would have learned good hygiene, what it is like to take a shower every morning and to brush teeth and those kinds of things.

What has happened after all these years, under the mismanagement of the last Government, is that children have no parents, they are just left to roam. It started many years ago with the two-shift system. Nobody ever thought of the consequences of it, and we have lost a whole generation of young men. But in order to redefine this, we must take steps and some of these steps include encroaching upon certain constitutional liberties of the subject and we do—*[Interruption]*

**Sen. Prescott SC:** Madam Vice-President, would you permit me to seek some elucidation from the Minister, please? Minister, can you give us some assurance that the device cannot or will not be used or adapted for the transmission of voice?

**Hon. H. Volney:** Of what?

**Sen. Prescott SC:** Voice. In other words, I cannot hear what the wearer is saying. Can the device be used or adapted for that purpose?

**Hon. Senator:** Voice transmitter.

**Hon. H. Volney:** Well, that depends on the technology that is available.

**Sen. Prescott SC:** Madam Vice-President, I was asking if the Minister knows of the device that he has the power to use, and I thought he could tell us whether the device he has in mind can be adapted for that purpose or can be used for that purpose.

**Hon. H. Volney:** To answer the hon. Senator, what has happened to date is that the Ministry has issued expressions of interest, where persons who have different types of technology can let their interest to supply it to the Government—let them come forward. That went out in public advertisement and there were 10, I believe, persons or companies who expressed their interest. That was done, not by the Ministry of Justice but by, I think, iGovTT as an agent of the Ministry.

At this point in time, I have not been advised as to what is the most suited type of mechanism or device. We have not reached that stage yet, because what we wanted to happen was for the legislation first to be enacted and then we reach that stage and we see what. Is there some difficulty, that the Senator has?

**Sen. Prescott SC:** Yes, thank you. I intervened at the point where the Minister was referring to constitutional rights, because I think this is time for us to be sure that that is a right, the right to freedom of speech, et cetera, and to privacy, that will not be affected by this. It is within the power of the Minister, therefore, either to alter the specifications now or to introduce a prohibition on the device being adaptable or being used for the transmission of voice. It is that I am trying to get. I may not be speaking in language that you can understand because I am way behind the eighth ball, but I would prefer if you were able to tell us that constitutional right to privacy and to freedom of speech will not be affected because this device will not be used for the purpose of transmitting voice. We will not purchase a device that can be adapted for that purpose. We will insist that the supplier remove the ability of the device to do so. Thank you very much.

**Hon. H. Volney:** I understand that. Of course, there is already passed in the Legislature, the interception of communications legislation, which allows that very state of affairs. So I am a little disturbed—[*Interruption*]

**Sen. Drayton:** May I just seek to clarify then? Let us just say a juvenile is wearing such a device—let me put the question this way, is it possible for the electronic management unit to hear conversations in that home as a result of that device?

**Hon. H. Volney:** Well, as far as I know, I am not aware that there is that transmission capability, but if there is and it is felt by this Chamber that that is something that should be prohibited, then that is something that I would certainly—[*Interruption*]

**Sen. Drayton:** Yes, I agree with that.

**Hon. H. Volney:** Yes. That is something that we can address in the fullness of time in the committee stage, if it is required that an amendment be made—[*Interruption*]

**Sen. Ramlogan SC:** You cannot just—[*Inaudible*] with that “yuh know”.

**Hon. H. Volney:** No, as I said, I do not know as yet what the devices that would be ordered can do, because at this point in time we are early days into the process of procurement.

**Sen. Prescott SC:** Madam Vice-President, would you permit me further intervention because we seem to be getting somewhere. Perhaps, we could, in the committee stage, introduce a subsection that says: “the device shall not be used for that purpose.”

**Sen. Ramlogan SC:** But why would we want to limit ourselves like that?

**Sen. Prescott SC:** One does not want to further encroach upon a person’s right, he being required to wear the device, to have a private conversation within his home or outside of his home for that matter. What you really want to know is where is he, not to whom he is speaking or what he is saying to that person. If the device permits it, I think we are unnecessarily abusing the constitutional power that we have and infringing on the person’s constitutional right.

**Hon. H. Volney:** At the committee stage, if I may ask, we would deal with that side of it.

Madam Vice-President, I was dealing with the merits of giving up or encroaching on sections 4 and 5 of the Constitution to allow those persons who are inmates, who are within the penal system, are able to access early release for the purpose

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of employment with electronic tagging. That is, if they satisfy the programme, they complete the programme in the first one-third of their sentence. As it is right now, you serve two-thirds of your sentence and for good behaviour there is remission of the final one-third. That, for someone who has committed an indiscretion in life resulting in a conviction, is extremely harsh in terms of modern-day thinking and if we are to go by what happens overseas in progressive countries of the world.

There are other benefits to this electronic monitoring. For example, His Excellency the President may give a conditional pardon, the law, the Constitution permits of this. It has happened before and what this does, it allows a person to be granted a pardon on condition that he uses an electronic monitoring device.

I now come to the issue of pre-conviction. This subject has been raised and has been canvassed in the course of the debate in this Chamber. Madam Vice-President, I have had the experience of witnessing on a weekly basis, how this bail system in Trinidad is archaic, how it works to the disadvantage, especially of the poor. What happens is that you have a system of professional bailors that the Attorney General has alluded to. They get deeds, whether it is they pay for the use of a deed to property; they may not own the property, but they use that property in order to take bail, to provide the recognizance, the surety, to allow someone to be released on bail.

How do people access it? They pay, as the Attorney General has said, 10 per cent of the bail that is set to the person who has the bail document, the legal deed. There is no established system of bail bonds in Trinidad and Tobago, as it has been developed in the United States and in other progressive countries of the world. As a result, there is a problem when persons, who are poor, especially young men, are locked up and they cannot get bail, they cannot raise the money. What do they do? Do you know who they go to? They go to grandmother. They go to their mother. Their father generally would not take them seriously, but they go to the vulnerable, that is their great aunt, their grandmother: "Granny help me, help me", and afterwards granny either takes the little deed she has and allows it to be used or granny will pay the money to a professional bailor, the young man gets out.

From the time he commits another offence bail is revoked, or if he does not turn up, invariably a warrant goes out for him and a summons to show cause is issued, either to granny, to great aunt, or aunt, and the young man is all over the place in the free world. Who pays at the end of the day? The vulnerable, the aunt, the mother, all women; they are the ones who, with the good heart, the maternal

instinct, try to help their young men out of jail. With this electronic monitoring device in this legislation, a magistrate or a judge can say bail with electronic monitoring as a condition of that bail.

**11.45 p.m.**

Madam Vice-President, this electronic monitoring is meant to help the poor man who finds himself in difficulty sometimes; who has been set up for one reason or the other; who finds himself in difficulty and who has nowhere to turn. Without this Bill these young men find themselves locked up in the remand yard. They spend, at times, years in the remand yard awaiting trial. Due to the type of preliminary enquiry system we have at this time—until the new legislation is proclaimed—a preliminary enquiry could take as many as five years, sometimes more than five years, before the issue of bail is reviewed, or before the person wins and is discharged from the State prison.

What happens in that time is that that young man is locked up in far from desirable conditions, or conditions that leave much to be desired. We have heard about those situations. They have not been touched over the years until under the esteemed Minister of National Security who had the vision to open the Santa Rosa rehabilitation facility. Before that facility was opened, no one in the last how many years, opened a prison in this country.

You see, Madam Vice-President, what happens is that these young men go into the remand yard, and there they are mixed with all kinds of other prisoners; some with convictions as long as you can find them to be.

**Madam Vice-President:** The speaking time of the hon. Minister has expired.

*Motion made:* That the hon. Member's speaking time be extended by 15 minutes. [*Sen. The Hon. Brig. J. Sandy*]

[*Interruption*]

*Question put and agreed to.*

**Hon. H. Volney:** Madam Vice-President, I note, because we, in the other place have never, to date, ever denied the other side extra speaking time. [*Laughter*] And, if this is the start, we will reserve our right in this Chamber to reciprocate.

Anyhow, Madam Vice-President, there are some issues that have arisen in the course of the debate; suitably qualified person. I can tell you that there is no demon in that expression, simply because what happens is, when a position is

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created—whether by legislation or by Cabinet—for contract positions, the matter is referred to the Ministry of Public Administration. There they determine the number of persons required to fill those positions; the qualifications for those positions and also, the CPO determines the wage and salary remuneration and emoluments.

Those on that side who have any experience in government would know that. So that when I hear that issue being raised, I say to myself that, quite clearly, they are lacking in experience of being in government otherwise they would not have raised it. On the Independent Bench, I can say that there is nothing to be concerned about with that expression. It has been used in other legislation. For example, I can tell you that when I brought a certain Note to Cabinet it was referred to the public administration for the simple reason that that public administration had to determine how many persons would be required to man a unit 24/7; what are the qualifications; because the suitably qualified persons perform different functions. You have to have monitoring officers in the unit, that is officers who are over the screen, 24/7 on weekends. They receive a feed in the unit from the service provider. The service provider is the one who establishes the system at a cost, per unit. They operate the system; they monitor the system; they are the first ones to raise the red flag; they have access directly to the police; and those are matters with regulations that will come in. They send the feed directly to the Ministry of Justice.

On this issue of near real time, it is impossible to have real time because, electronically, you have systems and, usually, there is a delay between what actually takes place and what finds itself electronically. It is something that I do not understand, the electronic part about it, but that is why you say near real time; but near real time would be a matter of a split second or two; a slight delay, so that, again, is not something that should bother hon. Senators.

Then you have this issue of officers who will be taking the information from the electronic monitoring manager or director—because we propose certain amendments which should be circulated shortly. They take the information from the unit and they carry it to the court. Now you have to have paralegal people performing those functions. We should not limit the qualifications of those persons as we consider, in Parliament, to be the proper case. That should be left for the experts to determine, that is, the people at PMC Department in the Ministry of Public Administration. They determine the qualifications for these persons. So that, again, is not something that should bother any Senator in this honourable Senate.

As I said, this is the way that the electronic monitoring system would operate. The Ministry of Justice, through the Permanent Secretary, will engage a service provider. That service provider will do one or more functions of the electronic monitoring unit that is seated at the Ministry of Justice. There, the electronic service provider sends the feed to the Ministry.

So, not only is the service provider monitoring real time, but at the Ministry—just in case somebody goes into a little snooze for 10 seconds—someone at the Ministry of Justice who is monitoring the same feed would be able to pick up that there is a breach and then contact the police directly in order for there to be action; and then inform the electronic monitoring manager. Those are matters for the regulations; how it pans out. Those are matters that would find themselves in the regulations.

Now all you need—and this is something that we can provide for at the committee stage—to even permit the service provider to provide the additional service of going out to where the person is and detaining and handing over to the police, anyone who has breached the order—for example, tampering with the device.

Some years ago—I do not know if we still have that system here—cars were being equipped with GPS; you would see these strange-looking cars about the place with a set of aerials on top of them. They would know where a stolen vehicle is and they would be able to intercept it real time. Electronic monitoring is much like that, except that you have persons who can detect an infringement, around the clock, looking to ensure that there is no infringement. So, you have that double protection.

As to the other matters that have been raised by hon. Senators, I do not propose to go into the details in my winding up. It is late in the night;—it is almost midnight. I had really hoped to be home to see out the last bit of my birthday, but, unfortunately, I would not make it home to my young wife, Senator, and I shall have to see her in the morrow, unfortunately.

**Hon. Senator:** Well, later would be better.

**Hon. H. Volney:** So, having said that, I will hold back on the other items because we have a compendium of amendments that we propose and there are some offered by the hon. Sen. Prescott. We would deal with them at the committee stage.

So, having said that, I want to thank Senators for their contributions; they have been very useful in guiding the amendments that we propose to make.

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I, accordingly, beg to move, Madam Vice-President.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3.*

*Question proposed:* That clause 3 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 3 be amended as follows:

3. In subclause (1)—

- (i) in the definition of “competent authority”, delete the words “or functionary,”.
- (ii) in the definition of “Minister”, insert the word “the” before the word “Minister” and before the word “Ministry”;
- (iii) in the definition of “Regulations”, delete the words “section 23” and substitute the words “section 25”;
- (iv) insert in the appropriate alphabetical sequence the following definition:

“public official” means a Minister or Permanent Secretary;

**Sen. Prescott SC:** Madam Chairman, I have submitted a number of amendments that are—[*Interruption*]

**Mr. Volney:** Your amendments are from clause 6.

**Sen. Prescott SC:** They are from 6?

**Mr. Volney:** Yes.

**Sen. Prescott SC:** Okay.

**Madam Chairman:** Just for the attention of Senators, there are two sets of amendments circulated, one from the Minister of Justice and the other by Senior Counsel Elton Prescott. Everyone should have a copy of these.

**Sen. Ramlogan SC:** Sen. Prescott and I had a discussion with respect to the definition of court. At the moment, we have that “‘court’ means a Court of competent jurisdiction”, but we wanted to borrow the definition of court in the Bail Act which defines court as meaning:

“Court” includes a Judge, a Magistrate, a Justice of the Peace or a Coroner and, in the case of a specified Court, includes a Judge or Magistrate or, as the case may be...

Well, a judge or magistrate—the point raised by Sen. Prescott, really, is that a Justice of the Peace will be a court of competent jurisdiction for the purpose of granting bail and, thereby, be able to order electronic tagging. The problem is that having regard to the level at which the JPs operate—their relationship with their police and so on—we wanted to define court so that it would exclude, expressly, the JP.

We will use the definition in the Bail Act. I will call it out.

“‘Court’ includes a Judge, a Magistrate, or a Coroner.”

Sen. Prescott, the problem is the word “includes” there.

**Sen. Prescott SC:** I am not unhappy with it, but we could limit it to just say “means”. “Court means”?

**Sen. Ramlogan SC:** I am just worried about—[*Interruption*]

**Sen. Prescott:** Let us say “Court means”.

**Sen. Ramlogan SC:** Yes, and play it safe. Yes? Yes.

“‘Court’ means a Judge, Magistrate, or a Coroner.”

**Sen. Ramlogan SC:** because those are the judicial officers who can grant bail, really, when you think of it.

**Madam Chairman:** So there is no need for a competent jurisdiction?

**Sen. Ramlogan SC:** No, The rest will be as per the circulated amendments to clause 3.

**Sen. Prescott SC:** One of my colleagues—one of my brothers in law—was enquiring whether judge includes a Judge of Appeal.

**Sen. Ramlogan SC:** Yes, it would.

**Sen. Prescott SC:** I think so, myself.

*Question put and agreed to.*

*Clause 3, as amended, ordered to stand part of the Bill.*

**Sen. Ramkhelawan:** Madam Chairman, in clause 3, in terms of the definition of electronic monitoring, I mentioned that there were some inconsistencies in the definition and what is presented in one of the schedules. I wanted to suggest that “‘electronic monitoring’ means the use”—[*Interruption*]

**Sen. Ramlogan SC:** We have amended the schedule. To achieve consistency, we have amended the schedule.

**Sen. Ramkhelawan:** So, you took out “tracking”?

**Sen. Ramlogan SC:** Yes, we did. So that the schedule definition is now on all square fours with this.

**Sen. Ramkhelawan:** Okay.

**Madam Chairman:** So, we are okay with clause 3, right?

**Sen. Ramlogan SC:** Yes.

*Clause 4.*

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

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 4 be amended as circulated:

In subclause (2)—

- (i) in paragraph (a), delete the words “Electronic Monitoring Manager (‘the EM Manager’)” and substitute the words “Director of Electronic Monitoring (‘the Director’)”; and
- (ii) in paragraph (b), delete the words “EM Manager” and substitute the words “Director of Electronic Monitoring (‘Deputy Director’)”.

**Sen. Ramkhelawan:** Madam Chairman, before we move away from clause 4, in much of the discussion the issue of the qualifications of the EM manager was raised. I can think of at least four or five contributions, and I wondered whether the Minister would want to give some thought—even though in his winding up he had suggested that there was no such need. In most of the legislation that we have seen, there is some minimum requirement that the person should have a certain amount of experience, et cetera; or else there is nothing in law to stop somebody who just came out of school, who has Olevels, to be able to do this function. At the end of the day, if the requirement is simply a minor IT requirement, you would probably realize that people who just have Olevels or something might be more competent at the IT function. So, I feel very worried that we have not put some limitation as to qualifications. I want to bring this back. Before we run very quickly over it, I want to bring back this question of qualification under clause 4.

**Sen. Prof. Ramkissoon:** Madam Chairman, I also brought that up in my short contribution. I am not happy with it. I think “other suitably qualified individuals”; you want to see some minimal education level; and, maybe you would want to add tertiary level graduate, or something to that effect, to make sure they have at least, a degree or something like that.

**Mr. Volney:** But they have monitoring officers who would not require a degree. They may have IT training; they just sit in front of the monitor and when a red flag comes up, they inform the manager or the police. They may not need a degree.

**Sen. Ramkhelawan:** We are talking about the EM manager and deputy manager. Since the position of the EM manager is going to fall under the purview of the Salaries Review Commission, it suggests that it would be very highly placed in the public service. I want to insist that we put some measure of qualification.

**Mr. Volney:** Well, the obvious qualification would be an attorney-at-law.

**Sen. Ramkhelawan:** Not necessarily—[*Interruption*]

**Mr. Volney:**—with not less than five years.

**Sen. Ramlogan SC:** Before this can be resolved it would have to go through a process where the PMCD in the Ministry of Public Administration gets involved. Now, the problem with putting down a qualification here is that it really handcuffs you in a way that you are not sure as to what the evolution and development of this thing would be. I cited numerous examples, Senator, where laws have been passed, by both Houses, and the words “suitably qualified” were used in a wide range of legislation.

We understand the concern, but it is not as if the PMCD and the Salaries Review Commission will just, on a “vaps”, appoint someone with a school leaving certificate, but to put the qualifications in the substantive law, really, at this stage—I mean, that may not be the prudent thing to do. The last time we did that we saw what happened with the DNA legislation.

**Sen. Ramkhelawan:** Yes, but with the greatest respect to the Attorney General, through you, Madam Chairman, other suitably qualified individuals as may be necessary for the proper functioning of the unit does not, in essence, refer to the EM manager and the deputy EM manager. It speaks to other—[*Interruption*]

**Sen. Ramlogan SC:** So you are speaking to (a) and (b)?

**Sen. Ramkhelawan:** I am speaking to (a) and (b).

**Mr. Volney:** I just, for example, threw out that the base qualification for the manager be that you be an attorney-at-law of not less than five years and you said not necessarily.

**Sen. Ramkhelawan:** I did not want to limit it to that particular discipline.

**Mr. Volney:** Experts at PMCD in the Ministry of Public Administration should determine that.

**Madam Chairman:** Just for clarification, at the end of your proposed amendments you have here:

Delete the words “EM Manager” and “Deputy EM Manager” wherever they occur and substitute the words “Director” and “Deputy Director” respectively.

I just want, for clarification, to know that we are speaking about director and deputy director.

**Sen. Ramlogan SC:** Yes, same thing.

Prof. Ramkissoon, I think you wanted something a little lower, but at least a minimum of a university graduate.

**Sen. Prof. Ramkissoon:** Yes.

**Sen. Ramlogan SC:** That, I think, could work for the director and deputy director. We can go along with that.

**Sen. Ramkhelawan:** I would say a university graduate with at least three years or five years of relevant experience.

**Sen. Ramlogan SC:** But you see, this is new. Relevant experience in—you know. I would go with the graduate, but I am not too sure about the relevant experience because relevant experience would be—the Minister just thought relevant experience would be in the legal field and you said no, you did not have that in mind at all.

**Sen. Ramkhelawan:** Yes.

**Sen. Ramlogan SC:** It just shows how we can reasonably disagree on what would be the relevant experience.

**Sen. Drayton:** Can I make a suggestion here?

**Sen. Ramlogan SC:** Sure.

**Sen. Drayton:** This person is running a 24/7 unit. Correct?

**Sen. Ramlogan SC:** Yes.

**Sen. Drayton:** They should have, at least, five years management experience.

**Sen. Ramlogan SC:** I do not think we are prepared to go that far. We are prepared to say that they should be both university graduates—*[Interruption]*

**Sen. Ramkhelawan:** Not with experience, relevant experience. With the greatest respect, Attorney General, you cannot bring somebody who is going to be, as I said, under the ambit of the Salaries Review Commission—I can think of nobody—*[Interruption]*

**Sen. Ramlogan SC:** Senator, the problem with what you are advancing is this: this is something that is new to Trinidad and Tobago; we have never had electronic monitoring before. So, when you say with relevant experience, where do you expect them to get that? It is new to the country. Relevant experience may arguably be interpreted as meaning relevant experience in electronic monitoring. That is why I prefer to go with a graduate. We are going to build this now, you know; that is why I say a graduate. A university graduate; I think that is why Prof. Ramkissoon stopped short of going beyond that.

**Sen. Ramkhelawan:** With no experience?

**Sen. Ramlogan SC:** No, we are not saying with no experience, but the point is—*[Interruption]*

**Sen. Ramkhelawan:** Let us say in a related field; five years experience in a related field.

**Sen. Ramlogan SC:** That might be better than relevant—*[Interruption]*

**Sen. Ramkhelawan:** I just want to feel that level of comfort.

**Sen. Ramlogan SC:** We would go with a university graduate with a minimum of three years' experience in a related field.

**Sen. Ramkhelawan:** That is fine.

**Sen. Ramlogan SC:** Prof. Ramkissoon?

**Sen. Prof. Ramkissoon:** Your point is well taken, this is something new, and we might not have the kind of people we want down here, but let me also point out that the creature you are looking for is someone with IT experience and some legal background and you have one or two people in Trinidad and Tobago.

**Sen. Ramlogan SC:** “But I looking for a wuk myself”. [Laughter]

**Sen. Prof. Ramkissoon:** But who have a degree.

**Sen. Ramlogan:** But I have a degree. [Laughter]

**Sen. Prof. Ramkissoon:** And in law; and also in law.

**12.15 a.m.**

**Sen. Ramlogan SC:** Sure, point taken. Sen. Prescott SC is drafting that now. [Crosstalk] “Nah, ah just harassing you, doh worry.” We will be putting that in (2):

“The staff of the Unit shall include (a), (b) and (c).”

Can we not lump (a) and (b) in one?

“The staff of the Unit shall include the Director and Deputy Director of electronic monitoring—” [Interruption]

**Sen. Ramkhelawan:** Manager, not director.

**Sen. Ramlogan SC:** No, we have changed it to director.

“The staff of the Unit shall include the Director and Deputy Director of electronic monitoring who—” [Interruption]

“Yuh want to put a separate subsection?” [Sen. Ramlogan SC confers with advisors] All right. Call it out.

We will put it as subclause (3). So, subclause (3) shall now read:

“The Director and Deputy Director shall be an individual with tertiary level education and at least three years experience in a related field.”

I see Sen. Dr. Balgobin clapping. [Crosstalk] Yes, this will be subclause (3). Sen. Dr. Balgobin, you do not like the tertiary education bit?

**Sen. Dr. Balgobin:** No. No. I am not feeling it, but if everybody else is happy—I was just curious as to why—why should this be a civilian?

**Sen. Ramlogan SC:** Why should it be—?

**Sen. Dr. Balgobin:** Why should this be a civilian?

**Sen. Ramlogan SC:** “As you were saying before, you start out well, everybody happy right, so doh make dat point.”

**Mr. Volney:** And then (3) becomes (4).

**Sen. Ramlogan SC:** “Chair, we ready.” And subclause (3) will now become subclause (4), the consequential renumbering.

**Madam Chairman:** Okay. So, (3) will be—*[Interruption]*

**Sen. Drayton:** Could I ask a question? This person, if it is a civilian, now, this person has to go and inspect premises, right? So, if they have to inspect premises, are you going to send a civilian to inspect premises anywhere, particularly in hot spots?

**Sen. Ramlogan SC:** They will go with accompaniment. They will be accompanied if they are going.

**Sen. Drayton:** I am just wondering—*[Interruption]*

**Sen. Ramlogan SC:** The answer is, they will be accompanied.

**Sen. Drayton:** Okay.

**Sen. Ramlogan SC:** Okay, Chair, let us move on.

**Madam Chairman:** Clause 4 is further amended to include (3) as follows:

“The Director and Deputy Director shall be individuals with tertiary level education and at least three years experience in a related field.”

—and renumbered accordingly.

In subclause (2)—

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5.*

*Question proposed:* That clause 5 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Vice-President, I beg to move that clause 5 be amended. We took into consideration the comments made during the course of the debate, and clause 5 will now read as follows:

“Without prejudice to the power of the Public Service Commission to make an appointment to the offices of Director and Deputy Director, where prior to the making of the first appointments to those offices, and the exigencies of the public service require the recruitment of individuals to perform the functions of these offices, the Permanent Secretary may engage, as Electronic Manager and Deputy Electronic Manager, suitably qualified individuals until such appointments are made in accordance with section 4(3) and (4).”

**Madam Chairman:** Those would have to be changed. [*Madam Chairman confers with the Clerk*]

**Sen. Ramlogan SC:** So it clarifies that we are not transgressing on the power of the Public Service Commission, which was the point made in the debate.

**Sen. Drayton:** So there is no time frame, by which—[*Interruption*]

**Sen. Ramlogan SC:** No. No time frame.

**Sen. Drayton:**—this person will be—[*Interruption*]

**Sen. Ramlogan SC:** The answer is no. There is no time frame, Ma'am.

**Sen. Drayton:** Okay.

**Sen. Ramlogan SC:** “Yep.” Chair?

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clause 6.*

*Question proposed:* That clause 6 stand part of the Bill.

**Madam Chairman:** We have amendments for clause 6.

**Sen. Ramlogan SC:** Madam Vice-President, I have an amendment to clause 6 as follows:

2(2)(a):

Delete the word ‘near’ occurring before the words ‘real time’.

Delete the ‘s’ in ‘respondents’

(2)(f)

Reworded to read:

ensure that an historical record is maintained of all electronic monitoring spatial data, including any technological equipment necessary to read and display such information;”

**Sen. Dr. Armstrong:** Madam Chairman—[*Interruption*]

**Madam Chairman:** Sen. Dr. Armstrong?

**Sen. Dr. Armstrong:**—I have a query with respect to clause 6(2)(b), it is not very clear to me where it says, (2):

“Notwithstanding the generality of the foregoing, the Unit shall—”

And then in (b), it says:

“report alarm notifications, signal loss and device malfunction forthwith to the EM Manager;”

—when the EM manager is, in fact, a part of the unit. Is that what you really want to do here, or is it to report to someone else? Because the EM manager is a part of the unit.

**Sen. Ramlogan SC:** It is really a matter of administrative convenience, because you are right, he would be the head of the unit, it really ought to be the director because we changed the terminology, but your point still holds. You would first have to report it to the director, who will in turn report it to the police.

**Sen. Dr. Armstrong:** Right! Exactly!

**Sen. Ramlogan SC:** But the first port of call would be for it to be reported to the director.

**Madam Chairman:** I guess if you take the example of a school, teachers report to the principal.

**Sen. Dr. Armstrong:** But it says the “Unit shall,” you are talking about the unit, and the director would still be a part of the unit, not so?

**Sen. Ramlogan SC:** “Yep.” He would be the head. I understand your point, but you see, you would want to put—I think the object of the section is to impose a statutory duty on the employees—*[Interruption]*

**Sen. Dr. Armstrong:** Okay.

**Sen. Ramlogan SC:**—to report the breach immediately to the director.

**Sen. Dr. Armstrong:** Then, could we add something else to report then to the police or to some other authority?

**Sen. Ramlogan SC:** Well, we can add to (b):

“report alarm notifications, signal loss and device malfunction forthwith to the Director who shall immediately inform the relevant agency.”

All right?

**Sen. Dr. Armstrong:** Okay.

**Sen. Ramlogan SC:** In 6(2)(b).

**Madam Chairman:** "...who shall inform..."

**Sen. Ramlogan SC:** "...who shall in turn inform the relevant agency."

**Madam Chairman:** Authority? Agency.

**Sen. Ramlogan SC:** "Yeah."

**Sen. Ramkhelawan:** In 6(2)(b), apart from the point that Sen. Dr. Armstrong raised, I was concerned with the way this is constructed, is that the unit could only report to the EM director, but you also have a deputy director and so on. I had raised the question during the debate, that failing the EM director, the deputy director or the next most senior officer in the unit—[*Interruption*]

**Sen. Ramlogan SC:** Sen. Ramkhelawan, I understand Sen. Dr. Armstrong's point and the practicality of it; really what they want to say is to inform the relevant state agency. It does not make sense to say report it to the director who is the head and part and parcel of the unit, that is your point, and quite frankly that is a sensible point. So we should take off director and say:

"report alarm notifications, signal loss and device malfunction forthwith to the relevant state agency."

And that is enough.

**Sen. Dr. Balgobin:** Who would be the relevant state agency in this case?

**Sen. Ramlogan SC:** Well, we do not want to disclose that to you right now.

**Sen. Dr. Balgobin:** No. Well, I feel I want to ask, Attorney General, only because—I thought the EM unit was in charge of the device.

**Sen. Ramlogan SC:** No. No. You see, bear in mind the relevant state agency there could mean the police, it could mean a special unit set up elsewhere to simply deal with a first responder unit dedicated to electronic tagging and response, you follow?

**Sen. Dr. Balgobin:** I got you. It really is:

"alarm notifications and signal loss..."

—are really matters of breach.

**Sen. Ramlogan SC:** That is correct.

**Sen. Dr. Balgobin:** And device malfunction is not necessarily a matter of breach.

**Sen. Ramlogan SC:** That is right. I think you were still thinking about the Ramleela Bill.

**Sen. Ramkhelawan:** Chair, I yield to the greater learning of the Attorney General in terms of the wording of this particular clause.

**Sen. Ramlogan SC:** “Wah he say? Wah he say?”

**Hon. Volney:** He yield to the greater learning of the Attorney General.

**Sen. Ramlogan SC:** Okay. That is fine. We accept the amendments proposed by Sen. Prescott SC on 6(2)(f).

**Sen. Ramkhelewan:** “No, why yuh take it out?”

**Sen. Ramlogan SC:** 6 (2)(f).

**Sen. Dr. Balgobin:** 6 (2)(f)?

**Sen. Ramlogan SC:** Well, that is among the amendments proposed by Sen. Prescott SC.

**Sen. Dr. Balgobin:** This is where I sort of—[*Interruption*]

**Sen. Ramlogan SC:** And we are agreeing with the amendments proposed by Sen. Prescott SC on 6 (2)(f); it is just a drafting issue.

**Sen. Dr. Balgobin:** But did we want to put in—I mean just for clarification, how long would we hold those records? Did we want to restrict the time for which we hold those records?

**Sen. Ramlogan SC:** Is there a retention for disposal or the holding of records? “How long all yuh plan to hold them, forever?” [*Sen. Ramlogan SC speaks to his legal advisors*]

**Sen. Dr. Balgobin:** There should be—but you cannot hold them *ad infinitum*. No, but the person has paid their debt to society after some period of time.

**Sen. Ramlogan SC:** We will put in a clause 4 and say that:

“Those records shall be held for a period of no more than five years.”

**Sen. Dr. Balgobin:** Right. I am fine with that.

**Sen. Ramlogan SC:** Good. “The records at...”—“well, it go be all records yuh know but”:

“The records maintained under this section shall be held for a period of not more than five years.”

“But dat is plenty you know; five years is still plenty.”

**Sen. Ramkhelawan:** But through you, Chair, to the hon. Attorney General, what if you need this as some form of evidence in the courts and so on?

**Sen. Ramlogan SC:** Once it is evidence, it will be passed over to the DPP, and then they will keep it for the case; you follow?

**Sen. Ramkhelawan:** Okay.

**Sen. Ramlogan SC:** “So, within five years, if yuh eh bring de case yuh know wat I mean.”

**Sen. Ramkhelawan:** I yield to your greater learning once again.

**Sen. Ramlogan SC:** “Not at all man, not at all.” [*Crosstalk*]

**Madam Chairman:** The records maintained under this section...”

**Sen. Ramlogan SC:**

“...shall be kept for a period of not less than five years.”

“Yeah.” So it could be kept for more than five if needed.

Sen. Ramkhelawan, because of your own legal wisdom, I have drafted it a little differently to say:

“...shall be kept for a minimum of five years.”

So it can be kept for a longer period as well in appropriate cases. Okay, that is it.

**Hon. Senator:** “Without Faris we powerless.”

*Question put and agreed to.*

*Clause 6, as amended, ordered to stand part of the Bill.*

*Clause 7.*

*Question proposed:* That clause 7 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 7 be amended as follows:

Delete clause 7 and substitute the following clause:

A public official, authorized by the Cabinet, may enter into an agreement with a company (‘a service provider’) for the purposes of—

(a) training in any aspect of electronic monitoring; or

(b) the performance of specified functions under section 6(2).”

**Sen. Dr. Armstrong:** Madam Chairman, we are on clause 7, now?

**Madam Chairman:** Yes, we are on clause 7.

**Sen. Dr. Armstrong:** I was just wondering with respect to clause 7:

“The Government may for the purpose of...”

**Madam Chairman:** No, that is deleted—[*Interruption*]

**Sen. Dr. Armstrong:** Or, that is deleted. Okay.

**Madam Chairman:**—in the list of circulated amendments.

**Sen. Prescott SC:** I do have a new proposal for clause 7, Madam Chairman, and it arises out of some discussions we had with the Attorney General and Sen. Dr. Balgobin, that we should introduce a new clause 7(b), which reads as follows:

“The Interception of Communications Act, 2010 shall apply to the use of the electronic monitoring device and its communications capabilities.”

**Sen. Ramlogan SC:** “Yeah.” We are in agreement with that.

**Sen. Prescott SC:** Should I repeat it?

**Madam Chairman:** That would be clause 7(2) then?

**Sen. Ramlogan SC:** That would be clause 7(2).

**Sen. Prescott SC:** Two?

**Sen. Ramlogan SC:** “Yep.”

**Madam Chairman:** Because we have clause 7—[*Interruption*]

**Sen. Prescott SC:** Yes. So the first one would be clause 7(1) and this would be clause 7(2)?

**Sen. Ramlogan SC:** Clause 7(2)? Could you just call it over Sen. Prescott?

**Sen. Prescott SC:** Sure.

“The Interception of Communications...” [Interruption]

**Sen. Ramlogan SC:** “A little slow because the Chair has to write. Yuh moving too fast as everything else that yuh does do.”

**Sen. Prescott SC:** No boy, sometimes I am good. [*Laughter*]

“The Interception of Communications Act,”

Is 2010 part of the name Attorney General?

“2010 shall apply to the use of the electronic monitoring device and its communications capabilities.”

Not hearing me? [*Crosstalk*]

**Madam Chairman:** “Yeah.”

**Hon. Senator:** “Say it over.”

**Sen. Prescott SC:** Okay. The Chair will read it.

**12.30 a.m.**

**Madam Chairman:** I will just call it out:

“The Interception of Communications Act, 2010 shall apply to the use of electronic monitoring devices and its communications capabilities.”

**Sen. Dr. Armstrong:** Madam Chairman, am I to understand that clause 7 is being replaced with a new clause 7?

**Madam Chairman:** Yes.

**Sen. Ramlogan SC:** That is correct, Senator.

**Sen. Dr. Armstrong:** Okay. The point I wanted to raise is that there is still some concern where it says that “public official, authorized by the Cabinet, may enter into an agreement with a company (‘a service provider’) for the purposes of”. Do we want to have some sort of qualification there where we said “the company”? The concern I have is that this might be a company that was formed last month. Will you please qualify that in some way?

**Sen. Ramlogan SC:** Not in law. In substantive legislation, you would never do that.

**Sen. Dr. Armstrong:** You would not do that?

**Sen. Ramlogan SC:** Not really, no.

**Sen. Dr. Armstrong:** I am just concerned that—[*Interruption*]

**Sen. Ramlogan SC:** I understand the concern, but you would have to leave that to some measure of—[*Interruption*]

**Sen. Dr. Armstrong:** It could be a company formed two months ago.

**Sen. Ramlogan SC:** It may very well be; but it may be the top three executives from the leading electronic management company in the United States of America that decide to leave and form this company.

**Madam Chairman:** Especially as it is a new piece of legislation.

**Sen. Ramlogan SC:** Okay, let us move on.

**Sen. Dr. Armstrong:** Do you want to address it in the regulations?

**Sen. Ramlogan SC:** Probably. That might be an appropriate place to consider it.

*Question put and agreed to.*

*Clause 7, as amended, ordered to stand part of the Bill.*

*Clause 8.*

*Question proposed:* That clause 8 stand part of the Bill.

**Madam Chairman:** There is a typographical change from Sen. Prescott.

**Sen. Ramlogan SC:** Clause 8, typographical for “imprisonment”, we accept that. That is fine, but you do not need to put that. That is really a spelling—so you do not need to put that.

**Madam Chairman:** Well, he had it as an amendment so I will put it.

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*Clause 9 ordered to stand part of the Bill.*

*Clause 10.*

*Question proposed:* That clause 10 stand part of the Bill.

**Madam Chairman:** We have two sets of amendments.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 10 be amended as follows:

In subclause (7), delete the word “making” and substitute the word “awaiting”.

**Sen. Prescott SC:** Madam Chairman, in consultation with the Attorney General, he has proposed an approach that I think is acceptable, so that my recommendations for amendment to clause 10(1) and (2) are withdrawn.

*Amendment withdrawn.*

**Sen. Ramlogan SC:** Sen. Prescott SC, I think I made the notes on your draft, so you will have to call it out. “Doh play yuh getting away and escaping.”

**Sen. Prescott SC:** I cannot promise you that.

Subclause 10(2) is being amended to read as follows:

“The Court may”, insert the words “at any time”, “also impose electronic monitoring as a condition of—

(a) an order for bail;”

Delete the words “made under the Bail Act”; retain the word “of”.

That, we thought, would have been satisfactory.

**Madam Chairman:** Any change to (b)?

**Sen. Ramlogan SC:** No, everything remains as is. “We water it down nice.”

**Madam Chairman:** So, for *Hansard*, clause 10(2) now reads:

“The Court may, at any time, also impose electronic monitoring as a condition of:

(a) an order for bail; or

(b) a protection order made under section 5 of the Domestic Violence Act.”

**Sen. Dr. Armstrong:** There is just one other enquiry. With respect to 10(7), is that something in law where it says “while making the report of the EM Manager”? What does that mean really?

**Madam Chairman:** There is a change to that. It is “awaiting”, not “making”; “while awaiting”.

**Sen. Ramkhelawan:** Under subclause (6), I had raised the question—  
[*Interruption*]

**Madam Chairman:** This is 10?

**Sen. Ramkelawan:** Yes. Under 10(6), I had raised the question, if the owner of the premises where the person is supposed to be staying objects, what happens, is it that the person will then have to go into custody? I find that most inequitable. If somebody agrees to—[*Interruption*]

**Sen. Ramlogan SC:** It is not that they necessarily will go into custody. What will happen is what presently happens, which is that bail will be set and you can either meet it or not. If you meet the bail conditions, then you do not go into custody; if you cannot meet them, then you go.

**Sen. Ramkhelawan:** That is only in the situation where somebody is charged and not convicted.

**Sen. Ramlogan SC:** No. The whole concept of electronic tagging and monitoring only arises after you are charged. It does not arise before.

**Sen. Ramkhelawan:** No, no, no. I am speaking about another matter. If somebody is convicted, they have a choice for various convictions and the choice is: one, go to jail; or two, accept the bracelet. What I am saying is: here is a factor which is outside the court system where, if I am living at this apartment and the owner of the apartment says: “No, I am not going to allow these devices, what happens then?”

**Sen. Ramlogan SC:** What will normally happen is that, even now, before a magistrate releases you into the custody of someone who will take care of you and assume conduct—normally that person will have to come to court and say: “I, grandmother X, ah go take de bai; ah go take care of the bai; and he go be awright”. That is what is going to happen. You will have to find somebody who is willing to take the risk of keeping you with them and that they are agreeing and they are not objecting; or else the sentence may have to be altered. Other than that, you do not have a choice. The State cannot assume the obligation to find a place for you because the only place the State finds is jail and you cannot tag the man and put him in jail. “Whey yuh going to monitor he movements inside dey for?” That is the upshot of it. It is an interesting practical point, but one that bears no solution. Thanks for raising it. As I said, unless you can get someone.

**Sen. Prescott SC:** I do not think Sen. Ramkhelawan is satisfied with what you have just parleyed.

**Sen. Ramlogan SC:** What can we do? What are the options really?

**Sen. Prescott SC:** I was merely waiting. If he is satisfied, I will go forward.

**Sen. Ramlogan SC:** I think he understands the conundrum; the practical—  
[*Interruption*]

**Sen. Ramkhelawan:** I understand the conundrum, but, Sen. Prescott is right. I am not satisfied because what it introduces is a new level of inequity. If someone does not choose to take him in, or he finds a place where he can stay, it means that he is then, even though he agreed to receive the electronic monitoring, he now has no choice. He has to go back to being incarcerated at the pleasure of the State.

**Sen. Ramlogan SC:** That is where there is a famous quote, I think from *Maharaj v the Attorney General* in the Privy Council, which says that your entitlement under the Constitution is not a system that is infallible and perfect, but simply one that is fair. All we can do is to give the option to the judicial officer, who will take into account these matters. In a case like that, one may expect that the judicial officer may, for example, say: “Well, look, I will perhaps increase the amount of community sentencing ah giving yuh and alter some other aspects of the sentence; but there can be no—”

**Madam Chairman:** Clause 5 deals with that same thing. It says if “it is not practicable” and the last line says “and where such consent is not given, the court shall commit the person to custody.”

**Sen. Ramlogan SC:** You cannot do anything else. That is the policy position we have adopted. If there is no consent, then you cannot force it on them. So that is our position, Ma’am.

**Sen. Prescott SC:** Subclause 10(9), I am inclined to suggest that we should say:

“The Court shall explain to the person or respondent and, in the case of a person under the age of 16”—as opposed to child—“his parent or guardian.”

For obvious reasons, I think that a person of 16 to 18 does not need to have things explained to his parent or guardian.

**Sen. Ramlogan SC:** “child that is under 18”, but you want to reduce it to 16?

**Sen. Prescott SC:** That is why I said, rather than use the word “child”, which has a definition, that we say “a person under the age of 16”, in this clause.

**Sen. Ramlogan SC:** What do you mean? A person under the age of 17, the court will not have to explain it?

**Sen. Prescott SC:** No, it will be explained to that person.

**Sen. Ramlogan SC:** Oh, I see.

**Sen. Ramkhelawan:** Are we leaving—[*Interruption*]

**Sen. Ramlogan SC:** We are still on 10, Senator.

**Madam Chairman:** He is making a point on the age.

**Sen. Prescott SC:** Would everybody not be covered that way?

**Sen. Ramlogan SC:** The court will explain to the person or respondent; and, in the case of a child, meaning someone under 18; but that covers everyone, too.

**Sen. Prescott SC:** But one wants the court to explain to the person who is age 17 or 18 himself, not to his parent or guardian.

**Sen. Ramlogan SC:** Can we not say—bear in mind this would be done in his presence, most likely.

**Sen. Prescott SC:** Yes.

**Sen. Ramlogan SC:** So if we put in the words, “in his presence”, would that suffice?

**Sen. Prescott SC:** No. My thinking is that—[*Interruption*]

**Sen. Ramlogan SC:** It should speak to the person?

**Sen. Prescott SC:** Yes. We ought to pay cognizance to the fact that this person is of full age and understanding at age 17, and 18. It is minor, but it has a significant telling effect.

**Sen. Ramlogan SC:** The intention is not to deprive the person of that right to be spoken to and have it explained. We will go along with it.

**Sen. Prescott SC:** I am very blessed.

**Sen. Ramlogan SC:** Only to make you happy.

**Sen. Prescott SC:** Thank you. I suggest that it should now read:

“The Court shall explain to the person or respondent and, in case of a person under the age of 16, his parent or guardian, the meaning and effect of the decision as well as the effect of—”

**Sen. Ramlogan SC:** “in the case of an individual under the age of 16”.

**Sen. Prescott SC:** “individual”? Very well, Sir.

**Madam Chairman:** So leave out “his parent or guardian”?

**Sen. Prescott SC:** The definition section has:

“‘Person’ means an individual who is charged”;

I think we should stick with “person”.

**Sen. Ramlogan SC:** Okay, that is fine.

**12.45 a.m.**

**Sen. Prescott SC:** Most grateful to you, Chairman.

**Madam Chairman:** I will just read under 10(9).

“The Court shall explain to the person or respondent and in the case of a person under the age of 16, his parent or guardian the meaning and effect of the decision as well as the effect of noncompliance with it.”

Yes?

**Sen. Prescott SC:** Thank you.

**Sen. Ramkhelawan:** I wanted to raise a matter which was raised in the debate under 10(8). Under 10(8), the requirements of the EM director or manager—I suppose all of that would be changed as we go along—go beyond what is required in the Second Schedule. The part that I am concerned about; “and shall have regard to the character, antecedents, physical and mental health of the person or respondent.”

Now, the case was made that this is something that may be outside of the remit or capability of that director, some suggestions were made. One was that the person, the director or the unit should have access to support, to ensure this. But I think a measure that we might want to consider is to add after “shall have regard to”, we may put in “factors which may include”, because this is “shall”, and it requires the EM manager to do all of these things and I do—*[Interruption]*

**Sen. Ramlogan SC:** They do not want for this to be interpreted as an exhaustive list.

**Sen. Ramkhelawan:** Well, that is my suggestion.

**Sen. Ramlogan SC:** Well, we are in agreement with that. That makes sense. You can say “inter alia”, among other things or—*[Interruption]*

**Sen. Ramkhelawan:** Okay.

**Sen. Ramlogan SC:** Okay, “shall have regard to inter alia, the character” and so on. If you insert “inter alia” that is fine.

**Madam Chairman:** “Antecedents, physical”; leave out mental, right?

**Sen. Ramlogan SC:** No, no. You could leave out everything else. If you leave out mental “some ah we might not be here”.

**Sen. Ramkhelawan:** Hon. Attorney General, inter alia means among other things, and so that among other things that means these things and in addition too—[*Interruption*]

**Sen. Ramlogan SC:** “Yeah.”

**Sen. Ramkhelawan:** I was not going that route.

**Sen. Ramlogan SC:** You wanted to go the opposite to restrict it?

**Sen. Ramkhelawan:** I would say I was going the opposite route with factors which may include, but do not necessarily cover all of those things. You are adding to.

**Sen. Ramlogan SC:** When you say, “may include” that means it may include this, but it could include other things. We are saying the same thing.

**Sen. Ramkhelawan:** But it may exclude then. If it may include then it may exclude.

**Sen. Ramlogan SC:** Well, “yeah” that is true. But to exclude you have to have it within contemplation.

**Sen. Ramkhelawan:** You saying, “these things having regard to all of these things”. When you say inter alia, it means these and among other things.

**Sen. Ramlogan SC:** What I am saying is this; I do not think that it would be proper for us to legislate here what the manager should have regard to in an exhaustive way, because there are always permutations that occur on the ground that the man may have to have regard to that we cannot think of here.

**Sen. Ramkhelawan:** And you want to have “shall have regard to”?

**Sen. Ramlogan SC:** No. I want to take off “shall”. I thought you were making a good point. That is why I said—and leave out the “may”.

**Sen. Ramkhelawan:** Okay.

**Sen. Prescott SC:** Madam Chair, may I introduce a whole new approach to this subsection?

**Hon. Senator:** Yes.

**Sen. Prescott SC:** I think if you read (8) again, it might suggest to you that the operative word is “the court”. In making a decision under this section “the Court shall take into account and shall have regard”. It is the court that shall have regard. Does the exchange that has just taken place between you change now that I have introduced this approach?

**Sen. Ramlogan SC:** The Senator's concern is the use of the word "shall".

**Sen. Prescott SC:** "The Court shall have regard"?

**Sen. Ramlogan SC:** What he is saying is that the concern is, that the word "shall", I do not know it is exhaustive; in other words, does it preclude the court from having regard to other relevant considerations?

**Sen. Prescott SC:** No.

**Sen. Ramlogan SC:** Well, once the Senator is happy with that, I am happy with it.

**Hon. Senator:** No, no, no.

**Sen. Ramkhelawan:** I am thinking that the wording speaks, in the first part, to the court and then in the second part to the EM manager.

**Sen. Ramlogan SC:** No!

**Sen. Prescott SC:** That is how I thought Sen. Ramkhelawan was putting it. So I am seeking to correct that because I have a different—[*Interruption*]

**Sen. Ramlogan SC:** That is not how I read it.

**Sen. Prescott SC:** It is "the Court that shall have regard".

**Sen. Ramlogan SC:** "Yeah."

**Sen. Ramkhelawan:** Let us have your word SC so that you could get it clear.

**Madam Chairman:** Senior Counsel if I may? I am looking at "the Court shall take into account the report of the Director which shall be prepared in accordance with..."

**Sen. Prescott SC:** With the Second Schedule?

**Madam Chairman:** "...and may have regard..." So it is the report of the director which regards that—[*Crosstalk*]

**Sen. Prescott SC:** I did not think so. I think the Second Schedule is clear.

**Sen. Ramlogan SC:** Yes.

**Sen. Prescott SC:** The manager shall—

**Sen. Ramkhelawan:** The Second Schedule is clear, but beyond the wording after Second Schedule, the Second Schedule does not take into account the matters of character, antecedents, physical and mental health—it stops.

**Sen. Prescott SC:** Sorry. What I had intended to suggest to us is that if we are inclined to put in things like character, antecedents, et cetera, we should include them in the Second Schedule. I think that to me it clearly speaks to who shall have regard. It could not be the report. Read in the way that is now being suggested it says, “the Manager shall be prepared”—[*Interruption*] Sorry, may I go ahead?

**Sen. Ramkhelawan:** Yes, please.

**Sen. Prescott SC:** If you read it in the way that it is being suggested, what it says is; “the report of the Manager shall be prepared in accordance with the Second Schedule and the report shall have regard to the character”. That could not be what it means. It means instead, I am suggesting, that “the Court shall take into account the report”, it is done in accordance with the Second Schedule and the court shall have regard to the character, antecedents, et cetera.

**Sen. Ramlogan SC:** That is how I read it.

**Sen. Ramkhelawan:** I think we should clean it up; “and the Court”.

**Sen. Prescott SC:** If you wish to include those things in the Second Schedule you may do so, otherwise you will make the electronic manager some kind of judge and I do not think you want to. Thank you.

**Sen. Ramlogan SC:** After “and” we repeat “the Court”.

**Sen. Prescott SC:** That will help everybody who does not quite grasp it the way I have.

**Sen. Ramlogan SC:** Well, “ah tryin” to help people right now because it is 12.51.00. [*Laughter*] So right now “I go put de court four time.”

“In making a decision on this section, the Court shall take into account the report of the Director which shall be prepared in accordance with the Second Schedule and the Court shall have regard...”

“Yuh happy?”

**Madam Chairman:** “In making a decision under this section, the Court shall take into account the report of the director which shall be prepared in accordance with the Second Schedule and the Court shall have regard to the character, antecedents, physical and mental health of the person or respondent to any extenuating circumstances in which any offence was committed and to the possible threat to public safety caused by his release.”

**Sen. Ramkhelawan:** Yes. That is clearer.

**Sen. Ramlogan SC:** Chair, in subclause (9) I just want the wording correct.

“The Court shall explain to a person over the age 16 years or respondent and in the case of a person under 16 years, his parent or guardian.”

**Madam Chairman:** Okay, listen to how it reads. You know if it sounds—I think there is something still. “the court shall explain to a person over the age of 16 or respondent and in the case of a person under the age of 16, his parent or guardian...” Yes?

**Sen. Ramlogan SC:** Yes, that is fine. Let us move on.

*Question put and agreed to.*

*Clause 10, as amended, ordered to stand part of the Bill.*

*Clause 11 ordered to stand part of the Bill.*

*Clause 12.*

*Question proposed:* That clause 12 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 12 be amended as follows:

In subclause (6), by deleting the words “Sections 13, 14 and 15” and substituting the words “Sections 14, 15 and 16.”

**Sen. Dr. Balgobin:** Madam Chairman, could I just ask whether 12(4) would be treated the same as 10(8)?

**Sen. Ramkhelawan:** Yes.

**Madam Chairman:** Yes.

**Sen. Ramlogan SC:** Yes. Chair, there is a circulated amendment which Sen. Prescott and I had a look at and we wanted to tweak with. The circulated amendment to clause 12 is to insert after clause 12 a new clause 13 which reads on the proposed amendment “an individual for whose favour or benefit and electronic monitoring device has been imposed by the Court”, et cetera.

Now, this insertion really is to take on board a point made during the course of the debate I believe by Sen. Baptiste-Mc Knight and Sen. Drayton, and that you cannot really monitor if the tagged person is going to the victim of the crime to attack them or if they are going to wipe out a witness, as the case may be. So that what we wanted is that any person other than the defendant can make an application to volunteer to be tagged.

So if, for example, I witnessed a crime and I fear that the person they are tagging could come at me I could ask that I be tagged so that they can monitor when that person is coming at me, you see; or the wife, for example, in the husband domestic violence case. So what we want to tweak with it, Sen. Prescott, we say any individual can apply to the court. It is on the circulated amended draft at the bottom of page 2. *[Interruption]* “Yeah, we coming to that.” So it will then say “any individual can apply”—and if we take off “yeah” may. “Any individual may apply”—and we delete “for whose favour or benefit an electronic monitoring device has been imposed”, delete that phrase. Are you with me?

**Madam Chairman:** No.

**Sen. Ramlogan SC:** Okay. Clause 13 reads at the moment “an individual for whom”. Are you seeing that?

**Madam Chairman:** For whose favour or benefit?

**Sen. Ramlogan SC:** That is correct.

**Madam Chairman:** Right.

**Sen. Ramlogan SC:** We are changing “an” to the word “any”. You are adding a “y”.

**Madam Chairman:** “any individual”.

**Sen. Ramlogan SC:** Right, “comma”. And you just delete from the word “for” to “imposed”.

**Sen. Prescott SC:** In 12?

**Madam Chairman:** Okay.

**Sen. Ramlogan SC:** Straight down to 12; “for” until the number “12”. So from the “for whose benefit or favour an electronic monitoring device has been imposed by the Court under sections 10, 11 and 12”, we are deleting all of that. It will now read “any individual may apply to the Court on the prescribed form and subject to the criteria prescribed in regulations to have a device fitted on him”.

**Madam Chairman:** Capital F-O-R-M, and not from?

**Sen. Ramlogan SC:** Yes, that is fine, “form”, yes.

**Madam Chairman:** “and subject to criteria prescribed in regulations to have such a device fitted on him.”

**Sen. Ramlogan SC:** “Yep!” We also want to include at subclause (3)—we do not need a separate subclause, it is just any individual. It covers both offender and any other person.

**Madam Chairman:** We did not do 12 as yet that was just a question.

*Question put and agreed to.*

*Clause 12, amended, ordered to stand part of the Bill.*

**Sen. Drayton:** Sorry, could I? The application where anybody could apply, is that an oral application or is that—*[Interruption]*

**Sen. Ramlogan SC:** No, it is a prescribed form.

**Sen. Drayton:** Will that be part of the schedule?

**Sen. Ramlogan SC:** Regulations, that is correct.

**Sen. Drayton:** Okay.

*Clause 13.*

*Question proposed: That Clause 13 stand part of the Bill.*

**Sen. Ramlogan SC:** Madam Chair, I beg to move that clause 13 be amended as follows:

In paragraph (b), delete the words “section 8” and substitute the words “section 9”.

**1.00 a.m.**

*Clause 14.*

*Question proposed: That clause 14 stand part of the Bill.*

**Sen. Ramlogan SC:** I want to include a 14(2) which will now read:

“Where the Court is of the view that an applicant under section 13 has the financial capability to pay either the total cost of the use of the device or any part thereof, it may require total or partial payment as the case may be.”

**Sen. Drayton:** If I may, Madam Chairman—*[Interruption]*

**Madam Chairman:** One second.

**Sen. Ramlogan SC:** Madam Chairman, upon reflection, looking at clause 14 as it is, I do not think that we need that subclause. I was trying to cater for the person who makes the application other than the defendant, but the way 14 is drafted it says:

“Where the Court having considered the report of the Director is of the view a person that—“a person, a respondent...”

I think we may need to put a (d); (a), (b), (c) (d); “(d) an applicant under section 13.” We will put in a “14(d)” which read as follows:

“An applicant under section 13” and that will cover it.

**Madam Chairman:** The clauses will have to be the same way as in the Bill, and we will have to insert after, and then renumber. So this will still be 14.

**Sen. Ramlogan SC:** Sure.

**Madam Chairman:** So this will insert a “(d)”.

**Sen. Ramlogan SC:** That is correct.

**Sen. Prescott SC:** The new subclause should say clause 12.

**Sen. Ramlogan SC:** I am on payment for the use of the device.

**Sen. Prescott SC:** In clause 14?

**Sen. Ramlogan SC:** Yes.

**Sen. Prescott SC:** And you wanted to include a new (d).

**Sen. Ramlogan SC:** We wanted to include a new (d).

**Sen. Prescott SC:** To refer to the applicant under section 12?

**Sen. Ramlogan SC:** Yes.

**Sen. Prescott SC:** Well, I thought you had said 13.

**Sen. Ramlogan SC:** It is 12 or 13 whichever the renumbered version will be.

**Sen. Prescott SC:** Was it 12 or 13? I do not remember the number.

**Sen. Ramlogan SC:** It is 13.

**Sen. Prescott SC:** New clause 13, thanks.

**Sen. Ramlogan SC:** If not, they will treat that as a typo and clear it up.

**Madam Chairman:** Could you just read out the final (d)?

**Sen. Ramlogan SC:** We would simply say: “an applicant under section 13”. That is all.

**Sen. Prescott SC:** What is the value of the words “as the case may be” at the end there?

**Sen. Ramlogan SC:** Senator, it is totally superfluous. We could take it off; it is bad.

*Question put and agreed to.*

*Clause 14, as amended, ordered to stand part of the Bill.*

*Clause 15.*

*Question proposed:* That clause 15 stand part of the Bill.

**Sen. Prescott SC:** I have a query under clause 15. In 15(2), the use of the word “related” baffles me. In 15(1) it speaks of a decision made by the court containing directives as to time and place where the device should be worn and then subclause (2) says:

“The decision may also impose any other terms related to subsection (1)...”

It may well mean related to time, place and prohibited area. So that my recommendation is that it should say that: “The decision may also impose any other terms related to time, place or prohibited area where the device should be worn.” The word “related” in subsection (1) seems too broad and does not quite capture what is meant by it; that is the observation.

**Sen. Ramlogan SC:** Sorry, Sen. Prescott, I was actually conferring with the—  
[*Interruption*]

**Sen. Prescott SC:** I could repeat it.

**Sen. Ramlogan SC:** Sorry, I missed you there.

**Sen. Prescott SC:** I am saying that the way subclause (2) is worded, the use of the words “related to” I think is too broad. It does not quite capture what is meant by this thing. It should say instead: “The decision may also impose...”

**Sen. Ramlogan SC:** Well, if we delete “related to subsection (1)”.

**Sen. Prescott SC:** And say, “any other terms as to time....”

**Sen. Ramlogan SC:** “as contained in the regulations”?

**Sen. Prescott SC:** No, “any other terms as to time, place and prohibited areas where the device shall be worn” something like that or “and to areas where the device shall be worn.”

**Sen. Ramlogan SC:** I am very wary about restricting by putting—  
[*Interruption*]

**Sen. Prescott SC:** By putting specific?

**Sen. Ramlogan SC:** Yes. You see, it fetters discretion and we cannot foresee all the possible circumstances that may confront a judicial officer. That is why I was going to suggest: “The decision may also impose any other terms as contained in the regulations”. I was going to expand rather than restrict, you see, because this is the decision of the court.

**Sen. Prescott SC:** Yes.

**Sen. Ramlogan SC:** And I am very reluctant.

**Sen. Prescott SC:** So, could we just say, “or such other terms as the Court sees fit.”

**Sen. Ramlogan SC:** I think that will be fit, yes. “The decision may also impose any such other terms as the Court deems fit.”

**Sen. Prescott SC:** Yes, I prefer that.

**Sen. Ramlogan SC:** Yes, I am happy with that.

**Madam Chairman:** The new subclause (2) will read: “The Court may also impose any other term as it deems fit.”

**Sen. Ramlogan SC:** That is much better. Thank you, Sen. Prescott.

*Question put and agreed to.*

*Clause 15, as amended, ordered to stand part of the Bill.*

*Clause 16.*

*Question proposed:* That clause 16 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 16 be amended as follows:

Delete subclause (2) and substitute the following subclause:

“(2) In this section, ‘tampering’ means anything which interferes with or is capable of interfering with the proper functioning of the device or which disrupts or is capable of disrupting the transmission of the monitoring signal of the device to the Unit.”

*Question put and agreed to.*

*Clause 16, as amended, ordered to stand part of the Bill.*

*Clause 17 ordered to stand part of the Bill.*

*Clause 18.*

*Question proposed:* That clause 18 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 18 be amended as follows:

In subclause (3), delete the words “section 17” and “section 19” and substitute the words “section 18” and “section 20” respectively.

*Question put and agreed to.*

*Clause 18, as amended, ordered to stand part of the Bill.*

*Clause 19.*

*Question proposed,* That clause 19 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 19 be amended as follows:

In subclause (1), delete the words “section 17(3)” and substitute the words “section 18(3)”.

*Question put and agreed to.*

*Clause 19, as amended, ordered to stand part of the Bill.*

*Clause 20.*

*Question proposed:* That clause 20 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 20 be amended as follows:

Delete the words “section 19(2)”, “section 17” and “section 16” and substitute the words “section 20(2)”, “section 18” and “section 17”, respectively.

*Question put and agreed to.*

*Clause 20, as amended, ordered to stand part of the Bill.*

*Clauses 21 and 22 ordered to stand part of the Bill.*

*Clause 23.*

*Question proposed:* That clause 23 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that clause 23 be amended as follows:

In subclause (1)—

- (i) in paragraph (b), delete the words “section 15” and substitute the words “section 16”; and
- (ii) in paragraph (c), delete the words “section 19(2)” and substitute the words “section 20(2)”.

*Question put and agreed to.*

*Clause 23, as amended, ordered to stand part of the Bill.*

*Clauses 24 and 25 ordered to stand part of the Bill.*

*New Clause 13.*

**Sen. Ramlogan SC:** Madam Chairman, I propose a new clause 13 which reads as follows:

A. Insert after clause 12, the following new clause:

Electronic monitoring

By applicant

- (1) An individual, for whose favour or benefit an electronic monitoring device has been imposed by the Court under sections 10, 11 or 12, may apply to the Court on the prescribed form and subject to criteria prescribed in regulations to have such a device fitted on him.
- (2) Before granting approval for the use of the device, the Court shall explain to the applicant the purpose and use of such a device as well as his responsibilities under the Act.”

*New clause 13 read the first time.*

*Question proposed:* That the new clause be read a second time.

*Question put and agreed to.*

*Question proposed:* That the new clause be added to the Bill.

*Question put and agreed to.*

*New clause 13 added to the Bill.*

*New clause 24.*

**Sen. Ramlogan SC:** Madam Chairman, I propose a new clause 24 which reads as follows:

A. Insert after clause 22, (clause 23 as renumbered), the following new clause:

“Offence of Duplication

24. An individual who makes, copies or in any way duplicates an electronic monitoring device commits an offence and is liable on summary conviction to a fine of twenty five thousand dollars and imprisonment for one year.”

*New clause 24 read the first time.*

*Question proposed:* That the new clause be read a second time.

*Question put and agreed to.*

*Question proposed:* That the new clause be added to the Bill.

*Question put and agreed to.*

*New clause 24 added to the Bill.*

*Renumber clauses accordingly.*

*Clause 10 recommitted.*

*Question again proposed:* That clause 10 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, before we go to the schedule, at 10(5) there is a minor change that escaped me. At clause 10(5)(a) and (b) we want to change the word “shall” to “may”. “Before making a decision under—(a) subsection (1) or (2), the Court may request. Actually no, for (b) you have to leave it as “shall”, it is only (a). That is all.

*Question put and agreed to.*

*Clause 10, as amended, again ordered to stand part of the Bill.*

### **1.15 a.m.**

*First Schedule.*

*Question proposed:* That the First Schedule stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that the First Schedule be amended as follows:

- A. Delete item 4.
- B. Renumber items accordingly.

*Question put and agreed to.*

*First Schedule, as amended, ordered to stand part of the Bill.*

*Second Schedule.*

*Question proposed:* That the Second Schedule stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that the Second Schedule be amended as follows:

- A. Delete the words “shall be” and substitute “may include”.
- B. Delete the words “EM Manager”, wherever they occur and substitute the word “Director”.

**Sen. Prescott SC:** Madam Chair, I beg to move that the Second Schedule be amended as follows:

Delete subclause (c) and replace with:

“(c) all telephone contacts and information on the capacity of the land line of the person or respondent or, in the case of a child, the parent or guardian of the child to accommodate the electronic monitoring device;”

Chair, I do have a further suggestion for an amendment to the Second Schedule, apart from what I have set out in writing. I should like us to add the following:

“Criminal record” or “the history of criminal behaviour”

**Sen. Ramlogan SC:** What do you want to add, an “(m)”?

**Sen. Prescott SC:** We could go to “(m)”, yes.

**Sen. Ramlogan SC:** We could go to “(m)”, that is fine, at the end to put an “(m)”.

**Sen. Prescott SC:** So I am really saying:

“The history of criminal behaviour of the person,” “the criminal background of the person or respondent”, and then secondly, “any known history of threats to public safety from that person.”

This is because in the body of the Bill we have spoken of threats to public safety being a good reason for—*[Interruption]*

**Sen. Dr. Balgobin:** Senior Counsel, if I may intervene here. My interpretation was just a philosophical shade different, in that, I felt the report should state why they are a threat. If you are submitting a report on a person, why is this person a threat?

**Sen. Prescott SC:** Fair enough.

**Sen. Dr. Balgobin:** As opposed to why they might have been a threat at some other previous time.

**Sen. Ramlogan SC:** What is the final wording?

**Sen. Prescott SC:** Of that second one? It was reasons why the person or respondent is considered to be a threat to public safety. If I may just repeat; there are two things: the first is the criminal background of the person or respondent, and two, reasons why the person or respondent is considered to be a threat to public safety.

**Sen. Dr. Balgobin:** Is it public safety or just a threat?

**Sen. Prescott SC:** No, public safety. The Bill was using public safety. Do you want something different?

**Sen. Dr. Balgobin:** For example, the Domestic Violence Act.

**Sen. Ramlogan SC:** Sen. Prescott, may I just enquire whether we could solve this? Again, this is a situation where we are trying to make up an exhaustive list. We are thinking about one thing in addition to what you drafted, and tomorrow we will think of another. Can we not go back to the beginning of the Second Schedule where it says, "The information which the Director shall supply to the Court shall be" and just say "may include"? That would solve it. We do not need to put anything else, because there may be other things we cannot think of.

**Sen. Dr. Balgobin:** That is fine. May I ask a question of you, Attorney General? Have we passed the First Schedule?

**Sen. Ramlogan SC:** Yes, we have.

**Sen. Dr. Balgobin:** And you have left the sexual offences and so on in there?

**Sen. Ramlogan SC:** Yes.

**Sen. Dr. Balgobin:** You took it out? Item 4 you took out, right?

**Sen. Ramlogan SC:** Yes. Second Schedule, Ma'am, the change is:

"The information which the Director shall supply to the Court..." may include or will include, Sen. Prescott SC?

**Sen. Prescott SC:** May.

**Sen. Ramlogan SC:** "may include"; not "shall be" but "may include".

**Madam Chairman:** You had a new (c)—

**Sen. Ramlogan SC:** We are not going to add to the Schedule. The change will take care of everything else, because that would be an obvious thing that they would have to put in the report, if it applies.

**Mr. Chairman:** So the question is that the Second Schedule be amended by replacing the word “shall” to “may include”, and then the list goes on.

**Sen. Prescott SC:** There is a circulated amendment as well.

*Question put and agreed to.*

*Second Schedule, as amended, ordered to stand part of the Bill.*

*Third Schedule.*

*Question proposed:* That the Third Schedule stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, I beg to move that the Third Schedule be amended as follows:

- A. Delete the words “Section 24” and substitute the words “section 26”
- B. In the proposed amendment to the Bail Act—
  - (i) in the proposed section 12(3D)(2), delete the words “section 23” and substitute the words “section 25”; and
  - (ii) in the proposed section 12(3E), delete the words “track or supervise a person” and substitute the words “assist in the supervision of an individual”.

Delete the words “EM Manager” and “Deputy EM Manager” wherever they occur and substitute the word “Director” and Deputy Director” respectively.

*Question put and agreed to.*

*Third Schedule, as amended, ordered to stand part of the Bill.*

*Preamble approved.*

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

*Senate resumed.*

*Bill reported, with amendment.*

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

**Madam Vice-President:** This Bill requires a three-fifths majority.

*The Senate divided: Ayes 22 Noes 6*

AYES

George, Hon. E.

Ramlogan SC, Hon. A.

Sandy, Hon. Brig. J.

Bharath, Hon. V.

Tewarie, Hon. Dr. B.

Ramnarine, Hon. K.

Maharaj, Hon. D.

Moheni, Hon. E.

Dyer-Griffith, Mrs. N.

Abdulah, D.

Maharaj, D.

Baynes, T.

Mohammed, J.

Sylvester, D.

St. Rose Greaves, Hon. V.

Ramkhelawan, S.

Drayton, Mrs. H.

Balgobin, Dr. R.

Ramkissoon, Prof. H.

Prescott SC, E.

Armstrong, Dr. J.

Sydney, A.

NOES

Beckles, Miss P.

Hinds, F.

Henry, Dr. L.

Cudjoe, Miss S.

Al-Rawi, F.

Deyalsingh, T.

*Question agreed to. [Desk thumping]*

*Bill accordingly read the third time and passed.*

**SEN. TERANCE BAYNES  
(APOLOGY)**

**Sen. Terance Baynes:** Madam Vice-President, earlier on in the sitting tonight, I took a photo of Sen. Hinds. *[Interruption]*

**Madam Vice-President:** Just for the clarification of the Senate, Sen. Baynes did request to make a personal statement to which leave has been granted.

**Sen. T. Baynes:** Madam President, I did, in fact, speak to Sen. Hinds in relation to my—*[Interruption]*

**Hon. Senator:** Do not worry with that!

**Sen. Al-Rawi:** Do not worry with that! *[Crosstalk]*

**ADJOURNMENT**

**The Minister of Public Utilities (Sen. The Hon. Emmanuel George):** Madam Vice-President, I would like to take the opportunity, at this late hour in the morning, to thank all the Independent Senators who, via their valuable contributions to this debate, have allowed this Senate to come to a determination on this Bill, that is a reflection of what all of us would want to see in a Bill of this type.

I want to also thank all the Senators of the Government Benches who have sat out this long debate with us tonight. I would like to particularly thank our visitor, Justice Volney, the Minister of Justice, who celebrates his birthday today. *[Desk thumping]* He celebrated his birthday and spent it with us.

I also want to thank the Senators of the Opposition, and although I mention them last, they are certainly not least, for their input tonight. Although they opposed the Bill, I know that deep in their hearts they really supported it. *[Laughter]*

Finally, Madam Vice-President, I beg to move that this Senate do not adjourn to a date to be fixed.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 1.28 a.m.*

## WRITTEN ANSWER TO QUESTION

**Traffic Offences 2005—2012  
(Moneys Collected)**

87. Could the hon. Minister of National Security indicate to the Senate the amount of moneys collected for traffic offences for the years 2005—2012?

**The Minister of National Security (Sen. The Hon. E. George):** According to information received from the Judiciary of Trinidad and Tobago, for the calendar years 2005-2011 a total of \$102,160,790.00, was collected by the Magisterial Districts and District Revenue Offices for traffic offences. It should be noted that this figure does not include monies collected by Magistrates' Court in San Fernando and Tobago for the period January 01, 2007-May 31, 2008 as that data is not available at present. Data relating to calendar year 2012 has not been finalized.

The table below provides a breakdown by year, revenue generated for traffic offences for the years 2005 to 2011:

<b>Calendar Year (s)</b>	<b>Revenue Generated</b>
2005	\$6,949,590.00
2006	\$6,563,561.00
2007	\$5,714,540.00
2008	\$7,401,391.00
2009	\$8,565,182.00
2010	\$28,624,560.00
2011	\$38,341,966.00
<b>TOTAL</b>	<b>\$102,160,790.00</b>

As illustrated in the Table above, there was a notable increase in the revenue generated for the period 2010-2011. In 2007, the Motor Vehicle and Road Traffic (Amendment) Act was passed which provided for Breathalyser testing by law enforcement officers to detect persons driving under the influence of alcohol, as well as increase the fine associated with this offence. Further, in 2010, the Motor Vehicle and Road Traffic (Miscellaneous Provisions) Act was passed which significantly increased the penalties related to traffic violations. As a consequence, the adoption of a zero tolerance approach by the Trinidad and Tobago Police Service in the enforcement of these laws has resulted in a substantial increase in the revenue generated.