



REPUBLIC OF TRINIDAD AND TOBAGO

# Debates of the House of Representatives

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3rd Session – 10th Parliament (Rep.) – Volume 14 – Number 3

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**OFFICIAL REPORT  
(HANSARD)**

THE HONOURABLE WADE MARK  
SPEAKER

THE HONOURABLE NELA KHAN  
DEPUTY SPEAKER

**Wednesday 12th September, 2012**

**CLERK OF THE HOUSE: JACQUI SAMPSON–MEIGUEL**

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*Leave of Absence*

*Wednesday, September 12, 2012*

**HOUSE OF REPRESENTATIVES**

*Wednesday, September 12, 2012*

The House met at 1.30 p.m.

**The Clerk:** Hon. Members, under Standing Order 5, I am to advise that the Speaker is unavoidably absent and, as such, the Deputy Speaker would be presiding.

**PRAYERS**

[Madam Deputy Speaker *in the Chair*]

**LEAVE OF ABSENCE**

**Madam Deputy Speaker:** Hon. Members, I have received the following communication, that the hon. Errol Mc Leod, Member of Parliament for Pointe-a-Pierre; hon. Stephen Cadiz, Member of Parliament for Chaguanas East; and Dr. Amery Browne, Member of Parliament for Diego Martin Central, are currently out of the country and have asked to be excused from today's sitting of the House. Mrs. Joanne Thomas, Member of Parliament for St. Ann's East, has also asked to be excused from today's sitting of the House. The leave the Members seek is granted.

**PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Arima Corporation for the year ended September 30, 2004. [*The Minister of Housing, Land and Marine Affairs (Hon. Dr. Roodal Moonilal)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the College of Science, Technology and Applied Arts of Trinidad and Tobago for the year ended September 30, 2005. [*Hon. Dr. R. Moonilal*]  
*Papers 1—2 to be referred to the Public Accounts Committee*
3. Audited Financial Statements of the National Information and Communication Technology Company Limited for the financial year ended September 30, 2011. [*Hon. Dr. R. Moonilal*]
4. Consolidated Financial Statements of the Petroleum Company of Trinidad and Tobago Limited for the year ending September 30, 2011. [*Hon. Dr. R. Moonilal*]
5. Annual Audited Financial Statements of the National Helicopter Services Limited for the year ended September 30, 2010. [*Hon. Dr. R. Moonilal*]

*Papers Laid*

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6. Annual Audited Financial Statements of the National Helicopter Services Limited for the year ended September 30, 2011. [*Hon. Dr. R. Moonilal*]  
*Papers 3—6 to be referred to the Public Accounts [Enterprises] Committee*
7. Administrative Report of the Evolving TecKnologies and Enterprise Development Company Limited (e TecK) for the fiscal year 2011. [*Hon. Dr. R. Moonilal*]
8. Annual Performance Report 2009-2010 of the Trinidad and Tobago Bureau of Standards and its subsidiary, Premier Quality Services Limited, for the year ended September 30, 2010. [*Hon. Dr. R. Moonilal*]

**JOINT SELECT COMMITTEE REPORTS  
(Presentation)**

**Tobago Regional Health Authority**

**The Minister of Arts and Multiculturalism (Hon. Dr. Lincoln Douglas):**  
Madam Deputy Speaker, I wish to present the following reports:

Fifth Report of the Joint Select Committee established to enquire into and report to Parliament on Ministries (Group 2), and on the Statutory Authorities and State Enterprises falling under their purview on the Tobago Regional Health Authority (TRHA).

**East Port of Spain Development Company Limited**

Sixth Report of the Joint Select Committee established to enquire into and report to Parliament on Ministries (Group 2), Statutory Authorities and State Enterprises falling under their purview on the East Port of Spain Development Company Limited (EPOSDC).

**PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE REPORT  
(Presentation)**

**Caribbean New Media Group**

**Mrs. Paula Gopee-Scoon** (*Point Fortin*): Madam Deputy Speaker, I wish to present the following report:

First Report of the Public Accounts (Enterprises) Committee on the Caribbean New Media Group (CNMG) Limited (Examination of the Audited Financial Statements for the year ended December 31, 2008).

**ADMINISTRATION OF JUSTICE**

**(INDICTABLE PROCEEDINGS) (AMDT.) BILL, 2012**

Bill to amend the Administration of Justice (Indictable Proceedings) Act, 2011 [*The Attorney General*]; read the first time.

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*Motion made:* That the next stage be taken at a later stage in the proceedings.  
[Hon. Dr. R. Moonilal]

*Question put and agreed to.*

**STATEMENT BY MINISTER**

**Budget Date**

**The Prime Minister (Hon. Kamla Persad-Bissessar SC):** Madam Deputy Speaker, I wish to advise that in consultation with the hon. Minister of Finance and the Economy that Monday, October 01, will be budget day in this House.

**Madam Deputy Speaker:** Hon. Members, this sitting is now suspended for a further 15 minutes, until 1.45. [Interruption]

**1.39 p.m.:** *Sitting suspended.*

**1.45 p.m.:** *Sitting resumed.*

**ADMINISTRATION OF JUSTICE  
(INDICTABLE PROCEEDINGS) (AMDT.) BILL, 2012**

*Order for second reading read.*

**The Attorney General (Sen. The Hon. Anand Ramlogan):** Madam Deputy Speaker, I beg to move:

That a Bill to amend the Administration of Justice (Indictable Proceedings) Bill, 2011, be now read a second time.

This Bill seeks to repeal section 34 of the Administration of Justice (Indictable Proceedings) Act, 2011, Act No. 20 of 2011, which provides for the discharge of accused persons on the grounds of delay. This particular Bill has a unique history in Trinidad and Tobago, Ma'am. The issue of the endemic backlog in the criminal justice system is not new. It has been a plague on the justice system and a blot on the administration of justice for quite some time.

**1.50 p.m.**

That is why, Madam Deputy Speaker, the People's Partnership in its manifesto flagged it early on as a matter that needed urgent attention, and permit me to quote from the manifesto. It says:

"...to transform the society to create a just and fair environment. We recognise that lawlessness and disorder contribute to the atmosphere in which criminal activity thrives and we will address this challenge head on. But we will also focus on addressing social issues which nurture an environment where crime tends to flourish. We will rethink the prison system, reorganize the justice system and make interventions of a proactive and preventative nature."

I pause here to highlight the manifesto pledge to reorganize the justice system.

Only recently, Madam Deputy Speaker, we saw how the backlog manifests itself in justice being almost absurd when it is delivered. I read a newspaper report on Friday, November 25, 2011 and that newspaper report, Ma'am, dealt with the case of a young man by the name of Curtis Taylor. Curtis Taylor on November 24 was convicted of robbery in 2011, but that robbery for which he was convicted occurred 27 years ago—27 years ago, and at the time, he was 18 years of age. Our criminal justice system took over two decades to try a young man 18 years of age, and that was because it has to go through the preliminary enquiry, and then you have to wait, as the accused person, until the matter can be tried before a judge and jury.

The statistics, Madam Deputy Speaker, which we see from the annual report by the Judiciary, reveals that there has been a steady increase in the volume of cases.

In 2005/2006, the Magistrates' Court caseload statistics indicated 69,510 cases; for 2006/2007, 70,769 cases; 2007/2008, it jumped by 4,000 to 74,238.

Interestingly, in 2008/2009, the figure went up by almost 15,000 to 16,000—it jumped to 90,437. Now, this is a mixture, a basket of cases, referring to capital, non-capital, family, domestic violence, traffic, petty civil, ejection, private summary. The Magistrates' Court does the bulk of all the work in the justice system, and it is creaking beneath the sheer weight of the volume of cases.

From 90,000, in 2009 it went to 89,416; and in 2010 to 2011, this country passed a psychological landmark with respect to cases before the Magistracy. For the first time in the country's history, we crossed 100,000 cases pending in the Magistrates' Court. The figure is 104,155.

**Hon. Member:** How much?

**Sen. The Hon. A. Ramlogan SC:** One hundred and four thousand, one hundred and fifty-five; over 100,000 cases—2010/2011—that is a mixture, a basket of matters. So, that was the state of play that confronted the People's Partnership when it assumed office.

I think it is against that backdrop, Madam Deputy Speaker, that this Bill came to this House, and I deliberately started with that preamble to let us get a feel for the landscape, let us get a feel for where the criminal justice system was and is. The Magistracy cannot cope with 100,000 cases.

That is why when the Bill came to the Parliament, almost every single Member who spoke lauded it, praised it, and saw it as a revolutionary legislative intervention that was necessary and long overdue.



In fact, the fact that it took over a decade to bring a Bill before the Parliament to abolish preliminary enquiries, in itself, underscores how complex the problem is in the Magistracy; but for eight years under the former administration, whilst they spoke about it, they did not bring such a Bill.

**Mr. Sharma:** As usual.

**Mr. Indarsingh:** Always. [*Crosstalk*]

**Sen. The Hon. A. Ramlogan SC:** Mind you, when the Bill came, I think no heavy weather was made of that fact, because one understood that a Bill like this perhaps could not have come with the kind of teeth that is necessary, because you needed to have a constitutional majority to pass such a Bill. In other words, regardless of who was in Government, to bring that Bill for it to have any substance, meaning and effect, you needed a constitutional majority to pass such a Bill.

That is why when this Bill came, the Bill itself flagged immediately the fact that it required a special majority because it is a Bill that is inconsistent with sections 4 and 5 of the Constitution, and therefore, required a special majority. That meant that the Government brought a Bill which required a special majority, and had to treat with it in a particular manner.

That is why it was against that backdrop, where, in a common recognition of the problem that afflicts the criminal justice system, there was a bipartisan approach to the Bill. It was one of those rare occasions when the Parliament demonstrated a sense of political maturity about the issue under debate.

In fact, permit me to quote the hon. Leader of the Opposition, the Member for Diego Martin West, during his contribution on this important legislation. He cited the statistics which were quoted by the Member for Port of Spain South, and he said:

“...those are minimum numbers we are looking at and, therefore, some citizens might be wrong and might take the position, look, given how the courts are functioning; given the length of time to get justice; and given the cost of justice, I might as well not bother. I might suffer the hurt and the injustice...It is against that background that I am saying that if we implement a system of reduction or removal of the preliminary enquiry, we believe that it would lead to speedier justice; we believe that that would result in better functioning of our justice dispensing system...then persons could look to doors of the court with greater confidence...I am not going to bother because the system is so clogged...

...we look forward to supporting the Bill.”

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That was—end quote—the position taken by the hon. Leader of the Opposition, Member for Diego Martin West, in his contribution.

The Member for Port of Spain South during her contribution, at the onset, sought to detract from the fact that the Government—what they did not do in eight years, the Government was able to do in two years—and sought to detract from that by saying, look, you built on our good work, it was our idea, something that they say all the time.

Madam Deputy Speaker, permit me to quote from the Member for Port of Spain South.

“I want to tell the Member for St. Joseph, the Minister of Justice, this was not a new idea. I went back and I looked. I researched and basically, this PNM Bench supported, back in 2009, when the then Attorney General discussed with us the abolition of...” preliminary inquiries—“We supported it then and we support it now. I just think that we should put that on record.”

So, both the hon. Leader of the Opposition and the Member for Port of Spain South, on the record, placed their unqualified, unconditional support for the abolition of the preliminary enquiry Bill, tabled in this House.

**Mr. Sharma:** That is the two Opposition leaders.

**Sen. The Hon. A. Ramlogan SC:** Well, that might be three. Madam Deputy Speaker, I highlight this background to demonstrate that this problem required a legislative intervention and solution, which was fashioned by the People’s Partnership, and which the honourable Members opposite to me claimed credit and said, it was their idea.

It was a Bill that needed a constitutional majority, and it was one of those occasions when there was a consensus and a common vein that ran throughout the course of the debate was that, whatever criticisms we have, minor though they may be, if at all, “we supporting, we supporting, we supporting.” The position of the Opposition was they supported the legislation.

In fact, after the Bill was introduced by the hon. Member for St. Joseph, the Member for Diego Martin North/East spoke, the Member for St. Augustine spoke; the Member for Port of Spain South spoke, and the Leader of the Opposition spoke. In the Senate, of course, they also spoke there.

And why really would such a Bill take such a long time? It is because extensive consultation is required—consultation with all the stakeholders: the judicial arm of the State, the office of the DPP, the Forensic Sciences Centre, the

Prison Service, the Legal Aid and Advice Authority, the Criminal Bar Association, the Law Association and the like. Extensive consultation is required before one could implement such a measure.

Now, you know, Madam Deputy Speaker, when the matter went to the Senate, there were amendments made, as is normally the case, and the Bill came back to the Lower House. And when the Bill came back to the Lower House, it was debated in the Lower House and passed unanimously.

I find it passing strange that in those circumstances, where, with their eyes wide open, having supported the Bill unanimously, that I could see some of the rumblings, and an attempt—a not-so-clever attempt—to distance themselves from the Bill, and say well look, “is the Government try something”.

You know, Madam Deputy Speaker, I want to say the Member for Diego Martin West has absolutely no moral authority, far less political credibility, to call for anyone’s resignation on this side of the House. [*Desk thumping*] You supported this Bill, you voted for it, and when it came back from the Senate, you voted again.

**Mr. Sharma:** Twice.

**Sen. The Hon. A. Ramlogan SC:** No reservation, no qualification, unconditional support for the Bill and the measure, and now you wish to distance yourself from it, and in a demonstration of the worst kind of politics, distance himself from legislative collective will and wisdom of the Parliament, and say well, “I eh know 'bout dat.”

**Mr. Sharma:** That is lying.

**Sen. The Hon. A. Ramlogan SC:** They made no noise when the debate took place in this House. The hon. Leader of the Opposition, in fact, contributed to that debate. In fact, Madam Deputy Speaker, when one looks at the record, you will see that there was an exchange between the Member for Diego Martin North/East and the hon. Prime Minister, as it relates to the subject clause. The Member for Diego Martin North/East wanted seven years; he wanted seven years.

**Mr. Sharma:** He might get it. [*Laughter*]

**Sen. The Hon. A. Ramlogan SC:** And the Government was saying, well look, we thought that having regard to the state of play in Trinidad, we should have maybe a little longer time—10 years—[*Interruption*]

**Mr. Roberts:** Repeat that “yuh” know.

**Sen. The Hon. A. Ramlogan SC:** The Member for Diego Martin North/East said, “leh we go for seven”. Seven years means that people will get freed quicker.

**Hon. Member:** Early.

**Sen. The Hon. A. Ramlogan SC:** Earlier! “Once seven years pass, the guillotine will drop. Yuh gone!” We were saying 10, because we had to strike a balance; we had to strike a balance. You know, Madam Deputy Speaker—[*Crosstalk*]

**Mr. Roberts:** Read the *Hansard*.

**Sen. The Hon. A. Ramlogan SC:**—when I read some of the comments in the newspapers that emanate from my friends opposite, one would get the impression that this Bill was passed—when they voted for it and said aye, it is almost as if clause 34 was not in it. But the Bill was passed with that same clause in it.

**2.05 p.m.**

The issue of the proclamation, let me deal with that—clause 34 was part of the Bill you voted for. Whether the Bill was proclaimed in a piecemeal fashion or in one gulp, in one go, clause 34 will be part of the Bill that you passed. The Parliament passed that Bill. Whenever clause 34 was proclaimed, whether it was part of one proclamation of the Bill or by itself or as a part of a section of the legislation, it will be part of the law, and whenever it was proclaimed anyone who fell into that category would be able to make an application.

So, I do not know why my friends would make such heavy weather of the partial proclamation in light of the fact that whenever it was proclaimed the applications that would have been made by persons who fell within that would have been made. In fact, the longer you took to proclaim it the greater the delay for accused persons and the stronger the application. That is the irony of it. The longer you took to proclaim it, the greater the delay and the stronger the merit of the application. That is the reality.

So, I noticed that after the Bill was passed we heard nothing from the Opposition because they voted for it; they supported it; it was their Bill too. In fact, they were stumbling and falling over themselves to claim credit for it, [*Interruption*] to say, “Well look, it is not that all yuh come in two years and jus show we up and do this thing man; we was doing it too all the time; it is jus all yuh jus build on our hard work.” And that is why they had no difficulty in supporting it and passing it with clause 34.

After it was passed, no noise; proclaimed, no noise; and when the Member for Diego Martin North/East was insisting that we drop that to seven years, no noise. I ask the question: when did Parliament demonstrate a bipartisan approach and, in its collective wisdom and experience as a Legislature, when we passed that law, is

it for me to be uncharitable and to come here and say, well, you wanted seven years because you wanted to help out somebody? May I ask the question: is it that they wanted to help out someone? When you point a finger remember four are pointing back at you. I ask the question: who did you want to help out when you asked for seven years? Did you want to help Calder Hart? [*Desk thumping*]

**Miss Mc Donald:** Madam Deputy Speaker, I rise on 36(5), imputing improper motives.

**Mr. Sharma:** Nonsense!

**Sen. The Hon. A. Ramlogan SC:** Madam Deputy Speaker, I am imputing no improper motives.

**Miss Mc Donald:** Yes, you are!

**Sen. The Hon. A. Ramlogan SC:** It is a question I am posing! [*Crosstalk*]

**Madam Deputy Speaker:** Member, you may continue.

**Sen. The Hon. A. Ramlogan SC:** Thank you very much. I pose the rhetorical question—when the Member for Diego Martin North/East was saying, “look, doh go for ten, dat too long, go for seven”, I pose the question rhetorically, why? Why did you want to lessen it to seven? I ask rhetorically, is it because you wanted to help out Calder Hart? Is it because you wanted to help out Andre Monteil, former PNM party treasurer and financier? Is it that you wanted to protect Reverend Juliana Pena? Is it that you wanted—

**Miss Mc Donald:** Madam Deputy Speaker, I rise again on Standing Order 36(5), imputing improper motives.

**Sen. The Hon. A. Ramlogan SC:** It is a question. [*Crosstalk*]

**Madam Deputy Speaker:** Members, I am asking and I am pleading with you for order in the House. I am pleading with you for order in the House today. You may proceed, Attorney General.

**Sen. The Hon. A. Ramlogan SC:** Thank you very much, Madam Deputy Speaker. Perhaps the Member for Port of Spain South, either does not know what a rhetorical question is or there is something pricking her conscience. You see, Madam Deputy Speaker, they were in power for eight years.

[*Mr. Imbert stands*]

They were in power for eight years and I wonder—it was only when I was preparing for this—that they were in power for eight years and I found it rather

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strange that given the fact that you were in power for eight years you kept insisting on seven as the cut-off. Could it be that you wanted a cut-off point of seven because you were in power for eight years?

**Mr. Imbert:** Would you give way! Would the Minister give way!

**Sen. The Hon. A. Ramlogan SC:** Therefore, when these investigations are completed you would then be able to benefit from the section. [*Interruption*]

That is why—you see, Madam Deputy Speaker, we have to be frank about the matter. I am not making any accusations against them. I am saying that the Parliament, in its collective wisdom, voted for this Bill and it is unfair and disingenuous to come now to distance yourself from the collective will of the Parliament. It is political hypocrisy of the worst kind. [*Desk thumping*] You want to talk about giving protection to persons, permit me to read something. “Recommendations from the Commission of Enquiry into the Landate matter, October 2003 to 2004.” That matter is still the subject of a police criminal investigation.

**Mr. Imbert:** What!

**Sen. The Hon. A. Ramlogan SC:** The Landate matter is still the subject of a police criminal investigation. The technicality that applies to the Integrity Commission has nothing to do with the police investigation. [*Interruption*]

I do not know whether or not—in light of the findings made by Justice Anestine Sealey—the Member for Diego Martin West has considered tendering his resignation. [*Interruption*] Maybe you should tender yours. [*Desk thumping*] Let me refresh your memory as to what were the findings made by the commissioner. [*Interruption*] The commission observed that “...having regard to his ministerial position, whatever part Dr. Rowley played, it displayed a total lack of discretion and the Commission advises that he should be more sanguine in his relations...” [*Interruption*]

**Miss Mc Donald:** Madam Deputy Speaker, I stand on Standing Order 36(1), irrelevance! Irrelevance! Irrelevance! [*Desk thumping*]

**Madam Deputy Speaker:** Member, I want to ask you kindly to confine yourself to your contribution on the Bill, please.

**Sen. The Hon. A. Ramlogan SC:** To make the point, that seven-year period that the Member for Diego Martin North/East insisted upon, when you check from 2003/2004, which is when the Landate matter occurred, you would see that seven years on—four and seven is 11, and we are in 2012. So is it that they were trying to protect the Member for Diego Martin West from a police investigation? [*Interruption*]

**Miss Mc Donald:** Madam Deputy Speaker, again, Standing Order 36(5), imputing improper motives. If this is not the case for it then what is? Imputing improper motives! [*Crosstalk*]

**Sen. The Hon. A. Ramlogan SC:** That is not a speech it is a question! So permit me—this commission of enquiry report, paid for by taxpayers, is a public document. [*Interruption*] It displayed a total lack of discretion on the part of Dr. Rowley, and the commission advises that “he should be more sanguine in his relations in matters concerning the development of the project as further issues of impropriety may be raised...” especially as he admitted having a beneficial interest in the development.

The commission found both in law and in fact that the unfixed materials at Scarborough Hospital site is and was the property of Nipdec and that the pretended claim by NHIC that it owned the material was unfounded. From the testimony of witnesses and the exhibits, the appropriate authorities should visit sections 2, 3, 4 and 21 of the Larceny Act with a view to addressing illegal acts committed when materials were removed.

So when I hear, Madam Deputy Speaker, about conspiracy theories; when I listen and I read about this grand political conspiracy to help certain individuals I ask myself the question: “what foolishness them talking bout?” You voted for this with your eyes wide open.

**Mrs. Gopee-Scoon:** You said this already.

**Sen. The Hon. A. Ramlogan SC:** And I would say it throughout the course of the debate because “it look like all yuh forget”. [*Interruption*]

Madam Deputy Speaker, we all voted for this in a collective display of legislative wisdom—and based on our experience—and if we have to go down that road, when you point one finger, know that four are pointing back. We could go into the cheque you get from Clico to finance the PNM campaign; we could go into the Andre Monteil, PNM treasurer and financier, and what he did; we could go into all those things, but I would rather not go there.

**Dr. Moonilal:** We will.

**Miss Cox:** You could go where you want, you have nothing else to—[*Inaudible*]

**Sen. The Hon. A. Ramlogan SC:** You see, Madam Deputy Speaker—because I think—when the Parliament debated this matter I must presume that Parliament acted regularly, debated in good faith and voted in a bona fide and good faith manner. I would have to assume that, and that is why, if I may quote what

transpired in the exchange between the hon. Prime Minister, the Member for Siparia, and the Member for the Diego Martin North/East:

**“Mrs. Persad-Bissessar:** Mr. Chairman, we propose an amendment to clause 34(2) as circulated:

Delete the word ‘seven’ and substitute the word ‘ten’.”

**Mr. Imbert:** Yes, what is the policy behind going from seven to ten? Because this is a situation where there is a delay and you are allowing”—an officer—“the judicial officer to discharge the accused. In your original Bill it was seven years, after a delay of seven years”—you come to put—“now ten. Why ten?”

**Hon. Member:** Who said that again?

**Hon. A. Ramlogan SC:** This is the Member for Diego Martin North/East. The hon. Prime Minister responds:

“Should we keep it at the seven, are you prepared to vote for the Bill? Would you vote for it?”

**Mr. Imbert:** Yes”—we will.

**“Mrs. Persad-Bissessar:** For the entire Bill?”

**Mr. Imbert:** You hear us say we opposing the Bill?”

**Mrs. Persad-Bissessar:** No, I do not know, I am asking.

**Mr. Imbert:** Did you hear us say we are opposing the Bill?”—We will vote for it.—

**Mrs. Persad-Bissessar:** Well, we will keep it as seven.”

**Sen. The Hon. A. Ramlogan SC:** Madam Deputy Speaker, when this matter went to the Senate there was an amendment—the seven years from the date of being charged. Then came the question of seven years from the date of the commission of the offence, and that amendment arose in the Senate. When the people listen to them they would think like this amendment came from under the carpet. It looks like the Opposition is not represented in the Senate. Let me quote from the hon. Minister of Justice who piloted the Bill in the Senate, from the records of the *Hansard*, to show that this issue and the amendment was put frontally on the table. Permit me to quote:

“Clause 34”—this is in piloting in the Senate—“would provide for the discharge of the accused on the grounds of delay, except for the offences identified in Schedule VI where the time of coming into force of this Bill, the trial at the assizes has not commenced within 10 years of the commission of the crime, the judge shall discharge the accused.”



In piloting the Bill the Minister of Justice highlighted this change. So that was put frontally before the Senate, and in the Senate it was passed unanimously. The Independent Bench supported it, the Opposition supported it and the Government supported it, and the Minister of Justice highlighted the change. He went on to say, he explained the rationale, he said:

“The Government is aware of the need to bring closure in criminal causes, and that the ends of justice must be balanced against the endemic delay in the system, which is due in part to inadequate resources of the respective agencies to satisfy the volume of cases that are before the courts.”

He said:

“My friends on the opposite side in the other place indicated their willingness to revert to the original provision, which stated that where proceedings were instituted prior to the coming into force of the Act...and the trial has not commenced within seven years, the accused shall be discharged.

Our Government has chosen to extend the period to 10 years as a matter of public policy...”—and he goes on.

This is the record of *Hansard*.

**Mr. Imbert:** That is correct.

**Sen. The Hon. A. Ramlogan SC:** This is the record of *Hansard*.

**2.20 p.m.**

**Mr. Imbert:** It is wrong.

**Sen. The Hon. A. Ramlogan SC:** So that clause 34, with this contentious provision, was squarely put on the floor of the House for all, in the Senate. [*Desk thumping*] I want to be fair to Parliament. I mean, there is a lot of talk outside. Why did the Parliament in its collective wisdom really agree to this? I will tell you why, Madam Deputy Speaker.

Prior to this Bill coming to the Parliament, it is well known that at common law, you can apply for a stay of your prosecution—a stay of your case—on the ground of unreasonable delay, that it will be an abuse of process to continue with the prosecution of the case. That has been the law in this country from time immemorial. Persons have obtained stays, permanent stays, of the continued prosecution of their criminal cases for a variety of reasons and for a variety of periods of time in terms of delay, some as short as seven years, many, and others as long as 15 years. I cited one which took 27, earlier on. So, people have been able to get those stays.

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The Parliament must have felt that, look, in light of that common law principle that exists, and in light of the fact that Parliament must think, not only about what is right for the accused, but of the public interest, it wanted to strike the balance. That is why that change of seven to 10 years came about. But in the death penalty cases, we all know the Privy Council said, for example, five years or else commute to life.

In our jurisdiction, the Privy Council has also said that the period of time that a man spends in jail before he gets sentenced for a crime, you have to take into account when sentencing. Pre-trial delay, pre-trial incarceration, all of those things now, you have to take into account. And there is nothing wrong in the Parliament saying that, look, the pre-charge period ought to be taken into account. That was what Parliament said. That was, in fact, a recognition of the fact that that kind of principle already existed in our common law. The question is whether we ought to have codified it or put that principle on a statutory footing, as we attempted to do.

Madam Deputy Speaker, permit me now to come to the actual section itself. This section, there are many options. After Parliament voted for this Bill, after it became law and after we had the proclamation, it became evident that there was some public disquiet about the matter. I do not dare to presume, and I will not ascribe any malicious motive to the Parliament, to say that we legislated with any personalities in mind, whether it is Andre Monteil and Calder Hart, Member for Diego Martin West or anybody else. I am not going to say that the Parliament acted in bad faith. I am a Member of the Parliament and I will not say that. There was no—this idea of a political conspiracy between the Opposition, the Government and the Independent Senators, all of whom voted for this, I think it is fanciful and inherently incredible and I reject it and dismiss it outright. [*Desk thumping*]

I think that Parliament, having passed the law, the law having been subjected to public scrutiny, concerns were articulated and this People's Partnership administration led by the hon. Prime Minister, Kamla Persad-Bissessar, has demonstrated time and again that it is prepared to listen. [*Desk thumping*] It is prepared to listen.

When concerns were expressed and raised, the DPP spoke with me on the matter. And, having listened to the concerns raised by the honourable DPP, I then sought an immediate audience with the hon. Prime Minister. Having briefed the Prime Minister on what had transpired and the concerns that were articulated, the hon. Prime Minister, at 7.00 a.m. yesterday morning, immediately upon listening to those concerns raised by the DPP—as outlined both orally to myself and as contained in the letter—the Prime Minister immediately at 7.00 a.m., decided that Parliament must be convened and we will come to repeal that provision. [*Desk thumping*]

**Mr. Roberts:** What time?

**Sen. The Hon. A. Ramlogan SC:** At 7.00 a.m. That was communicated to the Member for Port of Spain South—*[Interruption]*

**Mr. Roberts:** At what time?

**Sen. The Hon. A. Ramlogan SC:** At around 8.00 or 8.30 a.m. It was communicated to the Member for Port of Spain South. So, when I saw—we have the phone records, we have the phone records.

**Mr. Roberts:** What time was the press conference?

**Sen. The Hon. A. Ramlogan SC:** I found it rather strange that after we tell them we are going to convene the Parliament to repeal the law, we all of a sudden hear a press conference advertised at ten o' clock to say we are going to demand that “all yuh” repeal the law and “all yuh” convene the Parliament. *[Desk thumping and crosstalk]* “We go march on all yuh”, we will flood the streets of Port of Spain, we are going to come and march and stand up outside the Prime Minister’s office, if you do not convene the Parliament and repeal the provision. *[Crosstalk]*

I thought the Member for Diego Martin West would have been interested in marching with those persons who were affected by flood and need some disaster relief and the need to see him. But instead, he wants to come and sit down outside the Prime Minister’s office to “prop sorrow”. But you know, I found it—it would be so amusing and preposterous—if it actually was not true—that they actually attempted to steal a political march on the Government after they were informed that we intended to convene the Parliament to repeal the provision, Ex post facto, he calls a press conference and says, I will “ramajay”. I mean really, really?

**Mr. Roberts:** I cannot believe that Diego Martin West.

**Sen. The Hon. A. Ramlogan SC:** Madam Deputy Speaker, you know, they started on the wrong foot. *[Crosstalk]* It is interesting—no the Leader of Government Business called her and we have his phone records. So, Madam Deputy Speaker, let me clear the air—*[Interruption]* *[Madam Deputy Speaker rises]* Sorry Ma’am.

**Madam Deputy Speaker:** Hon. Members, I would like all of you to observe Standing Order 40(b) and (c) in this House and to listen to the Member currently speaking in silence. You may proceed.

**Sen. The Hon. A. Ramlogan SC:** I am obliged Ma’am, thank you very much for your kind protection. You see, Madam Deputy Speaker, I just want to disabuse the public’s mind of this notion because of the political gamesmanship that took

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place, that somehow the Opposition forced our hand to come to Parliament to repeal this law. That was decided at seven o' clock yesterday morning and communicated to them about 9.00 a.m. It was decided at 7.00 a.m. that we had to convene a Cabinet meeting and then we informed them, and they knew about it, they knew about it and then now they come to ramajay. Really.

Madam Deputy Speaker, I come now to the provision and I wish to say, we all—if there is blame to be ascribed, the blame must ascribe to all Members of Parliament, all. But that is not where I want to go. The country voted for change two years ago, and that change starts with the leadership of the country. I stand today as a proud Member of the People's Partnership to bear testimony and witness to the kind of change in leadership this country has had, where a Prime Minister with one meeting will overnight convene the Parliament, summon a Cabinet and come here to repeal this provision. [*Desk thumping*]

When you harken back to yesteryear to think about the political arrogance and intransigence that walked the halls of power; when you saw that they ignored the public's concerns about Brian Lara Stadium, Calder Hart, Rev. Juliana Pena, private jet, property tax, we come for the second time—the first law we repealed was the property tax that they had implemented—and we come now to repeal this because we listened to the concerns expressed by the DPP and others. Those concerns have fallen on fertile soil, Madam Deputy Speaker. We, as a Government are prepared, consistent with the oath that we took when we assumed public office, to serve the people; we are prepared to act in the public interest and we will repeal this provision. [*Desk thumping*]

**Mr. Sharma:** Without fear or favour.

**Mrs. Gopee-Scoon:** Give us some Latin words.

**Sen. The Hon. A. Ramlogan SC:** Because, Madam Deputy Speaker—"Scoon"—  
[*Laughter*]

**Dr. Moonilal:** That means squatter?

**Sen. The Hon. A. Ramlogan SC:** When I decided not to appeal the decision of the High Court judge, Justice Boodoosingh—[*Interruption*]

**Miss Cox:** Yeah, let us hear.

**Sen. The Hon. A. Ramlogan SC:**—it is correct; my decision not to appeal was influenced in no small measure and, indeed, was predicated on the fact that the accused can be tried in Trinidad and Tobago before our courts. And if the

effect of that provision was to deny or prevent that trial from taking place, then the premise on which my decision was based would have been pulled out. And then I went to the hon. Prime Minister, articulated the concerns raised by the DPP and the implications it had, and that is why we are here today as a matter of urgency.

**Hon. Member:** 7.00 a.m. or 9.00 a.m.?

**Sen. The Hon. A. Ramlogan SC:** I said the Prime Minister decided at seven o' clock. I said you were informed subsequently—[*Interruption*]

**Dr. Moonilal:** You were still sleeping in bed in Petrotrin.

**Sen. The Hon. A. Ramlogan SC:** Yes. I come now to section 34. What are the options before us? Because make no mistake about it, this Government is very serious about prosecuting crime and no one, no one is above the law. [*Desk thumping*] The options are as follows: firstly, we can change the word “shall” which is mandatory and obliges the judge to discharge the accused person. We can change the word “shall” to “may” so that the Judiciary can then hear and determine these applications on their merits. So that anyone who, after 10 years—after the lapse of 10 years—whether from the date of the alleged offence or 10 years from the date of being charged and being brought before the court, you can make that application and the Judiciary may decide to discharge the accused person if it is satisfied that justice warrants that, balancing of course the public interest in prosecuting crimes committed against the State and the people.

I do not favour that option and the Government does not propose to go with that option. And why? If we amend the “shall” to “may”, it means that we leave open a new avenue for legal challenge to criminal proceedings in the country. If we say that the Judiciary may discharge upon an application being made by an accused person after the lapse of 10 years, then the judge will be able to sit and decide upon that. But it means that when the judge decides, you could appeal his decision to the Court of Appeal and to the Privy Council. All that time, your trial cannot start.

So that will cause further delay. So, rather than leave that provision with that application being possible, so that criminals or accused persons can in fact make use of it and exploit it to their benefit and advantage, we think that it is right and just that the provision be repealed in its entirety.

The second possibility—to amend the schedule to include these kinds of offences: anti-money laundering, corruption, fraud and the matters of the like. I see the Member for Port of Spain South getting all excited. I am sure it is something you have considered.

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Madam Deputy Speaker, if we amend the schedule and we put offences today, there will always come a case where you will think in retrospect upon reflection—you know, we should have put that in the schedule too. Next year, when we debate cybercrime legislation and we create cybercrimes, what are we going to do? It would not be in the schedule because it was not an offence before. So when we create new offences in Parliament, we will have to go back and keep amending that schedule.

**2.35 p.m.**

Then there is another issue. There is a certain amount of arbitrariness about deciding which offences should go in the schedule to be exempt. We say blood crimes, but the point is, there is no qualitative distinction in the violation of the moral code of ethics. Who is to say that one is not as bad as the other, and is it right for Parliament to make such a distinction? The demarcation that we sought to draw by including some in the schedule and leaving out others is one, upon reflection, we feel ought not to be done. And it is for that reason we feel that amending the schedule is not the right thing to do and, again, we say, repeal the provision in its entirety.

What then, if we repeal that provision of pending applications? Since the law was proclaimed, applications may have been filed. What then, about them? Madam Deputy Speaker, I have asked an amendment to be circulated in addition to the repeal. In addition to the repeal simpliciter, I have asked for three things to be done: one, the repeal will be with retroactive effect. So the repeal of the provision will be retroactive. That is the first thing.

**Hon. Member:** To?

**Sen. The Hon. A. Ramlogan SC:** To the date of passage of the legislation—passage or proclamation. If passage is earlier, we will go with passage of the legislation. That is the first point.

**Mr. Imbert:** You get good advice for once.

**Sen. The Hon. A. Ramlogan SC:** I listen to myself. That is the first point. The second thing we will do is, we will insert a clause to say that all pending applications made under that provision shall be permanently stayed, so that any outstanding application that was made under that law shall be permanently stayed. We do not want to leave this to chance.

Thirdly, and it always helps to have a Prime Minister who has legal training and is an experienced Senior Counsel, like the Member for Siparia—always. [*Desk thumping*] Because when the Prime Minister and I met and sat down to

consider these matters—when the Prime Minister analyzed the law and looked at the concerns expressed and matched them against the ramifications and implications of this law, these are the amendments that came up as a result of my consultation and discussions with the hon. Prime Minister.

The third point that the Prime Minister made was that she did not wish that there should be any legitimate expectation, or any argument about a legitimate expectation, created by the law or the section during the short interregnum when it was valid law. And for that reason, the hon. Prime Minister has suggested, and I have agreed as Attorney General, that we will insert another amendment to say that:

Notwithstanding any law to the contrary, no rights or expectations shall be deemed to have been created or come into effect as a result of the coming into force of section 34 of the principal Act.

So it is a tack-back—will require a special majority to pass this amendment, to repeal this, and what we are doing, the guillotine will fall on the neck and back of this problem. [*Crosstalk*]

**Dr. Moonilal:** “Yuh running ah parlour?”

**Miss Mc Donald:** “Is all yuh running de parlour.”

**Hon. Member:** “It look like yuh get a lot ah credit.”

**Sen. The Hon. A. Ramlogan SC:** Madam Deputy Speaker, what we are seeking to do is to correct what was a clear oversight by the entire Parliament: the Opposition, the Independent and the Government; or a failure to appreciate the unintended consequences and implications of that one provision.

**Mr. Imbert:** The proclamation was an oversight too?

**Sen. The Hon. A. Ramlogan SC:** Madam Deputy Speaker, I dare say that this will be—

**Mr. Imbert:** You proclaim one section—[*Interruption*]

**Sen. The Hon. A. Ramlogan SC:** Well, whether you proclaim one or the rest, the provision was there; it would not have mattered.

Madam Deputy Speaker, you know, I think that will put the matter to rest, because insofar as any possibility—what I am seeking to do is to immunize the State from the possibility of legal challenge to the repeal provision, and I dare say that with those provisions in the amendment, if a legal challenge is mounted, I feel confident that the State will be able to assert its rights and defend itself vigorously in those matters.

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Madam Deputy Speaker, I have read a lot that has been said on the outside—sometimes relevant, sometimes irrelevant—about matters pertaining to the handling of the case pertaining to certain persons before the court. I read one article in the *Guardian*, Tuesday, September 11:

“QC on appeal over Ish and Steve’s extradition: AG ignored legal advice”

When one reads it in its literal English construction—interpretation—it purports to be a quote from the QC that the Attorney General ignored his legal advice:

“QC on appeal over Ish and Steve’s extradition: AG ignored legal advice”

When you read the entire article, not one single sentence is quoted from the QC—not one. The article is an unfortunate example of irresponsible journalism at its highest, or lowest.

**Mr. Imbert:** “The *Guardian* lie then?”

**Mrs. Gopee-Scoon:** It did not lie; it just distorted it.

**Sen. The Hon. A. Ramlogan SC:** There was another one on Sunday, September 09: “James Lewis QC upset...”. You know, when you read the entire article, not once did the *Guardian* quote from this gentleman. You know, Madam Deputy Speaker, let me clear the air on this once and for all. James Lewis, Queen’s Counsel, is an internationally renowned and respected legal counsel on extradition law, and when we assumed office, he was the person retained by the former administration in these matters, and I had the option to discontinue his retainer or to continue his retainer. I chose to continue with Mr. James Lewis QC, and over the years I have developed an excellent working professional relationship with him. I called Mr. Lewis when I saw these articles and he expressed great shock and surprise. The article purports to be based on sources close to Mr. Lewis, and Mr. Lewis does not know anything about it—absolutely nothing about it.

In fact, Madam Deputy Speaker, it may very well be a matter that I may have to take further.

But you see, Madam Deputy Speaker, the article says that they got ahold of the legal advice and the article quotes selectively from the legal advice and seeks to connect that to this provision in the Act as if this was all part of one grand scheme. Madam Deputy Speaker, since the advice has been leaked to the newspapers, rather than let them selectively quote, I want to make it clear that that advice is open for anyone who wants a copy, and I am prepared to make it available to the public.

**Mr. Imbert:** What about now?



**Sen. The Hon. A. Ramlogan SC:** Now too, yes; if you want it, yes. And I want to quote what was not quoted in the article, which is the conclusion of the learned QC's advice. It is headed: "The practical consequences of appealing." He says:

In this case it is not enough to simply consider the chances of successfully appealing. There are other important considerations. The present extradition proceedings have taken five-and-a-half years. The claimants are well funded and determined to assert every possible right of appeal they have, as demonstrated by their determination to do so at every opportunity. The decision of Boodoosingh J. in the first occasion is five-and-a-half years that the claimants won an application or appeal in the courts. However, there is a right of appeal from his decision to the Court of Appeal and to the Privy Council. It follows that even if the Attorney General were successful in the Court of Appeal, the claimants could, and most certainly would, appeal to the Privy Council.

If the AG were completely successful, this would take a further two to three years. If the AG were successful on the ground with respect to forum and unsuccessful on the ground that dealt with representations, the best that can be achieved is that the matter will be remitted back to the AG for his reconsideration. In my opinion, such a timetable is unacceptable on either scenario. That is, no doubt, why the United States of America have indicated that they are content not to appeal the quashing of the extradition warrants, but are in favour of an appeal to determine if the court can issue a declaration as to the correct forum on a matter of principle alone. The alleged offences occurred in the late 1990s and for them to be tried in the United States of America 15 years or more later would be difficult to justify.

On the other hand, I am informed that the claimants can be tried in Trinidad and Tobago almost immediately on the same conduct. It is interesting to note that in the order of Boodoosingh J., he declared that even the discontinued charges in relation to CP9 and CP13 should be tried in Trinidad and Tobago.

So the judge had made a finding in any event that certain charges must be tried in Trinidad and Tobago. The High Court had already ruled on that.

I note also the view of Justice of Appeal Kangaloo which strongly favoured trial in the local courts.

And Mr. Lewis then highlights the following factors to guide the exercise of my discretion:

- (1) the time already passed since the commission of the alleged offences is already getting too long and any further delay must be minimized;

- (2) the fading memories of witnesses;
- (3) the amount of money spent to date without a trial before a judge and jury;
- (4) the near completion of Piarco 2 Preliminary Enquiry;
- (5) the possibility of reinstating the discontinued charges in light of the findings made by the court;
- (6) the possibility of having one global trial with all the defendants and charges which makes for a more efficient and productive use of judicial time and saves cost; and
- (7) the strong sentiments expressed by the local courts, including the Court of Appeal, which favour a trial in Trinidad and Tobago.

These pragmatic points, in my view, outweigh the merits of a successful appeal.

**Hon. Member:** Whose view was that?

**Sen. The Hon. A. Ramlogan SC:** This is the view of James Lewis QC in his conclusion. Madam Deputy Speaker, you know what would have happened if I ignored that advice? They could have come and highlighted that part and say I acted contrary to the man's advice.

I made a decision exercising my own discretion as Attorney General, and what is the reality? The Court of Appeal had already ruled that a decision to extradite someone is amenable or susceptible to judicial review. That means any citizen against whom an order of extradition is made, they have the right to go and seek judicial review before the courts. In this matter, judicial review was sought. The first point is, I did sign the warrant to have them extradited. I did sign it. Having signed it, they sought judicial review.

**Mrs. Persad-Bissessar SC:** When you signed that, they were arrested, were they not?

**Sen. The Hon. A. Ramlogan SC:** Yes. When it was signed they were arrested.

**Mrs. Persad-Bissessar SC:** They went to jail. You jailed the people.

**Sen. The Hon. A. Ramlogan SC:** Yes. They were incarcerated, and after that they applied for judicial review. When they applied for leave—they applied for permission from the court to apply for judicial review. When they applied for permission to apply for judicial review, I opposed that application. The State opposed the application for leave to seek judicial review. Madam Justice Joan

Charles dismissed the application for leave, so the State won. The State won in the first instance because the application for leave that they filed was dismissed. That meant they could not challenge my extradition order. They would have had to go. But they then filed an appeal to the Court of Appeal. I opposed it in the Court of Appeal, but the full court unanimously ruled that for the reasons set out in the judgment—the court ruled that it was more appropriate that leave be granted, because there was a strong argument on various points raised.

**Mrs. Persad-Bissessar SC:** So where is your conspiracy and collusion?

**Sen. The Hon. A. Ramlogan SC:** So where is the conspiracy—

**Mrs. Persad-Bissessar SC:** Or collusion.

**Sen. The Hon. A. Ramlogan SC:**—or collusion? Where is that when every step of the way—

You know, Madam Deputy Speaker, the first point, I signed the extradition order; second point, I objected to leave, one; and objected in the Court of Appeal. The third point, the reasons that the court found that the judicial review application ought to succeed and had merit are because of the representations that were made and the letter of reasons given for the decision, which letter, or course, was informed by the advice of Mr. James Lewis QC.

So, throughout the course of those proceedings we objected to bail. You know, Madam Deputy Speaker, when one reads the judgment of the High Court, you will see that the High Court paid tribute to the lawyers on both sides for the manner in which they conducted that case.

**2.50 p.m.**

Now, Madam Deputy Speaker, I will take the opportunity to correct one point. The point I wish to correct is a point that they had raised regarding why I did not sign the order of extradition immediately in the case where they challenged the validity of the Extradition Act. They challenged the constitutionality of the Extradition Act itself and when that case was finished, the question was being asked now: well why did you not sign the extradition order immediately? I will tell you why.

I could not have signed that extradition order immediately upon the dismissal of the constitutional challenge to the validity of the Extradition Act because my predecessor, Mr. John Jeremie SC, had given a written binding commitment on behalf of the State that he would allow a period of seven days to elapse. When the court decided that case, if he made an extradition order, if the State decided to

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extradite, he would allow seven days to elapse before the extradition can be executed. That was not an assurance given by me. That was an assurance I inherited from the Attorney General under your administration.

**Mrs. Persad-Bissessar SC:** It was in writing.

**Sen. The Hon. A. Ramlogan SC:** It was in writing and I have copies for everybody. Once the State gives such an assurance in writing, the State cannot renege from it. You cannot, and that is why I had to wait before I could sign the extradition order.

There is a lot of mischief about these matters and a lot of mischief is being made about it, and I take great umbrage to it because I have conducted myself above board in a transparent manner from day one on these matters. [*Desk thumping*] That is why we are here also to repeal that provision, to ensure that the public interest is served because no one will be above the law. We are all subject to the law and we will all be equal in the eyes of the law. [*Desk thumping*]

Madam Deputy Speaker, the point was made that when I exercised my discretion, one of the major factors I relied upon was that there are three tranches of Piarco Airport cases; there are Piarco Airport 1, 2 and 3. Piarco Airport 1 and 2 are the main cases that concern this matter. In Piarco Airport 1 the preliminary enquiry has been completed. Piarco No. 2 is the one that was pending, and on that matter I did in fact make enquiries and was informed that that matter was nearing completion. That matter, Ma'am, is still nearing completion, but we have no control over the court process.

I understand they are overworked, but the magistrate went on six months' leave. Six months' leave, after I made my decision. I cannot predict that! I understand the prosecution reopened its case and the defendant then exercised their rights and wanted to cross-examine back all the witnesses. You cannot predict that. Madam Deputy Speaker, when people act like it is the first time that we are coming to repeal something, that is not correct. Perhaps they forget their political past.

When the Uff Commission of Enquiry was going on—which cost this country almost \$60 million—[*Interruption*]

**Mrs. Persad-Bissessar SC:** How much?

**Sen. The Hon. A. Ramlogan SC:** Sixty million dollars. In fact, I am still receiving bills today from the Uff Commission of Enquiry. I am still receiving bills today from that Uff Commission of Enquiry. When they quote gleefully the figures that the Ministry of the Attorney General spent, when the breakdown

comes you will see what I am doing, Madam Deputy Speaker. I am clearing bills that are in some cases six and seven years old that the PNM did not pay.

**Dr. Moonilal:** That is their record.

**Sen. The Hon. A. Ramlogan SC:** They did not pay and created a bad name for the Republic of Trinidad and Tobago.

**Hon. Member:** “Dey eat ah food and we paying for it.”

**Sen. The Hon. A. Ramlogan SC:** In the middle of Uff Commission of Enquiry they then suddenly discovered that, “Oh shucks, we didn’t gazette it.” The whole commission of enquiry was null and void, ab initio—[*Interruption*]

**Dr. Gopeesingh:** It was Diego Martin North/East.

**Sen. The Hon. A. Ramlogan SC:**—and all of a sudden they had to scramble. They came back to the Parliament and sought retroactive validation of the Uff Commission of Enquiry. So, it cannot be right to pretend that this is the first time in the history of the Parliament that this is happening. What ought to happen is that Parliament should man up, take responsibility for the oversight and say to the country, “Look, this is a problem. It has been flagged, we apologize and we are humbly correcting it.” [*Desk thumping*] It is counterproductive to come now to ascribe blame to one or the other. Every single Member of Parliament voted for that measure. When the vote was taken, the aye was said, and that is the harsh reality whether they like to admit it or see it or not. [*Desk thumping*]

So, Madam Deputy Speaker, these amendments which are procedural in nature, we feel will be able to withstand any challenge. I have also taken legal advice on the matter and the State is very comfortable with these amendments. The State stands ready, poised, willing and able to defend itself against any challenge in this regard. This is a matter of great moment, but it is also a signal day for Trinidad and Tobago that we ought to remember—a day when the Government and the Prime Minister listened and acted responsibly and demonstrated a level of political maturity that we have been sadly missing from our politics. [*Desk thumping*]

We did not play political games and the kind of political gamesmanship I saw from the hon. Member for Diego Martin West, in issuing empty, shallow ultimatums about resignations, ignoring the fact that he led by example and voted for the measure and did not call for his own resignation.

They forget that the Maha Sabha radio licence case was referred by the Integrity Commission to the DPP involving their own former political leader and colleagues from their own Cabinet. They forget, maybe, that that is why the seven

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and 10-year rule is there. So I support and I am pleased to pilot this amendment because this amendment—the law that we are able to repeal—the implications, the ramifications, the consequences are far-reaching and cut deep, and it outweighs the public interest that one would gain in saying that inordinate and unreasonable delay ought not to be tolerated.

I pause to mention that the common law principles which would be available to aggrieved citizens to apply on the ground of unreasonable delay to say that a matter to continue with a prosecution against them is an abuse to the process, that continues to be there. So the accused person will have their right to go there. There are many persons languishing in the jail. They get bail but they cannot make it because they are too poor and the courts cannot simply try them. So we are seeing boys turning into men inside the jail and cases taking in excess of 10 and 15 years. So the measure was designed to help to address that problem, and if that noble intention had unintended consequences which have now come to light, well then we own up and take responsibility as a Parliament and we do the right thing.

So, Madam Deputy Speaker, I close by urging those opposite, let us not play cheap politics with this matter. Let us rise to the occasion as a collective Parliament and let us say that the demonstration of our collective will and wisdom which was reflected in the Bill that was passed with this clause, upon reflection we seek to correct it.

Madam Deputy Speaker, with those few words, I beg to move. I thank you very much. [*Desk thumping*]

*Question proposed.*

**Dr. Keith Rowley** (*Diego Martin West*): Thank you, Madam Deputy Speaker. It is not very often that I start my contribution in this House with a quotation from the *Mirror*, but while I was listening to the presentation of the Attorney General I was browsing through the *Mirror* and I think I saw the gist of his fulminations this evening because he reminds me of a bird that I see very often. It is called the Southern Lapwing.

If you are in open areas you will see this bird. It is from Argentina. It came here as a migratory bird and stayed on and breeds here sometimes on golf courses and other open farm spaces and so on. It does not build a nest. It lays on the open ground on the grass. What is interesting with the lapwing is that if a dog or a human being is approaching this nest or this egg on the ground, the lapwing will pretend to be injured. It will hang one wing down and begin to limp, and whoever is coming to it will go to this injured animal that is limping away, limping away.

If you want to know where the egg is do not go where the bird is going. The egg is somewhere else because it is taking you away from the subject matter which is the egg. [*Desk thumping*]

**Hon. Member:** “Oh Gawd!”

**Dr. K. Rowley:** That is what the Attorney General sought to do this afternoon. The reason why I am attracted to today’s *Mirror*, I want to quote for you an article on page 4—it is today’s *Mirror* actually, September 14<sup>th</sup>. It is very hot and current—and putting into context a lot of what the Attorney General said. Listen to this is, and they are talking about a visit that the Minister of Local Government made to the Sangre Grande Corporation. Hear what happened there.

The Minister, who was a former Mayor of Chaguanas and reputedly the best to have ever held the local government reins in the central town aimed a barb at the lone PNM member of council, Toco/Fishing Pond Electoral District representative, Councillor Terry Rondon. He chided Rondon, who has chalked up 17 years as the district councillor for not guiding his colleagues in preparing a proper venue for him, the mayor, to meet members of the public.

So here you have an overwhelming UNC corporation and for some reason there was some problem with accommodation for the Minister. The Minister blames the lone PNM member of the corporation.

That is precisely what the Attorney General spent all his time [*Desk thumping*] today trying to do, rather than explain this simple matter that the country wants an answer to. He threw up a lot of issues, some of which I must dispense with before I go forward because you see all I will say to him is “good try boy”. [*Laughter*] Now that he has spoken and sat down, the issue that is exercising the public concern has not been addressed.

**Miss Mc Donald:** That is right.

**Dr. K Rowley:** And notwithstanding all the other issues that he raised, it still remains that the population has a question for which an answer is required, and until that answer is given [*Desk thumping*] they stand accused.

He went, Madam Deputy Speaker, to my contribution in the Parliament. Against the background he said we gave “unqualified support”. There is no dispute that we supported the measure. There is no dispute and I do not know why he kept hammering it over and over. We supported the measure when it was passed here. But today, he comes here and he said it was unqualified support. Anybody in the national community hearing that from the Attorney General, in

the context of the current debate in the country, would believe or would be tempted to believe that that is true.

**3.05 p.m.**

Let me go—I do not like to be quoting myself, but since the Attorney General has come here and has said that we gave “unqualified support” to the matter, and therefore we have no “moral authority” to object to what has gone on, let me, Madam Deputy Speaker, tell you what the records of *Hansard* have on it. I am not talking here about what my colleague from Diego Martin North/East said. I am not talking about what my colleague from Port of Spain South said. We were all in the same vein, but since he quoted me, let me tell you what I said in that debate. I am referring here to the *Hansard* of November 18, 2011 when we passed the framework legislation to eliminate preliminary enquiries to replace them with the new sufficiency arrangement. I quote here from *Hansard* November 18, 2011, and this is my contribution. I quote:

“This particular Bill has the potential, if properly implemented, to bring about some significant improvement in the quality of life of our citizens...on that basis, our support is available.”

So from day one, we made it clear that our support is available only if there is an understanding that the Bill will be properly implemented. [*Desk thumping*]

So, I went on further and I said, and I quote again—and I am quoting here:

“That is the scenario with respect to the view of justice for the people of Trinidad and Tobago, and it is against that background that we should see this effort at this end of the spectrum to treat with the preliminary enquiry, which if probably implemented...”

I quote again:

“...It is against that background that I want to appeal to the Minister...”

—that being the Minister of Justice who was piloting the Bill, who today curiously is not the one coming forward to tell us what the story is as yet. But, on the occasion when we stood by to give our support, we said:

“It is against that background”—and this is my speech here—” that I want to appeal to the Minister that with our support, we will pass this Bill and the laws are going to be on the books, but whatever you do, for whatever reason, do not go back



on your word and try to implement it without ensuring that all the supporting i's are dotted and all the supporting t's are crossed. This might sound repetitive, Mr. Speaker, but if I am a cynic, I have good reason to be, because two things that happened recently that have shaken my confidence in the words of my colleagues in the Chamber..."

How then can the Attorney General come here and say that we gave unqualified support to the matter?

Then, I went on further:

"I must say, Mr. Speaker, I am still astounded; I am still shocked; my faith has been shaken in our system with respect to how the Government set about to handle the use of the Anti-Gang legislation."

I raise the question of how much trust we can place in the Government. Should we really take the Government's word? It went further:

"If we manage very quickly to put the physical infrastructure in place we may find..."—it possible to go forward with this matter in short order.

When I was finished with that position of our qualified support, the Minister of Justice, Member for St. Joseph, got up immediately after—and listen to what he said on *Hansard* and, I am quoting here the Minister of Justice:

"...I am very humbled by the indicated support for the Bill coming both from the hon. Member for Diego Martin West and the Member for Port of Spain South, who have openly supported the measure albeit on certain understandings that certain measures will be put in place prior to the implementation of this Bill when it becomes law." [*Desk thumping*]

**Miss Mc Donald:** That is right!

**Dr. K. Rowley:** So the Minister acknowledges that our support, albeit on certain understanding; yet today, the Attorney General comes here, in the face of great public concern, to tell the population that there was unqualified support from the Opposition and we must say nothing about it.

**Miss Mc Donald:** That is right! Exactly!

**Dr. K. Rowley:** And the fact that we voted for it with all the qualified support that we had, he is now trying to say that what is recorded on the *Hansard* is not there, must be disregarded, because the Government's conduct—or misconduct—denies us the opportunity to take issue with what they have done.

**Hon. Ramlogan SC:** No, it is because “allyuh” voted for it.

**Dr. K. Rowley:** Madam Deputy Speaker—but then the Minister said something. He said, with respect to the anti-gang legislation, it was not the Government that mishandled it, it was the police. It is here on the *Hansard*. I want to ask the Government today, now that the issue before the country is not Landate, is not Calder Hart; the issue before the country today at this hour—eleven minutes past three in September 2012—is what happened with the Cabinet of Trinidad and Tobago to cause the Cabinet to extricate one clause from this Bill, and have that clause proclaimed into law causing persons to approach the court. [*Desk thumping*]

**Miss Mc Donald:** That is the issue!

**Dr. K. Rowley:** When I spoke about the lapwing’s egg, that is what I was talking about; that is the issue that the population wants an answer for, and after an hour and more from the Attorney General, the answer is not available. [*Desk thumping*]

**Hon. Member:** Nothing!

**Dr. K. Rowley:** Do you know what he told us? He told us with great indignation that I am under police investigation. Madam Deputy Speaker, for the benefit of the innocent people who are listening, let me make it abundantly clear, I have absolutely no interest whatsoever in any police investigation into my conduct, because there is nobody in this country, in public life, who has been investigated more than me. At the end of the day, not him, his colleague, his friend, his boyfriend, his girlfriend, not one of them [*Desk thumping and laughter*] could lay a finger on me! Because, as I told them before: I am clean, I am mean and I will go between! [*Desk thumping*]

The allegations made against my conduct were made in 2004. He quoted today at length from the Annetine Sealey enquiry of 2005. The police investigation came to my attention in 2006. I took all the miscreants to court. The court ordered the agency that is supposed to investigate the conduct of people like me—the Integrity Commission—the court ordered them to go and conduct their investigation. They did so and they came back and reported, and I had reason to bring it to the Parliament and read it here. The final position on my conduct was that the Integrity Commission has found no basis to suspect that I have done anything wrong and you could put it in “yuh pipe and smoke it”.

**Hon. Ramlogan SC:** That is not the police.

**Dr. K. Rowley:** You and the police—anyway, that is not in front of the country today. You could stay with that if you wish, I need no help—not seven years, not 10 years, not 100 years, I need no help from anybody. [*Desk thumping*] So for the time being, let us put that aside.

He made heavy weather of my colleague from Diego Martin North/East saying seven years, as against 10 years. It was seven years from the date of being charged, as against an alternative of 10 years from the day that you commit the offence. If anybody cannot see a difference there, then they do not understand what is being said. There are two quite separate things, but my colleague from Diego Martin North/East can explain that when he speaks.

He spoke about a press conference being called because I was playing games, and that the Prime Minister woke up very early in the morning—for a change—and she [*Laughter*] had some seven o'clock meeting and decided to repeal this. The media of Trinidad and Tobago will know, and can confirm, that they got notification of a press conference in my office on Monday, or whenever it was, the day before, long before the press conference took place. The media was notified long before the Prime Minister woke up. So, let us put an end to that. I am glad to hear that he is making the advice of the lawyer public so that everybody will be able to come to their own conclusion.

Madam Deputy Speaker, what is the issue before us today? The issue before us today is that the proclamation of a particular section of the Bill that we passed, the law that went into—the Act that was passed by this House—was proclaimed by the President on the advice of the Cabinet. What we would like to know is, what was the basis for the selection of that piece of legislation/clause, pulling out that particular clause? I do not want to go into details as the AG did, about any particular case and any particular individuals, but the effect of the proclamation of section 34—the only effect that section had—was to allow persons to go before the court to seek to have their matter thrown out.

Given the commitments that the Parliament had, given the requirement of the Government to do right by the people of Trinidad and Tobago, given the fact that assurances were given that nothing will be done until all the requirements were met, I want Members of the Cabinet, in this debate, in this Parliament, to tell the population: what was the reason for pulling out section 34 and proclaiming it and bringing it into law?

The reason we are here this afternoon is because that action of the Cabinet has been done, persons have approached the court to have themselves freed, there is great outrage in the country. The Government's response to that—and they are boldfaced enough, you know, to want to take political credit for responding to the public when, in fact, it is pressure that “bussing” the pipe. [*Desk thumping*]

**Hon. Member:** Pressure! Pressure!

**Dr. K. Rowley:** The Attorney General—listen to the Attorney General in some statement he made a couple of days ago. Section 34 is going to be repealed and it has been the subject of much healthy and lively debate. This is a man watching a freight train coming at him and calling it “healthy” there? Sir, through you, Madam Deputy Speaker, it is not healthy and lively debate that he is feeling from the country. It is anger, it is outrage, it is disgust; that is what he is describing as healthy and lively debate. It is revulsion! People want to know what has happened in this Government. [*Desk thumping*]

Until you answer the question as to who drove this process, and what was the argument to cause the Cabinet to pull out that particular section with the singular effect of allowing persons to go to the court and ask for themselves to be freed. Until you answer that question satisfactorily to the population, the revulsion and the anger and the outrage will remain. [*Desk thumping*]

**Hon. Member:** That is right.

**Dr. K. Rowley:** And no amount of throwing Landate up in the air, and throwing Calder Hart up in the air, and throwing yourselves up in the air, no amount of that will take this away from the requirement for the head of the Cabinet, the Prime Minister, to tell the country why did her Cabinet—

**Hon. Member:** Tell us!

**Dr. K. Rowley:**—why did the Cabinet do what you have done. [*Desk thumping*] Because having done what you have done, what we are reacting to here is everything that started only since this proclamation took place. Prior to the proclamation of that particular section, there was no problem. There was no problem!

The Parliament passed a piece of legislation which we understood was framework legislation, which could have had and would—if it is properly handled—have the effect of treating with the backlog in the court. That was the primary intention, and everything was fine until the Cabinet went in and took an action.

**3.20 p.m.**

The AG spent a long time this afternoon trying to bind us to the Cabinet and the Government. We resist being bound with the Cabinet because we are not part of the Cabinet; we had nothing to do with it; it was the Cabinet that took a decision to proclaim that clause. [*Desk thumping*] It is the proclamation of that clause that triggered the action that is now angering the population. Do not try to give the Opposition any role in a matter in which we were not involved. [*Desk thumping*]

As a matter of fact, this AG probably thinks that we are morons. You know what he said here this afternoon? I made a note of it. He said that when we passed it in the Parliament, there was no objection. When it was proclaimed, there was no objection. Does he live here? Has he heard from the Director of Public Prosecutions that the Director of Public Prosecutions, the office of the Director of Public Prosecutions, found out that this proclamation was done from the media? We in the Opposition found out also from the media because we had no idea that the Government had done that. So how could he come here this afternoon and say that when the proclamation took place there was no objection. It is when we found out what they had done that all hell broke loose in the country. [*Desk thumping*]

It you listen to him, a man who is very economical with the truth if you have to be, he comes into the Parliament and says that when this was done there was no reaction. In fact, the whole country knows that when the press broke this story that the Government had done this, there is outrage in Trinidad and Tobago today, resulting in our major trading partner, the United States, who did not react when we voted in the Parliament because there was no problem when the Bill was supported, because the caveats and the commitment of the Government were then known to all. It was only when the Cabinet intervened and took the step of proclaiming that one clause, and the relevant effects flowed from that, that the US embassy saw it fit to issue its caution and its concern to the Government of Trinidad and Tobago.

Yet the Attorney General chooses to ignore that and to come here and say that when the proclamation took place there was no reaction. The reaction is now. This is the reaction, the Parliament being called into special session to deal with it. That is the reaction. Otherwise, we would have been home now in our houses or wherever we were on vacation. We have broken our vacation to come here to treat with an action of the Cabinet that has found disfavour with the population. So to come here and try to take credit for responding to the people because you are a Government that listens is to insult the intelligence of the population. [*Desk thumping*]

You see, Madam Deputy Speaker, you wonder what goes through the minds of people in this Government. Let me look at the proclamation. Maybe there are people in this Cabinet who also found out that this happened the way we found out. It is quite possible that there are people in this Cabinet who found this out the same way we did.

What is the proclamation? Listen to the proclamation, paragraph 2. I am putting this in the context of the question that I am putting to the Government, to

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the Prime Minister, that when she enters the debate she will try to answer it. This is the proclamation, paragraph 2:

And Whereas it is expedient that sections 1, 2, 3(1), 32 and 34 and Schedule 6 of the Act come into operation on the 31st day of August, 2012...

I want to ask the Prime Minister, who I assume—again I am making the broad assumption—I am assuming that the Prime Minister is still the head of the Cabinet. I am assuming that the Cabinet still functions. I am assuming that the law was followed and that the President was advised that the Cabinet would require proclamation of this on a particular date. My assumption could be wrong. I do not know, but I am making the assumption I can make as a Member of Parliament that the systems worked.

I want to ask the Prime Minister: what is the expediency about sections 1, 2, 3, 32 and 34 being proclaimed and being proclaimed in the context of August 31 when the rest of the Bill is being proclaimed next year? [*Desk thumping*] I am demanding an answer from the Prime Minister of Trinidad and Tobago on this matter.

The reason I am demanding this answer is that I have a very curious document here from the COP and there are a number of COP Members in this Cabinet, including—I cannot even recall who the Member for St. Joseph went up for last election. Is it the COP?

**Hon. Member:** UNC. He is the UNC.

**Dr. K. Rowley:** My colleague, the Member for St. Augustine; my colleague, the Member for D'Abadie/O'Meara and others are COP MPs.

**Mr. Roberts:** I am PNM.

**Dr. K. Rowley:** You were PNM, but you could not measure up.

**Mr. Roberts:** I do not want to measure up.

**Dr. K. Rowley:** Listen to what the COP has put out. The COP is making some demands. The COP, therefore, calls for—listen to what the COP calls for: that no amendments to Bills be introduced in the Parliament by Government on the floor and without prior consideration thereof by the appropriate governmental body.

I want to ask the Member for St. Augustine, when you get up in this debate, explain that to the people of Trinidad and Tobago. [*Desk thumping*] Do not leave it for me to infer that the COP is saying—my interpretation is that the COP is saying that we have got to pay attention to the fact that certain actions might have taken

place without the proper course of activity. The COP is saying that no amendments to Bills must be introduced in the Parliament by Government on the floor without expressed prior consideration thereof by the appropriate governmental body.

We are demanding an explanation from the leader of the COP, who is a major part of this coalition. Tell us what that means. [*Desk thumping*] Tell us that you know and you are satisfied that the amendments came through the system; it went to LRC; the Cabinet Note went to Cabinet; Cabinet approved it [*Interruption*] and I am now being reminded that he is the Chairman of the LRC.

Tell us also that the advice to the President was as a result of the consideration of the Cabinet who agreed to do this, the President was properly advised and, therefore, the Cabinet's instruction to the President was proper and complete and this section has no merit.

I ask you one question: why does the COP see it fit to make these demands at this time in the face of what we are looking at? Is it that you are trying to tell us something? You are speaking in a language that "you want talk, yuh eh talking."

Listen to what the COP also demands: that any person found to have acted with mala fides in these developments be not allowed any function on behalf of the Government of Trinidad and Tobago. Let me read it over because John Public does not understand that:

That any person found to have acted with mala fides in these developments be not allowed any function on behalf of the Government of Trinidad and Tobago.

What that means is whoever is responsible for this must be fired. [*Desk thumping*] That is what they are saying, but they have difficulty saying that. Somebody has to be held accountable. The COP is saying that something is wrong with the process; find out where the process failed and when you find out who is guilty of mala fides that that person be fired. That is what the COP is saying. The COP knows something, but the COP is not talking openly. They are talking in parables.

So when the AG comes here and says that I have no moral authority to speak and to call for his resignation, I wonder if he would extend that to the COP and say they have no moral authority to call for the removal of persons whose mala fides have been exposed and should be allowed no function in Government. They, too, have no bona fides? Is that what he is saying?

I am asking the country to take note of what the coalition partner has put out as a demand from the COP. In this debate, it is important that Members come out here and say where they stand on this issue because it might very well be that the

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Cabinet process in this country has been compromised. [*Desk thumping*] And for those who have been banging the desk when the AG was talking about how the vote went in the Parliament and that it was all “hail friends well met” and there was no dissension, the COP has a problem with that too. You know how they described it:

Knowing what commitment was given by the Government, knowing that there was a commitment given in the Parliament by the Government, and that Opposition Members had demanded those commitments as a condition for supporting the framework Bill;

—the COP says this—that what has happened, which is the Cabinet’s pulling out of a section, proclaiming it into law, creating a benefit for people who did not have it before Independence Day, the COP says it has raised grave questions about the bona fides of the Government or its part in the entire affair.

So while the Attorney General is saying we should be laughed out of Parliament—we should not be taken seriously—another part of the coalition is saying that who have eyes to see, and who have a modicum of decency, must see this as grave questions about the bona fides of the Government.

They go on to talk about what it means. I just read out to you, Madam Deputy Speaker, the conditions under which we supported the original measure. Those conditions were clear and we hammered them home and we said: we know we do not trust you, but you are giving us an assurance here; we will take a chance but make sure you do not do that.

You know how the COP saw that? The COP says that these people who will have us believe that there is no problem took advantage of the trust of all legislators, and that advantage was taken by those who introduced the legislation.

**Dr. Gopeesingh:** What is the source of the publication?

**Dr. K. Rowley:** This document? This is a COP release.

**Dr. Moonilal:** From that big, long paper?

**Dr. K. Rowley:** I will ignore you. Enter the debate.

**Dr. Gopeesingh:** You cannot be allowed to quote from something that—

**Dr. K. Rowley:** Madam Deputy Speaker, this is a COP release. [*Interruption*] If it will prevent the Member from disturbing me, it is posted on [http://usnc1259](http://usnc1259.yahoo.com) from yahoo.com. This is posted by the COP on September 11. If he is in a position to deny that it is a COP document—



**Dr. Gopeesingh:** Anybody can put anything on any—

**Dr. K. Rowley:** I notice that you are getting hot under the collar and disowning it. I notice that my friend, the Member for St. Augustine, is not disowning it. [*Desk thumping*] [*Crosstalk*] They say:

Further, the initiation of the proclamation—[*Laughter*]

I would like to speak in silence, Madam Speaker.

**Miss Mc Donald:** 40 (a), (b) and (c).

**Madam Speaker:** Hon. Members, can we allow the Member to speak in silence, please?

**Dr. K. Rowley:** It is not only the PNM. There are others in the country who find that the initiation of the proclamation of that very section in that form also spelt the breach of an undertaking of the Parliament on behalf of the Government.

Now, if this is not the COP position, I am asking the Member for St. Augustine to get up in the Parliament and disown it. Say so. If this is an orphan document, say so. If this is a bastard position, say so; but I am putting on record that the coalition party has posted to the world that this is the party's position, the chairman speaking for the party and they speak about the breach of the undertaking to Parliament. You understand?

Madam Deputy Speaker, that is what we are facing and we are still hoping that, as they join the debate, whoever they are, somebody, and this somebody has to be the Prime Minister because the Prime Minister is responsible for the Cabinet. [*Interruption and laughter*]

The Cabinet took an action. I draw your attention to the need for us to be—you see, they can laugh. They are laughing; as far as they are concerned their whole existence in Government is about fete and fun. This is a serious public governance matter. People are quite disturbed by the actions of the Cabinet. They are quite disturbed by the effect of those actions because what has been seen is that by the Government proceeding in the way it has proceeded, it may very well be that persons who should have a day in court, guilty or innocent, may never have that day in court.

If that develops in Trinidad and Tobago as an accepted practice—especially a practice which can be perceived to have been facilitated by the Government—by the Cabinet's action, then the State will begin to disintegrate. Already there is a view in this country that there is one law for the high and mighty and another one for the low and impoverished. This Government has done everything to foster and

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to sustain that. So if this matter is not properly dealt with, it will send a further signal to the national community that once you are connected properly, once you are sufficiently funded, once you are sufficiently favoured, you can have the Government act on your behalf and protect you in a way that other persons cannot be or ought not to be, protected.

That is the matter before us, and the Cabinet, having found it expedient to do what it did, without saying what was the expediency, has now come up against the Interpretation Act and that is why whatever clause we come up here with—we are getting legal advice and I am sure the Government has been getting as well—there is no single piece of advice as to how to rectify this. One thing for sure, there is a lot of legal interest in the matter and whatever we do here today would be challengeable as it always is, but at least I am hoping that we do whatever the Parliament can do and do the most that the Parliament can do. That may very well not be the end of the matter.

You see, if one goes to the Interpretation Act, you will find out why we are here. I crave your indulgence, Madam Deputy Speaker, to go to the Interpretation Act on repeal and amendment.

**3.35 p.m.**

The AG, in attempting to take credit—because you know they are always trying to take credit where credit is not due.

**Dr. Moonilal:** Credit me!

**Dr. K. Rowley:** He sent us—[*Crosstalk*]*—*we got a draft, or we got the first Bill, that we are supposed to deal with today. What we received after the famous instruction from the Prime Minister that we come to the Parliament, and this was given to us, and it simply says: clause 1, the name of the Act; clause 2, when the Act came into force; and clause 5 simply says, “Section 34 of the Act is repealed.” That is what we got.

We got an amendment today which says—

**Hon. Member:** On the floor.

**Dr. K. Rowley:** The amendment came while he was talking. When we got the amendment, the AG went on to say that the amendment is leaving nothing to chance. Well apparently when the first drafted Bill was dealt with, or was prepared, something was being left to chance. The first version apparently was leaving something to chance. So, he comes with the other amendments now

today, amendment to the amendment, leaving nothing to chance. How do we know that? You see, in repealing, one has to be mindful of what the law says.

Section 27 of the Interpretation Act says: “Where a written law repeals or revokes a written law, the repeal or revocation does not...”

He goes on to give a number of things that it does not do. It says, it does not “affect the previous operation of the written law so repealed or revoked, or anything duly done or suffered thereunder.” Section (e) says it does not “affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment...”

In other words, the simple repeal by itself is not sufficient to insulate the State from the effects of the proclamation of that piece of law. The minute the Cabinet proclaimed that clause into law a new paradigm was created. As we speak now, as we are gathered here in the Parliament, the law is that section (34) exists out there for persons to approach the court and to seek remedy. That brings into question how any termination of those actions would be interpreted against what is in section 27 of the Interpretation Act. That will be a matter for the court, because I fail to see that persons who have been so resolute in fighting and defending themselves not to have their day in court, that they will now just exhale and say, all right the Parliament has gone and repealed what they had given us, and we must take the Parliament’s position as final.

What the Cabinet has done—if it has done nothing else—even with the intervention of this Parliament by that still inexplicable action of the Cabinet, the Cabinet has created a legal highway for persons to have an arguable case against what has happened in the last few days. That is what the reality is. Had the Cabinet stayed with the Parliament’s position when we left this Parliament—when in November where the conditions were on the passage of that Bill—had the Government kept its commitment to the Parliament; had the Government behaved decently and not gone back on its word and secretly and surreptitiously pulled out one effective clause and made it into law, it would never have brought this into being.

**Hon. Member:** Nonsense!

**Dr. K. Rowley:** It has only come into being as a result of us now trying to respond to the effect of that proclamation. That is why the entire debate here this evening, strictly speaking, starts with the proclamation. There is no argument that there are tens of thousands of cases before the court. It is for that reason why we sought to look at the PI removal.

There is no argument that the courts can be benefiting from any facility which the Parliament can give to allow matters to move more smoothly through the court. That is not an argument. We dealt with that and accepted that when the Bill was passed. What the issue is—and I am going to repeat it—everything was going according to plan until the Cabinet decided to pull out clause 34 as a stand-alone clause, get it acted into law, and it appears as though there were people waiting in the wings to go to the court to get the benefit of what clause 34 brings. [*Desk thumping*] If there are people in this country who assume that there is collusion, what do you want them to think?

This Government has a press conference every Thursday after Cabinet. They have had many since the proclamation.

**Madam Deputy Speaker:** Hon. Members, the speaking time of the hon. Member has expired.

*Motion made:* That the hon. Member's speaking time be extended by 30 minutes. [*Miss Mc Donald*]

*Question put and agreed to.*

**Dr. K. Rowley:** Thank you very much, Madam Deputy Speaker. [*Desk thumping*] I thank my colleagues for the extension. The point I want to make for the understanding—not of my colleagues on the other side because they are not listening, you know. Some of them know what is going on, and some appear not to care, or some pretend not to understand. For the benefit of the national population, the action of the Government in making this proclamation, causing the President to bring into law that particular clause, immediately creates a legal conundrum.

The first attempt to make sense of that conundrum is the calling to Parliament in emergency session to see if the Parliament could find ways and means of passing into law a subsequent position which can stay the position of August 31. That is the singular issue in front of the country because an untenable position came into being on August 31, and interestingly enough, when one is questioned as to why you are reading the worst construction on it one has to ask, why was this done in the height and the heat of the distraction of the 50th anniversary celebration. Could it be that the intention was that the population will not know and respond—did the Government really believe that this could have been done, and persons could have accessed this without our knowing? I am sure the Government knew that the population would eventually find this out.

What the Government also knew is that by keeping quiet and allowing persons to prepare to go to the court, you give them a head start to head off what is happening here today in the Parliament. Had we known this before, the

Parliament would have met before, and would have stopped this before. Had the Parliament been aware of this, had we been aware of this we would have taken the same position we took on Monday that this is unacceptable, that the Parliament must meet and the Parliament must stop it, but the Government kept quiet. This was done in the dead of the night of the anniversary.

I want to ask my Cabinet colleagues and my Government colleagues on the other side, how many of you knew that this was in place and was happening while you were “fetein” for independence? And to add insult to injury, it comes into effect on Independence Day itself. The unkindest cut of all. This is the Government’s gift to the country for the 50th anniversary. [*Crosstalk*] Madam Deputy Speaker, it will take me a little while. I must say, let me just take one moment to congratulate you on your ascendancy to high office. [*Desk thumping*] It was very remiss of me not to have done that before, please excuse me. I congratulate you on your appointment and your first sitting in the House. We look forward to your tenure.

The Government will have us believe that there is no problem. You know what the outside world will see and will read from this? It matters not what the Attorney General says in his self-serving fulminations. You know what the outside world will see from this is that the Government of Trinidad and Tobago, in the particular case of the matter that he spent some time on, and I am careful not to go into that matter detailed because I know people are watching; people are listening. They want to know what the Parliament is saying because if this gets to—and it will get to Privy Council—they will look to see what was said in the Parliament, to see if there was any slip in the Parliament—[*Interruption*] To see if there was any slip in the Parliament—[*Interruption*]

**3.50 p.m.**

**Miss Cox:** “Dey coming to blame de PNM.”

**Dr. K. Rowley:**—that creates advantages. So we have to be careful, you better be careful in this debate about what we say because what we say in here will most certainly become the subject of analysis and extraction in another place.

But the outside world looking at this, and all that happened, they would have seen the DPP saying, I did not know about this; I was not consulted on this matter. They would see it reported that clause 34 was not a part of the original Bill, so it could not have been the backbone of the original Bill. It could not have been a major part of the original Bill because it was not part of the original Bill.

The original Bill was really to take away PI, so that we have no more preliminary enquiries, and replace it with something else. But since the objective

of that was to clear the backlog, we had no problem adding something else which is—these long-standing cases that could not come to prosecution in an appropriate way—if after 10 years you cannot charge a person, and go to trial, then you throw it out. That was an addition. It was not a part of the original Bill.

The DPP makes the point for the public to digest, and I commend the DPP's statement to the population because it is not very often that the DPP of any country is forced to issue a statement like that in circumstances like this. He makes the point that he was not consulted on that particular part. So here it is this part was not part of the original Bill. It did not form part of the discussions with the DPP, but yet, for some strange inexplicable reason, it became such an important part, that it had to be extracted on its own and proclaimed into law on its own.

What do you want me to think? What do you want the rest of the country to think? What do you want the rest of the world to think? The rest of the world is now saying that in Trinidad and Tobago there is a Government that has given assurances to the Parliament that it will not do certain things. The Government went and did exactly what it said it would not do, and the action of the Government has the effect of allowing alleged money launderers and fraudsters to escape a day in court. That is what the world is being told, and they will go further—they will say in Trinidad and Tobago party financiers have so much control over the Government of Trinidad and Tobago that they could get the Government to do that. [*Desk thumping*]

**Miss Cox:** Sad, sad.

**Dr. K. Rowley:** And there is nothing that you could say that could change that. That is the face of Trinidad and Tobago today; that persons, alleged criminals, could have got the Government of Trinidad and Tobago to take an action which the Government, up to the moment that I am speaking now, cannot tell us why they did that. Who did it? Who advanced this to the Cabinet?

**Miss Cox:** And why?

**Dr. K. Rowley:** Why did they do that? And why did the Cabinet agree to it, to give this benefit in this way? And if you did not think that there was a problem, why did you call the Parliament today to head it off? It is you who did this a few days ago! You did this! I am asking you now, why did you do it?

**Hon. Member:** And trying to implicate us.

**Dr. K. Rowley:** And unless all of you could tell this Parliament why you did this—to the satisfaction of the people of Trinidad and Tobago—you all stand

accused of taking action to benefit people who are trying to evade the courts of Trinidad and Tobago. [*Desk thumping*]

**Miss Cox:** Financiers, boy.

**Dr. Gopeesingh:** Standing Order 36(5), imputing improper motives. [*Crosstalk*]  
Standing Order 36(5). Your statement borders—[*Crosstalk*]

**Hon. Member:** “Is questions” he was asking.

**Dr. Gopeesingh:** Not questions, imputing.

**Hon. Member:** No, no, no. It is the same thing the AG did. [*Crosstalk*]

**Madam Deputy Speaker:** Hon. Member, you may continue.

**Dr. K. Rowley:** Madam Deputy Speaker, I thank you most sincerely for your—let me rephrase it so that it does not offend my colleague the Member for Caroni East.

**Dr. Gopeesingh:** I will appreciate that.

**Dr. K. Rowley:** It is possible, Madam Deputy Speaker, it is more than likely, it is already the fact that persons looking at Trinidad and Tobago may find it fit to come to a conclusion which they may find inescapable, that in Trinidad and Tobago this action—for which the Government can give no proper explanation—is an action which may have the effect of holding the Government up as having taken specific action in this particular case with this particular clause, and the benefits to come from this particular clause, that the Government is being seen to be under the control of others.

Madam Deputy Speaker, if, if, if they come to that conclusion—[*Interruption*]

**Dr. Moonilal:** People from Mars?

**Dr. K. Rowley:**—it will have to be in the context that the major beneficiaries known to us today—because there are many beneficiaries—who have approached the court, are known party financiers—[*Interruption*]

**Miss Cox:** Yes.

**Dr. K. Rowley:**—who have identified themselves as such in their own pleadings.

**Miss Cox:** UNC financiers.

**Dr. K. Rowley:**—and for whom I have seen a cheque for \$2 million to their party in the last election. [*Desk thumping*] So do not tell me that these are the facts before the country, and also tell me you are not going to answer as to why you did what you

did, but then tell me what I am supposed to think. The Government has not yet become so good as to control the thought process of the people of Trinidad and Tobago. The people of Trinidad and Tobago will come to their own conclusions.

**Miss Cox:** That is right.

**Dr. K. Rowley:** Own conclusions! And you can get up in the street and tell them that they are imputing improper motives. Tell them that. Because they will simply ask you the same question that I am asking here, the question which demands an answer. If this debate ends today without a proper answer to that question, then the problem would still remain. Why did you do what you did? What was expedient about it? What ill were you trying to cure? What benefit were you trying to bring to the people of Trinidad and Tobago?

Why did you pull out that particular clause and proclaim it into law, and having done that, you now create for the State serious complications which will—however we act here today—it will cost taxpayers millions of dollars because there will be resistance to what we have done. You mark my word, and any resistance to the State’s action, count it in millions of dollars; but the AG smiles. Whenever the State has to pay millions of dollars to lawyers to argue the State’s case, the AG smiles; smiles. Good for him. In a budget of austerity, he smiles.

It brings us—we would never have had to be coming up against section 99 of the Constitution. As we seek to take into account what he has brought here today to be enacted into law, to cure this ill—this ill which still cannot be explained. We have to do it against the background of section 99 of the Constitution. We have to do it in such a way that the Parliament does not allow jurisdiction to the Judiciary to hear or to accept jurisdiction over a complaint that certain rights that were given to them by the Cabinet a few weeks ago are being taken away by the Parliament. Because, you see, there is separation of powers in this country. Parliament passes the laws and the Judiciary administers the laws. We pass the law allowing for persons to go before the court, and giving the court the authority by the word “shall” to throw out certain matters if it comes before there in a certain way. We—and by “we” I mean that component—*[Interruption]*

**Hon. Member:** All of us.

**Dr. K. Rowley:** —of the Parliament that forms the Cabinet took themselves, as a Cabinet, to make a decision—which they must explain, which they will not explain—to do certain things, we as a Parliament here now, we are being called upon to put a clause in place or clauses in place to make sure that we are not seen by the legislature to be seeking to be adjudicating on a matter before the court. Which is why I said to



my colleagues, we got to be careful what we say about the particular Piarco case, because if it could be argued away from this House that this measure of amendment that we are doing today is aimed directly or can be viewed to be aimed directly at that particular situation, then it would be against the law. It will give them a defence that the Parliament has made legislation to seek to intervene in a situation where they are about to have a benefit from the court. That is a legal argument available to them.

Whatever we do here today they can argue that—whether they would succeed, I do not know. But because the Cabinet has done what the Cabinet has done, it has put the State in that situation where we must now understand that section 99 says, there shall be a Supreme Court in Trinidad and Tobago—a High Court and a Court of Appeal—“with such jurisdiction and powers as are conferred on those courts respectively by this Constitution or any other law.”

We are now today coming under the rubric of “any other laws,” and we hope that we will craft an amendment which will create other law, outside of the Constitution, which will have the effect of preventing the Judiciary from hearing complaints from people who will come and say, I got a benefit under the law in August of 2012, and as I approached the court to have that benefit, the Parliament did not like it, the Parliament went back in session and passed a law to deprive me of a benefit that I had been given. That is what is before the country today.

That is what is before the Parliament today, and that being the action of a Cabinet that has a lot to answer for, that looks very strange in the eyes of the population and of the world, and unless we come out of this Parliament today with a proper airtight arrangement, being the best that the Parliament could do, I am sure that there might be those who are sitting there waiting to see what mistakes the Parliament might make to maintain the status quo as exists today.

So, Madam Deputy Speaker, it appears as though the Government intends to hide behind the fact that the Opposition voted [*Crosstalk*] for the Bill that created the amendment of 2011. We plead guilty to trusting the Government to keep its word that it gave to the Parliament and solicited and got our support. We plead not guilty—[*Interruption*]

**Miss Cox:** That is right.

**Dr. K. Rowley:**—to having anything to do with the proclamation of a particular clause to facilitate a particular action. [*Desk thumping*] And I know that there are those in the national community who are chastising us for saying that we should have known, that we should not have trusted the Government.

**Mr. Imbert:** Imagine if somebody says that.

**Dr. K. Rowley:** And I say, Madam Deputy Speaker, if it is the view of the country in Trinidad and Tobago that the Opposition in the Parliament should have known that they should not trust the Government because the Government does not speak the truth, that the Government does not honour any commitment, that is one hell of a state of affairs. Because if it is that we are to be chastised for trusting the Government, and that the country must accept that the Government in Trinidad and Tobago is untrustworthy and must not be taken at its word, then the Government needs to be out of office immediately. [*Desk thumping*]

You see, Madam Deputy Speaker—[*Interruption*]

**Hon. Member:** Everybody.

**Dr. K. Rowley:**—they take serious matters as a joke, but I think on this occasion, notwithstanding anything they say, the population has paid enough attention—[*Interruption*]

**Hon. Member:** That is right.

**Dr. K. Rowley:**—to want this matter addressed and addressed as a matter of urgency. [*Desk thumping*] And that is why the Parliament has been convened in emergency session.

It is that we can now—we warned the Government before, you know. We said that anything in the interest of the people of Trinidad and Tobago will find our support. It must have been our first session in the life of this Government. I stood in this place on behalf of the Opposition and we said that anything which will serve the interest of the people of Trinidad and Tobago will have our support. We stand by that position.

**Hon. Member:** Well yes.

**Dr. K. Rowley:** So when it came to the House for us to remove the preliminary enquiry arrangement, to replace it with something which will expedite matters in the court—[*Interruption*]

**Hon. Member:** Sufficiency hearing.

**Dr. K. Rowley:**—we deemed that to be in the interest of the people of Trinidad and Tobago and we supported it.

**4.05 p.m.**

We knew that there were circumstances and consequences to that framework. As a matter of fact when my colleague from Port of Spain spoke, she said we support it in principle; when my colleague from Diego Martin North/East spoke

he put his strictures. I, as Leader of the Opposition, I put my strictures and I warned the Minister not to go back on the word that he gave, the commitment that he would not proclaim it, and if that proclamation was done against the time frame that we had anticipated in this House, then it never would have clashed with the Piarco arrangements.

Because, you know, there are those who are saying that we should have seen it coming. But we are not allowed in here, and were not allowed, to discuss the details and merits of the case, but we knew of its existence and where it was. We had a rough idea and we raised it with the Government and said, we, okay—my colleague from Port of Spain South said this may take a year to five years to get in place. My colleague from Diego Martin North/East said three to four years.

Where this arrangement came from that, in the dead of night, in a matter of a few months, you go and pull out this clause contrary to the spirit and letter of what the Parliament passed, contrary to commitments you gave to the country and the world, and you went and did this. Explain it in this debate. I cannot ask this question often enough, and when you get up you must—and I would say it 55 times because that is the singular issue. Maybe there is a proper explanation which we can accept and just end the debate and go home; maybe it is there, but in the absence of a proper answer we have to assume the worse. In the absence of the Government explaining what drove it to do this, we have no choice but to assume the worst.

**Miss Cox:** No, they want to attack the PNM.

**Dr. K. Rowley:** Madam Deputy Speaker, when we gave that conditional support to the Government, we made reference to the Anti-Gang Act.

**Miss Mc Donald:** On which I will speak.

**Dr. K. Rowley:** We made reference to how the Government behaved with the Anti-Gang Act. It was in this very House that, when the Anti-Gang Act was dealt with and passed into law, Members on the Government side gave kudos and recognition to Members of the Opposition for the sterling role they played in contributing to the conclusion of that joint select committee which brought the Bill to the House for unanimous support. That was another instance of unanimous support. It had nothing to do with how you voted. We voted in the public interest. We voted.

We said that if there are gangs out there and there are gang members out there, we must criminalize the whole idea of being in a gang, of leading a gang. We must pass a law to do that. The joint select committee crafted that law. The law

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was assented to, proclaimed in August. I think it was August 17<sup>th</sup>, so for the first time, that action became a criminal action. Prior to that date it was not a crime. That was clearly understood by the Parliament. Lo and behold, the Government went out as an executive, assisted the police, encouraged the police by declaring a state of emergency, and on the basis of some information which they may have had before, proceeded to arrest and incarcerate people.

Everybody in this country who understood what was happening told the Government, you are doing something wrong. The Government spent four months doing that, pretending that it was an effective crime plan, and at the end of the four months the Government had to release everybody who they picked up; they had to let everybody go because they had acted improperly. And you know what they said—they turned around and blamed the legislation.

**Miss Mc Donald:** They say, “is the PNM”.

**Dr. K. Rowley:** Not that they had not collected evidence, found witnesses, which are basic ingredients in prosecuting anybody for any crime; not that they had sought to pick up people knowing full well that they had no evidence against them. It was the Attorney General who was telling the country and the world “jail eh make to ripe fig”. [*Laughter*]

So they went to “ripen” all the persons who they viewed were criminals, and then they turned around, as my colleague from St. Joseph said when I raised this with him during the debate on the PI matter—he himself raised it—and he is on *Hansard* saying, it is not we the Cabinet, “is the police” that did that. Quite rightly so because the police should have known that if you pick up somebody on any charge and you have no evidence, and you have no witness, then you have no basis to take them to court because you cannot get a conviction. But, of course, the police listened to the political directorate: “pick them up now, you go find evidence later.”

That was the policy of the state of emergency; it came to naught in the end, millions of dollars later. [*Interruption*] Today, we do not have time to go into the crime situation in the country post the emergency, but I raise this only to point out that the Government’s untrustworthiness has been there for all to see, but we still gave them the benefit of the doubt when this matter came before us, and once again they have betrayed that trust, and the country is now saying to the Opposition that you should have known that you cannot trust the Government—why did you trust the undertaking they gave you? [*Desk thumping*] Why did you trust the undertaking? If they said they would not do it, why did you believe them?

That, Madam Deputy Speaker, is the state of play in Trinidad and Tobago today. [*Crosstalk and desk thumping*] You understand, and they could say what they want. They could say what they want; that is the general sentiment in Trinidad and Tobago that the Government has acted true to form. The Government has acted true to form. [*Desk thumping*] They have not spoken the truth. They have acted to no high standard; they lack integrity; they betrayed the parliamentary trust; and that is why the COP has said that this is grave and it is serious. [*Continuous desk thumping*] And that is why it is interesting for me to listen here this afternoon to COP Ministers. When they get up let us hear them respond. [*Crosstalk*] Let us hear their position.

I am waiting with my ear pricked up to hear what the Member for St. Augustine has to say on this matter.

**Mrs. Gopee-Scoon:** He has nothing to say.

**Dr. K. Rowley:** And if he has nothing to say, that would say loudly what he has to say on the matter. As simple as that! And they could say what they want. The bottom line is that the people of Trinidad and Tobago are disturbed. The people of Trinidad and Tobago are disturbed by what has happened. They are frightened by what has happened, because every time the Government behaves like this it says to the country that there is no limit beneath which this Government will not sink. Every time the Government does something horrendous, it is not the end of the matter, there is something worse that they can do. [*Desk thumping*]

So far, of all the things this Government has done, this is the worst that they have done to date, and that is why they cannot explain it. [*Continuous desk thumping*] That is why they can give no reason that the population can accept. That is why they have to try and divert attention away from the kernel of the matter, from the matter which says that the Cabinet advised the President to extract a clause from a particular Bill and make that clause into law for the benefit of certain persons who the population believes are in line to get a benefit because of their association with the Government of Trinidad and Tobago. [*Desk thumping*]

It is up to the Government to carry on this Herculean task of convincing the population that all that glitters is not gold and what we see here is: what you see is what you get. The Government has acted to tarnish the country and its institutions, and this Government—the faster you all get out of office the better for the people of Trinidad and Tobago.

I thank you, Madam Deputy Speaker.

**The Minister of Sport (Hon. Anil Roberts):** Thank you, Madam Deputy Speaker. The international population will see a Government and a Parliament, who, unanimously in good faith passed good legislation, and information came that some untoward acts may have come forth in the population. There are independent institutions that wrote some concerns, and what the population of the planet and all people who believe in good governance, in transparency, in accountability, in the frailty of mankind—whether on Opposition Benches or in Government—what the population of the planet is seeing is immediate impact of good governance coming here to correct any possible untoward outcome from the effects of trying to pass good legislation in both Houses of this august Parliament. [*Desk thumping*]

That is what the population and that is what the world will see. They would see a Government that listens and immediately—on solid, independent, critical thought, analyzing a situation, the hon. Prime Minister, in the early hours of the morning, decided on the advice after reading a letter from the DPP, 27 pages, from getting senior counsel opinion after the issue came up—immediately called and put into motion the process to call the Parliament to rectify the situation. That is what the world would see. Great governance, decisive leadership and the maturity to produce what is best in the public interest regardless of ego, of politics, or regardless of self, and that is what the world is seeing, Mr. Diego Martin West.

Unfortunately, what the world is now seeing from you Member for Diego Martin West, and I must say that my mother, being a great supporter of yours, God rest her soul—right now she must be uneasy. She has to be uneasy because it has been proven here that the Leader of the Opposition, in his own words, said that the press conference had been called previously. That is true, yes. Of course it is true. You called a press conference, that is great, but at 7.00 a.m., the Prime Minister after consultation decided Parliament must be called.

By 9.00 a.m. on the way to the press conference the Chief Whip was informed, and she just said so: “I was on my way, why you did not tell them, Leader of Government Business, that I was on my way to a press conference.” That she was informed on her way—I hope she was using hands-free and not holding the cellphone, because every law is very important and it is illegal to talk, while driving, on your cellphone, so I hope you have hands-free. She said that she was informed of a press conference; she was informed on her way to the press conference that the Prime Minister and the Leader of Government Business and the Government had caused Parliament to be called tomorrow.

She then participated in a press conference an hour later after having been informed of the Government’s decision. She was complicit with her Leader of the

Opposition to hoodwink the entire media and the population, pretending and purporting to put an ultimatum that “if they do call Parliament we will march and we will march”. [*Desk thumping*] Well let me tell you that the Government has saved the Leader of the Opposition because when he went down in his own constituency he could not march; they marched against him and we would have saved him the embarrassment because the march to the Prime Minister’s office—there is quite a big lobby and all the PNM support that he could muster throughout the country could have sat comfortably inside that lobby. So we saved him from the embarrassment of only collecting 35 people to march. [*Interruption*]

Yes, it could be stupidity, but what it deals with is honesty and trust. I am hearing honesty and trust, and that we are so dishonest and so terrible even though we come here to correct, when informed with intelligent positions, that we come to protect with an abundance of caution to ensure that nobody benefits from a good law that was intended to assist the country as a whole, and if any individuals can surreptitiously or otherwise benefit from a law, that we come here to close any possible loopholes. That is responsible governance.

**4.20 p.m.**

But when you come here, Leader of the Opposition, talking about trust and honesty, and he has been caught in a blatant hoodwinking, and misleading of the entire population and I read it here, you knew full well before you spoke, you called the conference—you could have called it last week, whenever you wanted. But before you spoke, before they turned on the mike, before the camera batteries rolled, you knew that Parliament had been called by the Leader of Government Business and the Prime Minister and the Government [*Interruption*] well they will correct it. Is it not true? Well the Member for Port of Spain South will stand and correct it on *Hansard*, and I put it that the Member for Port of Spain South looked across at the Member for Oropouche East, Leader of Government Business, just an hour and a half ago and said, “Why you did not tell them that ah answer the phone. Ah was on meh way to the conference.” So the Chief Whip, I cannot impact—[*Interruption*]

**Dr. Rowley:** Madam Deputy Speaker, I rise on 36(1). My time is very valuable. I rise on 36(1). [*Crosstalk*]

**Madam Deputy Speaker:** Member for D’Abadie/O’Meara, you may continue.

**Hon. A. Roberts:** Thank you, Madam Deputy Speaker, and let me let the population know, because I have no need to talk to you, Opposition Leader and Member for Diego Martin West. You have come here, you spoke for an hour and

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15 minutes, you cast aspersions on everybody on this side. You have accused us of being untrustworthy, of being liars, of colluding to conspire to help potential criminals or alleged criminals. You have attacked us in the most vile way, and now you say that it is irrelevant. I am dealing with the issue of trust.

You have been caught in a blatant falsehood—[*Desk thumping*]—because you are aware that Parliament had been called, and yet you got up on a microphone, your Chief Whip—and I challenge her to stand up here and say different, that she did not know before the press conference, before she arrived wherever the press conference is, because we do not know where you hold them. Let her stand up after and say that she did not know—that the Chief Whip was not aware, before the press conference was called, that Parliament had already been summoned.

The media, I am informed, told the hon. Leader of Opposition—well I use that word loosely—that in fact Parliament had been summoned already and the Government was going to deal expeditiously with this issue. But he got up and I quote:—ultimatum—

...yesterday accused the Government of using Cabinet and the Parliament to facilitate the escape of alleged criminal wrongdoing on the part of favoured citizens. And he said that he was going to stop the Government in their tracks. Who facilitated this development with Galbaransingh and Ferguson should not be holding ministerial office. He said that the proclamation of certain sections must be perceived in the context of power and influence of alleged corrupt individuals and then he continued. Dr. Rowley said the Opposition is calling on the Government to convene Parliament in 48 hours when “he know Parliament done call”. [*Desk thumping*]

“And you talking bout trustworthy”? In the words of the young people—I did not want to get riled up today, “rest meh nah”, in the words of the young people. You knew full well that Parliament had been called and “you telling” the population, “you giving” the Prime Minister the ultimatum to call it and talking about trustworthy, and who could tell the truth. Let me just say, and just not the words, because the People’s Partnership consists of the UNC, the COP, the TOP, the NJAC and still some MSJ, they are on many boards still, all the MSJ “eh gone nowhere”, one or two went.

**Dr. Moonilal:** Two went? David?

**Hon. A. Roberts:** Two went, David Abdulah, yes. But let me talk about a former PNM member, probably still a PNM member and a very distinguished citizen of the Republic of Trinidad and Tobago, Senior Counsel and former



Speaker of the House of Representatives. Let us see, you asked what the population, what the world is seeing right now. Well, let us see what a former PNM member, a Senior Counsel and former Speaker, let us see what “he see”. So I do not know what the world is saying, because I “eh” leave the country recently except for the Olympics. But let us see. Former Speaker Barry Sinanan has described—[*Interruption*]

**Mr. Imbert:** How long you went for?

**Hon. A. Roberts:** Anyway, I will not bother with you. I went for 13 days, Sir. Let me stay focused, I would not be distracted. This is the *Guardian* newspaper, the same newspaper that alerted the Leader of the Opposition as he said. The date is Wednesday September 12, 2012—[*Interruption*]

**Hon. Persad-Bissessar SC:** Page.

**Hon. A. Roberts:** Page A4—[*Interruption*]

**Hon. Persad-Bissessar SC:** Headline.

**Hon. A. Roberts:** “Former Speaker lauds Govt’s quick response”.

“All yuh pong de table, is a PNM saying that”. Not me, forget me. PNM saying it.

“...former Speaker Barry Sinanan has described as ‘laudable’ Government’s efforts in dealing speedily with the situation.

Sinanan said when the Act was being debated, certain aspects should not have slipped past both Government and Opposition members.

But, he added, that was only human.

‘But the Government is doing the right thing by recalling the Parliament,’ Sinanan added.”

Fantastic.

Now, I see the Leader of the Opposition read and quoted from a COP release that he received, according to the *Hansard*, last night on September 11, 2012. Well, the last time I checked my membership, which was as of yesterday, I am a COP Member of Parliament and a COP Minister of Sport and a staunch COP strong fella and like Vernon, who is no longer Chairman, but still a member, and I received my COP media release only this morning at 9.06 the media release signed by the Chairman, Joseph Toney.

So one, I would like to know how the Member for Diego Martin West got his yesterday. He will have to ask Joseph Toney and I ask my COP colleagues to investigate that too, because how did you get the COP press release when it was only disseminated—and media personnel could also check that—at 9.06? “All yuh could shake yuh head”, COP media release 9.06 today, but the Leader of the Opposition said—[*Interruption*]

**Hon. Member:** [*Inaudible*]

**Hon. A. Roberts:** Forget time, he said the 11th—I will not give way, check the *Hansard*. He said he received it on the 11th. Today is the 12th. I do not know what time. You said the 11th. So you received it before me and I am a COP member. It was sent to all COP members, to all media. It was disseminated at 9.06 a.m., and Dr. Rowley had it on the 11th. But let me just also say before I get distracted, and after tea I shall go into more detail and I speak to the population, because this is a very serious debate, and what Dr. Rowley and the Opposition is saying is that all of us here colluded and made a conspiracy. There was a conspiracy to basically ensure that people duck or dodge the law and possible alleged criminals can escape. That is a serious accusation, and after tea I shall deal with that.

But I would like you all to know that on this side, in this Government, we believe that every law is an important law. Whether it is the FIU for big drug lords and big financiers; corruption; whether it is murder; whether it is a traffic offence; whatever is the law, we believe that it is an important one and anyone seeking to be Prime Minister should ensure that they follow all laws and I will say to the Member for Diego Martin West, next time you want to park [*holds up a picture*] by your office do not park on the pavement because it is illegal, whether it is a BMW X6, parking on the pavement is illegal and breaking the law.

**Madam Deputy Speaker:** Hon. Member—[*Interruption*]

**Hon. A. Roberts:** When you want to be Prime Minister—

**Madam Deputy Speaker:** Hon. Member, let us not get carried away. You are not allowed to use photos.

**Hon. A. Roberts:** I humbly apologize, Madam Deputy Speaker. And after tea I will come back and show that the conspiracy theory that is put forward by the leader of the Opposition is vacuous at best, malicious at worst and will not stand in this Parliament.

**Madam Deputy Speaker:** Hon. Members the sitting is now suspended for tea until five o'clock.

**4.30 p.m.:** *Sitting suspended.*

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

**Hon. Anil Roberts:** Thank you, Madam Deputy Speaker. I was instructed by the Leader of Government Business to humbly apologize for showing the picture of the Member for Diego Martin West illegally parked with his brand-new spanking BMW X6 PCU 200. So, I was instructed to apologize once again for showing the picture without getting the requisite permission, and I so do from the bottom of my heart. I humbly apologize for showing that picture of the Leader of the Opposition breaking the law. I am sorry.

Now, the Member for Port of Spain South, the Chief Whip, got up when the hon. Attorney General was making his presentation on three or four occasions and she called on Standing Order 36(5), imputing improper motive, and I was puzzled as to why the Chief Whip would get up and take such offence when the very debate that is taking place here, the entire contribution by the hon. Leader of the Opposition casts aspersions, accuses this Government, collectively and individually, accuses the Parliament, the Cabinet and many other institutions of the Republic of Trinidad and Tobago of colluding to thwart the judicial process. These are very serious accusations and I think I have to deal with them, succinctly, clearly and make it pellucidly clear that this Government will never indulge in any form of collusion or conspiracy to encourage criminal activity.

The People's Partnership Government is not one that plans to formulate a crime strategy by meeting 21 gang leaders in Crown Plaza as a Prime Minister. We do not plan to meet with gang leaders when a PNM Mayor calls a Minister of National Security to a meeting, and that Minister of National Security and my colleague the Member for Chaguanas West is sometimes too loving, too trusting and too faithful, and he takes people at their word sometimes and that is a bit of a weakness on the part of the Member for Chaguanas West.

So, when his colleague and his friend—they might be similar in age—the PNM Mayor calls him to a meeting and insists that he come to his office at City Hall and when he comes in there, there are two gentlemen who he is not acquainted with and then later finds out that they were actually “gang leaders” and then that very PNM Mayor said that it was the Minister of National Security who wanted to meet with gang leaders and planned a subsequent meeting, and said that the People's Partnership policy is to meet with gang leaders. We do not have that policy.

We will not negotiate with gang leaders or criminals. If they want an opportunity to thrive and survive, put down the gun, stop robbing people, stop

raping, stop hurting and you will get into the mainstream through all of the programmes that we have put in, whether it is the Life Sport Programme that is starting a pilot project across 33 communities, which is doing very well now. We will not negotiate. But it is clear that the PNM, that is their policy.

The former Prime Minister sat in Crowne Plaza with 21 of those. Now, if you want to talk conspiracy maybe I can throw out one. Twenty of them are dead. I do not know, but could that be a conspiracy theory, because here today we are going to talk about conspiracy theories. That is what the Leader of the Opposition wants. The Leader of the Opposition's position is that this Government brought legislation, debated it in the Parliament, it went up to the Senate, amendments were made up there. It came back down here for committee stage and we passed it unanimously with the support of the entire Opposition, each one voting aye. The Leader of the Opposition is now saying that somehow the people on this side, the Government of Trinidad and Tobago, which consist of many parties—this not a unitary party or unitary Government.

**5.05 p.m.**

There is the UNC; there is the COP; there is the TOP; there is the NJAC; and at this substantive time in November, the MSJ was also part and parcel of the Government. So to suggest that these five disparate groups got together and colluded to ensure that UNC financiers get off, number one, is an illogical position.

For a conspiracy to exist, all parties must be of the same mens rea; there must be motive; everybody must want to get that goal. The goal here being suggested—as ridiculous as it may sound by the Leader of the Opposition—is that all these groups went through all of these problems to get off two UNC financiers who we “doh” even know if they are still financiers, because there is no evidence of such, from quite in 1998.

Well, we know that PNM got financed \$5 million—it was placed here on record in *Hansard*—from Monteil, and he was the PNM treasurer at Clico. And then we know about the Clico fiasco and we will talk a bit more of that as we get into conspiracies, because conspiracies must have some modicum of possibility of coming through.

We have some citizens who, under the PNM, were locked up abroad in the USA for planning to blow up JFK. When you look at the evidence, it is so silly; it is not plausible; it was not possible and, unfortunately, they had to spend time in jail because our then PNM Government was not strong enough to say, “No, no, no, USA. Give us more evidence before we send our citizens to you.” Blow up JFK! One of the gentlemen who used to lime with the former Prime Minister could not

even fly; he was claustrophobic; he was so frail. But, yet, that was a conspiracy theory. That is one similar to this one.

So, for a conspiracy theory to work, it means that everybody must be on the same page; they must want to achieve the goal, and the goal in this case, put forward by the Leader of the Opposition on national television to the national population, is that all of us on this side: COP, TOP, UNC, MSJ and NJAC want to get off two UNC financiers.

All right; interesting, so let us get down into this discussion now, and let me first of all say that this Government also did not plan a \$100,000-a-ticket dinner before the 2007 election. Since we want to talk campaign finance, the former Minister of Health, Jerry Narace, the PRO of the PNM, sent out invitations—gold embossed—and had to be withdrawn by the then political leader, Patrick Manning—\$100,000-a-ticket, and then claimed that the PNM is the grassroots party!

Well, I will sit if anybody on that side could tell me a “grassroots” who could buy \$100,000 a ticket to eat a roti and some dhalpuri with a little kachori—a \$100,000 dinner to raise funds for an election! And they have the audacity to come and say they want campaign finance reform and we are supporting drug lords. That grass had to be—that had to be golden grass. So let us be real and let us get down to the brass tacks.

Now, there was a need for this law. What was the need for this law, the Administration of Justice (Indictable Proceedings) Act? Everybody is clear. It was unanimously passed. Opposition, Independents and the Government said there is a backlog of cases that is choking the life out of the judicial system. Even the Downtown Owners and Merchants Association President, Gregory Aboud, recently said, “Listen, all this talk bout crime: talk, talk and press conference; the only thing that is going to impact on crime is conviction, conviction, conviction.”

So one of the processes or ways to ensure conviction is to make sure that magistrates do not have to deal with 12,500 cases per year as one human being—ensure that the system moves fluidly through, from investigation to charge, to indictment, to case, to appeal, “boom”—very important. Because if criminals feel that they can get away—that is what we are seeing—they have no respect for the law; they have no fear; there is no deterrent; and it just goes wild.

So everybody got together and everybody said this is a brilliant piece of legislation being brought by the Minister of Justice and the Member for St. Joseph. In fact, we had Sen. Faris Al-Rawi—now, I must say I am glad that he is a Senator, but since you all brought up—

**Mr. Imbert:** You cannot refer to matters in the other place.

**Hon. A. Roberts:** Okay. I will quote from a PNM—a position of a PNM. “No, is not—I ain’t say nutten now. Ah going tuh somebody else.” This is part of the debate. Everybody—[*Crosstalk*] I would like a ruling because this debate is about what went on in this House, the Senate, everybody—trustworthiness.

It was brought up by the Leader of the Opposition that the Independents and everybody were hoodwinked by us. He said that, and I am responding to him that: one, we would not desire to hoodwink anybody; we did not have the capability; and in fact everybody, en masse, in both Houses, agreed with this. That is the point and that is part of this debate.

So, as I said—[*Interruption*] Check the Standing Orders “nuh”. Read “nuh”. [*Interruption*] You just come, hold on “nuh”.

“I wish to compliment the hon. Minister of Justice...” [*Interruption*]  
Madam Deputy Speaker, can I speak in quiet, silence? “They making meh raise—I am trying to talk quietly for the audience and, yuh know, it’s hard for me to talk soft. So ah trying. Ah doh normally seek protection, but today I feel a little weak.” I do not feel to fight.

**Madam Deputy Speaker:** You have my protection.

**Hon. A. Roberts:** Thank you for your protection.

“I wish to compliment the hon. Minister...on bringing this Bill today. It is a Bill that we, as the Opposition, intend to support because it represents good law”—good law. “From the lawfulness and constitutionality points of view, I feel satisfied that the Bill proposes a level of proportionality with respect to the intrusion upon fundamental rights, that is sections 4 and 5 rights, which is acceptable under the rubric of...13...

When you factor the reasonableness of the Bill, seeing that we ought to bifurcate”—lovely word by Al-Rawi—”the concept of reasonableness:

- (1) we should look at the reasonableness of the terms and conditions of the Bill which I am satisfied are reasonable; and
- (2) we should look at the reasonableness of the operation of the Bill...”

Also supporting—“you doh wah meh quote from your Senators; is okay, since yuh want tuh keep secrets.”

Sen. Hinds agreed with him, of course. So let us move on—as did the Members for Diego Martin North/East, Diego Martin West and Port of Spain

South. Everybody agreed that this legislation—[*Interruption*—I shall do that. Since you want to do that, I will go right there. Nice. Let us go to the Member for Diego Martin North/East. Nice, man. This is the Member for Diego Martin North/East, November 18, 2011, in his contribution, and he says:

“Mr. Speaker, the Minister of Justice—what a title—told us that this Bill is unique, it is indigenous, it is his Bill...it is all of his work...”

Now, when I go through—you know, I will go through the Member for Diego Martin North/East in a different way. I “doh” want to go piecemeal. Since you want me to quote from you I will do so extensively. Let me say that everybody agreed on this. Understand this, ladies and gentlemen, people cannot pull themselves out. Every single person agreed to this legislation.

Now, if you say that there is a conspiracy, that then means the conspiracy, unlike what Diego Martin West is saying, cannot occur just at the end. You have to take a whole train of events to see how things went; how they did not go, to end up in a direction. You cannot pluck out one thing and say there is a conspiracy. A conspiracy cannot occur in that form or fashion. So, if there was, as he suggests, a conspiracy, then he is involved in it; all of us are involved in it in both Houses, including the Member for Diego Martin North/East.

Now, when we move forward also, we would see that in the committee stage—so we debated in the Lower House; we did not debate section 34; they went on to the Upper House and somewhere up there, it was introduced by the Minister of Justice and the Upper House with the Independents and everybody; they debated it and then they went to committee stage.

Now, the very loquacious Senators and the main spokespeople of the PNM—Sen. Fitzgerald Hinds and Sen. Faris Al-Rawi—spoke extensively on every clause. You could go through. This is committee alone here. On every clause, from 2 to 3, to 11, to 19, to 14, they had a comment to make, because they are very intelligent fellows. So they went through it and they tried to ensure good law. That is brilliant. I applaud them and the Government respects that and takes everybody’s position to try to get good law.

There is one problem. In all of this talk on each clause in committee stage, when they came to clause 34, not one word—not one word. They did not dot an “i”; they did not change the grammar; they did not make the subject and the predicate agree; they did nothing! They agreed with it 100 per cent. [*Interruption*]

I am glad you are saying “no problem” because, for a conspiracy to exist you must show that—and the Member for Diego Martin West was trying to say that somehow the Member for St. Joseph went up there and snuck this in and nobody

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saw it and, therefore, that was the beginning and he set the platform for later for the Cabinet to come, and he stuck it in.

“Follow meh. Ah know it is difficult. Yuh just reach so yuh don’t understand conspiracy. You weren’t involved in conspiracy.” I will talk to you about some—you will get education today about the PNM. I will tell “yuh”, right?

So when the genius lawyers—Faris Al-Rawi is a lawyer; Fitzgerald Hinds is a lawyer. They sat down—

**Dr. Moonilal:** They “does wear lawyer clothes”.

**Hon. A. Roberts:** They are brilliant lawyers, and they sat down and not one word on 34. Now “they talking all kinda ting. They turn senior counsel overnight!” Conspiracy? I think not.

Moving right along. We then move to the hon. Member for Diego Martin North/East. Now, his entire package—they claim now that only one section has been proclaimed. That is not true. It is about five. Not so? One, two, three.

**Mr. Imbert:** It is five.

**Hon. A. Roberts:** It is five, right. Thank you very much. So it is not one. So all the time the Member for Diego Martin West was saying one, one, one; it is not one. So do not tell the population it is one. Five “cyar” be one. There are not five of you right now; there is one of you. Okay? Right.

So there are five sections, for the population: just to let them know. Let us put some truth in the matter. Five sections have been proclaimed. Now, the Leader of the Opposition is suggesting—and he quoted from himself, and he analyzed what he said and tried to tell the population that his words—you see, you have to take him on what he said. He talked a lot yesterday in a press conference, “yuh know”. He quoted from his *Hansard* and what his *Hansard* basically said was, “Listen”—because the debate went well and the Member for Diego Martin North/East had made some good points—“you have to ensure they have enough Masters; you have to ensure they could handle the case load and so on. You might have to build some courts.”

You made all of that in the debate, that, you know, not a court has been built, and so on, and the Minister of Justice said, “Yes, as we go along we ensure that this legislation as it is proclaimed, all of those things would be put in place.” But there is one little bit that the Member for Diego Martin West leaves the population to imply, and he assumes, though he never said it, and quotes himself, but then analyzes his words to give a specific meaning when it does not exist.



Nowhere in that *Hansard* that he quoted was it ever said by him, or this Minister here, that each and every item necessary for implementation, as brought forward, not only by the Government but by the Opposition Members, must be put in place before proclamation. That was never said.

What was undertaken was, in order for the law to be good law and to work properly, we took the point, but you must not, and cannot, wait—as the Member for Diego Martin North/East said—six years for a court to build. So you are not going to hold up—people are dying; we are trying to get convictions; trying to get the crime rate down. So you are not going to hold up a whole legislation, then why bother to discuss it now anyway? Why “yuh agreed with it”? We should have put it down, build the court and then bring it in 2020 when we are still here and they still on that side. But no, you have to try to get to help people.

So, if pieces of the law—which always happens, as the Member for Diego Martin North/East will tell you, legislation is not always proclaimed all at one time and move one way. You approve here, and then the Cabinet—whatever Cabinet government—will say, “Listen, let us go. That piece is ready to roll; let us go.”

### **5.20 p.m.**

Now, in this case they also forgot to tell you that the entire legislation has been proclaimed. It is just that all the other sections, because of implementation and because of the committee, the interministerial and the judicial and all the people who need to implement, as suggested by the Opposition, agreed that early January—January 02—is when that will kick in, but it has been proclaimed. Understand what I am saying! They keep pounding away that “dey choose one clause and proclaim to get off two man”. As ridiculous as it sounds, they keep saying that. One was—[*Interruption*]

**Hon. Member:** Two man?

**Hon. A. Roberts:** “Yeh, two man. Ah talking like Laventille West. We on flim.” [*Laughter*]

**Miss Mc Donald:** Madam Deputy Speaker, I have to say 36(5).

**Mr. Sharma:** Nonsense!

**Miss Mc Donald:** This is disrespectful to the Member for Laventille West.

**Hon. A. Roberts:** I humbly apologize. So sorry that he used the word “flim” on TV6. He should say film.

**Mr. Hypolite:** That is good advice taken.

**Hon. A. Roberts:** Good advice. Nice! Now, they keep saying one piece, one piece—34—but then they quietly say well, it is really five. But not only that, they fail to say that all have been proclaimed. It is only a caveat that in January where, in discussions with all the independent institutions—you see if “yuh talking” conspiracy, all those people who were in the meeting, and “ah doh” want to call some of their positions because they are very high people—they said, “Listen good, proclaim that and then on January 02 all the others will kick in.” They are not mentioning that because it does not hold to their conspiracy theory. To have a conspiracy—[*Interruption*—I do not have much time.

**Mr. Imbert:** I just want to correct—

**Hon. A. Roberts:** No, you could correct—up to now you did not apologize for saying that not a blade of grass is growing in northern recreation ground. So if you want to move like that and tell untruths, I do not want to—you never apologized because it is more than a blade of grass. Plenty things in northern recreation ground; phase two started; but anyway we are moving right along. I digress and let us go ahead.

Now very interestingly, so let us move right along. In all of the debates and I have gone through all of the debates—Madam Deputy Speaker, please. I have to shout because the Member for Diego Martin North/East is like a mosquito. I need your protection. I do not have any Flit.

**Madam Deputy Speaker:** Members, let us allow the Member for D’Abadie/O’Meara to speak in silence please.

**Hon. A. Roberts:** Thank you, Madam Deputy Speaker. Now, Member for Diego Martin North/East—and I have checked nearly all the *Hansard*. Forgive me. It is a lot of *Hansard* so I may stand corrected, but as much of the *Hansard* that I checked, no other Member of this Lower House—Madam Deputy Speaker, please, he is ignoring—or the other place mentioned—I stand corrected from my research, so I did not check every word and it is a lot of documentation—Piarco I and Piarco II. If anybody would like to correct me right now I would take correction right now, but from my research only the Member for Diego Martin North/East in the entire debate mentioned Piarco I and Piarco II and he mentioned it twice.

Now why am I saying this? On the 11th he said:

“We have the Piarco 1 and we have the Piarco 2 for example, those preliminary enquiries have been going on for a long time. I think Piarco 2 started some time ago and it is still going on.

So there are cases in our local jurisdiction where it does appear that persons who have access to lawyers, and access to advice, can stretch out the length of a preliminary enquiry. There are cases I have just given you two—Piarco 1 and Piarco 2, and I would most certainly have thought that the Piarco 1 and 2 could have benefited from a law of this nature because those matters may have gone to trial long ago and decisions already made and so on and it might have continued throughout the appellate court and so on.”

Also, further on he said that:

“England has decided that preliminary hearings”—this is the Member for Diego Martin North/East—“should not be available in cases of serious or complex fraud which may result in lengthy trials and are proved largely by the production of voluminous amounts of documentary evidence...”

So Piarco 1 and Piarco 2 for example, fit that. Those are complex fraud trials...”

Now, why do I say this? Nobody else—we are dealing with mens rea; we are in conspiracy theory. In other words, I came to this Parliament, along with my other colleagues, and when we were debating this piece of legislation which everybody unanimously agrees that it is critical to unwrapping, un-strangling the Judiciary so that we could get some sort of swifter justice—not swift. This alone will not make it swift, but swifter; better than what we have—that we came here specifically to get “two man” off. I know it sounds ridiculous, but I have to go through it one by one. Yet nobody here talked about it; nobody on that side except the Member for Diego Martin North/East. Now, why do I say that? Because the Member for Diego Martin North/East—and I will put this on record—is one of the best parliamentarians we have in Trinidad and Tobago. [*Interruption*]

No, no! Give Jack his jacket and Jim his jim boots. He may not be the best loved politician, he may not have the best manners and be the most courteous, but as an incisive, knowledgeable, well-researched debater and legal luminary especially in parliamentary practice, he is brilliant. I am telling you that, but hear what happened now. [*Interruption*] Okay, you all do not have to agree with me, but that is my opinion.

In fact, when most of my colleagues opposite are talking I might fall asleep or go outside, but not when the Member for Diego Martin North/East is talking. I pay attention to him. He is very skilful, but all of a sudden the Member for Diego Martin North/East lost his skill. He became like Messi without the ball because here it is he is the only one to mention Piarco 1 and 2. He understood it; he has the knowledge of the whole system: where legislation goes, when amendments are made, comes back.

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In fact, he is the most loquacious and has the most words documented in committee stage in the recent history of this Parliament. He speaks on every clause, clause by clause, but somehow, somewhere, even after he said the Senate brought back 34, at no point in time did this hon. Member, who is so brilliant, stand or say, “Listen to me, Parliament, we are making an out because you know what, that loophole will get those two men out.”

**Mr. Imbert:** “Doh worry.”

**Miss Mc Donald:** He spoke on December 09. That is what I am telling you.

**Mr. Imbert:** “Doh tell him. Doh tell him.”

**Miss Mc Donald:** You are wrong.

**Hon. A. Roberts:** Stand up and correct me. No problem, I stand—correct me. Correct me now.

**Mr. Imbert:** When I speak.

**Hon. A. Roberts:** No, go ahead. I do not want to mislead the House, you know. Go ahead.

**Mr. Imbert:** You are incorrect—[*Interruption*]

**Hon. A. Roberts:** Tell me.

**Mr. Imbert:**—but I will deal with that comprehensively when I speak after you.

**Mr. Sharma:** What nonsense is that?

**Hon. A. Roberts:** Well, I stand corrected. If on the ninth—did you say it was in committee stage? No, I am asking so that I can apologize. Well, I apologize, but you will still have to answer.

**Mr. Sharma:** Apologize for saying that he is the most brilliant parliamentarian.

**Hon. A. Roberts:** No, no, he is. You are saying that on the ninth you spoke directly and said, listen, this clause will allow for these two financiers of the UNC to get off.

**Mr. Imbert:** No, I never said that.

**Hon. A. Roberts:** No, I am asking. Okay, well you will talk. I will move on to a next one. If that is what you said, I will make another point. However, I will let you know that this Member for Diego Martin North/East, was the one who brought up this Piarco 1 and Piarco 2 and I have seen him and heard him debate.

He is normally vociferous on any point, sometimes wrong sometimes right, but always—[*Interruption*]

**Hon. Member:** Most times.

**Hon. A. Roberts:** Well, most times wrong—but a lot of research. He moved on and—now, let us move on to the third point. Now, Member for Diego Martin North/East let us still continue with you because one of the Member for Diego Martin West’s major propositions is that the legislation had to come because the Government said we would not touch it until every single piece of infrastructure is put in place. Now this was never stated at any point in time, but the Member for Diego Martin West would allow the population to believe that once a piece of legislation is passed, the proclamation process is that you proclaim the whole law and therefore in this case, we the Government diverted from the norm by proclaiming just five sections instead of the whole law. Well, I will tell you that I cannot go through the millions of cases in the Commonwealth where law is partially proclaimed and comes forward.

**Madam Deputy Speaker:** Hon. Members, the speaking time of the hon. Member has expired.

*Motion made:* That the hon. Member’s speaking time be extended by 30 minutes. [*Hon. C. Sharma*]

*Question put and agreed to.*

**Hon. A. Roberts:** Thank you, Madam Deputy Speaker, and thank you to all my colleagues. Now for the population to understand, this is the Member for Diego Martin North/East quoting from his *Hansard*. Understand and listen very carefully because this is going to be subtle point. The Member for Diego Martin West would like you to believe that it was understood 100 per cent that all 34 sections had to be proclaimed at the same time and, therefore, any variation means conspiracy. That is his position. Well listen to the Member for Diego Martin North/East. So we are talking three to four years down the road before this Bill can be fully implemented and the Minister knows that. He could get up in this Parliament and say it is not so. He would not be here in this Parliament when this system is fully implemented.

What does this mean? It means that over time, the three or four years, as infrastructure is put down, as sections become able to be implemented, that they will be proclaimed. So if, for example, a section deals with Masters and you have the infrastructure and the criteria and an office down for Masters to exist, boom,

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that section could get proclaimed; and if another section needs the big courts to be built, well then four years down the line, whenever the courts finish, you proclaim that. This is the Member for Diego Martin North/East.

So, for the PNM to come now and suggest to the population that we are proclaiming five sections now, but they will come into force on January 02 is disingenuous and, therefore, there is no conspiracy to get anybody out of any trouble. Whoever is in trouble, they are on their own. This Government has shown that no one is above the law; nobody who is parking on the pavement will be allowed to just continue to do that week in, week out; there are no small laws; all laws are equal and nobody is above the law. This People's Partnership has demonstrated that time and time again.

Now, moving right along. We also had from the Member for Diego Martin North/East: he said, "In conclusion..."—remember I am trying to debunk this conspiracy theory. For conspiracy to go together you must have all the pieces. If the puzzle is 100 pieces, you must have 100 pieces for a conspiracy to work. Already I have shown that if the puzzle was 100, they are missing about 53 pieces already. "By de time ah done, dey go have no piece."

"In conclusion, I noted that the Minister indicated that there is a provision in the legislation which will allow a judicial officer to discharge an accused person if there is a delay of 10 years, presumably between the time the charge is laid and the matter goes to trial. Is that what it was?"

**Mr. Volney:** Yes, except in blood cases.

**Mr. Imbert:** Yes, "except in blood cases."

**Hon. A. Roberts:** Correct? Now, Member for Diego Martin North/East—this was the ordinary debate.

Then there were some amendments in the other place and it came back. You were aware as a detailed, disciplined, brilliant parliamentarian, that it was when they charge. Did you or did you not state categorically that: listen, this change from the Senate, we do not agree, it moved from time of charge to time of offence. Or did he lose his skill like Messi without the ball? Did you state categorically at that time after it came back and it came to committee stage here: listen, why is this changed?—at first you told me it was a time of charge and now it has reached time of offence. Serious question! Well, "leh meh answer it fuh yuh." You never said it, and this is why I do not understand where your skill went. This is where your skill went; look at the *Hansard*, Friday, November 18, this is committee stage.

**5.35 p.m.**

**Mr. Imbert:** I never said that.

**Hon. A. Roberts:** I am asking you, did you say it?

**Mr. Imbert:** But it left with the charge in it. What is wrong with you?

**Hon. Member:** “Yuh misleading us again.”

**Hon. A. Roberts:** Okay, let us move on again because I only have a little bit of time left. Furthermore,—[*Interruption*—]I am mixing up myself?

**Mr. Imbert:** Yes!

**Hon. A. Roberts:**—the conspiracy theory says that we tried—this Government—to ensure that two men get off because the time had passed. Now, number one, the Member for Diego Martin North/East, as he has admitted, tried to reduce it to seven years and we said “No”. We said, “We shall leave it at 10 years.”

**Mr. Imbert:** It was seven.

**Hon. A. Roberts:** It was seven, we changed it to 10.

**Mr. Imbert:** You did not change it.

**Hon. A. Roberts:** When it came back it was at 10, and you suggested that we leave it as seven.

**Mr. Imbert:** This is wrong information.

**Hon. A. Roberts:** Okay, let us read.

**Mr. Imbert:** No, do not read a document—

**Hon. A. Roberts:** “Question proposed.” [*Interruption*] The document—this is the *Hansard*, Friday, November 18, 2011, Administration of Justice, (Indictable Proceedings) Bill, 2011.

“Clause 34.

*Question proposed:* That clause 34 ordered to stand part of the Bill.

**Mrs. Persad-Bissessar:** Mr. Chairman, we propose an amendment to clause 34(2) as circulated:

Delete the word ‘seven’ and substitute the word ‘ten’.”

Is it not pellucidly clear that we changed it to 10?

**Hon. Member:** Yes.

**Hon. A. Roberts:** I am not understanding what the Member for Diego Martin North/East is saying. This Government increased the time from seven to 10 years. The conspiracy says that we are trying to get people off. So, to increase the time would be deleterious to the effect desired in the conspiracy, but the Member for Diego Martin North/East said:

“**Mr. Imbert:** Yes, what is the policy behind going from seven to ten?”—he asked—“Because this is a situation where there is a delay and you are allowing the judicial officer to discharge the accused. In your original Bill it was seven years, after a delay of seven years, now ten. Why ten? Are you picking this from some Commonwealth standard? Why ten?”

Then Minister Volney said:

“No, you see, it is a paradigm shift and what we would like to do is start with ten, to be conservative with ten, and at the appropriate time we could always lessen it.”

And then the debate continued.

So it is clear that this Government wanted to keep the time longer, so as not to let anybody off. The Member for Diego Martin North/East wanted to shorten the time which means people get off. So where is the conspiracy my people? There is no conspiracy. What is going on here is that everybody in the Parliament got together to bring good law.

There was a loophole that has been made, the Government has been made aware of it, and the Government acted responsibly in coming here “one time” to close it and to deal with the situation, and to ensure that the original benefit and the intention remains where we are trying to unclog the judicial system so that the public, the people, can get better service; that criminals would get their just deserts; and that the people, the citizens who are impacted by crime, will know that the Government and judicial system will protect them, so that we can uphold their constitutional rights. That is what we are about. Not any conspiracy theory. This Government listens.

My colleagues on the other side would not understand because as they govern: “yuh doh want smelter, yuh get three; yuh doh want Tarouba, they build it for a tsunami shelter, they build it for 2007 World Cup, it eh finish yet, and is \$1.1 billion” and only the stadium is even sort of constructed. It was supposed to be all other things but people told them do not do it. It makes no sense! Spend the money on the communities; get the recreational grounds going. I told them—I



used to be a PNM and will never go back in “dat ting over dey because dey know about conspiracy; I will talk ah few ah them just now”. They did not listen, they built it—\$1.1 billion of taxpayers’ money and coming here to talk as if they are pharisees and so perfect. “Doh do that.” They never listened.

The former Prime Minister, Member for San Fernando East, when he was instructed by the Member for Diego Martin West in 2003 that there was a man called Calder Hart who was not following procedure, protocol, transparency and accountability, he never listened. Then former MP, Ken Valley, said, “Listen—*[Interruption]*”

**Hon. Member:** Uthara Rao.

**Hon. A. Roberts:** “No, ah coming to Rao. Ah know yuh like Rao. I know yuh like that. Ah glad you all think it is a joke, but when yuh talk about it, yuh want to talk about conspiracy.” But everybody who went to the former Prime Minister and told him about Calder Hart was fired. That is a conspiracy! Because, first of all, it was the Member for Diego Martin West, then it was the Member for Diego Martin Central, the late Ken Valley, then it was Fitzgerald Hinds, then it was Penelope Beckles, then it was Camille Robinson-Regis, then it was Diane Seukeran, then it was Atherly—all those Members of Parliament, Senators and Ministers, fired to protect Calder Hart. That is conspiracy; not this. This is good governance! *[Desk thumping]*

Now, let me also go on. There is one key part to their conspiracy theory. Now, this is very important. For all these shenanigans to work over the period, for everybody who colluded—understand, this is not a unitary party Government, number one; this is a partnership. So, the conspiracy theory says all these disparate parts got together to get out UNC financiers. Then everybody who was involved, who had any part to play, was in this conspiracy. Conspiracy theory—the more people that are involved, the more unbelievable it becomes. This theory would have included all sorts, including members from the DPP’s office, the Chief Justice. This is a ridiculous idea that is put forward to the population and it is a serious point.

Now, what does this conspiracy theory hinge on? That the proclamation of section 34 means that the two UNC financiers must get off. They have to get off! There is no choice! Once they make their application, if we do not change it, they get off. There is one problem with that. The word “shall”, in the entire Commonwealth, in many jurisdictions, has never been 100 per cent supported as being “must”. There is always a level of discretion on the part of the judges and the magistrates—always. So you must understand this.

So their position is that we went through this to ensure that the judge has to, “shall has to”; he must let them off. It is not mandatory. We will talk Forrester Bowe and Trono, the Privy Council decided—I know you might be a Privy Council Lord—that the provision whosoever commits murder shall be liable to suffer death was discretionary in nature. Shall, in this context, did not lend itself to mandatory interpretation. It did not!

So therefore, all of our conspiratory work comes to naught because a judge could say, “Hey, shall wah! Allyuh come here, I find all this, this evidence put here is not enough to me so allyuh gehing charge.” A judge could say that. So therefore, they are suggesting that we went through all of this, risk 422,000 people who voted for us, and voted them out, because of Uthara Rao and Ken Julien and all of them. *[Interruption]* Yes, that is why they voted you out. We would risk all of that—the whole Government, the five parties—for two UNC financiers. How ridiculous! On top of that, when we go through all of that risk, it has no guarantee.

Well then, I might not be bright like some of them but I am certainly not dotish, and I would have to be dotish to go through all that conspiracy and—*[Interruption]* “Ah calling mehself dotish. Ah could call mehself dotish; I eh bright like allyuh.” But I would have to be dotish to go through all of this bacchanal when I love to serve my country. I, over the years, refused lucrative jobs away to stay here and build my country, and “I go sit down because of two man”, who were financing a political party, come here and played games with the population, and when I finish play the game, I have no guarantee that I win the game. That would not make sense.

If you want to hear another one, *David Jahwell Cox, Jahki Dillas v the Queen*, Bermuda. Those two appeals raised an important issue of law—whether the minimum sentence provision for the criminal offence of having a knife, any article which has a blade or is sharply pointed—except a folding pocketknife—in a public place “shall” be imprisoned for a minimum of three and a maximum of five years. The individuals had machetes. The issue to be decided was whether the minimum sentence was disproportionate to the crime. Mr. John Perry QC maintained that this provision had been decided alongside the provisions providing protection from inhuman treatment. One, no person shall be subjected to torture or to inhuman or degrading treatment or punishment.

“Shall” is not mandatory so the whole essence of the conspiracy theory falls, it is debunked, because the end result does not produce what mens rea was there to get people off. It does not exist. What has happened is that we all got together, passed good law, information came that one or two individuals—nobody came in

here to make law for any individual, whether it is John Brown, Joe Brown, man, woman, or child. What came forward was that there were possibilities that people will escape judicial process, which was never intended, and therefore the Prime Minister called Parliament. Before the Member for Diego Martin West's press conference, she summoned Parliament, came here to correct the law.

I thought that we would come here for a nice mature democratic debate showing our mature democracy, as we all got together in a bipartisan way to pass this, and that we would come here, in the public interest, and repeal it so that the interest, any loopholes that squeeze through, we would clear together just as we passed the Bill. But no big thing! I do not mind the bacchanal; if that is what you like, that is what politics is about, but do not come here and tell me that I am involved in a conspiracy to get anybody out of a legal jam. I have no desire so to do nor would anybody on this side. So your conspiracy theory lacks merit in more ways than one. Continuing.

How much time do I have? [*Crosstalk*] I did not ask you, Member for Port of Spain South, with all due respect, but thanks for the assistance. If you would also like *Perry v Planning* because you are a learned Counsel and you told me that "shall" is mandatory; I am showing you that it is not.

*Perry v Planning Comm'n of Hawaii*, the court articulated a three-pronged test for determining whether the word "shall" may be interpreted as directory, as mandatory. First, "shall" can be read in a non-mandatory sense. People understand this—I know, right. We have to break it down in "brass tacks". They are saying that we plan to put the word "shall" so "man have to get off". "Da wha dem say." I am saying that the word "shall" does not mean that you have to get off so it does not make sense.

I want the people to understand clearly what we are talking about. No set of legal jargon; that is it in "brass tacks". "Shall" is not mandatory. "Shall" will not be read as mandatory when unjust consequences result. So therefore, if it is the opinion of a learned judge that it is unjust that these two gentlemen get off, then "shall" is not mandatory so it "eh ha no get off". The judge say, "Hard luck with dem in dat Parliament, face trial." "Shall" is not mandatory, people. The Member for Diego Martin West may not understand. I expect the Member for Port of Spain South to understand, she is a lawyer. A geologist should be advised. Maybe you did not advise him properly.

There is also *The Queen v Peter Hughes*. But when you are talking conspiracy theories, you must understand that—over there, as you call Uthara Rao—a conspiracy theory must be plausible. Now, I have already shown you that somehow Calder Hart

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became so powerful that all the elected Members, and so on, from the PNM got fired and sent away and all kinds of things, including the Member for Diego Martin West, and also—you called Rao, well, “leh meh give yuh Rao too”. Your Government—I do not know if you were there before 2007. You just reach too? Okay, no wonder you are so excited.

The Uthara Rao court case—there were many allegations of sexual harassment. Your Government took \$410,000 of taxpayers’ money, paid it in settlement, and then the Minister of Energy and Energy Industries, at the time, hon. Conrad Enill, in the *Business Express* or *Guardian* stated that this had to be done because Uthara Rao had certain skills that were not available in our population, and therefore, we had to take the good with the bad. That is a conspiracy! You thrust a man upon the population, when he is found wanting, and there are criminal proceedings moving ahead, you then take taxpayers’ money and pay it off to get him off. That is conspiracy! Not this; this is good governance!

**5.50 p.m.**

I thought we were coming here to move bipartisan legislation, in an intelligent, mature and democratic fashion, to help and to protect the people in this, but “no big ting”. “If we ha to do it so, we go do it so.”

Other conspiracy theories. You want to know a conspiracy theory? “Hear a next one.” There was a company called Bamboo Networks. There was a Minister in the Ministry of Finance called Christine Sahadeo. There was a czar called Ken Julien. He wanted to invest \$31 million of taxpayers’ dollars in this Bamboo Networks. The PNM Minister said, “No, no, no”—good lady. She said, “Let me do a due diligence on this.” She did and got a document this thick showing that Bamboo Networks was a company that had no assets; you had no business investing in it. It was a total risk. She instructed Ken Julien not to invest in Bamboo Networks. Two weeks after that letter, somehow Ken Julien got \$31 million invested in Bamboo Networks and Christine Sahadeo was fired as a Senator and a Minister. That is conspiracy; and there is evidence. What you all are talking about here is a total impossibility, irrationality and purely mischievous. *[Interruption]* You want seven more conspiracies?

**Mr. Warner:** You have seven more minutes.

**Hon. A. Roberts:** Oh, seven minutes. I thought you wanted seven more conspiracies.

**Mrs. Mc Intosh:** Seven more for what?

**Hon. A. Roberts:** Well, you should be interested because you would not know about these things. You are a lovely principal who came here to serve the people and so on, so I am sure that when the time comes and you understand that this conspiracy theory makes absolutely no sense—that it is really improper—that you will vote and understand that we will tighten up this law together as we all voted for it. Well, not vote, but we will bring it together. *[Interruption]* A division? I feel that you are going to abstain, but it is all right. Let me move ahead.

Since “allyuh” want conspiracy theories, let us try this one. There was a Minister of Finance who, unfortunately, on the passing of her husband, became an owner of a major financial institution with 10,400 shares. Now she never disclosed this. Nobody knew about it, but she is the Minister of Finance and then what happened? This big conglomerate—*[Interruption]* Not irrelevance. I know you do not like it, but calm down, you asked for it, you know. Then this big conglomerate was going to collapse and there was a systemic risk that the entire economic system in Trinidad and Tobago could fall, but this Minister of Finance said: “All right”; went to the Cabinet and said, “I will negotiate on behalf of the Cabinet, the Government and the 1.3 million people out there.” She did not tell the Cabinet, “Ay, I am an owner too, you know.” No, she did not do that. She never disclosed that.

**Hon. Member:** You were there?

**Hon. A. Roberts:** There are records to show. It is on record. It is an absolute fact. She then went to negotiate on behalf of the people of Trinidad and Tobago and she went into a meeting with the former Governor of the Central Bank and two directors and shareholders of that CL Financial—Monteil and Duprey—so you had three owners and shareholders negotiating with one poor independent Governor. Then, all of a sudden, the Cabinet sinks \$5 billion into CL Financial and “we doh know who geh dey money and who eh get. We doh know who geh dey money in Port of Spain. We doh know who, and then this Minister also ensured that she take out she \$2 million and her sister own also.” That could be a conspiracy theory. The whole thing is conspiracy.

**Miss Cox:** Madam Deputy Speaker, I rise on 36(1) please, relevance to the debate.

**Hon. A. Roberts:** It is conspiracy. The whole thing is conspiracy.

**Madam Speaker:** Member for D’Abadie/O’Meara, let me ask you to stay focused and to stick with the Bill.

**Hon. A. Roberts:** Thank you, Madam Deputy Speaker. I will link it. The Member for Diego Martin West came here; he started the debate outside with this press conference when he knew there was Parliament called, then he—I would

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not use the word “lie” because—what can I say? He was dishonest to the media and the population about giving us an ultimatum to call Parliament when Parliament “done call”. “That is like yuh girlfriend break up with yuh and yuh run to the media and say, I break up with she.”

Anyway, it is conspiracy and I am giving them conspiracy. You see, I have proven here today, I believe—and I still have more points—that all the pieces of the puzzle for a conspiracy do not exist. One, there could not be the mens rea, the desire of all of the People’s Partnership partners to save two UNC financiers. That would not exist. The Cabinet is made up of many parts. It is not one PNM Cabinet; it is a multiple part, and part of our problems in public is that the COP “does” get angry with the UNC and we “bad talk” each other. In fact, the PNM said we would not last two months because we disagreed so much. Now, to make a conspiracy theory, all of a sudden, we agree 100 per cent. It does not work like that. “It doh work so.” People are not silly. People are very intelligent.

So, as we move to wrap up here now, let me also say if you like conspiracy, good PNM Ministers again, Franklin Khan and Eric Williams. “I eh know. All of a sudden, a man say he gih dem money dong by Smokey and Bunty. Eric Williams, when dey check de passport, Eric Williams in Nigeria; but he geh fire and when he geh fire, a big boy became Minister of Energy and just around that time there was some bid rounds going on for some very good blocs.” That could be a conspiracy. That we could investigate because when the evidence came out, the magistrate, Cardenas-Ragoonanan, said it was the worst evidence she had ever seen in her entire career; yet two solid PNM Ministers were sent packing and other fellas come in nice, nice and get portfolio and drive “rong”. That could be a conspiracy. *[Interruption]*

With one minute, let me just say, Madam Deputy Speaker, I came here; I am proud of the Prime Minister, the Attorney General and the Cabinet for responding to independent criticism of a possibility—just to ensure, in an abundance of caution, to make sure that an undesired result could not happen from good law.

We all sat here as parliamentarians. We brought good law to serve the people and now I thought we would come in a bipartisan way to make sure that nobody who wants to use it for the wrong reasons would so do, but if we, as this Government, have to stand alone—and all our seats and the 422,000 people who voted for us—and protect the citizens and uphold good law, we shall do so. If they do not want to vote so, it is all right because they will remain there for a very, very long time.

I thank you, Madam Deputy Speaker.

**Mr. Colm Imbert** (*Diego Martin North/East*): *[Desk thumping]* Thank you, Mr. Speaker.

Mr. Speaker—

**Hon. Members:** Madam Deputy Speaker.

**Mr. Sharma:** I know “yuh” short, but “yuh” can see still.

**Mr. C. Imbert:** I deeply apologize, Madam Speaker. Madam Speaker—

**Hon. Member:** Madam Deputy Speaker.

**Mr. C. Imbert:** No. Acting Speaker, Madam Speaker. I will call her Madam Speaker unless she objects to that title.

Madam Speaker, the Member for D’Abadie/O’Meara, the Minister of Sport, was the second Government speaker in this debate. He took up most of his time. The Attorney General did not take up the full 75, but the Member for D’Abadie/O’Meara was the second speaker on the Government Bench who has completed his contribution, and they have not explained why they proclaimed section 34 on Independence Day, [*Desk thumping*] thus facilitating persons who are currently before the courts and allowing these persons to make an application to the court that they be set free.

Now the Member for D’Abadie/O’Meara made a lot of heavy weather about conspiracy theories. I do not know why he brought that up. There are so many quotations I could make. One of them is: “Me thinks he doth protest too much.” Why spend 60 minutes or more carrying on about conspiracy theories unless there is some notion of a conspiracy theory that needs to be dealt with?

The fact of the matter is that there is a widely held belief in Trinidad and Tobago— if you walk the street, if you read the newspapers, if you listen to the radio, if you go to the supermarket—that there was a conspiracy to pervert the course of justice.

The Member for D’Abadie/O’Meara’s screaming does not change that belief. The belief is out there, Madam Deputy Speaker. You can read the editorials in the newspapers; you can read the commentaries. There is a widely held belief that there was a conspiracy to pervert the course of justice. That is not a matter for us in here; that is a matter for the police.

The protestations of the Member for D’Abadie/O’Meara as well—and I am really surprised at some of the things he said. I had to stop and take notes. This is what he said, talking about the proclamation:

The whole Act has been proclaimed with different effective dates. Then he said the most astonishing thing:

A number of high-ranking people agreed in a meeting that section 34 be proclaimed.

**Hon. Member:** What?

**Mr. C. Imbert:** He said that!

**Hon. Members:** He said that! He said there was a meeting with high people, in a room, who agreed that section 34 be proclaimed. He said that!

**Hon. Member:** He talks too much.

**Mr. C. Imbert:** You talk too much. [*Interruption*] No, I will not excuse you.

**Mr. Roberts:** You are misleading—

**Mr. C. Imbert:** Madam Deputy Speaker, I am on my feet.

**Mr. Roberts:** I will deal with him in privilege.

**Mr. C. Imbert:** You can deal however. Madam Deputy Speaker, that is what he said:

High people in a room, in a meeting, agreed to the proclamation of the Act.

Who are these high people? Who are these high people who agreed to the proclamation of the Act? Is he referring to the Cabinet?

**6.05 p.m.**

Madam Deputy Speaker, I think it is necessary for the country to understand how an Act is proclaimed. You see, there is a lot of sound and fury and noise coming from the other side, but let us deal with the issues. In order for an Act to be proclaimed, the President of the Republic must receive an instruction. This instruction must come as a result of a meeting of the Cabinet. The meeting of the Cabinet must result in something called a Cabinet Minute. The Cabinet Minute is a record of what the Cabinet has agreed to. The Cabinet Minute is then sent to the Office of the Attorney General. If it involves proclamation of legislation, the office of the Attorney General will draft a proclamation for the President, and send the President an instruction together with the draft proclamation indicating that the Cabinet has decided that this Act be proclaimed.

Therefore, when the Member for D'Abadie/O'Meara said a number of high people met in a room and decided to proclaim this Act. Was he talking about the Cabinet? Or were you talking about some other group of high people who met in a room, Madam Deputy Speaker.

That is one issue. The Government will at some point in time, whether you do it today, tomorrow or during the campaign for the next general election, at some point in time, the Government must explain—[*Interruption*]



**Dr. Moonilal:** PNM convention.

**Mr. C. Imbert:**—the decision-making process that led to the proclamation of section 34 on August 31, 2012, Independence Day. Not a person on that side. I looked at the television last night. They were interviewing several Government spokesmen, and when that question was put to them: “why did you proclaim section 34 on Independence Day?” Every single one of them, with apologies to some present, ducked and ran. They avoided it. They would not answer the question and the Attorney General in his presentation did not address that issue.

The Member for D’Abadie/O’Meara skirted around it, but has not told us, why did you proclaim that particular section on Independence Day?

Let us go to the proclamation itself, Madam Deputy Speaker, because I think again it is necessary for people to understand what has occurred. Now this proclamation was made on the 28th day of August 2012. So the President of the Republic made the proclamation, acting on the instructions of Cabinet, that it is expedient that sections 1, 2, 3(1), 32 and 34 and Schedule 6 come into operation on the 31st day of August 2012.

Now what are these sections, Madam Deputy Speaker? If you go to the Act itself you will understand the mischief. You will understand why there is this widely held belief—[*Interruption*—you “doh” understand the anger outside there. You could laugh, you could joke, but you do not understand the anger outside there about the proclamation of section 34. [*Desk thumping*] Laugh and make a big “pappy show”, but there is anger outside there. [*Crosstalk*]

Let us look at the Act. Section 1, short title and commencement. So the first section that became effective on December 31 is the title—of no consequence. Section 2, this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution—of no consequence. Section 3 is the definition section. Now you will see, Madam Deputy Speaker, for those who have eyes to see and ears to here—and I am speaking now on this side because “over so eh listening”. “Leh meh talk so”. [*Crosstalk*]

**Hon. Member:** [*Inaudible*]

**Mr. C. Imbert:** No, you are listening. I know you are listening. You are pretending not to listen. Section 32—and this is where you get the clue as to what happened: “The Rules Committee established by the Supreme Court... may make Rules of Court for the purpose of proceedings under this Act.” Section 32 empowered the Rules Committee of the Supreme Court to make the necessary rules for proceedings under this Act.

When the hon. Minister of Justice was speaking, one of the assurances he gave—and you see that in the release that was sent out by the COP. I noticed the Member for D’Abadie/O’Meara—[*Interruption*—what is going on in this country? The Member for D’Abadie/O’Meara, a member of the COP, has now said that the Chairman of the COP, Joseph Toney, is not the COP. So what, Joseph Toney is at large now?

**Hon. Member:** Who are these people?

**Mr. C. Imbert:** He is at large? [*Crosstalk*] Oh I see. So the Chairman of the COP was not authorized to issue this press release? Well that is another story. The fact of the matter, Madam Deputy Speaker, is that the *Hansard* is clear and I am going to read it because the Member for D’Abadie/O’Meara did not want to deal with what was really said in this debate. He skirted around the *Hansard*.

**Hon. Member:** Still waiting on—

**Mr. C. Imbert:** The fact of the matter is that the Minister of Justice gave an undertaking to this Parliament that the Act would not be proclaimed until the rules were made.

**Miss Mc Donald:** That is right.

**Mr. C. Imbert:** So, if this proclamation had stopped at 32, well then the Government would be consistent with the undertaking they gave to this Parliament, because 32 is necessary to allow the Judiciary to make the rules. So, until you proclaim 32 “dey cyah make de rules”.

**Miss Mc Donald:** That is right.

**Mr. C. Imbert:** So, what went wrong with this proclamation? It should have stopped at 32 and the effective date of 34 should have been with everything else some time in 2013. The Government must explain. Why did you proclaim section 32—which now creates the framework where the Rules Committee of the Supreme Court can make the rules necessary for proceedings under this Act—give an undertaking to the Parliament that you would not proclaim the Act until the rules are made; but before the rules are made—because these rules are subject to negative resolution—they must be laid in Parliament. Before the rules are made, you proclaim section 34?

What is so interesting about section 34? Section 34 speaks to giving accused persons the ability to apply to the court to have a verdict of not guilty entered against them and their charges dropped if the offence was committed more than 10 years ago—or 10 years ago. So, you gave a promise to this Parliament—do not try to deny it;

it is there, I will read it—that you will not proclaim the Act until the rules are made. You proclaimed the section that initiates the process for the making of the rules.

And, for those who do not know how rules are made: you have a Rules Committee comprised of senior members of the Judiciary. The Attorney General is a member of the Rules Committee and other distinguished persons are on the Rules Committee, and they will sit down and between themselves they will have their meetings and eventually they will prepare the rules, and they will send them to the Attorney General for transmission to the Parliament for negative resolution, Madam Deputy Speaker.

So, you proclaimed the section that allows the process to begin, but you do not wait until the rules are made; you proclaimed section 34 which allows people to get off. Imagine, Madam Deputy Speaker, “dey ha no rules eh”. They are allowing persons now to apply to the court in virtual no-man’s-land with no criminal proceeding rules, so anything goes. It is now up to the discretion of the court to decide how to treat with the application from these persons.

Now, any right-thinking person with a little bit of legal knowledge must wonder why sections 32 and 34 were proclaimed at the same time, Madam Deputy Speaker. Those are the questions they have to answer. Why did you proclaim that section? Explain! The country wants to know, everybody wants to know. I am sure that even Members of the Cabinet want to know, why was section 34 proclaimed?

This press release from the Congress of the People—which the Member for D’Abadie/O’Meara does not wish to associate himself with. He is more UNC than COP anyhow, everybody knows that.

**Mr. Roberts:** Once you know it is not PNM.

**Mr. C. Imbert:** It is okay. Anybody knows you are more UNC than COP, it does not matter. Here is what the press release is saying, and it is very well titled: “The saga of section 34, blunders or manipulation.” It goes on to make the point that the initiation of the proclamation of that very section 34 in that form spelt the breach of an undertaking to Parliament on behalf of the Government that no part of the Act would be made effective until the required rules, which had to go back to Parliament, and infrastructure for the operation of the new criminal process were all in place.

Member for D’Abadie/O’Meara I noticed you tried, but you did not succeed, to say it was implied that there would be partial proclamation. The fact of the matter is the undertaking given was unambiguous, it was unequivocal. No part of the Act. [*Desk thumping*] Not section 1 not section 11, not section 21; no part was to be proclaimed until the rules were made, and the rules have not been made.

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If you want to talk conspiracy theory I have some questions for the Members opposite because I am not sure if all of them can answer these questions. The first question I have to ask them is, who drafted clause 34?

**Miss Mc Donald:** Um-hmm!

**Mr. C. Imbert:** Implicit in the release from the COP is that clause 34 was not submitted to the Legislation Review Committee of Cabinet.

**Miss Mc Donald:** That is right.

**Mr. C. Imbert:** Implicit in that release—[*Interruption*]

**Hon. Member:** Joseph Toney is a Member?

**Mr. C. Imbert:** Madam Deputy Speaker, I want the Government to say on record—they do not have to, you know, but the country wants to know—was clause 34, which allows accused persons who have committed crimes 10 years ago now to go free, submitted to and reviewed by the Legislation Review Committee? It is a rhetorical question because I am certain it was not.

It means that when the Minister of Justice introduced that clause in the other place, that clause was introduced without oversight of the Cabinet subcommittee that has the responsibility to look at legislation to protect the Government. Was the Minister of Justice acting on his own? Was he acting in concert with others? Who gave the Minister of Justice the authority to draft that new clause 34, and introduce it into the Senate? We need to know. Was the Cabinet consulted on this matter? [*Crosstalk*] [*Interruption*]

**Madam Deputy Speaker:** Members, can we allow the Member for Diego Martin North/East to speak in silence please?

**Mr. C. Imbert:** Yes, Madam Deputy Speaker, the first question is, who drafted clause 34? The other question we have to ask, why was clause 34 prepared and introduced in the Senate at midnight without consultation with the Director of Public Prosecutions, without consultation with the Criminal Bar Association and without review by the Legislation Review Committee? What was the thinking behind this new clause? There is a lot of mischief “eh”. The Attorney General—and I have to deal with this now—misquoted the *Hansard* record. I am going to correct him now.

He has in his possession a doctored copy of the *Hansard*. Not only did he misrepresent the *Hansard*—[*Interruption*]—no, “dat is just somebody write dat and give it to him to speak and he just read what they give him”. Madam Deputy

Speaker, let us deal with what really took place in this House when this Bill was debated. I heard the Attorney General screaming like this:

The PNM was in Government for eight years. So your proposal that we make the time limit seven years.

**Hon. Ramlogan SC:** “Doh go and try and sound like me, sound like me good yuh know man, doh come with no squeaky voice and try and imitate me.”

**Mr. C. Imbert:**

Was it intended to protect people who committed crimes under the PNM? Were you trying to protect Calder Hart, Juliana Pena, Andre Monteil?

He screamed and screamed and screamed. The hard part about it all, the Attorney General is a lawyer. Madam Deputy Speaker, would you quiet down that side please?

**Madam Deputy Speaker:** Members of the House I want to ask you to take notes while the Member is speaking, so when you have a chance to speak then you would be allowed to. Go ahead hon. Member.

**Mr. C. Imbert:** Madam Deputy Speaker, the Attorney General misled this House and I am not afraid to say that, misled this House.

**Mr. Roberts:** What about rapid rail?

**Mr. C. Imbert:** Madam Deputy Speaker, when the discussion was taking place between the Prime Minister and myself as to whether it should be seven years or 10 years—and I will come to the piece of the *Hansard* that is missing—the seven-year period was from the date that charges are laid.

**Hon. Member:** That is right.

**Mr. C. Imbert:** Have you laid criminal charges against Calder Hart yet? I do not think so. Have you laid charges against Juliana Pena? No! Madam Deputy Speaker, in his presentation full of sound and fury—saying that the PNM was there for eight years, so when I brought up the seven years, I am trying to help PNM people—he misled this Parliament, he misled the country because the seven years does not run backwards it runs forward. You have to charge those individuals first and then they have seven years before the courts before the time limit runs out.

Madam Deputy Speaker, I am surprised that the Attorney General would make an elementary error. He is talking there and giving the impression that I was saying if people commit crimes seven years ago let them go. Nothing could be further from the truth. What I was saying is if you charge them today, you should not take more than

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seven years to go through a sufficiency hearing. Simple! But of course, you see when you are under pressure you make statements that are just—[*Interruption*]

**Hon. Member:** Spin on it.

**Mr. C. Imbert:** Not spin, it is wrong. I mean, the individuals we are talking about have not yet been charged. The seven years would run forward not backwards.

**Hon. Ramlogan SC:** I will clarify—

**Mr. C. Imbert:** Oh behave, “you cah clarify nothing”. Let us go now to the DPP, Madam Deputy Speaker.

**Hon. Ramlogan SC:** You need a lot of correction.

**Mr. C. Imbert:** This is a press release sent out by the DPP:

“On Independence Day section 34 of the Administration of Justice...Act 2011 was brought into force. Curiously”—it is strange for a Director of Public Prosecutions to use the word ‘curiously’ because he is telling you something is wrong—”no other substantive provision of this Act has been brought into force even though the declared legislative thrust of this Act is the abolition of preliminary enquiries. Section 34(1) cannot stand on its own without absurdity while 34(2) and 34(3) have nothing to do with any such abolition.”

He is making the point—where did these sections come from? Sections 32 and 34 have nothing to do with the abolition of preliminary enquiries and their replacement with sufficiency hearings.

**6.20 p.m.**

So the point he is making is that these things have dropped from the sky. He goes on to say that he was consulted about the Bill, he commented in detail and forwarded same to the hon. Herbert Volney:

“I could not comment on section 34 or Schedule 6 as now contained in the Act because they were not in the draft bill kindly sent to me by the Minister of Justice.”

Again I ask the question: why and who drafted clause 34 without consultation with the DPP, the Criminal Bar Association and the Legislation Review Committee? Why? What was the thought process and what was the thought process in the Minister’s mind or the Government’s mind—because a Minister speaks and acts on behalf of the Government—to change the date of reckoning for the time limit, from the date people were charged to the date they committed the offences? What was the thought process?

**Hon. Ramlogan SC:** What do you think?

**Hon. Member:** I have no idea. I have no idea.

**Hon. Ramlogan SC:** Why did you vote for it?

**Mr. C. Imbert:** I will explain that. You have to answer that. During the meeting—this is the meeting between the DPP—here is what he says:

“...I attended a meeting held by the Judiciary and Justice Sector Committee at the Chief Justice’s Conference Room at the Hall of Justice on 24<sup>th</sup> of July, 2012. One of the items on the agenda was the Implementation Process for the Regime under the Administration of Justice...Act 2011.

During this meeting, the effect and, to some extent, the import of section 34 of the Act were raised.”

So the DPP is saying that, “he tell him” that there is a problem with section 34. Here is the Minister’s response, according to the DPP—I have not heard anybody come out and say, “De DPP lie”, so I have to accept that this is true:

“This prompted a response by the Minister...that Cabinet had made a decision.”

Could anybody tell me if the DPP is lying? So the Director of Public Prosecutions brought to the attention of the Minister of Justice the effect and import of section 34, and the Minister responded, “Cabinet make a decision.” So the Cabinet apparently decided to go ahead with this, with their eyes wide open, knowing fully well that if they proclaimed section 34 what the implications would be.

Then the DPP goes on to say:

“On Independence Day, the proclamation of section 34 of the Act took me by surprise. I learnt about it in the press.”

So there is absolutely no doubt that the Government did not consult with the Director of Public Prosecutions when it chose to proclaim and bring into effect section 34 on Independence Day, and they have to say why. Why did you do it? Why?

You have the Attorney General—now I am not going to ascribe any—I am not going to make any adverse inferences. I could only assume that he was suffering from some kind of memory loss, because you have the Attorney General trying to explain his actions back in December 2011 or January 2012—I am not sure when it was; it was sometime around then—when the whole question of appealing the decision of Justice Ronnie Boodoosingh came up.

One of the points the Attorney General made was that, “All of the pretrial appeals have been exhausted and we expect that there would be a speedy trial of the accused.” That was the reason he said, “Look, let us not appeal this decision and let us allow the trial to go ahead.” So the Attorney General knew that there was a matter; he knew. And I cannot believe the Attorney General did not sit in that Cabinet meeting, and participate in this process, without drawing to the attention of Cabinet that a number of people—and it is not just those Piarco people, Madam Deputy Speaker.

We must not lose sight of the fact that this is something that people have not picked up on yet, but there are a number of UNC personalities who have matters before the court, indictable offences. It is not just the Piarco accused. I do not want to single them out. We have to look at everybody who is affected by this legislation. There are a number of UNC personalities who have matters before the court which—[*Interruption*]

**Mr. C. Imbert:** No, no, they are charged, they have matters before the court, but the offences were committed more than 10 years ago. It is not just the Piarco people.

**Hon. Ramlogan SC:** “You talking about de case with Panday just come up?”

**Mr. C. Imbert:** I did not call any names Attorney General; that is not the only one. There are a number of UNC personalities. The Attorney General “trying to play stupid for me”, but he must know because it is the State prosecuting these people. He has to pay the legal fees, so he would get the invoices and all the details of all the cases would be on his desk. “You see he smiling?” He has to approve the fees to the lawyers, so he knew all of the UNC personalities who are currently before the courts who are going to benefit from this section 34. It is not just the Piarco accused. Let us not zero in on them. Let us deal with other people.

**Hon. Ramlogan SC:** “Now yuh talking.”

**Mr. C. Imbert:** But you know; you know what I am talking about. It is not just those fellas; it is a whole gamut of UNC personalities before the courts right now.

**Hon. Ramlogan SC:** PNM too!

**Mr. C. Imbert:** “Eh heh?” Call one. You go ahead; you tell me about a person who is the subject of an indictable offence. [*Interruption*] Well no problem; you tell me one person, the subject of an indictable offence that is a PNM person. You go ahead, no problem. But the fact of the matter is he is now admitting that he is fully cognizant of all the people who would have benefited from the proclamation of this Act on August 31. [*Desk thumping and laughter*]

So you see, they want to play stupid for the population, but the population is not buying that. We are not a bunch of fools. But I am not casting any adverse



inferences on the Attorney General. I will cast adverse inferences on the high-ranking government official—and I am calling no names, Madam Deputy Speaker—the high-ranking government official who was drinking champagne with one of these—drinking champagne, Dom Pérignon no less, with one of the accused persons who could possibly benefit from this Act, in a hotel in Tobago over the weekend. [*Crosstalk*] I will cast aspersions on that individual. [*Crosstalk*] I am not casting any aspersions.

Let me say for the record, I am not accusing the Attorney General of being that high-ranking government official who was cavorting with accused persons who are before the court on indictable offences, in a hotel in Tobago over the weekend—Saturday night. I am not accusing him—[*Interruption*] Yes, celebrating. And while the lawyers of that accused person were preparing applications to go to the court. I did not say anything. I am not dealing with who the accused persons are. I am not dealing with who the government official is. [*Interruption*]

**Hon. Member:** I do not believe.

**Mr. C. Imbert:** I hope the Minister of National Security is listening, because I am sure that the police know who this high-ranking government official is. And it is not the Minister of National Security and it is not the Attorney General.

**Dr. Moonilal:** Is it you?

**Mr. C. Imbert:** Government official? [*Laughter*] So, Madam Deputy Speaker, let us move on. Let us move on. Let us put on to the record the facts. What was said in the House of Representatives on November 18? [*Interruption*] “I understand is five bottles of champagne dey drink, eh.”

**Hon. Members:** Five bottles! [*Crosstalk*]

**Mr. C. Imbert:** It was a big party. [*Laughter*]

**Dr. Moonilal:** Kola champagne?

**Mr. C. Imbert:** Dom Pérignon. No, no, no, alcoholic champagne.

**Hon. Ramlogan:** “Spell dat fuh me.”

**Hon. Member:** Dom Pérignon.

**Mr. C. Imbert:** “Yuh dam well know how to spell it; doh try dat.” Sorry about that, Madam Deputy Speaker. [*Laughter*]

Speaking on November 18, I made this point:

“If you go to the United Kingdom, they have criminal procedure...” [*Interruption*]

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It was not the Minister of Housing either; let me exonerate you too. It was not you, and it was not you, and it was not you, and it was not you. [*Mr. Imbert points to Members on front bench*] “Ah done, I say is not them four; ah stopping there.”

“If you go to the United Kingdom, they have criminal procedure rules.” We do not have criminal procedure rules in force in Trinidad and Tobago today.

This is English, Madam Deputy Speaker.

“One of the things we are going to ask for, that before you proclaim this Bill that we most certainly would see those procedure rules laid.”

That is a statement that I made, that the PNM support was conditional on the criminal procedure rules being made and laid in the Parliament. That is why the Congress of the People can refer to it, because it is on the *Hansard*.

Let me go now to the contribution of the Member for Port of Spain South. Speaking again on November 18, the Member said this:

“St. Lucia has a criminal code. Likewise, the United Kingdom has Criminal Proceeding Rules. You have it?”

The Member was speaking to the Minister of Justice:

“Do we have it in Trinidad and Tobago?”

This was the response from the Minister of Justice: “On the way”—talking about the Criminal Proceeding Rules.

Hear the Member for Port of Spain South:

“I am sure that before the proclamation date—you give that undertaking—that it will be operational. Yes?”

And the Minister of Justice gave the undertaking that the Criminal Proceeding Rules would be made and laid in this Parliament before any part of the legislation was proclaimed. I will go to the actual undertaking that he gave, because he spoke about the rules in his undertaking. [*Laughter*]

Madam Deputy Speaker, you know, the Members opposite think this is a joke. Let me go now to the Minister of Justice:

“Mr. Speaker, all these matters have been considered. The rules that the learned Members for Diego Martin North/East and Port of Spain South”—spoke of—“Let me point out...the rules in St. Lucia as relates to the criminal code...are 30-pages long...The criminal code is 600 pages, and as we speak”—this is what he was saying—”the Judiciary through its Rules Committee, headed by the

Chief Justice, with Court of Appeal judge, judge of the High Court, as well as the Attorney General—“so he is in the brew—”as the titular head of the Bar, members of the Law Association, the Registrar of the court and other persons, they sit. They have been working... Mr. Speaker, on the criminal rules that will accompany this measure. That will come but we must first pass this measure, and at an appropriate time when the Judiciary has become happy, the Judiciary and those persons involved in the criminal justice system have become happy with the rules, then I will bring the rules to Parliament but not before. So while this measure can work without rules...I can assure Members opposite—this is the Minister of Justice speaking—“that nothing is going to be proclaimed before all the necessary measures...to make it succeed happens.”

Those are his words. [*Desk thumping*]

So, when the Member for D’Abadie/O’Meara tried to tap-dance today and say, “Oh, there was nothing said that we cyar partially proclaim,” that was an untruth. I want to repeat what the Minister said, “I can assure Members opposite that nothing is going to be proclaimed before all the necessary measures required to make it succeed happens.” But we have no rules. We have no rules.

The Minister is in contempt of Parliament. [*Desk thumping*] He is in contempt. [*Desk thumping*] He is in contempt, and that is a matter for another forum; but he is in contempt. That is why you might get vex, because this is your coalition partner. That is why the COP said that an undertaking was given that no part of the Act would be proclaimed until the rules were in place. These are facts.

They have not answered; they will not say. The Members opposite will not say why—[*Interruption*] Or, you will say why you proclaimed section 34 which requires the rules, without making them? [*Interruption*] Oh, you will say as soon as I finish? Okay, no problem; I see.

Let me go on now to some housekeeping issues, Madam Deputy Speaker. Let me read now the whole *Hansard*, because Attorney General you have a doctored version. Let us deal with this seven to 10 and get rid of it. This is me speaking:

“What is the policy behind going from seven to 10?...Are you picking...some Commonwealth standard? Why 10?”

**Mr. Volney:** It is a paradigm shift. We would like to start with 10 to be conservative, and then we could always lessen it.

**Mrs. Persad-Bissessar:** Are you proposing that we keep seven?

**Mr. Imbert:** Yes, I do not know why you want to amend it. Ten years is a long time between charge and trial...”

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Then it goes on:

**Ms. Persad-Bissessar:** Well, we will keep it at seven. I withdraw the proposed amendment.”

Then we turn the page, which is the piece he does not have. The Speaker asked me:

“Are you withdrawing?”

**Mr. Imbert:** Yes, I think so. They are taking out the amendment.

**Mrs. Persad-Bissessar:** Mr. Chairman, I have been advised by the Minister of Legal Affairs, who has quite some experience in the criminal courts, that we would prefer to keep it, to amend it to 10.

**Mr. Chairman:** All right, so I could put the question...

*Clause 34, as amended, ordered to stand part of the Bill”*

—with 10 years in it, and not seven. That is the piece of the *Hansard* you missed.

**Hon. Ramlogan SC:** I did not miss that at all.

**Mr. C. Imbert:** Oh, you did not miss that? [*Attorney General shakes head*]

The whole point is, Madam Deputy Speaker, when the Bill left this House—there is a lot of mischief, a lot of misinformation, a lot of—I have no choice but to call them outright lies that are outside there in the public domain. When the Bill left this House—I have the documents here; I could send you a copy if you want because “you doh have dis.” [*Interruption*] “You doh have dis.”

**Hon. Ramlogan SC:** “It was 34:1 alone, eh, doh mislead people.”

**Mr. C. Imbert:** I have the copy of the Bill that went to the Senate, as amended in the House of Representatives.

**Hon. Ramlogan SC:** “What 34(2) say?”

**Mr. C. Imbert:** I will come to that. Let me read the clause 34 that went from this House to the Senate. “It have no seven years in it, it have 10, and I am reading it now, de whole thing.”

**Dr. Moonilal:** What clause is that?

**Mr. C. Imbert:** Clause 34(1), as amended in the House of Representatives—

**Hon. Ramlogan SC:** “Ah want yuh to read 34(2).”

“Except in the case of matters listed in Schedule 6 where the proceedings are instituted on or after the coming into force of this Act, and the Master is not,

within twelve months after the proceedings are instituted, in a position to order that the accused be put on trial, the Master may discharge the accused.”

That is clause 34(1). I hear the Attorney General screaming about clause 34(2), but obviously you have bad information. This is clause 34(2) that went to the Senate.

**Hon. Ramlogan SC:** “Ah want tuh hear it.”

**Mr. C. Imbert:** “On an application by the accused, a Judge shall discharge an accused if the proceedings were instituted prior to the coming into force of this Act”—[*Interruption*]

**Hon. Ramlogan SC:** “Ah! Ah tell yuh, if the proceedings were prior.”

**Mr. C. Imbert:** Madam Deputy Speaker, would you quieten down the Attorney General, please? Could you quieten him down?

**Hon. Ramlogan SC:** [*Inaudible*]

**Mr. C. Imbert:** “...prior to the coming into force of this Act and the trial has not commenced within ten years after the proceedings were instituted...”

So what went to the Senate was a law that if an accused person is charged today and preliminary enquiry proceedings commenced—[*Interruption*]

**Hon. Ramlogan SC:** Or prior to.

**Mr. C. Imbert:** But it is now “or before”. Ten years have to elapse between the commencement of the proceedings and the trial.

**Hon. Ramlogan SC:** Right, you understand it [*Inaudible*].

**Mr. C. Imbert:** Madam Deputy Speaker, I do not understand what he is screaming about, because the thing that has us here today, the outrage in the country, the charges in that case, were laid in 2005.

**Hon. Ramlogan SC:** [*Inaudible*]

**Mr. C. Imbert:** The first set were in 2002—

**Hon. Ramlogan SC:** That is correct.

**Mr. C. Imbert:**—but the ones that are the subject matter were in March 2005. [*Interruption*] “Doh try dat on me; yuh feel ah doh know.” So that the charges were laid in March 2005, and if this clause had remained intact the State would have had until March 2015 to complete the preliminary enquiry and to commence the trial.

If you listen to what the DPP is saying—hear what he is saying: in the first instance the preliminary enquiry is finished and a committal order has been made,

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and in the second one the prosecution has closed its case. So, based on what the DPP was saying in those particular cases—and I said that there are many other cases; I do not want anybody to feel that we are talking about particular people and particular cases, because there are many other UNC personalities who stand to benefit from section 34 if we do not fix it today.

But in that particular case, the time limit would have run out in March 2015 if the Government had not tampered with this law in the other place. It was good law when it left this House, and then when the Senate amendment was made by the hon. Minister it changed into a situation—[*Interruption*] “You hush, you winding up, you could talk for your 75.” It was good law when it left here and then the Minister introduced an amendment which put the date of reckoning back from the date the people were charged to the time they allegedly committed the offence.

**Hon. Ramlogan SC:** What happened to the PNM Senators, what did they do?

**Mr. C. Imbert:** What was the thought process? Why did we have a discussion here with the Minister of Legal Affairs, based on his court experience, because he was referring to matters. He said the reason we put it at 10 is that the Minister said, “Look there are certain matters that we better put it at 10, because if you put it at 10 then”—[*Interruption*]

**Madam Deputy Speaker:** The speaking time of the hon. Member has expired.

**Hon. Ramlogan SC:** Madam Deputy Speaker, I beg to move that the speaking time of the hon. Member for Diego Martin North/East be extended by a further 15 minutes.

**Madam Deputy Speaker:** Hon. Members, the speaking time of the hon. Member—[*Interruption*]

**Mr. C. Imbert:** By 30 minutes.

**Hon. Ramlogan SC:** Apparently he wants 30, but I was only asking for 15. [*Laughter*] All right, I beg an extension for a further 15 minutes and I will give him 30 minutes. [*Laughter*] I was just demonstrating how easy it is for them to slip up, and that is what happened last time.

**Madam Deputy Speaker:** Hon. Members, the question is that the speaking time of the hon. Member be extended by 30 minutes. All in favour say “Aye”. Member, you may continue.

**Mr. C. Imbert:** You are not a Member of this House. Madam Deputy Speaker, he is not a Member of this House, “he cyar move de Motion”. [*Crosstalk*]

**Hon. Member:** You jump up like a jack-in-the-box.

*Motion made:* That the hon. Member's speaking time be extended by 30 minutes. [*Mr. N. Hypolite*]

*Question put and agreed to.*

**Mr. C. Imbert:** Thank you, Madam Deputy Speaker.

**Hon. Ramlogan SC:** That was a live demonstration.

**Mr. C. Imbert:** Thank you, Madam Deputy Speaker. He is slippery, you know, “but is a good ting” we have our eyes on him because he could not extend my time.

The point is, after the debate in the House of Representatives, after the intervention by the hon. Minister of Legal Affairs, who pointed out to us that there are a number of matters currently before the courts—not just this one that is causing all this confusion, but a number—and that it would be better to put it at 10 from the date of the charges, and it left this House. What went on in that Government? Who met in a room? Who it is met in a room and decided to change the date of reckoning from the date of the charge to the date when the offence was committed? They have to answer that because we have to get to the bottom of this. We have to find out who did this? Whose brainwave was it?

**Hon. Member:** A slippery person.

**Mr. C. Imbert:** I did not say that. It is necessary to deal with that because there is a lot of mischief outside there. Many times in the Parliament we have back-and-forth and eventually we settle on a position. What is important are the undertakings given by the Government—which in this case are unequivocal—and the final form of this legislation when it left this House, where the 10 years was to run from the date that charges were laid and not from the date of commission of the offence. What happened after that? What possessed the Minister of Justice to change that? The Government has to tell us.

Now that comes back here. I heard the Member for D'Abadie/O'Meara saying that no one said anything about the change. That is also untrue. I am reading my *Hansard* now, from December 09, 2011:

The final point—the Minister has not addressed this at all this—it is clause 34. In the previous legislation...the question of the time limit...was a matter of some debate between myself and the Prime Minister, where we had dealt—this is clause 34—where we had dealt with the issue of whether someone should be asked to wait 10 years between the time that a sufficiency hearing is

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instituted and a trial being commenced. Myself and the Prime Minister had agreed on seven years and then the hon. Member for St. Augustine intervened and said, “Look, leave it on 10”, and we went back to 10.

You did not see that part of the *Hansard*?

Let us look at what is being done here. The seven-year or 10-year period was the time between the sufficiency hearing and the trial. Look at what is going on in this amendment. It is now after the expiration of 10 years from the date on which an offence is alleged to have been committed. It is completely different, fundamentally changing the impact. I see the Member for St. Augustine nodding. So it means if somebody committed a crime 11 years ago, he has escaped.

The Member for Fyzabad made some wisecrack, so I said:

“He is nodding at me. He is wide awake.”

—because the Member for St. Augustine had his head on; he knew exactly what was going on. He would have to tell the country whether he, as chairman of LRC, approved this amendment.

“Mr. Speaker, if someone committed a crime 11 years ago, they are out of the loop with this legislation. I am not certain the Government has thought this through because this is the effect of this clause.”

This is me again:

I see “the Prime Minister has brought this up; the fact of the matter is this is our House. I am a Member of this House.”

I go on to say:

The Minister must explain to us the rationale behind these amendments because we are being asked to agree with the Senate amendments. We cannot agree if no reasons have been given, and on the face of it, the amendment is inappropriate.

So the Member for D’Abadie/O’Meara was not speaking the truth when he said that I did not question the amended clause 34. Not only did I question it, I challenged it. [*Desk thumping*]

“This will automatically disqualify all crimes committed more than 10 years ago...”

So the Attorney General cannot pretend to us that he was not aware that the effect of clause 34 was not raised in this House, Madam Deputy Speaker.



**Hon. Ramlogan SC:** Then why did you vote?

**Mr. C. Imbert:** “I am asking the Government on something as serious as this, hold your hand...and see whether you really want to make these amendments.”

**6.50 p.m.**

So the fact of the matter, it was brought up—[*Interruption*]

**Hon. Ramlogan SC:** You knew about it and voted for it.

**Mr. C. Imbert:** Yes, yes because, Madam Deputy Speaker, the Minister of Justice had given the Parliament an undertaking that no part of the Act would be proclaimed [*Desk thumping*] until the rules were made, the Masters were appointed, the judicial support officers were appointed—

**Miss Cox:** That is right.

**Mr. C. Imbert:**—and the administrative machinery was in place, and that process would take between three and five years, Madam Deputy Speaker. [*Desk thumping*] Because, even though it was apparent there were issues with this clause, the Minister had given an undertaking to the Parliament that the Act would not be proclaimed.

We have Acts on our books because another misconception that people have—there are Acts on our books that have not been proclaimed for 10 years, and the Children Act is a case in point. The Children Act was made in the year 2000 by the UNC administration, and we only dealt with the Children Bill just last year, 11 years later. It is commonplace to pass legislation and not proclaim it until all the machinery is in place, and it takes years. The Municipal Corporations Act of 1990 was passed in 1990, and sections of that Act were not proclaimed until 2003. It is commonplace. That is how we do things in this Parliament; that is why you have a proclamation clause.

You see, they feel everybody in this country is stupid, but we are not. When you pass an Act with a proclamation clause, it signals that there is a lot of machinery that has to be put in place; infrastructure has to be put in place before the Act can be implemented.

In this particular case the Act had a specific clause—clause 32, which gave the Judiciary the power to start making the rules, and you had to proclaim clause 32 in order to start the rules-making process officially, and when those rules were made—[*Interruption*]

**Hon. Ramlogan SC:** To make the application.

**Mr. C. Imbert:** No. When those rules were made and laid in the Parliament and debated—because we also said we want to see them, and we want to see whether the rules are appropriate, and whether we agree with them, all of that was said as well.

So, the undertaking was given—[*Crosstalk*] No, but by then there is no problem because you are talking three to five years down the road. Madam Deputy Speaker, it is in the *Hansard*.

**Hon. Member:** The trial would have started.

**Mr. C. Imbert:** The trial would have started long before, long before. [*Crosstalk*] Madam Deputy Speaker, I am listening to this crosstalk. It is interesting you know. I am saying, Madam Deputy Speaker, that if the Government had fulfilled its obligations, and complied with the promise it made to this Parliament, and the proclamation did not take place until three years from now, by then, all of these matters which are currently—remember we are talking about matters that are currently there. All of these matters that are currently there would have been sorted out and gone to trial because it is a new system now, and the persons can elect to use the new system or the old system. So a number of matters would have been converted from preliminary enquiry into paper committal and gone to trial.

So, three years from now the vast majority of matters currently before the court—and do not say that is not so because you are putting in a new paradigm where you now have a paper committal based on a sufficiency hearing, and persons can now elect to switch from a preliminary enquiry under the old law, to a sufficiency hearing under the new law, and you have a 12-month period—a one-year period—for a sufficiency hearing to be completed.

So, if you have any logic in your collective heads at all, all of these matters would have been sorted out with sufficiency hearings within one year, Madam Deputy Speaker.

So, when the rules were made, and everything sorted out three years from now, there would be nothing there that would allow persons who were accused before the court to be able to ask for a verdict of not guilty. That is the cold conceptual framework that this debate took place in. That is why we said to make sure you make the rules, you appoint the Masters, you appoint the judicial service officers, you put the machinery in place, and it was agreed that this would take years. The Minister himself said it would take three years for him to build the new courthouses that are required for the new regime at the administration of justice.

So, the Government has to explain—that is the problem that they are having, Madam Deputy Speaker. The Government must explain why they did not proclaim section 32. You should have proclaimed section 32 immediately because all section 32 deals with is the making of the criminal proceedings rules. That is all it does.

So, you have to explain why, in January 2012, you did not make the criminal proceedings rules. Why did you wait? And why have you now proclaimed section 34 without the rules? You have to explain that as well because as the DPP has pointed out, some of these clauses that you have proclaimed make no sense. Section 34(1) cannot operate. It is dysfunctional without other sections of the law being proclaimed.

Section 34(2) cannot operate properly without all of the machinery put in place. You know, there is a lot of old talk in this Parliament here today, but they are not dealing with the issues. They are dealing with “who say, and who say what”—those are all on record. Those are facts. Anybody can read the *Hansard* and who said what. Anybody can read the parliamentary record and see that when the Bill left the House of Representatives the time limit was 10 years from the date that the charges were laid.

And anybody can see, when you look at the other place, that the Minister changed that with the introduction of an amendment, to change it to the date on which the offences were committed. And anybody can read the *Hansard* and see that the Minister said that nothing will be proclaimed until the machinery is in place, Madam Deputy Speaker. These are not things we need to debate here, these are facts. They could run but they “cyah” hide, those are facts. They gave an undertaking, and they broke it. But let me deal now with what we are about here today.

**Hon. Ramlogan SC:** “You now ready to deal with it?”

**Mr. C. Imbert:** How many minutes do I have, Madam Deputy Speaker?

**Hon. Ramlogan SC:** And no extension for you again.

**Mr. C. Imbert:** You cannot.

**Madam Deputy Speaker:** You have 17 minutes.

**Mr. C. Imbert:** How much?

**Madam Deputy Speaker:** Seventeen.

**Mr. C. Imbert:** Well that is plenty. That is plenty. Now, Madam Deputy Speaker, let us deal with what we are about today because they could say whatever they want, but there can be no reasonable explanation for the proclamation of

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section 34, none, and that is why the entire population is of the belief that something, some manipulation took place. Let us go with the Bill before the House.

Clause 2 says that the Act is deemed to come into force on August 31, 2012. Well, I wonder whose bright idea that was? Because the proclamation was on that same day, and the proclamation was made three days before, on August 28. So, you are going to have some bright attorney start to argue about what takes precedence. Is it the proclamation that occurred at one second past midnight on August 30?—because the proclamation says it would take effect on August 31. So, therefore, as the clock moves one second past midnight on August 30, the Act comes into effect.

So, what the Government needs to do, is to take this back to December 09, 2011 which is the date that the Bill was passed in the House of Representatives—the Senate amendments were approved in the House of Representatives—you need to take it back there. [*Crosstalk*] But you need to do it. You know, “what you put August 31 inside here for”?

**Hon. Ramlogan SC:** We stupid?

**Mr. C. Imbert:** But why? You see, this is why there is a widely held belief that somebody is manipulating the system. Who is the bright boy who came up with August 31, 2012, now giving lawyers food to go and argue in the court that the proclamation takes precedence over the law. Who is the bright boy who did that?

Any lawyer worth their salt would know you have to make it retroactive to the date that the Bill was passed in the Parliament. So, that is the first thing we want you to do—fix that. [*Crosstalk*] No, but why did you circulate this then? What is going on?

**Hon. Ramlogan SC:** Oh God!

**Mr. C. Imbert:** “Yuh” incompetent? Why did the Government circulate a Bill that has a clause in it that gives an escape hatch to accused persons. What? You slip up? You were sleeping? It was late in the night? Why do you not see that this series of events—they may not be connected, you know; they may not appear to be connected—but this series of events leads to a belief that somebody is manipulating the system. You have this hue and cry; Cabinet meeting in an emergency session; people carrying on all about; you convening Parliament. You had a big song and dance about the Leader of Government Business making a telephone call to the Government [*sic*] Chief Whip; big set of noise and carrying on.

And by the way, the “question” that was asked was not: there is to be a sitting. It was, do you think there should be a sitting? It was a question. [*Laughter*] It was a question. It was not a statement that they will—I got my notice of the sitting at five minutes past eleven on Monday, September 11.

**Hon. Member:** That is right. That is right. [*Crosstalk*]

**Hon. Member:** “Oh God, doh try that.”

**Mr. C. Imbert:** So, I mean, but that is a minor point. That is a weak point that the Member for D’Abadie/O’Meara tried to make. The fact of the matter is, Cabinet meets in emergency—[*Interruption*]

**Hon. Ramlogan SC:** The call was made.

**Mr. C. Imbert:** Cabinet meets in emergency session. Big noise! Convene Parliament right away! Then you are circulating this nonsense? This nonsense? All those distinguished lawyers, all those legal luminaries, all those high-paid QCs you have available, Madam Deputy Speaker, to the Government using taxpayers’ money, and you “cyant” even get the second clause of this Bill right. I must be suspicious.

Now, let us go to clause 3—Administration of Justice—no problem. Let us go to clause 4:

“This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution,…”

Madam Deputy Speaker, Leader of Government Business, there is something I want you all to think about. I am told there is learning that says that when you are dealing with a situation like this, you have to specify the section that you are directing the legislation to.

So, instead of saying that this Act shall have effect, you have to say this Act, in particular section 5, shall have effect even though inconsistent with section 4 or you have to say, that this Act, particularly the repeal of section 34 shall have effect even though inconsistent with sections 4 and 5 of the Constitution. You have to direct any judicial officers’ attention to the fact that it was the collective will of the Parliament that we are repealing section 34, even though that may be inconsistent with sections 4 and 5 of the Constitution.

You have your high-paid advisors. I am simply relaying something as an unpaid advisor told me, somebody who does this work, pro bono. I am giving you that advice, and I would ask you to get your legal luminaries to look at that, there is learning in the Commonwealth about that.

The next section, Madam Deputy Speaker, says, “Section 34 of the Act is repealed.” Now, the Leader of the Opposition read out the Interpretation Act, Madam Deputy Speaker.

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Section 27 of the Interpretation Act is very instructive. Just give me a second, Madam Deputy Speaker, as I get the Interpretation Act which is somewhere among my documents. But the effect of section 27—here it is. Section 27—Repeal and Amendment:

“Where a written law repeals or revokes a written law, the repeal or revocation does not”—[*Crosstalk*]

Madam Deputy Speaker, are they interested? Are you interested or not?

**Dr. Moonilal:** No.

**Mr. C. Imbert:** Well, okay, good. I will talk to, Madam Deputy Speaker, then.

“Where a written law repeals or revokes a written law, the repeal or revocation does not, except as in this section otherwise provided, and unless the contrary intention appears...affect the previous operation of the written law...”

So, what section 27 of the Interpretation Act is telling us, is that the repeal or revocation of a law does not affect the previous operation of the written law.

**Hon. Member:** That is right.

**Mr. C. Imbert:** So, you could repeal what you want, but you have to be very careful how you repeal it because you have to invoke this part, unless the contrary intention appears. So, you have to expressly state in this amendment Act that you are negating the operation of the previous law. You have to expressly state it. That is section 27(1)(b).

Section 27(1)(c), the repeal does not “affect any right, privilege obligation or liability acquired ... under the written law so repealed...”

So, if accused persons have acquired a right to apply to a judge to have their matters dismissed, you have to deal with that as well.

**7.05 p.m.**

You have to say that notwithstanding this, this Act is taking away this right and privilege and taking away the previous operation of the law. Then you go to 27(1)—the repeal does not affect any legal proceedings. So, please consult with your legal advisors, because if we do a simple repeal of this section we are going to run afoul of section 27 of the Interpretation Act, and this has been decided by the Privy Council in several matters involving UNC personalities. UNC personalities have sought to take advantage of section 27 of the Interpretation Act. [*Interruption*]

Yes, they have, in a funny way, and they have gone to the Privy Council trying to invoke section 27(1)(b), section 27(1)(c) and section 27(1)(e) of the Interpretation Act. So, we need to deal with this part that where a written law repeals or revokes a written law, the repeal or revocation does not—unless the contrary intention appears—affect the previous law, affect any right, affect any legal proceedings. So we need to put a contrary intention into this repeal to make it clear that we are affecting the previous operation of the law. *[Interruption]* So right, we are affecting the previous operation of the law; we are affecting rights and privileges and we are affecting—the stay is not enough.

I heard the Attorney General, in complete violation of the press release issued by the Congress of the People, throw an amendment across the floor without going to LRC. He did it, and I think he was speaking about they are putting in an amendment which we have not seen, which would deal with the whole question of the rights of persons to apply to the court. I cannot recall what he said because he said it on the hoof, and we have nothing in writing and it was on the floor and it is in breach of the procedure that the chairman of the COP has established today for all of us, but we need to deal with legitimate expectation. *[Interruption]* No, but you do not have it. You have it? You see, Madam Deputy Speaker, they do this all the time, you know. They have a secret amendment, invisible, written in invisible ink, on an invisible piece of paper, which they are keeping to themselves.

**Dr. Moonilal:** When you are finished we would talk. Wind up.

**Mr. C. Imbert:** You want to talk to me? Okay, cool.

**Hon. Ramlogan SC:** “Your time eh done yet”?

**Mr. C. Imbert:** No, I have about three minutes. So, Madam Deputy Speaker, the country would not forgive us if we mess up today. This is no time for ego. This is no time for behaviour on the part of the Government where they refused to listen and you use your majority to railroad through bad legislation. The advice I have given you today has come from distinguished legal personalities in Trinidad and Tobago.

**Hon. Ramlogan SC:** “Why yuh din get them to represent yuh in the case yuh lost?”

**Mr. C. Imbert:** “I doh know, boy”. *[Interruption and laughter]* Hindsight is 20/20. But, Madam Deputy Speaker, the advice I have given today has come from distinguished legal minds in this country. We have to take the date of retroactivity back to the date of passage of the Act. We have to make it clear that we are passing this law and focusing on section 34, even though inconsistent with sections 4 and 5 of the Constitution.

We have to make it clear that this will deal with pending matters, and we have to deal with the operation of the previous law, rights acquired and legitimate expectation. I am not satisfied that the amendments, as circulated, will properly address these issues. So, underneath all “de ol’ talk and all de gallerying and gran charge” that has come and may come from Members opposite and “dey bussing mark and all ah dat, when yuh finish buss yuh mark” let us deal with this law, because the country is not going to forgive the Parliament for messing up today.

I thank you, Madam Deputy Speaker.

**The Minister of National Security (Hon. Jack Warner):** Thank you, Madam Deputy Speaker. Let me begin by extending to you congratulations from this side of the House for having assumed the office you assumed today, and having been able to conduct yourself, not only with dignity but with extreme professionalism. [*Desk thumping*]

I want to commend you most heartily, but possibly I want to commend even more heartily the Prime Minister, Mrs. Kamla Persad-Bissessar, for her vision and foresight. [*Interruption*] I sat here and said nothing, I respected the other side, I did not say a single word for the day. All I ask is for a reciprocation of that simple form of respect. I did not say a single word. Okay, Madam Deputy Speaker, thank you very much. [*Interruption*] So, I am saying therefore, I commend the Prime Minister for her foresight and her vision and I want to reiterate and commend you very highly for the dignified way in which you have conducted the proceedings so far.

Madam Deputy Speaker, I will deal with two speakers, both of whom have just left the Chamber, as always happens whenever I take the floor: the Member for Diego Martin West—[*Interruption*] be careful you know, be careful, you know how “you does beg”—and the Member for Diego Martin North/East. I will deal with them even in their absence. I sat here and I was tortured in listening to both of them, but I sat through because I believe the dignity of the House deserves that kind of respect, but in their absence I would make some remarks about their contributions or what passed for it.

The Member for Diego Martin West has a penchant for calling for one’s resignation as he has done for the Member for St. Joseph and for the AG, and as he has done for me as well. In fact, he said—if I get him right—that, of course, he has been the most investigated person in the Parliament, and not in this year, next year, or 100 years would he have anything to be worried about. Madam Deputy Speaker, I want to say to him and as well to this country—me too.

I have not been investigated as much as he has been, but even for the future I will never be, and that includes the comical behaviour of a so-called vice-chairman of the



COP, a man who almost exclusively represented drug traffickers, exclusively Dole Chadee also called Nankissoon, a man who exclusively represented a man charged for four murders and who got away on three occasions and the last time he failed. The last time he failed that murderer he represented on four occasions, he asked for my resignation. When he failed the last time, he had with him Peter Thornton and Ronald Thwaites as his assistants, and also a junior Member of this Parliament as well. He was their main attorney and he comes today to ask for my resignation.

In fact, if I say that, in 1989 he also represented Henry Ramos and Luis Britto who were arrested at La Tinta Bay where deceased Philip Salvary from the narcotic squad drowned and, of course, those two Venezuelans were also freed—drug traffickers bringing drugs into this country to destroy a whole generation of young people—and talking to me about resigning and stepping down.

**Hon. Member:** Shameless.

**Hon. J. Warner:** Me! The only thing that makes him more comical is Learie Joseph. What is even more painful is that he has some political colleagues who are in his corner because at the time he was a big lawyer they “use to eat ah food”.

Madam Deputy Speaker, I have no time for resignation, and when the Member for Diego Martin West talked about resignation—in fact, let me say it before I even say that, because after the demise of the Chadee family that so-called big shot lawyer had nothing to do until 2010—his work had dried up—when Rick Gomes was charged with trafficking \$13 million of coke, fled the country as a fugitive and was tried by Gillian Lucky and sentenced to 13 years. So, the fear therefore is that if the Minister of National Security were to succeed at all, that lawyer and others like him would run out of business. But I have no fear about resignation, and I am saying therefore like the Member for Diego Martin West, “I eh fraid nobody”.

Madam Deputy Speaker, the Member for Diego Martin West tries to extricate himself and his Members, as few as they are, by constantly talking about proclamation of the Bill or parts of the Bill. That is a function of the Cabinet, which Cabinet he would never see in their collective lifetime. That is the Cabinet’s function. What is more important is that the proclamation of the Bill by the Cabinet is no business of the Member for Diego Martin West. What is more important is the fact that the Member for Diego Martin West and his band of followers, as few as they are, they joined in unanimously passing the Bill, and I will come to that just now.

He talked about a bird from Argentina called the lapwing that migrates and breeds on golf courses. Forgive me, Madam Deputy Speaker, I do not know of any Lapwing; I know of lapdog [*Laughter*] but I would not say much more on

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that. I know lapdogs eat their vomit, but I would not say much more on that either. In the fullness of time we would see who is a lapdog and who is not.

But worse yet, for me it is the most insulting thing for one to come in this august Chamber to begin a debate—a wannabe Prime Minister—by quoting from the *Mirror*. [Laughter] Of all things, and he better be careful you know, because if I have time, a week from now he might not be able to quote from it at all. [Laughter] Given time; given time.

**Hon. Member:** He will back it up with the *Punch*.

**Hon. J. Warner:** “I doh care, I for nobody, I for Cypher—Aye-ya-yaye.” [Interruption] Listen good, I said before and I say again here, “it go be” a warm hot summer in the Parliament and out of the Parliament; it would be a warm hot summer. He tries to extricate himself from blame and talk about the Bill and the Act being proclaimed.

He asked about the anger and the outrage of the population. I want to remind him, there was more anger and outrage in Diego Martin West when they were under flood and he left to play golf in the US. They could not find him. There was the anger and outrage; he did not see it then? But he comes today like Pontius Pilate, washes his hands. He, of course, is clean [Interruption] but I want to tell him that even Pontius Pilate died like a dog. I will read it for you. It says here, according to a legend, Pontius Pilate died a horrible death in France, his body being eaten by worms. You wash your hands like Pontius Pilate, you would die like him. [Interruption] “I missing out anybody?” I said that was Pontius Pilate. [Interruption] “The trouble bout yuh is that yuh just come and yuh doh know how yuh come, yuh doh know how yuh going. Why yuh doh keep quiet? Yuh doh know how yuh come here, yuh doh know how yuh going, why yuh doh keep quiet?”

**Hon. Member:** Why you insulting people?

**Hon. J. Warner:** Insult! You have not heard anything yet. [Interruption] You have not heard anything yet. You stay cool. Insult you, why should I waste my time? [Interruption] Madam Deputy Speaker, I continue. The Member for Diego Martin West says he shares the concerns of the public and he responded accordingly. [Interruption] Thank you.

**7.20p.m.**

Madam Deputy Speaker, he comes here with a press release purportedly signed by the Chairman of the COP, and he interprets what the Chairman says and

he demands answers from the leader of the COP. What rubbish is this? He said that COP is talking in parables—[*Interruption*]

**Mr. Sharma:** PNM ignoring him. He wants COP.

**Hon. J. Warner:** He said that based on the release he got from the COP, the Cabinet position has been compromised. In fact, he went further to say that the PNM must join the debate. Who is the Member for Diego Martin West to tell this side to tell the Prime Minister when and if to join a debate? Who gave you that authority? Who gave you that? And that she must join the debate. He cannot speak to his own party, “six ah one, half ah dozen of the other”, coming to tell us here who must join the debate. [*Interruption*]

**Mr. Roberts:** And the one man, one vote, is to vote him out.

**Hon. J. Warner:** The Member for Diego Martin West, he says that the Government’s gift to the country for the 50th anniversary of independence was this proclamation. Okay. If that was the Government’s gift to the country, what was his and his party’s gift to the country for independence? A candle march to Balisier House.

The last time I saw so many candles, Madam Deputy Speaker, was All Saints night in the cemetery, and that was for the dead. And if that is what the candle walk means to Balisier House, then so be it. But I ask you, if that is what we gave to the country for independence, I want to tell him, Madam Deputy Speaker, at least, of course, we tried.

**Mrs. Mc Intosh:** 37(1), point of relevance.

**Madam Deputy Speaker:** Overruled. You may continue.

**Hon. J. Warner:** Sometimes I am doing my utmost to keep my dignity and to keep focus, but I want to say that there is a limit to all this. I will try, I will try, you will see. You have not seen anything yet, Member for Diego Martin West, trust “meh”. You have not seen anything yet. [*Crosstalk*] Yes, I am saying, Madam Deputy Speaker, that if that was our gift for independence, what was theirs?

Madam Deputy Speaker, 50 years ago, Capildeo and Williams joined hands to go to Marlborough House for independence. Fifty years later, the leader of the party that went to Marlborough House walks away from the independence celebration—[*Interruption*]

**Hon. Members:** Shame, shame.

**Hon. J. Warner:**—and he walks away. The first Prime Minister this country ever had was the revered Dr. Eric Williams who they shouted about, “Father of the Nation” doing so much, the only father of the nation besides the other imposters, for an event which he helped to bring this country fifty years ago. He

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and Capildeo buried their differences for the country and went to Marlborough House, and he comes to take a candle vigil, to walk to Balisier House—candle and talking about what we give for independence.

Madam Deputy Speaker, the Member for Diego Martin West further said that this Government cannot be trusted, and therefore the Government should be out of office immediately. I will give you two examples: I ask you, when the PNM government offered Caroni workers VSEP between 2003 and 2004, and put the workers under duress, told the workers that they are getting land for farming and housing, led the workers to believe that they were getting land. After the workers signed, years after the workers had been conned by the sweet talk, they were told by the then PNM Minister of Agriculture, Minister John Rahael, they were told that that was not so. They were misrepresented. They were conned.

Madam Deputy Speaker, the Caroni (1975) workers found out years later that they were not entitled to land, but to “priority consideration” for land. Hear them, “no land for you”, but what you are getting is priority consideration. Who cannot be trusted, we or them? They are talking about trust. They have the gall and they have the temerity to come in this House and talk about trust.

The Caroni workers were not given the land, Madam Deputy Speaker. They had to buy the land. They were never given the land by them—10,000 workers—talking about trust. They found out of course, afterwards, that they had to apply for a lease. They found out afterwards that they were placed miles away from their homes. They found out that instead of five acres, they were only getting two acres. And the list goes on and on, and they are talking about trust.

Madam Deputy Speaker, you know what is worse? Is only when this Government came into office they got the land, and the process is continuing. It is ongoing, but there is hope for them because they see the light at the end of a dark PNM tunnel. Thanks to the People’s Partnership Government. [*Desk thumping*] Talking about trust, I will give you one more because of time, time constraint, because the point is, the Member for Diego Martin West, I quote him again: this Government cannot be trusted; therefore, the Government should be “out of office immediately”. He gives everybody ultimatum you know, Jack Warner must go immediately; Kamla must go immediately; Volney must go immediately; must go immediately.

The trouble is he would not look in the mirror. He would not look in the mirror at all. [*Laughter*] Besides the *Mirror* newspaper, look in the mirror if you have one at home, right, look in the mirror, not the *Mirror* newspaper, and you will see who must go. [*Interruption*]

**Mr. Roberts:** “They go vote him out just now”.

**Hon. J. Warner:** I see somebody write an article in the newspaper that three months ago, they saw Mr. Manning for three hours. Well, “boy I tell yuh”. [Laughter] Three things you must not do: you must not tell lies on old people, young people and sick people. I will not say more. I will not say more, but three things you must not do, and in the fullness of time when I hit the platform, Madam Deputy Speaker, I will tell you much more than that, on the platform—it is going to be a long hot warm summer.

**Dr. Rowley:** Is that so?

**Hon. J. Warner:** My second example of a PNM trust. I will do it very, very quickly. I talk here about the anti-crime measures between 2005 and 2007. Madam Deputy Speaker, if you recall that period, you would observe in that period—let me get it for you very quickly, in that period, yes, 2005, that period they had for anti-crime measures, 2005 to 2007—very quickly, Madam Deputy Speaker. The beginning of 2005, they had come to Parliament to amend the Bail Act, to put the bail provision into law. Between 2005 and 2007, I will fast-track it. August 2007, nothing was done. August 2007, when the Bill came up for debate during that period, you found that, of course, nothing was done and they were asking for support from the Opposition to try to get the time to get the measures through. At the time, the Opposition was in two parts: one part under Basdeo Panday and one part, the COP, under my friend, my colleague, the Member for Tunapuna.

Madam Deputy Speaker, the Panday faction of the Opposition refused to join them because they felt that after two years, they were not serious. However, the COP at the time, in its virginity and innocence, trusted them and gave them six months more to carry through with the provisions of the Bail (Amdt.) Bill. After six months, they did not do it either. So they came for three months more. And the COP again gave them three months. To make a long story short, at the end of nine months, the PNM government had not delivered on its 2005 promises to the UNC, and they came again asking for another extension.

The COP felt that they have gone too far to turn back now, and they gave them an additional extension in exchange for a new set of promises, one of which was the Equal Opportunity Bill. That Bill was so badly formulated—had to go to a committee, which remained in suspended animation. There was no progress on the DNA Bill. There was no progress on the Equal Opportunity Bill, and the other promised legislation did not come into being. There were also promises for other measures, such as meetings with the Judiciary and others. Nothing took place.

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Who misled whom? Whose trust was at stake? For over two years—and they talking about trust. They are talking about trust here and, of course, who better than whom as far as trust is concerned.

Madam Deputy Speaker, another point I want to make. In the other place, the PNM has three lawyers. Some of them are supposed to be very renowned lawyers.

**Mr. Roberts:** Two and a half.

**Hon. J. Warner:** They dress in all kinds of Syrian clothes and so on sometimes. Madam Deputy Speaker, I ask the point: could those three lawyers, who also vetted the Bill, not have seen something wrong with the clause, the section? Not one of them? In fact, one of their lawyers spent all his time talking about Jack Warner and FIFA. And if he had spent half that time talking about Calder Hart and Trinidad and Tobago business, they might have been over here. Jack Warner and FIFA business, they talking about Jack Warner and FIFA. Not one of the three lawyers could not have seen the clause in the Bill. That same lawyer—loud-mouth lawyer, who of course never even had a big case, but has a very big house on the hills of Maraval, on lands which are questionable—*[Interruption]*

**Mr. Roberts:** “Aaah! Aw, that one.” That is a pommecythere tree?

**Hon. J. Warner:**—could he not have seen it? On questionable lands in Maraval. He could not have come here and see it, but he goes every Monday morning to write the Commissioner of Police about Jack Warner. I say, write boy, write.

**Hon. Member:** Who is that?

**Hon. J. Warner:** The pommecythere fella. Why could he not have spent some time looking at the Bill?

**Mrs. Persad-Bissessar SC:** In the Senate when the amendment went.

**Hon. J. Warner:** In fact, I get the impression that there is no nexus between the PNM Members on this side and the Senate. There is no nexus. *[Desk thumping]*

**Mrs. Persad-Bissessar SC:** That is right, the same Senate amendments.

**Hon. J. Warner:** They do not speak.

**Mrs. Persad-Bissessar SC:** Why the Senators did not deal with them?

**Mr. Roberts:** Define nexus.

**Mrs. Persad-Bissessar SC:** And they have three lawyers.

**Hon. J. Warner:** I get the impression, impression I say—when you come to talk, talk. Right now I am talking. When you come to talk, you talk. [*Crosstalk*]

**Dr. Moonilal:** We only have one and a half here.

**Mrs. Persad-Bissessar SC:** Diego Martin North/East does not speak to his Senators.

**Hon. J. Warner:** They do not talk, and they come here to posture, to posture, you see, they are “whiter than thou”. They are holier than thou. We, of course, are so evil: we manipulate, we have a conspiracy, because everything they see is conspiracy. Conspiracy is the nature of the beast, Madam Deputy Speaker.

**Mrs. Persad-Bissessar SC:** “They see ghost behind every post”.

**Hon. J. Warner:** That is right, Prime Minister, ghost behind every post. Thank you, Prime Minister.

**Mr. Roberts:** Even the one Rowley pass by.

**Hon. J. Warner:** I could go on and on with the Member for Diego Martin West, you know. But I am leaving the Member for Diego Martin West for the Tobago platform.

**Dr. Moonilal:** Ah ha.

**Hon. J. Warner:** THA. I could go on. I am waiting for him there. So for the time being, let me go to the Member for Diego Martin North/East because of my limited time. He goes on a long diatribe about how an Act can be proclaimed, as if we do not know. We know how an Act can be proclaimed. That is why we are here and they are there, and they shall stay there permanently, Madam Deputy Speaker. [*Crosstalk*]

**Mrs. Persad-Bissessar SC:** Volney will tell you why.

**Hon. J. Warner:** You see, permanently. They may change faces, but they will never change places. [*Desk thumping and laughter*] Never!

**Mrs. Persad-Bissessar SC:** That is why the Member for Diego Martin North/East said they have so many things that they never proclaimed. They always putting law and never proclaiming.

**Hon. J. Warner:** They never proclaimed.

**7.35 p.m.**

He says, of course, how the Act is to be proclaimed and then he asks, of course: “Was the Member of D’Abadie/O’Meara talking about the Cabinet?” And he asked, of course, as again, “Is there a conspiracy in the Cabinet?”

**Mr. Imbert:** I never said that.

**Mrs. Persad-Bissessar SC:** Ghost behind every post.

**Mr. Imbert:** I never said conspiracy. I never said that.

**Mr. Roberts:** “Doh worry wid him; you focus.”

**Hon. J. Warner:** He said also too, Madam Deputy Speaker, the Government must explain the decision-making that led to a process relative to a proclamation. That is not your business! We have to tell you about Cabinet business? [*Crosstalk*]

**Mr. Imbert:** Tell the country that. Tell the country.

**Hon. J. Warner:** Okay, fine. We will tell them that! We will tell them that!

**Dr. Rowley:** You will tell the country that.

**Hon. J. Warner:** And at the appropriate time you will get the answer from the relevant speaker on this side. Nobody there would “jumbie us” to talk before our time and turn. Nobody there!

**Mrs. Persad-Bissessar SC:** No ultimatum.

**Hon. J. Warner:** In fact, Madam Deputy Speaker, the Member for Diego Martin North/East said the DPP never saw section 34 in the draft. He said so, and I guess the DPP must have said so. Right? The Member for Diego Martin North/East said that the DPP said he never saw section 34 in the draft. Am I correct?

**Mr. Imbert:** Yes.

**Hon. J. Warner:** Thank you. And then he says, Madam Deputy Speaker, but the DPP warned the Minister of Justice of the import of section 34.

**Mr. Imbert:** After the Act was passed.

**Hon. J. Warner:** How can he warn him for what he had never seen?

**Mr. Imbert:** After July 2012—2012, the DPP said that.

**Hon. J. Warner:** The DPP? Are you saying the DPP lied? I would never be so bold, but I know who lie. I know who lie. Right? But that is a word that is unparliamentary.

**Mr. Imbert:** Madam Deputy Speaker, 36(5), imputing improper motives.

**Mr. Roberts:** For who?

**Madam Deputy Speaker:** Overruled. Member, you may continue.



**Hon. J. Warner:** Thank you. Madam Deputy Speaker, I want to ask one question. [*Crosstalk*] When you are talking, you say what you want to say. I sat here; I told you all nothing because I have a new stand for you all now, you know. I have told you all nothing at all. So I sat here; I folded my arms; I said nothing. So leave me alone.

**Dr. Rowley:** “How yuh bad so?”

**Hon. J. Warner:** “How ah bad so? You eh see anything yet, friend.”

**Dr. Rowley:** “Ah know, ah know.”

**Hon. J. Warner:** Son, “yuh eh see anything yet.”

**Dr. Rowley:** “Ah waiting for the tsunami.”

**Mrs. Persad-Bissessar SC:** Who complaining “bout bad”?

**Hon. J. Warner:** He talking “bout I bad”. No, “I bad”.

**Mr. Roberts:** “Louis have it, yuh know. De tsunami Louis have.”

**Hon. J. Warner:** I thought you were called the Rottweiler.

**Mrs. Persad-Bissessar SC:** Raging bull.

**Hon. J. Warner:** Raging bull. I am not a raging bull. My Prime Minister never called me a raging bull and she never will. [*Crosstalk*]

**Mr. Roberts:** “And yuh fraid Louis?”

**Hon. J. Warner:** But anyhow, Madam Deputy Speaker—

**Mr. Roberts:** “He fraid Louis Lee Sing.”

**Hon. J. Warner:**—if the Member for Diego Martin North/East, as he said a while ago, knew of all those members in the UNC who have cases on which the Bill would have impacted positively—several people in UNC have cases on which the Bill impacted positively—why then did they vote for the Bill? If they knew that section 34 would have influenced all those UNC people, why then did they vote for the Bill? Why, of course, did he and his colleagues agree to support section 34?

Madam Deputy Speaker, I want to say here, if even the Act had been proclaimed in three years, four years or five years, Madam Deputy Speaker, if all the structures were put in place, if every obligation and/or promise were put in place and section 34 had been left there, would it have made a difference? The answer is no.

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So to come here and to mamaguy this House and say that, “I said I will support the Act if all the structures are put in place”, and the section is still left there, what is the difference, Madam Deputy Speaker? Why do they believe that this country is a country of fools? And they rush every Monday morning to a press conference, full of fury and brimstone and saying nothing.

**Mrs. Persad-Bissessar SC:** Fire and brimstone.

**Hon. J. Warner:** Fire and brimstone—thank you, Prime Minister—and saying nothing—nothing! So we put in everything in the Act; we put all the structures; we put all the infrastructure; we put the architecture in the Act, and section 34 remains there, what difference would it have made? Zero. Zero, Madam Deputy Speaker. Zero!

**Mr. Imbert:** Not true.

**Hon. J. Warner:** Zilch!

**Mr. Imbert:** Not true.

**Hon. J. Warner:** Nought!

**Mr. Imbert:** We would not be here today.

**Hon. J. Warner:** You too.

**Mr. Imbert:** We would not be here today.

**Hon. J. Warner:** Four hundred votes and two maxi-taxis, you would not be here at all. [*Laughter and desk thumping*]

**Dr. Moonilal:** Two 12-seater, “eh”.

**Hon. J. Warner:** Two 12-seater and you are history. [*Crosstalk*]

**Mr. Roberts:** Marginal seat of Diego Martin North/East.

**Hon. J. Warner:** But “doh worry; doh worry; doh worry.”

**Mr. Imbert:** Chaguanas West will get marginal just now.

**Mrs. Persad-Bissessar SC:** That you will never see.

**Hon. J. Warner:** Madam Deputy Speaker, let me now leave what I would consider to be the trivialities from the other side, and let me come to some serious issues, as always, on this side. I begin by saying that I consider it a privilege to contribute to this debate today. I have the utmost respect for your Chair, Madam Deputy Speaker, as for the Speaker himself and for the Standing Orders of this

House, and I intend to abide by this House's Standing Orders, Madam Deputy Speaker, and the rulings of the Chair. In fact, 36(2) states specifically that:

“Reference shall not be made to any matter on which a judicial decision is pending, in such a way as might, in the opinion of the Chair, prejudice the interests of parties thereto.”

Therefore, Madam Deputy Speaker, there is a high-profile court matter taking place in which the State is the plaintiff and which is directly affected by this Bill, and which is also affected by a provision in the amended parent Act, and that is the subject of this debate and I have no intention of speaking of anything on any matter which might prejudice this matter. I give you that understanding.

Furthermore, Madam Deputy Speaker, it is said that this Legislature, an arm of the State, can make and unmake laws. We behave here today, you know, as if making and unmaking laws is something unheard of; it never happened before. I will give you examples of how it happened before. We come here today to posture before the camera, to give the impression that the first time a Government has made or unmade a law is this one. We posture and we give that impression as if, of course, that is something new.

Therefore, Madam Deputy Speaker, I am saying, we are here today because it has become necessary for us to correct a situation. From time to time it becomes necessary for the Parliament to meet, to debate and to enact legislation—from time to time. And if it becomes necessary due to a change in policy or for some other reason, Parliament can change the laws by enacting new legislation—if it becomes necessary—and that is what we are doing here today. No rocket science. No rocket science! And they come, you know, as if it is something grave and the sky has fallen in, and so on. Kamla must resign! Volney must resign! The AG must resign! Jack must resign! “Doh leave meh out.” [*Interruption*] Just now, two minutes. “Leh him play he reading de *Mirror*.”

So therefore, Madam Deputy Speaker, we have come here today to correct a situation, and I am saying, therefore, that this Bill before us is nothing unusual in terms of business of the Parliament. Nothing unusual! The sky “eh” falling in; the roof “eh” caving down.

We have come, because you know why? The Prime Minister realized that we needed to have an amendment to the Act to correct a situation and she has faced it frontally. We have come here to do that. That is why we are here, because we were elected to conduct the people's business, and we are big people. We “doh” hide and make excuses. When a mistake is made, we own up to it and we come and correct it! We “doh” hide and say, “Not me, you; not you, me; not me, you.” All of us here voted unanimously for the Bill. All of us here!

**Mr. Imbert:** You proclaimed the Act.

**Hon. J. Warner:** It does not matter of proclamation.

**Mrs. Persad-Bissessar SC:** It does not matter if it was proclaimed. You voted for it.

**Hon. J. Warner:** You voted for the Act.

**Mr. Imbert:** No—

**Hon Member:** No, we never proclaim—

**Hon. J. Warner:** The Act went to the Senate; your Members voted for it. All of us are culpable. All of us stand accused of making a mistake.

**Mrs. Persad-Bissessar SC:** Whenever it would have been proclaimed, it is the same effect.

**Mr. Imbert:** All the matters would have been finished. “Ole talk!”

**Hon. J. Warner:** “All ah we eh tief.”

**Mr. Imbert:** Yes.

**Hon. J. Warner:** “All ah we eh tief”, Port of Spain North/St. Ann's West.

**Mrs. Persad-Bissessar SC:** No way.

**Mr. Imbert:** All pending matters would have been finished.

**Mrs. Persad-Bissessar SC:** All pending matters? Nonsense!

**Hon. J. Warner:** Port of Spain North/St. Ann's West, “all of us eh tief. Is true. Dah why you on dat side, because you tief.”

So, Madam Deputy Speaker, as I mentioned, and I want to repeat again, I shall, of course, abide by the Standing Orders. But let me just make it clear since their argument started, that there were Members on the other side who voted in support of the Bill after the Bill passed committee stage, Madam Deputy Speaker. I will say it slowly. The Bill came here; it went to the other place; it came back here; it passed committee stage; at every stage they voted, Madam Deputy Speaker.

When the Bill came here for the fourth time in committee stage, hear those who voted in favour of the Bill: Member for Port of Spain South, Miss Mc Donald; the Member for Diego Martin West, Dr. Keith Rowley; the Member for Laventille East/Morvant, “yes”; Laventille West, “yes”; Port of Spain North/St. Ann's West, “yes”; the Member for Diego Martin North/East, “yes”; the Member

for La Brea, “yes”; the Member for Diego Martin Central, “yes”; St. Ann’s East, “yes”; the Member for Arouca/Maloney, “yes”; the Member for Point Fortin, “yes”, and poor Member for San Fernando East, he was not here.

Every Member voted “yes”! Every single Member voted “yes” after four times! The Bill came here four times, and they come today, “whiter than angel”. Everybody here, of course, is the Virgin Mary or something—everybody! Right? Mea culpa, mea culpa, mea maxima culpa.

**Dr. Gopeesingh:** “They doh know” what you mean there—

**Mr. Imbert:** Answer the question.

**Hon. J. Warner:** Well, “ah mean, ah cyar help dem.” It is too late for them to learn.

So today now, Madam Deputy Speaker, they have a change of heart, reflecting on the impact of the Bill on one or two particular court matters. They have a change of heart.

Madam Deputy Speaker, it is instructive to know the comments of the Member for Diego Martin North/East—the lawyer of sorts—when clause 34 was discussed at committee stage. When the Bill was discussed at committee stage, the lawyer of sorts from Diego Martin North/East had this to say. I would not say all, but I will tell you what he said. Mrs. Persad-Bissessar asked:

“Are you proposing that we keep seven?”

**Mr. Imbert:** Yes, I do not know why you want to amend it. Ten years is a long time between charge and trial, you know—somebody waiting for ten years?

**Mrs. Persad-Bissessar:** Should we keep it at the seven, are you prepared to vote for the Bill? Would you vote for it?

**Mr. Imbert:** Yes.

**Mrs. Persad-Bissessar:** For the entire Bill?”

Hear the PM asking him: You will vote for the entire Bill?

Hear the answer:

“You hear us say we opposing the Bill?”

Section 34 was there then, why did you not go against it then? She asked you if you will vote for the whole Bill, why did you not say no? Why you did not say no? Hear again: Are you voting for the whole Bill?

**“Mr. Imbert:** You hear us say we opposing the Bill?”

Section 34 was there!

**Mrs. Mc Intosh:** Proclamation is the problem.

**Mr. Imbert:** Proclamation is the problem.

**Hon. J. Warner:** Madam Deputy Speaker, I would not say much more.

**Mrs. Mc Intosh:** Why did you proclaim?

**Mr. Imbert:** Why did you proclaim?

**Hon. J. Warner:** When you talk, you ask the question, you will get answers. That answer “coming for yuh”.

**Hon. Member:** They “ain’t” answering the question—[*Crosstalk*]

**Hon. J. Warner:** Madam Deputy Speaker, I want to repeat, this Government’s original proposal was for seven years.

**Mrs. Persad-Bissessar SC:** Then I said 10.

**Hon. J. Warner:** The Prime Minister insisted on seven.

**Mrs. Persad-Bissessar SC:** On 10.

**Hon. J. Warner:** Sorry, on 10.

**Mr. Imbert:** I said seven.

**Hon. J. Warner:** You wanted seven. And then the Government proposed to lengthen the limitation to 10.

**Mrs. Persad-Bissessar SC:** I was advised by him.

**Hon. J. Warner:** Because the leader of the LRC, the Chairman said that 10 years is preferable.

**Mr. Imbert:** It is a moot point. We all agreed with him.

**Mrs. Persad-Bissessar SC:** That is right.

**Mr. Imbert:** I went over all of that already.

**Hon. J. Warner:** So I am saying, the point is that, of course—

**Dr. Rowley:** Tedious repetition.

**Mr. Imbert:** Tedious repetition. I went through all of that already.

**Mr. Roberts:** “Ah hearing some mosquitoes.”

**Mr. Imbert:** Tedious.

**Hon. J. Warner:** Madam Deputy Speaker, Schedule 2 of the Act lists the indictable offences that may be tried summarily, and Schedule 6 lists the offences to which discharge on grounds of delay do not apply. So my question is: what were the Members opposite thinking about when they participated in the Bill in the committee stage?

Madam Deputy Speaker, after a Bill has been approved and so on, as you know, you come to the committee stage. When that was taking place, what were they thinking about? At that stage, the Bill was read clause by clause. As they say, claw by claw.

**7.50 p.m.**

#### PROCEDURAL MOTION

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Madam Deputy Speaker, in accordance with Standing Order 10(11), I beg to move that the House continue to sit up until the completion of the Bill, the Administration of Justice (Indictable Proceedings) (Amdt) Bill, 2012 is taken through all its stages.

*Question put and agreed to.*

#### ADMINISTRATION OF JUSTICE (INDICTABLE PROCEEDINGS) (AMDT.) BILL, 2012

**Hon. J. Warner:** Thank you, Madam Deputy Speaker. They were not thinking about individuals then at committee stage. They were not thinking about personalities then. They were not thinking about all those UNC persons who would be freed and so on then. They either were asleep then, or they were looking at some other picture. But they were not thinking about those things then, Madam Deputy Speaker, because at the time, then, as now, the purpose of the Act was to deal with the injustices and the burdening of the courts, and to deal with the entire justice system and the delays therein. That was the purpose. From day one, that is what the Minister of Justice said—whether plaintiff or defendant.

In fact, the Act itself had some secondary objectives. And you ask yourself: what were the secondary objectives of the Act? In case they do not know, let me tell them: it was to reduce the financial burdens on poor people who have to fork out thousands for dollars of legal representation, spanning years, only at the end of the day to be freed, to be exonerated. That was to correct that. What was another objective? To bringing back the suffering of persons who may be

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innocent but remanded in jail for years because they could not afford bail. What is the next objective? To free up witnesses, such as police officers, who are taken away from their duties to come to court day after day over periods spanning years because cases are delayed. A fourth objective, Madam Deputy Speaker: to put pressure on the prosecution, in particular, to move with expedition, to move with dispatch, to move with haste. Not true?

**Hon. Member:** Very true!

**Mrs. Persad-Bissessar SC:** Justice delayed is justice denied!

**Hon. J. Warner:** Justice delayed, justice denied. News to them today; only today because they come here—want to march to France, march to Greece, march to London, write the OAS. March to Diego Martin West for a start first, and see the drainage problems there! For a start, march there first! [*Desk thumping and laughter*] March to Andalusia and see the clogged drains—for over 10 years in Andalusia. March there first? March to France? Should not march to France “nah”; but I would not tell you where to go.

Madam Deputy Speaker, at that time, they said nothing was wrong with the Bill; nothing at all wrong. When this Bill was presented, the Minister of Justice referred to a larceny case that took 27 years. Twenty-seven years for a larceny case! We were here; they forget, because you see, the fact is that stick break in their ears today. And you want 27 years, I must tell you again, 27 years; justice delayed is justice denied.

Madam Deputy Speaker, they give the impression as if this Bill was made for a particular person and so on, or group of persons. I want to say to this House categorically that this Government never makes legislation ad hominem. “Ah talk correct?”

**Mrs. Persad-Bissessar SC:** Oh!

**Hon. J. Warner:** Ad hominem! In other words, did not make any law or Bill to benefit any one man.

**Mrs. Persad-Bissessar SC:** In personam!

**Hon. J. Warner:** In personam!

**Mrs. Persad-Bissessar SC:** For one person.

**Hon. J. Warner:** For one person.

**Mrs. Persad-Bissessar SC:** Or two persons. We make in rem, for everybody.



**Hon. J. Warner:** Thank you. We make laws here in rem, for everybody, not for one person, or one class. Thanks for the lesson, Prime Minister. Try and help them on the other side too. That is the whole point. We would not act that way. Unless it is a pension Bill for example, you could do that, but we do not make laws that way, and they want to come here and posture and pretend—it is not fair, but that is PNM style.

When this Bill was being discussed in this Parliament, stakeholders were also consulted. Let me say clearly, the change of law was not done by this Government alone, but suddenly, we have Pontius Pilate on every chair washing their hands off it suddenly. This Bill was one of the finest examples of collective effort in this Parliament. Madam Deputy Speaker, the Minister of Justice disclosed that stakeholders were consulted, and there was resounding support that this preliminary enquiry process was a yoke around the neck of the justice system. “How ah talk?”

**Mrs. Persad-Bissessar SC:** Like a lawyer!

**Hon. Member:** Good, good, good.

**Madam Deputy Speaker:** Hon. Members, the speaking time of the hon. Member has expired.

*Motion made:* That the hon. Member’s speaking time be extended by 30 minutes. [*Hon. A. Roberts*]

*Question put and agreed to.*

**Hon. J. Warner:** Thank you, Madam Deputy Speaker. [*Desk thumping*] Thank you very much, colleagues. I am saying that this preliminary enquiry process was a yoke around the neck of the justice system, an unnecessary source of major delays. The Minister of Justice said that in heeding the call of the stakeholders, we followed the international community, in reforming the pretrial process. And we spoke about examples in the UK, in Antigua and Barbuda and St. Lucia, and how well this new system was working in those jurisdictions. He told us all of that; he said so; the facts are there. I do not want to bring the Chief Justice into this debate either, but even the Chief Justice, I want to say very briefly, was commendable of the effort of the Minister of Justice.

When he went—September 16, 2011, when he opened the new law term, the Chief Justice said and I quote him:

“In the area of Court Procedures, there are major changes that have been in the planning stages and will be rolled-out in the coming year.”

The Chief Justice continues:

“The most significant will be the elimination of Preliminary Inquiries.”

The Chief Justice said so.

“Draft legislation has been prepared after extensive consultation and I am assured that it will be brought to parliament within a few weeks.”

Extensive consultation! “Yuh talking about vaps, voops and vaille-que-vaille.” Look in the mirror, you will see “vaps”! Look in the mirror, you will see “voops”! Look in the mirror, you will see “vaille-que-vaille”. [*Desk thumping and laughter*]

**Mrs. Persad-Bissessar SC:** “Yuh have to tell him yuh own mirror”, not the newspaper.

**Dr. Moonilal:** If you look in the mirror, you will see the same thing.

**Hon. J. Warner:** No, “ah want tuh make sure”. [*Laughter*]

**Dr. Moonilal:** The *Mirror* newspaper?

**Hon. J. Warner:** “I eh mean the *Mirror* newspaper eh, ah mean look in ah glass.”

**Mrs. Persad-Bissessar SC:** Looking glass.

**Hon. J. Warner:** Looking glass, not newspaper because “ah next thing, yuh go say I tell yuh look in the *Mirror*, and then yuh go hear, ah say look in the *Mirror* because Jack Warner buy the *Mirror*. [*Laughter*] I know allyuh very good, very well.” Because, you see, suddenly buying the *Mirror* is a bad thing. I hear “all kinda foolishness” about buying the *Mirror* and so on but that is for another time, because the *Mirror* staff going to one of the dailies, so you could read the dailies now; but “doh” worry; that is another story for another time. So, I am saying to you, September 16, 2011—[*Interruption*]

**Miss Mc Donald:** All good things come to an end.

**Hon. J. Warner:** Things come to an end?

**Mrs. Persad-Bissessar SC:** Do not get distracted; go ahead.

**Hon. J. Warner:** All right. On that day, the honourable Chief Justice confirmed that the legislation for the Bill was based on extensive consultation, all credit to the Minister of Justice. They travelled widely, went to all jurisdictions doing research—and talking about “voops”, “vaps” and “vaille-que-vaille”.

**Miss Mc Donald:** “Yuh love that, eh.”

**Hon. J. Warner:** I love nothing from “allyuh”! [*Laughter*] Madam Deputy Speaker, I was never a PNM as a little boy; I was never a PNM as a young man; I was never a PNM as an old man; and now in the winter of my years, I will be a fool to be a PNM. Right.

**Dr. Rowley:** Thank God!

**Hon. J. Warner:** Thank God. I would not be in a party that is on the brink of collapse. Me? [*Laughter and interruption*]

**Hon. Member:** “Yuh look for that!”

**Miss Mc Donald:** Take care!

**Hon. J. Warner:** I am advised—at my age, take care? I am advised— [*Interruption*]

**Miss Cox:** “Take care yuh eh have to eat dem words, yuh know.”

**Mrs. Persad-Bissessar SC:** Continue.

**Hon. J. Warner:** Madam Deputy Speaker, I want to answer “yuh know”, but anyhow, thank you, sorry. I am advised that representatives from the Judiciary led by the Chief Justice, the Office of the Director of Public Prosecutions— [*Interruption*]

**Miss Mc Donald:** Tell us why you proclaimed section 34.

**Mrs. Persad-Bissessar SC:** So why you so hurry?

**Dr. Moonilal:** All will be revealed!

**Hon. J. Warner:**—the Criminal Bar Association, the Law Association, the police, the prisons, the Legal Aid Authority and the Forensic Science Centre have all been involved in extensive consultation. This Bill represents their collective will, but suddenly today, the Opposition is saying to wipe out all of that consultation— [*Interruption*]

**Mr. Roberts:** It is a conspiracy!

**Hon. J. Warner:** It is a conspiracy. Manipulation! All these peoples’ names that I have called have been manipulated in forming the Bill.

**Mrs. Persad-Bissessar SC:** That was their style, you see.

**Hon. J. Warner:** I want to ask why, Madam Deputy Speaker, if they were so bright, why did the PNM not lend their wisdom during the formative stages of the

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Act. If they were so bright, why did they not raise red flags then when the Act was being discussed? If they were so bright, why did they not come forward with their views on section 34?

Let me say that this—I saw a headline in one of the papers today about bad law. Let me say very early and make the point that this is not necessarily bad law. That was not the consensus when the legislation was developed, tabled and passed. It may be a law that we may disagree with in hindsight, in parts of it, but that is not bad law.

**Mrs. Persad-Bissessar SC:** They are throwing the baby with the bath water.

**Hon. J. Warner:** They are throwing the whole baby with the bath water. The whole baby goes with the bath water.

**Mrs. Persad-Bissessar SC:** You cannot do that.

**Hon. J. Warner:** That is what is wrong. The law was designed as envisaged. Therefore, if today, we are reflecting on it, I am saying let us as adults stand and admit that collectively we worked on the Act, and we simply have a change of mind today with a section of it.

**Mrs. Persad-Bissessar SC:** One section out of 35.

**Hon. J. Warner:** One section. Let us come here and say—out of how many?

**Mrs. Persad-Bissessar SC:** About 35.

**Hon. J. Warner:** Thirty-five sections, and let us come here today, and tell the nation that we have a problem with one section out of 35. What is wrong with coming here and speaking the truth and admitting that we have to revisit a section? What is wrong about that? I am saying to you that I have to say that that is not very honourable for persons who were part of the creation of the Act to come here today and deny their involvement. It is not fair, not correct. We on this side, led by the Prime Minister, are doing the responsible thing.

Madam Deputy Speaker, my position is that if the global consensus, in hindsight, is now that we change the law and repeal section 34, then I have no problem with that and that is the position of my Government—this Government of which I am a Member—of which Mrs. Persad-Bissessar is the Prime Minister. Something has happened, and we must come to Parliament and say it is a problem and own up to it and come here and correct it.

**8.05 p.m.**

Let me give you an example of what happened under a previous administration between 2003 and 2010 to show you how differently this Prime

Minister is from the Prime Minister then. To be more exact, let me show you how this Government, led by Mrs. Persad-Bissessar, is different from the Government led by Patrick Manning, of which a Member boasted he had 40 years of his friendship—and three hours, of course, trying to get through the front door.

Madam Deputy Speaker, you heard today about some conspiracy theories. The Member for D'Abadie/O'Meara went to town today to explain that there are no conspiracy theories. All we heard today is the fact that the other side is peddling propaganda and fear. They want the country to believe that a responsible Government would pass a law just to target two or three persons, but I want to talk very slowly now.

When a similar thing occurred under their watch, they said the notion was preposterous. There was no conspiracy then. There was no manipulation then. They said it was preposterous. Let me give you an example.

Before I make the point I want to make, I want to ask this House and the nation to look at the annual caseloads on indictable matters for the period August 01, 2010 to July 31, 2011 and you will see the justification for the efforts of the Minister of Justice. Slowly, August 01, 2010 to July 31, 2011, and I am taking these figures from the Judiciary's annual report 2011 to 2012. The cases for that period of one year:

Arima, 28,000;

Chaguanas, 12,314;

Point Fortin, 8,000;

Princes Town, 9,144;

San Fernando, 25,475;

Sangre Grande, 16,959;

Siparia, 8,953;

Port of Spain, 58,492;

Tobago, 1,707;

Tunapuna, 8,977.

Total, 178,021 cases going to the Magistrates' Courts annually.

Madam Deputy Speaker, let me talk slowly: almost 200,000 cases going to the Magistrates' Courts annually and these are just indictable matters.

Madam Deputy Speaker, I am advised that there are now about 500,000 cases on the books for a total of 40 magistrates per year. It means that each magistrate has 12,500 cases per year. Heaven help these magistrates and heaven help Trinidad and Tobago. That is why we came with the Bill. That is why we came here with the Ministry of Justice Bill and other measures to get rid of this backlog, a most progressive move. We have nothing to be ashamed of because justice delayed is justice denied. [*Desk thumping*] The rain and the sun bear equally on all and we have to correct that.

We are criticized for the proclamation of section 34 of the Act without certain operational supports being in place. We can argue “from today to Thy kingdom come” whether the Act would have stood with or without the entire framework in place. All I can say, Madam Deputy Speaker, is that everything would have been the same today whether we had those things in place or not, if this had not been discovered. Therefore, those who have applied for the charges to be vacated would have done so just the same way.

Let me, of course, go to a matter that is near and dear to your heart and show you how what is good for one is not good for the other. I refer here now to the Monteil HMB shares—Andre Monteil Home Mortgage Bank shares.

**Mrs. Persad-Bissessar SC:** That sounds familiar.

**Hon. J. Warner:** It must sound familiar and I want to end on this.

**Mrs. Persad-Bissessar SC:** Treasurer of the PNM.

**Hon. J. Warner:** Treasurer of the PNM. That is correct.

**Mrs. Persad-Bissessar SC:** That is the gentleman?

**Hon. J. Warner:** That is the gentleman. Owner, of course, of Stone Street Capital.

**Miss Cox:** He is not the Chairman of the PNM.

**Mrs. Persad-Bissessar SC:** He was never?

**Hon. J. Warner:** Treasurer. Treasurer of the PNM.

**Miss D. Cox:** He is not the treasurer of the PNM.

**Hon. J. Warner:** She said he was the treasurer of the PNM. “Was” is past tense. She did not say “is”.

**Mr. Roberts:** Do not deny the man.

**Hon. J. Warner:** She said “was”.

**Hon. Ramlogan SC:** “When he was giving allyuh money, allyuh didn’t say that.”

**Hon. J. Warner:** I am talking about Monteil and the Home Mortgage Bank. Was, is, will be, could be, maybe, would be.

**Hon. Ramlogan SC:** Still is, do not worry about that. Still is.

**Hon. J. Warner:** Madam Deputy Speaker, you will recall that in 2007 there was the famous Home Mortgage Bank Stone Street Capital, \$110 million share value. The former PNM Government was accused of changing the laws in July 2005, allowing the Government to appoint two directors to the Home Mortgage Bank, taking away restrictions on the ownership and transfer of shares and giving directors the power to dispose of such shares “on such terms and conditions as the directors shall think fit”.

Madam Deputy Speaker, [*Interruption*] listen good, “nah” man, I want you to listen good. Do not get sidetracked, neither, listen good. In February 2007, the PNM changed the law, again, to remove the Home Mortgage Bank from the application of the Financial Institutions Act, 1993 and also making directors of the Home Mortgage Bank immune from liability—

**Hon. Ramlogan SC:** Immune from liability?

**Hon. J. Warner:** Yes.

**Hon. Ramlogan SC:** Where is the Member for Diego Martin North/East?

**Hon. J. Warner:** Where is he? Immune from liability “for acts done in relation to the exercise of their functions”. They made the immunity retroactive—

**Hon. Members:** Wh-o-o-o-o.

**Hon. J. Warner:**—to July 2005. They made it retroactive to July 2005. PNM financier, former PNM treasurer, Andre Monteil, was chairman of the Home Mortgage Bank when, in March 2007, a transaction occurred that saw the transfer of 25 per cent of the Home Mortgage Bank shares to Monteil’s private company, Stone Street Capital, and CL Financial. The shares then were worth \$110 million.

None of this so far is news. It is in the public domain. All the o-o-o-oh and a-a-ah, it is there. Their memories are short you know, they are all Chinese; their memories are very short.

The public is well aware of all of these facts. [*Interruption*] God tell me so. All I am doing here is merely refreshing the Members’ memories.

This transaction was only possible because of the 2005 amendment to Home Mortgage Bank Act. You may recall that the PNM was accused of making this legislative change just to facilitate their beloved treasurer. Do you know what they said back then, Madam Deputy Speaker? They said that was nonsense; that was preposterous. They asked whether we were stupid and gullible enough to believe that a conspiracy of such magnitude could be hatched and executed. They said so even though at the time Monteil had Calder Hart as his sidekick at the NIB and HMB boards. So when Monteil was taking in this money, his friend Calder Hart was on the NIB board as chairman and on the HMB board.

I continue. Madam Deputy Speaker, then they saw nothing wrong. Let me go further. When the matter was raised first in Parliament, 2007, by the current Minister of the Environment and Water Resources, Ganga Singh—he was then the Member for Caroni East—and it was raised subsequently by the Member for Princes Town, Mr. Subhas Panday, then Prime Minister Patrick Manning promised; hear what he said: he promised the nation to use moral suasion to have Mr. Monteil return the shares immediately, at the same price for which they were bought. This never happened. Patrick Manning also declared, as you will recall, that Monteil resigned all his government positions and went to Las Lomas to become a reclusive sheep farmer.

I continue: Patrick Manning promised to immediately bring legislation to the Parliament to change back the law to prevent private parties from owning substantial shareholdings in the quasi public-owned bank. That, too, never happened. To this day, the PNM never brought the Bill to correct this unsavoury situation; to this day no Bill has come to Parliament to correct this unsavoury situation because they would have to protect Monteil and his private companies.

The year 2007 came; the elections came in 2007 and went. There was still no legislation to correct this. From 2007 to 2010, they were in office. They still did not bring any Bill to Parliament to correct this. In fact, in February 2011, it was reported that Mr. Monteil and his company sold their 43.5 per cent shares to NIB at \$130 million.

**Miss D. Cox:** Madam Deputy Speaker, 36(1) please, relevance to the Bill before us.

**Madam Deputy Speaker:** Member, I want to ask you to keep it tight and stay with the Bill in question.

**Hon. J. Warner:** Madam Deputy Speaker, I will draw the dots now. What is the difference? I will tell you what the difference is. Immediately this situation arose with this Bill, this Prime Minister took corrective action. [*Desk thumping*] Immediately! I



am making the point because with Monteil and his shares in the bank, they did no such thing. They promised to, and did not do it. They promised this nation that they will come to Parliament with a Bill to correct this situation, but they did not do it. That is the point I am making and today they come here to shed crocodile tears.

I want to make an analogy, but I would not say it here. Crocodile tears they shed here today, preaching fire and brimstone. Therefore, I ask the Members opposite: where was their moral compass when these things were happening between 2005 and 2010 with Monteil and the bank? I ask them: where were their consciences? I ask them: where is it on any record that they spoke out against what was taking place when the PNM treasurer bought 25 per cent of a government bank to hold 43.5 per cent of the company while being chairman of the said bank? The chairman of the said bank bought the shares, held the shares, then sold the shares. Where were their consciences then?

They promised to bring a Bill here to correct that and to this day no Bill has come here from them. [*Desk thumping*] Why did they not call then for the AG to resign? Why did they not put pressure then for the Prime Minister to resign? Why did they not give him a two-day ultimatum to call Parliament to [*Inaudible*] For seven years they have not called Parliament to amend the Bill. For seven years, he has not called Parliament to amend d-d-d-d—[*Stutters*]

**Dr. Rowley:** D-d-d-d what? [*Laughter*]

**Mrs. Persad-Bissessar SC:** That is very unkind.

**Hon. J. Warner:** —the evil. That is okay. That is okay. Do not worry. That is the mettle of the Prime Minister-to-be. [*Crosstalk*]

**Hon. Members:** Shame on you! Shame! Shame! [*Crosstalk*]

**Madam Deputy Speaker:** Members, Members of the House! Members of this honourable House! I want to ask you to avoid the crosstalk. Member for Chaguanas East, I want to ask you to address the Chair when you are speaking. Let us avoid the crosstalk on the other side.

**Hon. J. Warner:** It is the same wannabe Prime Minister who called the children dunces. That is the—[*Inaudible*] Okay, that is the level. That is the Prime Minister-to-be. One called children “douenne”; one called them dunces. Today, I say d-d-d and it is a big thing; big joke.

Madam Prime Minister, so I stutter; I stutter. I am the first person to stutter. Prime Minister-to-be, I am sorry to offend you, Sir. I am sorry, very sorry. On the platform in Tobago, I would not stutter, right.

Madam Deputy Speaker—

**Mrs. Persad-Bissessar SC:** If you stutter, you sound good.

**Hon. J. Warner:** Thank you, Prime Minister. [*Desk thumping*] For me, that is all that matters; what you have just said, that is all that matters. Nothing they have said there—yes she is royal and you are disloyal. While she is royal, you are disloyal.

**8.20 p.m.**

**Mrs. Persad-Bissessar SC:** “Dais de one bring down the ship.”

**Hon. J. Warner:** Bring down Manning. Madam Deputy Speaker. [*Crosstalk*]

**Mr. Roberts:** “Yuh stuttering but yuh grammar good, yuh eh sayin flim”. [*Laughter*]

**Hon. J. Warner:** I ask them why did they not give Prime Minister Manning an ultimatum then. Why did they, of course, not take swift and decisive action to correct the situation then? Where were the loud voices of those on the other side? Where were they? Especially the Member for Diego Martin West who was called a raging bull. Where was his bullish behaviour when Monteil was allowed to escape and no Bill came here for seven years? To this day no Bill here.

**Mrs. Persad-Bissessar SC:** Political hypocrisy!

**Hon. J. Warner:** Hypocrisy of the highest kind! Hypocrisy personified! It never happened. They come here today to cry and to pretend and play that they are holier than thou, “dey whiter than snow”. Well, all of us passed the Bill. All of us took part in it and all of us must say to the nation, we heard, we are sorry; we came to correct it.

**Mrs. Persad-Bissessar SC:** That is right. [*Desk thumping*]

**Hon. J. Warner:** Madam Deputy Speaker, let me, of course, re-emphasize my view that the Government did not pass bad law in November 2011. The law that was passed was the product of unprecedented consultation—”how dat sound? Dat sound good”?

**Hon. Members:** Yes!

**Hon. J. Warner:** The law was passed on the basis of unprecedented consultation and collaboration with many stakeholders, Madam Deputy Speaker. Of course, some of them now, I find that they distance themselves from it but the facts are there. Given the process that the Act was put through and the persons

and the offices that were involved, it is fantasy to the highest degree that the Act could have been part of a conspiracy to free one or two people. It is fantasy. It is a figment of an imagination that knows no bounds.

Madam Deputy Speaker, I maintain that it seems to be the collective desire that section 34 be repealed. Therefore, on this side we concur with that consensus. I want to also point out that the Government of Mrs. Kamla Persad-Bissessar acted swiftly, acted decisively unlike past Government. [*Interruption*] Sing for my supper? My supper in the oilfield in Ghana. [*Crosstalk*]

Madam Deputy Speaker, the facts here speak for themselves. I hope that the facts will shine brighter than the propaganda and fear by the Opposition that they are trying to impose on this nation. That the facts shall come as a beacon of light in the darkness they are trying to impose on this nation based on propaganda and fear. I thank you, Madam Deputy Speaker. [*Desk thumping*]

**Madam Deputy Speaker:** Hon. Members, it is my understanding that dinner is here and as a result hon. Members the sitting is now suspended until 9.15 p.m.

**8.23 p.m.:** *Sitting suspended.*

**9.15 p.m.:** *Sitting resumed.*

**Miss Marlene Mc Donald** (*Port of Spain South*): Thank you, Madam Deputy Speaker. As I said to you a short while ago let me congratulate you, especially as a female sitting there as the Deputy Speaker, and I wish you all the best.

Thanks again for the opportunity to join in this debate this evening. Before I get into my contribution, I would need to clear a few points made by the speakers on the other side. I would start with the Attorney General. The Attorney General, of course, went around the mulberry bush, talked about an unqualified support for the Bill, that both the Members for Diego Martin West and Port of Spain South supported, but during the course of this debate I will show that we supported it, but we supported it in principle and we will show the basis upon which this support was given.

He also stated that it was a rare occasion in Parliament when we came together to pass this legislation. I want to point out to the Attorney General and also to the national community, Madam Deputy Speaker—you will know that we support any piece of legislation that will redound to the benefit of the citizenry of Trinidad and Tobago.

**Hon. Member:** Good point!

**Miss M. Mc Donald:** We did so in the budget of 2011. We voted for the Interception of Communications Bill, 2010; we did so with the anti-gang legislation; we did so in the bail Bill; we supported the anti-kidnapping and the legal aid Bill. We have been working with the Government in part to support legislation.

**Hon. Ramlogan SC:** “Why yuh doh commend we for bringing all dem good laws?”

**Miss M. Mc Donald:** Madam Deputy Speaker, I allowed the Attorney General to make his presentation. I also take serious objection to the Attorney General shouting across the floor. Please, please! [*Crosstalk*] Member for Fyzabad, not tonight. [*Crosstalk*]

I go to the Member for D’Abadie/O’Meara. The Member for D’Abadie/O’Meara was on a frolic of his own with respect to conspiracy theory. I am still trying to understand what he said. What he did that did not escape me was to try to diminish the undertaking given by the Member for St. Joseph in this House on November 18. All the promises made and the undertakings given, and those were the conditions upon which this bench voted along with the Government. That was the condition.

I also want to clear a misnomer that he came here with this afternoon. I want to use his language. I want to be pellucidly clear. He spoke about two former PNM Ministers who were “fired” from their jobs and other people were waiting in the wings to pick up their jobs, and there was a conspiracy theory that these two men were kicked out of their jobs and others walked in. Let me tell you something, in the tradition—they would not understand this. That side would not understand this at all—in the tradition of Westminster, the two Ministers, Mr. Franklin Khan and Mr. Eric Williams, they were not fired; they resigned because they were actually charged and they resigned as a consequence thereof. They were not fired, so where is the conspiracy theory.

**Mr. Roberts:** The trumped-up charge.

**Miss M. Mc Donald:** Member for D’Abadie/O’Meara you had your chance, allow me—[*Crosstalk*]

**Dr. Rowley:** “Doh leh him distract you, please.”

**Miss M. Mc Donald:** Madam Deputy Speaker, I go to the Member for Chaguanas West. Member for Chaguanas West, you disappointed me this afternoon.

**Hon. Member:** You were?

**Miss M. Mc Donald:** Let me give the reasons why. [*Crosstalk*] We are not here to discuss EMBD with any land. We are not here to talk about the distribution of Caroni lands. We are not here to discuss—[*Crosstalk*]—

**Mr. Sharma:** What about the *Mirror*?

**Miss M. Mc Donald:**—equal opportunity, vomit, lapdog and laptop. We are not here to talk about the Equal Opportunity Bill. You see, what we are here about—and let me bring the issue back to this House and to the national community—we are here seeking a response from this Government. That is what the national community wants to hear. Why did you proclaim section 34? [*Desk thumping*] That is what we want to know. We want to know. Get to the issue. Why did you single out section 34? Why did you do it? Who did it? “Doh try to blame us”. We do not sit in Cabinet with you. It is Cabinet who would have given the instructions.

**Hon. Member:** Supposedly!

**Miss M. Mc Donald:**—supposedly to the President to proclaim this particular section. The question is, why? That is all we are trying to find out. We are like the conduits here—

**Mr. Roberts:** The what?

**Miss M. Mc Donald:**—for the national community. We are asking the questions. We would like some response. What you all did—all the speakers, from the Attorney General to the Member for D’Abadie/O’Meara to the Member for Chaguanas West. What did you all do? You all tried to minimize the impact of what you all have done.

Again, Member for Chaguanas West you made an attack on Mr. Vernon De Lima of the COP which I found was in poor taste and very unwarranted. I say, not because someone represents a murder accused could we now cast aspersions on the person’s character. Attorney General, you were in that position before you got here.

**Hon. Ramlogan SC:** I never did criminal law.

**Miss M. Mc Donald:** All right. You did other things though. [*Crosstalk*]

**Dr. Rowley:** “Doh go dey”!

**Miss M. Mc Donald:** Madam Deputy Speaker, I am speaking here on behalf of the attorneys outside there who represent people who commit murder. Are we to say that because they represent such persons that they are questionable characters? [*Interruption*] Are we going to say they are drug Lords, Sir? That is not right. Member for Chaguanas West that is not—if you do not have the

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evidence, I do not think you should use parliamentary cover to do something like this. [*Crosstalk*] Not only that, was Mr. Vernon De Lima not awarded silk?

**Dr. Rowley:** With fanfare.

**Mr. Imbert:** Great fanfare.

**Mr. Warner:** Makes no difference.

**Miss M. Mc Donald:** Madam Deputy Speaker, as I said, all the speakers here, the three from the Government side, did not address the reason why we are here today. Why are we here today?

I want to read a press release because they keep patting their backs, all of them.

**Dr. Rowley:** Cussing the PNM.

**Miss M. Mc Donald:** Cussing the PNM. Let me read a press release by Mr. David Abdulah today. [*Crosstalk*] One of your former partners, MSJ. Listen! Madam Deputy Speaker, I need your cover. I quote:

“It is to be recalled that I sat as a Member of the Senate that voted unanimously in support of the Act including Section 34. At that time, Senators were of the view that the Act would have taken some time for proclamation given that the Government had made an undertaking to put many things in place first.”

“Even assuming that there was no malicious intent in the wording of Section 34, the fact is that the proclamation of Section 34, like a thief in the night—on the eve of...50<sup>th</sup> Anniversary of Independence—and without informing the DPP or other important arms of the justice system, was either reckless in the extreme or a conscious act to allow certain persons before the Court to get an escape route!”

**9.25 p.m.**

Madam Deputy Speaker, this, coupled with the statements from the COP—today, on my way to Parliament I was listening to the 12 o’clock news, and they were interviewing Mr. Vernon De Lima. He said:

I feel like a battered child, like an abused child, especially with this proclamation.

He said especially with this Proclamation. He said that he feels abused; the COP is completely abused—completely abused.

**Hon. Member:** Is he a member?

**Miss M. Mc Donald:** You see, this is the whole thing. You all make fun and light of everything. You all do not understand how people are hurting outside

there. You all have no idea how people are hurting, none, and how people are laughing at the COP because right now the COP has no moral authority to tell anybody about governance. Where is the new politics promised in this country? Where is the new politics? Where is it? [*Crosstalk*]

Madam Deputy Speaker, those were the responses I wanted to address. But let me state that I feel, as I said at my press conference which was called on Monday afternoon—I was called by my political leader to attend a press conference on Tuesday morning at 10.00—[*Interruption*—and even if I received a call, no call could have made my political leader call off his press conference, none, because we do not trust you all. We do not trust you all. [*Laughter*]

**Hon. Member:** So nobody said call it off? “Just talk de truth.”

**Miss M. Mc Donald:** Exactly, exactly. In the newspapers today, the leader showed me that the Leader of Government Business said no date for the budget would be announced, and as soon as the proceedings start, the Member for Siparia and hon. Prime Minister announced, “Budget day is October 01.” “Me believe allyuh? Not at all, not at all.”

**Mr. Roberts:** Did you receive the call or not?

**Miss M. Mc Donald:** Madam Deputy Speaker, let me state that I think this is a very sad day for the citizens in this country, despite the fact that they are laughing. “Doh worry, doh worry, their turn behind.” They are laughing now; “doh worry”.

I have to go back in time. I remember the scenario surrounding the anti-gang legislation because this situation reminds me very much of that situation which obtained last year. I was one of the members of that Joint Select Committee on the anti-gang legislation. It was the first time that such legislation was introduced in Trinidad and Tobago. It was Parliament’s response to the ever-increasing crime situation in this country.

The Joint Select Committee was set up, not only the Government with Ministers, but also Opposition Members, as well as Independent Members. We met for almost three months, crafting legislation, doing the research and interviewing different stakeholders outside, in order to come up with a position to return to the Parliament.

During the course of those meetings, certain recommendations were made, and there was an undertaking that those recommendations would be put in place before the anti-gang legislation would have been proclaimed.

We said that we knew it was new to this country and therefore we needed an education programme, not only for the police officers but also for the public at large. We also needed to set up an anti-gang unit within the police service. All these fell on deaf ears. Lo and behold, like a thief in the night, the Act was proclaimed on August 15<sup>th</sup>. Of course, come August 21<sup>st</sup> the ill-fated, unwarranted state of emergency.

Well, they had their tool; no recommendations were followed. What happened? This Government kicked in with the anti-gang legislation and held hundreds of young men across this country, not understanding that prior to August 15, 2011 it would not have been a crime to be a gang member or a gang leader. It was only upon proclamation that we criminalized it, and therefore any evidence which was garnered before August 15 could not have been used against the people who were held; but instead, that is what was done. That is why we saw the spectacle of all these people being released in droves every day. We sat and we looked on.

Then the blame game started, “It was de PNM.” “Sen. Fitzgerald Hinds was there; and Marlene McDonald was there.” And I cannot remember who was the other person on my Bench who would have been there.

**Mr. Roberts:** “It have that many of you to forget?” [*Laughter*]

**Miss M. Mc Donald:** There were three of us. So, in much the same way—I am making a comparison—what happened with the anti-gang legislation, I have seen the same thing happen with this Administration of Justice (Indictable Proceedings) (Amdt.) Bill.

We came to this Parliament, I was part of it. It was a trilogy of Bills that came. It was the DNA; it was the indictable proceedings, and we ended in December with the Electronic Monitoring Bill. I took part together with my colleague from Diego Martin North/East. We took part in all three debates, so I am well acquainted with this particular Bill. That was the anti-gang. I want to give you a little history. What I am doing is trying to give you a history of this Government.

Early last year we saw the Electronic Transactions Bill together with the Data Protection Bill, in which this Government used their majority. When we closed this Parliament, the second session on June 14, I said to the national community and to this honourable House that this Government uses their majority to pass a lot of flawed—flawed—legislation.

**Mr. Sharma:** Government’s job is to pass legislation.



**Miss M. Mc Donald:** At a seminar organized by the Law Association of Trinidad and Tobago to address the Data Protection Act—and this was done at the law school in October—Attorney Gregory Delzin stated:

“Much of what the Data Protection Act has done may be unenforceable.”

Then Gillian Lucky, well-known attorney-at-law, said:

“Thank God this Act has not yet been proclaimed...

Legislation is being rushed and it is not being properly thought out...”

Madam Deputy Speaker, these two Bills remain unproclaimed as I speak because they are flawed.

I am known in this House for stating that ego has no place here. We come here to do the people’s job. We are here as the legislators to examine the legislation, but our offerings fall on deaf ears. As a matter of fact, the Member for St. Joseph would always remind us that they are the Government and we are supposed to be the loyal Opposition. We had our time it is their time now. There are many times I am on my feet when we are being told this. I am saying that as legislators—because this Opposition has shown that we are prepared—and I will say it again as we go through—to pass legislation and to work with legislation that would redound to the benefit of all the citizens of Trinidad and Tobago. [*Desk thumping*] We are mature in that sense.

So the question is: why are we here today? All of them are skirting the issue. Why are we here today? Lest we forget, we are here to do an amendment to the Administration of Justice (Indictable Proceedings) Act. Let me state briefly, for the national community’s sake, what the general purport of this Bill was. Basically, the Bill seeks to repeal and replace the preliminary enquiry process with a new system called the “sufficiency hearing system”. In a sufficiency hearing you go before a Master of the High Court. So instead of going to the Magistrates’ Court, as what obtained before, you now go to the High Court.

The Minister piloted this particular Bill last year. We are told that this system would allow a criminal trial to get started at least one year from the time an accused person is charged with the commission of an offence. We envisage that there is a lot of backlog. At the time he said there were over 100,000 cases as bottleneck in the system. However, there is a cogent argument that the bottleneck you are removing from the Magistrates’ Court would now be transferred to the High Court. Therefore, I guess it is against that backdrop, within that context, that certain support systems would need to be put in place to support this sufficiency hearing system the Minister has introduced.

Indeed, such a move was welcomed by the Judiciary and the users of the court. The Chief Justice, Ivor Archie, in his address at the opening of the 2011/2012 law term, recognized the malaise in the system. This is what he had to say, because he welcomed the move. This is why we came to the House on November 18<sup>th</sup>—on the 11<sup>th</sup> it was laid and on the 18<sup>th</sup> we debated. We came here because the general purport was to remove the system of preliminary enquiries and replace it with the sufficiency hearing. Then the second objective was to clear the backlog. That is how I understand the nature of the particular Bill.

**9.40 p.m.**

Justice Archie said, I quote:

“...it takes 5½ years on average for an indictable matter to move from the stage of the laying of the information to the filing of an indictment in the High Court.”

And, Madam Deputy Speaker, we on this bench know that this would have been a welcome advancement for the High Court, for those people who were charged with indictable offences, and we welcome it. But at that time the Member for Diego Martin North/East raised several concerns. I myself raised certain concerns, and the first concern I raised was the non-existence of the criminal proceedings rules. And what are these rules, Madam Deputy Speaker? These rules are necessary, like the civil proceedings rules, to set timelines in a matter, and to ensure that parties to the proceedings have a clear understanding as to the rules and guidelines that will bind the parties in any action.

Madam Deputy Speaker, my concern was that when I did my research, all the countries in the Caribbean—Antigua, St. Lucia, whether you looked at Canada, we looked at United Kingdom, those countries which had abolished the PI system and introduced the sufficiency hearing system, they all had some kind of criminal proceedings rules or criminal code, as they call it, I think, in St. Lucia, they call it a criminal code. We did not have such in this country.

What did I say then? I sought to ask the Minister of Justice, Member for St. Joseph, for some assurance that we will have those rules almost immediately. This is what the Minister said, and this is what I said I should say. As I was on my feet, I said, “do you have the rules? Do we have it in Trinidad and Tobago?” This is the hon. Member:

“On the way.”

So, he gave the impression that these things are being prepared, it is on its way, and this was my response at page 101 of the *Hansard* dated November 18, 2011. I said:

“I am sure that before the proclamation date—you give that undertaking—that it will be operational. Yes?”

Madam Deputy Speaker, with the assurance given on this note, I felt comforted. I felt comforted that when a Minister comes to this Parliament, and makes such a statement, and gives such an undertaking, why should we doubt that Minister? Then that Minister, as my colleague from Diego Martin North/East said, would be in contempt of Parliament. Correct me if I am wrong. Because I could not come here, and give—as a Minister—and say I am going to do this and I will do that and this, knowing full well that we are dealing with a crucial piece of legislation, and in order to operationalize it you need all these support systems in place in order to kick-start it. All these undertakings were given, and nothing happened, Madam Deputy Speaker.

**Mr. Sharma:** Bad advice.

**Miss M. Mc Donald:** We look at another concern I have, the inadequate human resources that exist, and that is one of the problems plaguing the High Court today, the Judiciary as a whole—the limited number of judges available.

The Minister told this House that there needed to be criminal Masters to oversee the sufficiency hearing, but the Masters operating right now have a civil background, and not a criminal background. I asked the Minister, have you made any such appointments as yet? Where is it? And then additionally, I want to state that a Master—this Minister is a former judge—a Master cannot operate on his or her own. He or she needs to have a support staff. Has this staff been hired?

**Mr. Volney:** Work in progress.

**Miss M. Mc Donald:** Member for St. Joseph I do not want that echo you know, work in progress, January 02, January 01, we got all that last year, and one year thereafter there is nothing. Madam Deputy Speaker, when he is talking he will respond—he will rebut what it is I have to say [*Crosstalk*] all right, but allow me to finish.

**Mr. Sharma:** You sounding good.

**Miss M. Mc Donald:** I recognized that no systems were in place, and I looked at the jurisdiction of St. Kitts. I went to St. Kitts and I pointed it out because I am looking at my *Hansard*. I am looking at my *Hansard* and I said in St. Kitts they are moving to abolish the preliminary enquiry system but,

“Even from now they are saying that with the transfer of cases to the High Court it would just exacerbate the problem of a case backlog at that level.”

And they are recommending “that there is need to hire new judges to assist with the load the resident High Court judges currently bear”—a lot of work.

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So, before they could even think about introducing the system, they are putting mechanisms in place in order to prepare themselves to introduce the sufficiency hearing system.

But I also went on to say, we have put the cart before the horse, now that this Bill may go through—listen, as you said, and you gave that undertaking, and I am saying that again, you gave that undertaking, that before the proclamation date, all mechanisms would be put in place to make the system work. This is at page 104 of *Hansard*—my *Hansard* of last year, November 18. That has not been done.

You see, what I am doing, Madam Deputy Speaker, is painstakingly going through all the different concerns we have had. The Member for Diego Martin North/East did his share, I am doing mine, and showing, and then I am going back and reading.

As I made my contribution here last year, and I raised the concern, we got assurances from the Member for St. Joseph, the Minister of Justice. [*Crosstalk*] And then the question of inadequate infrastructure came up, which was my third concern, and I asked the question to the Minister, can the existing “infrastructure in the High Court accommodate the increased human resources needed to operationalize this new system?” And the Minister said that he was going to divide Trinidad into six regions, two already existing which is the Hall of Justice and San Fernando, but “four new judicial centres would be built at a cost of \$800 million to \$1 billion”, and these centres would be located at “Trincity, Sangre Grande, Siparia and Carlsen Field”.

I ask the Minister tonight, have you turned the sod, have you dug one hole for the foundation of any of these judicial centres? [*Crosstalk*] I asked that question.

Madam Deputy Speaker, I want to remind you at page 36, this is the Minister’s *Hansard* I am reading from, and this is what he said because throughout his presentation, the Minister gave the assurances that the Bill will not be proclaimed until all mechanisms are in place, and he said, and this is him:

“Mr. Speaker, granted that the agencies would require time to put their houses in order, the Bill will come into force once all procedural and administrative support mechanisms and initiatives are in place to facilitate the effective operationalization of the Bill.”

This is at page 36 of your *Hansard*, speaking to the Lower House on November 18, 2011. And he went on to say at page 46 of his *Hansard*, this is what he had to say, let me go through, he said:

“A subcommittee of the Judiciary...” And this he was talking in terms of the rules because with the criminal proceedings rules, all right, you use section 32,

that is where you get together to do the rules for the court, and then those rules were supposed to have come back to this Parliament. This is what the Minister said:

“A subcommittee of the Judiciary has been set up with key stakeholders, including personnel from the Ministry of Justice, with the mandate of formulating definitive strategies to ensure that these agencies are in a state of readiness when this very pivotal piece of legislation comes into effect.”

**Hon. Member:** “Yuh” sounding like the Minister of Justice.

**Miss M. Mc Donald:** Just like him.

**Mr. Roberts:** “Yuh” sounding good.

**Miss M. Mc Donald:** And then he went on to say,

“Once all the procedural and administrative mechanisms are in place, the Bill will be proclaimed.”

Now, that is not me speaking there, Madam Deputy Speaker; this is the Member for St. Joseph and Minister of Justice—*[Interruption]*

**Dr. Rowley:** Piloting the Bill.

**Miss M. Mc Donald:**—piloting the Bill. And at every stage of the game giving—*[Interruption]*

**Hon. Member:** The assurance.

**Miss M. Mc Donald:**—both the Member for Diego Martin North/East and my good self, giving us the assurances that when all these things are put in place, then you will proclaim. The question now is because this is a question you all have been skirting whole afternoon—*[Interruption]*

**Hon. Member:** That is right.

**Miss M. Mc Donald:**—having given these assurances, on what grounds now, Mr. Minister, and Attorney General did you proclaim part of this Bill? What did you proclaim? There are 35 sections in this Bill—35, and five sections together with Schedule 6 came into operation on the August 31, 2012. Now, I am looking at the proclamation order—where is it? Yes, and let us see what was operationalized on that day.

Section 1, short title and commencement. Section 2, which simply states that the Act is inconsistent with the Constitution. Section 3(1), that is the interpretation section.

Section 32, rules of court. Section 34, that is the danger one, and Schedule 6, offences to which discharge on grounds of delay do not apply.

Now, you know, hon. Minister, what should have happened here was simple, that the only one that should have been proclaimed that day should have been section 32—that is where you would have been able to prepare all the rules, and bring back to the House before you go to section 34. All the different things that we spoke about, all of these things could have been done.

As a matter of fact I got a note stating that—if you look at the timelines when we did it in the Lower House, and this is what I want to get at. If you look at section 34(2) that came to the Lower House, I know my friend from Diego Martin North/East explained that that is discharge on the grounds of delay. This is what came to the Lower House on the 18<sup>th</sup>. And the only change that was made, as the Attorney General rightfully pointed out, was the change from seven years to 10 years. And the basis upon which you counted the time was from the start of the hearing, the proceedings, and then you check 10 years down the road.

**9.55 p.m.**

Like a “tief” in the night that whole thing was changed, and the basis upon which we counted time then, was from the commission of the offence 10 years down the road. I am not casting any aspersions or allegations on anyone, because, as we say, there is a Latin maxim which says, *res ipsa loquitur*. It is not only the Attorney General could spout Latin too, you know. *Res ipsa loquitur*: the thing speaks for itself. Because from the time that was changed, people who committed their offence in 1999 now fell smack under 34(3).

**Hon. Ramlogan SC:** What it means?

**Miss M. Mc Donald:** Pardon me?

**Hon. Ramlogan SC:** The Latin, what that means?

**Miss M. Mc Donald:** The thing speaks for itself.

**Hon. Ramlogan SC:** “You talk better when you talking Latin.” [*Laughter*]

**Miss M. Mc Donald:** Yes, make light of everything. As you change it, the Minister changed that, so we moved from the date of the hearing to the execution of the offence, and 1999 was the commission of the offence; 10 years down the road, it is 2009, so they fall smack into 34(3). But if we had retained what we had from the Lower House, which was from the date of the hearing, the initial proceedings, and that started in 2005; you checked 10 years down the road, you gone to 2015.

So, I want to ask the Minister today, what—[*Interruption*—Madam Deputy Speaker, Member for Diego Martin North/East, please and Member for D’Abadie/O’Meara—

**Mr. Imbert:** Pardon please, I apologize. [*Laughter*]

**Miss M. Mc Donald:** I ask the Minister or the Attorney General, which one will answer, what necessitated or prompted the change from the date of the commencement of the trial or the hearing, sorry, for the proceedings to the date when the offence was committed? I would like to know. We want to know.

Again, let me remind you why we are here—because there is a public outcry outside there. What prompted this Government and the Cabinet—yes, ask me where; ask me where; go on the ground and hear what people have to say. Hear what people have to say. [*Interruption*] Minister, are you around—St. Joseph—to hear what they have to say? Are you with the people on the ground to hear what they have to say?

**Hon. Member:** I am hearing them in Carenage.

**Miss M. Mc Donald:** Let me read today’s *Guardian* editorial, it says:

“The passage and the hurried and partial proclamation of the act raise very serious questions which cannot be answered and dismissed simply by the Government’s reconvening Parliament to change the law once again.

Therefore, before whoever is piloting the amended legislation can get into setting forth the changes and arguing for them, he or she—preferably the Prime Minister, the Attorney General and/or the Justice Minister—must persuade the nation that theirs was not an attempt to be complicit in seeking to have their friends and associates escape trial on these very significant matters.

It cannot be business as usual, because for a government to have credibility, indeed, the moral authority to govern, there can be no questions surrounding its motives and its intentions. For Prime Minister Persad-Bissessar and her government, the requirement is for her to come clean and to demonstrate the openness”—

**Madam Deputy Speaker:** Hon. Members, the speaking time of the hon. Member has expired.

*Motion made:* That the hon. Member’s speaking time be extended by 30 minutes. [*Mr. N. Hypolite*]

*Question put and agreed to.*

**Miss M. Mc Donald:** Thank you Member for Laventille West, thank you Member for D'Abadie/O'Meara, thank you Members on both sides of the House and thank you, Madam Deputy Speaker. [*Interruption*]

Yes, it says:

“For Prime Minister Persad-Bissessar and her government, the requirement is for her to come clean and to demonstrate the openness, transparency, and freedom from corruption that they promised when they came to power “—there is a paragraph here, Member for Oropouche East—”It is even more puzzling that the PNM supported the legislation after expressing suspicions during the debate about the Government’s motives.”

And I will tell you what, you see, all three PNM—[*Interruption*]—well, listen to the answer—all three PNM MPs here today, we have demonstrated that we can face this thing frontally; we said we agreed in principle; we said that we relied on the Government that this Bill will not—just like Mr. Abdulah said, that this Bill would have taken some time before it could be operationalized, but we did not expect you to come like a “tief” in the night and do what you have done. That is why I would always say that this Government is deceptive and deceitful. [*Interruption*]

Yes, it is, and I have to use the word of the Member for Caroni East, what he used to tell us when we were in Government, “wicked”! This is pure wickedness, and we are not hiding from what we did, you know. We are not hiding. We are confronting it frontally, but you all came here this evening, you all came here today and not one of you—the three of you who spoke—would admit to what you have done.

Not one of you can say what transpired, why did you single out section 34 to send to—which should have been done last. [*Interruption*] You understand, not first. We could have cleared the backlog; we could have put this emergency hearing in place; we could have hired the Masters; we could have hired the support staff, but you did not do that. You did not do it, but you come now to blame the PNM and cuss up the PNM; you have been doing that from since 2010. Everything is the PNM, the PNM, but you see what the PNM has done, we came here and what we have done, we bare our souls to the nation.

**Dr. Moonilal:** “Oooh.”

**Miss M. Mc Donald:** That is what we have done!

**Dr. Moonilal:** “Oooh.”

**Miss M. Mc Donald:** That is what we have done. [*Interruption*] But you all have not done that! You have not done it, because that amendment came like a



“tief” in the night out of the Senate. That is what happened, and up to now, we are here to understand why, why did you come and single out section 34? Why did you send only that section? Why did you do it first instead of last? Why did you do it? The country is waiting to hear.

What is the effect of it? Look at what has happened? The Leader opened the papers here and I see a host of familiar UNC financiers, all of them lined up waiting to apply under section 34(3). Was that the intent? I ask the question.

**Miss Cox:** Why?

**Miss M. Mc Donald:** Was that the intent? I want to look at some of the recommendations. I saw some amendments that were passed here and I looked at—*[Interruption]*—well, Member for Oropouche East, new clauses 6 and 7, voidance of proceedings—my colleague the Member for Diego Martin North/East passed this to me.

**Dr. Moonilal:** Yes.

**Miss M. Mc Donald:** Clause 6 says:

“all proceedings”—before any court—”under the repealed section 34 which were pending immediately before the date of assent of this Act shall, on the coming into force...be void.”

I want to tell you, you see those words “which were pending immediately”. I want to tell you what you are doing here is ousting the jurisdiction of the court. That is what you are doing here, ousting.

When he gave it to me, I looked at it. I am the attorney-at-law, Sir. Member for Oropouche East, you are ousting the jurisdiction of the court. That is what you are doing and, therefore, the Legislature is interfering in the separation of powers. This cannot work. We are here to work, all of us to work together, and I do not have a problem in working to get the solution to work along with the Government, so go back to the drawing board. All of you including the Member for Diego Martin North/East. *[Interruption]* You understand, this is for the people of Trinidad and Tobago and we are not going to leave here until we get it right. We are not leaving here until we get it right, because you cannot put something like this. You cannot put something like this *[Interruption]* interfering with the right of the court. You cannot do it!

Madam Deputy Speaker, I think that in terms of repeal, I just want to tell you about the pitfall with the repeal, and I sure the Member for Diego Martin North/East will tell you that section 27 of the Interpretation Act, there will still be

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legitimate expectations, et cetera. I want you all to deal with that. Deal with it and, of course, I saw you dealt with the retroactivity, so that is not a problem; we go back to the night of December 09, 2011.

Madam Deputy Speaker, as I said we have to forget egos, and I say it all the time, you would have heard me many times, you have to forget egos in this Parliament. We have to forget it because what has happened here this afternoon with the Government Ministers, all those who contributed, what they did is that they shirked their responsibilities. They did not deal with the issue, why we are here and they have not answered the question. The national community still wants to know why did you proclaim section 34. The Cabinet decision has nothing do with the Opposition. We are not in Cabinet with you.

Madam Deputy Speaker, this is my contribution for today on this and I wait to see what changes will be made to this legislation. I will support anything that would be in the interest of the people of Trinidad and Tobago.

I thank you. [*Desk thumping*]

**The Minister of Justice (Hon. Herbert Volney):** Thank you, Madam Deputy Speaker. I propose in the time that I have, undisturbed by those opposite, to address the issues that have been raised by the Opposition.

Let me say from the outset I piloted this Bill. I went through all stages, both in this House and in the Senate. I can speak to what has happened like no one in this House because I was present through all stages of this Bill. I was also the Minister who saw this work of art, state-of-art procedure brought from inception after we took the Bill that the last Government had prepared, threw it in the garbage and started afresh, because it was irrelevant to the needs of the criminal justice system.

### **10.10 p.m.**

Some of our attorneys from the Ministry of Justice went overseas in order to see what changes had been made and to come back with recommendations. We put together this draft Bill that was taken to the Cabinet after the policy for it had earlier been approved. It went through the process of governance and then it was sent to the CPC—Chief Parliamentary Counsel, Office of the Attorney General. There it was drafted. It went through the process before all that, of consultation with stakeholders, and then afterwards it was brought back to the Legislative Review Committee of the Cabinet, and then back to Cabinet, and then laid on the floor of this House. This measure was debated and it was passed unanimously with various amendments during the course of the respective debates.

Madam Deputy Speaker, it was voted for by those opposite. We were very happy and in fact, I felt very humbled to have had the support, the indication of support from those opposite. In the form of the Bill as is today, everyone on that side, as well as everyone on this side, as well as all the Independent Senators, all those in the Senate, voted unanimously for this Bill. Since the passage of the Bill on December 09, and its assent being given to by the President on December 16, much has happened.

The Ministry of Justice established the Administration of Justice (Indictable Proceedings) Bill implementation committee. On that implementation committee were representatives of the forensic science department, the Judiciary, the police, the prison service, the office of the Director of Public Prosecutions and the Legal Aid and Advisory Authority—all stakeholders.

That committee, Madam Deputy Speaker, has been working assiduously towards the point where we are at this stage, when in July of 2012, at the second Interministerial/Judiciary Task Force meeting chaired by the hon. Chief Justice, it was agreed that the old legislation would be repealed with effect from January 02. Present at that last meeting, among other persons, were the Minister of Public Administration, the acting Attorney General, the Minister of National Security and myself, representing the Government of Trinidad and Tobago. Timelines were established.

On that occasion the Chief Justice indicated that he could have had Masters appointed to meet that deadline provided that the Supreme Court of Judicature Act had been first amended in order to create additional positions of Master in the implementation process of this legislation.

The Ministry of Public Administration gave assurances to the Judiciary that they would put down everything in order to provide the Judiciary with the logistic support once the request was made, and the assurance was given by the Court Executive Administrator that within a week of that hearing, of that meeting, the Ministry of Public Administration would have gotten the request of the Judiciary. That process is well in progress and under way as we speak. During this period of time, the Ministry of Justice has partnered with the police service and in particular those officers who will be involved in preparing cases to be brought to the High Court on indictable matters. There has been a teaching process ongoing.

Madam Deputy Speaker, the Forensic Science Centre is now working assiduously to be able to deliver the reports in time to facilitate the smooth operationalization of the Act.

**Dr. Rowley:** You talking rubbish.

**Hon. H. Volney:** Could you have some respect for Parliament? Leader of the Opposition could you have some respect for this House?

**Dr. Moonilal:** Your language. [*Crosstalk*]

**Dr. Rowley:** He is rambling.

**Hon. H. Volney:** I need your assistance, Madam Deputy Speaker. [*Crosstalk*]

**Madam Deputy Speaker:** Members, let us observe the Standing Orders.

**Dr. Rowley:** He is rambling.

**Madam Deputy Speaker:** You may proceed.

**Mr. Roberts:** And you laughing at people with speech impediment. Shame!

**Hon. H. Volney:** Madam Deputy Speaker—[*Interruption*]

**Mr. Roberts:** You have a brain impediment, so “ah cah help you”.

**Hon. H. Volney:** I can assure this House, that the assurances that I gave to the House, for the effective date of implementation and operationalization of the new scheme of sufficiency hearing will be in place. The Judiciary has also requested from the Minister of Housing, through his property division, the identification of places for the housing of Masters and for the Masters courts. All these matters are being dealt with, because, Madam Deputy Speaker, we are not looking at August 31, we are looking at January 02. As I speak we are in September, we have October, November and December, and everything is proceeding towards implementation on that day. I gave this House the assurance and I am keeping the assurance.

**Dr. Rowley:** Another assurance?

**Hon. H. Volney:** Be quiet, Leader of the Opposition, please. Could I have your protection—[*Crosstalk*]

**Madam Deputy Speaker:** Member for Diego Martin West, can you allow the Member for St. Joseph to speak in silence? When you were speaking Member, the Member for St. Joseph was very quiet. Can you please allow him to speak in silence? You may proceed, Member for St. Joseph.

**Mr. Roberts:** They will vote you out. I want to see you get bad. One man, one vote?

**Hon. H. Volney:** Okay please on this side let us have some order. [*Laughter*]  
Yes, Madam Deputy Speaker, the proclamation which is what the hon. Member for

Port of Spain South, the hon. Member for Diego Martin North/East, the hon. Member for Diego Martin West and Leader of the Opposition—they were focused on the proclamation among other things. The way of human beings is that unless you set a date that is certain, no one prepares anything that is going to take place. When you set the date for an election, then everybody knows that they have to campaign. When there is an examination, you wait for the date and you work towards that date.

It is in that setting that I took a note to Cabinet, as the line Minister for implementation of this measure, that pursuant to the agreement of the Interministerial/Judiciary Task Force Committee, that the President would proclaim, that with effect from January 02, this measure would take effect. That is why sections 3, (2), (3) and (4), section 4 all the way to section 31, section 33 and section 35, and all the schedules, but for Schedule 6—were kept in abeyance to take effect on January 02.

**Dr. Rowley:** Lame.

**Hon. H. Volney:** All the other matters which were required for the implementation, the preparation for the operationalization of this new system, were proclaimed from the date of the proclamation, that is to say on August 31. Now, why August 31?

On September 16, it is the opening of the law term. The Parliament session is already open. There needed to be a formal recognition that this Act is going to take effect in its operationalization come January 02—in that regard, a recognition of the need for Masters of the court to service the criminal justice part of the administration of justice.

**Dr. Moonilal:** That was a question, you get the answer?

**Dr. Rowley:** Lame.

**Hon. H. Volney:** And that is the reason why section 3(1) was proclaimed. Section 1 and section 2 relate to subsection (3), so that there would be all part of a recognition that the Act was going to take effect on January 02. As agreed by the Judiciary and the Government of the day, those opposite know nothing about that. They are in Opposition. In Government we know that. We know what is being done to prepare for that day—[*Interruption*—could I have your protection?

**Madam Deputy Speaker:** Members on the opposite side, your voices are overpowering the Member for St. Joseph, and as a result I cannot hear what he is saying—[*Interruption*] I ask you to allow the Member to speak in silence. Member for St. Joseph you may continue.

**Hon. H. Volney:** So, what we have is the Ministry of Justice preparing to deliver on the assurances, the undertaking of the Minister of Justice—in the Parliamentary debate—that what has to be put in place will surely and definitely be in place for when the Act takes effect.

**10.25 p.m.**

Now we are coming to the next section that took effect on August 31—section 32. Section 32 deals with the rules that are to work in tandem with the Act in its operation sections to bring about speedier justice delivery at the pretrial stage in Trinidad and Tobago, and I will come to the reason for the Act and why we have had to make the change in this legislation that we have.

This section was not just put in whimsically in the proclamation. I have been assured by the Chief Justice that the rules are a work in progress. While it is I have no assurance from the learned and honourable Chief Justice who is working overnight, losing sleep to help us to implement this new progressive measure—Madam Deputy Speaker, while I have no assurances it will be ready—I have assured him that the Government will do everything to help him to have the rules ready.

Now, the Ministry of Justice has standby rules—in draft, that is—taken both from the UK experience and from the St. Lucia model. It is there at the Ministry of Justice. But the important thing that must be appreciated, as I lose my voice in this cold here—*[Interruption]* Do not let me have to take you on. *[Laughter]*

Madam Deputy Speaker, you must understand that the Act by itself is comprehensive in its procedure. It can stand and it can work on its own, and in the absence of rules that would flesh out the procedure the presiding officer always has the authority to provide its own operating procedures within the law of the Act. So that is not going to be a problem. However, in order to enable the Parliament to deal with rules when they come, that section had to be proclaimed in advance to allow for it to happen.

Now, we come to the so-called controversial section 34, and I want to give you some background. I am not in this House by coincidence. I am elected by the 10,835 electors of the constituency of St. Joseph. I canvassed in the election on a campaign of improving, or helping to improve, the criminal justice system. I was elected to lead in that regard. I have had the support of my Government throughout and there are times when hard decisions have to be made, Madam Deputy Speaker, in order to address vexing issues that have plagued the criminal justice system, and that have been unattended to for years, and in particular the last eight years before we came into Government when it became particularly exacerbated by non-performance of that Government in the criminal justice sector.

I sat during that time, not as a politician but as a judge of the Supreme Court. I sat in the criminal courts on a daily basis, barring when we were on vacation. I sat and I faced criminal defendants on a daily basis. For 16 years I did this every day. I do not think that there is a judge in the history of this country who has spent as much time on the bench of the Supreme Court in the criminal assizes as I have, and I think that I qualify here—I qualify in this Chamber—to speak of the matters and why I have advanced certain methods which have been adopted by the honourable House and by the Senate.

The problem with the criminal justice system is that the poor—p-o-o-r—who I pledged on the final campaign day to look after, to help, they are the ones who are languishing in the criminal justice system because they do not have the capacity to obtain bail even when granted. They do not have the capacity to pay big lawyers like Mr. De Lima to stand up and fight for them. They are the forgotten ones; they are the ones who would fall into the cracks of an unfair criminal justice system. They are the ones I speak for; they are the ones I was thinking about when I brought the measure of clause 34, because there are so many thousands of causes awaiting trial that if we in this Parliament have to think about it, if we as citizens of this country have to really study it, we will hold our heads and we will ask God Almighty to lend a hand.

You know, I want to refer to a standing judgment of the High Court in the *State v Farrell and Callender*. I gave that judgment. It stands, as I speak, and I want to refer to just parts of it. I know it is late in the night but I think it is important that I read the judgment in part, because it tells you of neglect by the People's National Movement, of the criminal justice sector, and why the Member for St. Joseph left the bench, the security of a job as a judge, fought an election to make a difference in the lives of the people of Trinidad and Tobago.

I refer first to section 5(2)—in the judgment—of the Constitution which mandates that a person charged with a criminal offence has the right to a fair and public hearing by an independent and impartial tribunal. There I understood the expression, a fair trial, to import that there be a determination of factual issues within such a reasonable period of time that a person who has been charged with a criminal offence is not placed in unjustifiable jeopardy of conviction by intervening events engendered by avoidable delay.

I pointed out another factor germane to the question, whether a fair trial may still be had, and a fair trial is a constitutional right of the citizens of our country. Is the appropriateness of a criminal prosecution in cases where there is a public interest element, given the delay and the perception that punishment in a cold case might be cruel and unusually onerous, given changed circumstances?

I commend the judgment to all, because it stands. It tells you of what they did not do and what we are doing to make the difference, and to address the problem that there are hundreds, Madam Deputy Speaker, of poor young men in the remand yard awaiting trials. Today I went and I launched “Rise Maximum Radio”—prison radio for the first time in this country. When I was leaving there were tens of men with their hands through windows pleading: “Mr. Volney, Mr. Volney, give us a trial.” I have had the responsibility of piloting legislation to make a difference in the lives of these people. But how can you deal with a situation where you have thousands of matters and you have nine criminal courts at the High Court level?

If you pick up the newspapers, once or twice a year you will read of a conviction for murder—once or twice a year. In any one year if you get 100 cases completed at the High Court, we—the Judiciary, the country—have done well. There are about 1,000 cases coming into the system every year; 100 being dealt with. What does that leave? It leaves a backlog of 900 cases, approximately, every year.

That is at the High Court level. There are hundreds of murder trials just waiting to be tried—hundreds, Madam Deputy Speaker. The point I am making—and that only pertains to murder trials, so-called blood cases, blood trials, blood offences. What about the rapes? Women want closure. What about kindred other offences—wounding, manslaughter, all those other cases? What about the cases where the State has a real interest in having these people brought to trial early, like firearms, drugs, kidnapping? There are thousands in the system.

How could we deal with it, with this backlog, which causes delay in the face of the argument that it could be cruel and unusual punishment to have people waiting for years upon years for a trial when they are presumed innocent until found guilty by a tribunal? What kind of criminal justice system is that that we have inherited from the PNM who have done nothing all these years?

Drastic measures have had to be taken. A decision was taken in this measure, that is clause 34(3), that all the old historic cases that have been clogging up the system—where, through no fault of the prisoner awaiting trial, the State has not been able to prosecute them—that they have the right for once, on balance of the scales of criminal justice, to apply to be released, thereby the system providing certainty. How could we have respect for a criminal justice system that does not offer certainty, that when you enter it you know that after 10 years, “I know I will be either inside or I will be outside, but the system would have had a chance to get its justice out of me for breaching the law”?



**10.40 p.m.**

How can there be respect for such a system unless you establish certainty? We had to deal with the avalanche of old cases that would hit the system when it was implemented, and the only way to deal with it was to take the hard and morally right decision to be strong and to lead, and to shave off all the dead wood and old cases. That was the reason for section 34 because if we continue to carry the old historic cases, there will be no time to deal with the current matters, and they too will become historic, and there is no deterrence in dealing with historic cases.

Recently, a young man was convicted 27 years after the fact. When he committed the offence, he—*[Interruption]*

**Hon. Member:** He was 18.

**Hon. H. Volney:** He stole—he was 18. He went through the roof of what was then Stephens' and Johnson's. How many people today know what is Stephens and Johnson's? What did he take? He took transistor radios. Ask any young person today, what is a transistor radio? They will tell you, "I do not know". He took girdles—I mean, people do not wear girdles again.

**Mr. Roberts:** What! "Dem wearing it over dey." *[Laughter]*

**Hon. H. Volney:** Well, I better be careful then. But the point I am making, Madam Deputy Speaker, there must be relevance between the sentencing act and the commission of the crime for the sentence to have that deterrent effect. So, we either deal with the current matters or we allow the old historic cases to continue being untried with the injustice to those who are locked up, who have spent more time inside. So, Madam Deputy Speaker, a hard decision was taken. That was the purport and intention of section 34.

However, when it was implemented, and this has nothing to do—section 34 has nothing to do with the system of change that this Act brought about or is bringing about. It is a provision that is a miscellaneous provision that is independent of the system of the Act. It could have been brought in at any time. In preparation for the big day, that is January 02, I took the decision boldly—and I argue, correctly—to have this provision implemented at this time.

However, I want to point out that ever since the Act was assented to in December, there is at least one matter involving certain persons who seem to be the focus of attention, where there was a committal for trial as long ago as 2008, in which, to date, there is no indictment. Now, is that justice being served? Could not that indictment have been filed and that trial be in progress? No, but we get blamed on this side for everything.

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If there was a matter that is before the court, in the lower court, if the parties sat on a daily basis, as they did in the prosecution of Prof. Naraynsingh and others on a daily basis, the system could have resulted in a committal or on acquittal, a discharge, by this time, given the urgency of the measure which was known not just to us in this Parliament, but to the Director of Public Prosecutions and all those with the authority to proceed to prosecute. Nobody did, although they knew, but now that this provision has been kicked in, due to inaction, we have found ourselves in this situation where we are forced to react—not because the measure is wrong; it is because the poor man who is locked up right now for over 10 years is the man who is going to suffer. Do you know why? Because of the name—two persons—and the outcry it has created. We are throwing the baby out with the wash water—[*Interruption*]

**Mr. Roberts:** Bath water.

**Hon. H. Volney:** Bath water; that is what we are doing. It is not that the Minister of Justice is in any conspiracy. Who are these people? I do not legislate for these people, for any personality. I legislate on the basis—I bring measures on the basis—of legal principle, and in keeping with international treaties that we accede to.

However, when the turn of events occurred and there was this apparent uproar in the media, the Prime Minister felt that out of an abundance of caution, this measure was the way she wanted to go. In true Westminster style, as a Member of her Government, I will support this measure at the vote. I thank you, Madam Deputy Speaker. [*Desk thumping*]

**The Attorney General (Sen. The Hon. Anand Ramlogan SC):** Thank you very much, Madam Deputy Speaker. I thought that this would have been a shorter and simpler debate simply because the tone I had sort of set for the debate was one that would have been a little more amicable. That was deliberate because the template for this debate came against the backdrop of a Bill that was passed unanimously by both Houses of Parliament.

In those circumstances, no matter what we say, I thought that the correct thing for us to do, as a Parliament, would have been to take responsibility as a Parliament, understanding that under the constitutional arrangements in Trinidad and Tobago, the Parliament is a distinct and separate organ of the State. It is the decision of this arm of the State, the legislative arm of the State, that is now in issue, and what unfortunately has happened is that it has been an opportunity for a lot of pointing of fingers and political gamesmanship that really do not have any merit or relevance to the issue that is before the House.

**Mrs. Persad-Bissessar SC:** Unnecessary!

**Sen. The Hon. A. Ramlogan SC:** It was unnecessary; it was diversionary political tactics at its best and unfortunate political hypocrisy at its worse.

Madam Deputy Speaker, the main thrust of the contribution from Members opposite was that whilst they could not get away from the fact that they supported the Bill, they sought to do something very clever. They tried to distance this House from the Senate. So a lot of attention was placed on what was the state of the Bill that was before this House, and what transpired here, and they tried to divorce and amputate from the legislative process what transpired in the Upper House, almost as if to suggest that there is no Opposition Bench in the Upper House.

You see, Madam Deputy Speaker, that strategy is doomed to fail and is fundamentally flawed. No matter what state the Bill left this elected Chamber in, when it goes to the Senate, it is submitted to the most rigorous scrutiny and there, there are, I think, four lawyers on the Opposition Bench.

**Mr. Warner:** Three and a half!

**Sen. The Hon. A. Ramlogan SC:** Oh, three and a half; okay. The Bill would have been submitted to the most rigorous kind of dissection, analysis and scrutiny. So that is the first argument they made without coming out outright and saying it, they were trying to say, “Well, look, we the elected Chamber, we passed this Bill, sent it to the Senate and something happened there, but it just so happened that all 'ah we people vote for it’“.

**Mrs. Persad-Bissessar SC:** And that happens many times!

**Sen. The Hon. A. Ramlogan SC:** The thing is, in saying that, they tried to create some political distance between the elected Opposition MPs and the appointed Opposition Senators. But, you know, unfortunately, you cannot create that kind of divide because the Senators are appointed on the advice of the Leader of the Opposition. The Senators who sit on the Opposition Bench are appointed on the advice of the Leader of the Opposition. So, if the Opposition Senators appointed on your advice did not toe your party line, then instead of calling for resignation of people from this side, you must tell us what you are going to do about those Senators. [*Desk thumping*]

Is it that you are now going to advise His Excellency to revoke their appointment because they voted for something that you did not approve in the House? Or, are you going to accept that in the dynamics of the legislative process, as happens every day, when the Bill goes to the Senate from the House of Representatives, there are amendments made? It is a normal, usual, routine thing. When amendments are made

*Administration of Justice Bill*  
[SEN. THE HON. A. RAMLOGAN SC]

*Wednesday, September 12, 2012*

in the Upper House, they come back to the Lower House for the Lower House to debate and approve those amendments which, in fact, happened. So that was the first major plank for the contribution from the opposite side.

The second major plank was to say that “we gave our support for this legislation, but we did so conditionally—not without some qualification because it was not unconditional support”. What was the condition that they claimed was attached? They said that the condition and the qualification that was attached to their support was that the regulations had to be made, and there was an assurance by the hon. Minister of Justice that the Act would not be proclaimed until the infrastructure that is necessary to facilitate the implementation of this law was in place.

I pause to point out one thing. When rules are to be made, those rules are subordinate or subsidiary legislation. They can only deal with procedural aspects, but the substantive law is in the Act of Parliament that is passed here. [*Crosstalk*] I will tell you so. So, when the Act was passed in both Houses unanimously and with section 34, it meant that forgetting the rules, that was a condition, the legal right was given to any citizen to access the court if they were there for 10 years or more languishing in the system. So the legal right was given the minute that Bill was passed by both Houses—that legal right was within the contemplation of the legislature, and it was put there in the law.

Once you have created that legal right, all this nancy story about “Well, you know, the condition was that the rules will come and so on.” The rules could never nullify that right! That is substantive law coming in the enabling parent Act. So the parent Act that came, which says that you have to have rules which will deal with procedural subsidiary matters, could never trump and could never override or nullify the substantive right you gave to citizens, with your eyes wide open, that if they fell within the category of 10 years, they could come to make an application to the court.

**Mrs. Gopee-Scoon:** I will just never trust you all!

**10.55 p.m.**

In trying to get away, Madam Deputy Speaker—I ask the question, they say, “Well you know, the problem is the proclamation”, and they do a calculation, which is wrong; but they do a rough calculation citing specific cases which are before the court and they came up with five years. They say, “Look, it is five years, so they would have had a long time to go.”

If that is the case, I pause to ask you: if there was any great, grand conspiracy and if you all claim that the infrastructure all had to be in place before we

proclaim this, do you not see that if there was a conspiracy, that we could have delayed the proclamation for the two years, so five plus two will give you the seven, and then proclaim it and give them the same right? Do you not see that? Do you not see for a minute that if by your calculation you say that these matters were pending for only five years and we rush to proclaim it, the fallacy in that? If we delayed the proclamation, a further two years' delay would have given you the seven and then you could have made the application in any event. [*Interruption*] It is 10 years. You wanted seven that is why I used seven.

Even so, the five years that you use is wrong. Let me tell you why. You used that calculation for the five-year period by checking it from the time—

**Miss Mc Donald:** I never used five years, you know.

**Sen. The Hon. A. Ramlogan SC:** How many years you used?

**Miss Mc Donald:** Ten.

**Sen. The Hon. A. Ramlogan SC:** Okay, but the matters that you refer to specifically pending, 2005.

**Miss Mc Donald:** And 1999, the two dates I used.

**Sen. The Hon. A. Ramlogan SC:** Let me tell you Ma'am. In both cases, you are wrong and I will tell you why. The definition section in this Act defines what happens when proceedings were instituted prior to the Act and that is section 3(2). It says the following:

“For the purposes of this Act, proceedings were instituted prior to the coming into force of this Act when the accused appeared before a Magistrate or Justice of the Peace and the charge was read to him prior to the coming into force of this Act.”

Once he appeared and the charge was read, time starts to run from there. I want to tell you, in *Piarco 1*—

**Mr. Imbert:** What about *Piarco 2*?

**Sen. The Hon. A. Ramlogan SC:** In the first matter, the charges were in March 2002. [*Interruption*] That is still pending.

**Mr. Imbert:** That is 2005.

**Sen. The Hon. A. Ramlogan SC:** But that is still pending. But in 2001, in the first case, 2002 to 2012 gives you 10 years. So even in the law as it currently stands in the matters of *Piarco 1*, a decade has elapsed as defined in section 3(2).

So there is no argument to be made that the advanced proclamation was designed to achieve that. It could not. In any event, the longer you delayed, the greater the strength and merit of that application by any person. That is the reality.

As the hon. Minister of Justice has explained—*[Interruption]* They were not here. You see, when the Minister of Justice was explaining why, everybody left from the other side. You all were not here. There were two persons; only two persons: Laventille East/Morvant and Laventille West. I am not going to repeat the contribution of the Minister of Justice. He has explained. What he has explained is that in his experience in the legal system, these delays affect the poor in our society harsher. It falls much harder—*[Interruption]* I am coming to that.

You know why it does? We handpick some cases and we subject those cases to scrutiny under the spotlight and we forget what this is about. I am grateful the Minister of Justice reminded us. This was designed to deal with cases that were 10 years or more.

In those matters, he indicated what was his experience—the hardship and the suffering. I want to tell you why the hardship and suffering is in those matters. Do you know why? It is because in those matters there are people, when bail is granted, the rich can afford to get the bail because you need an unencumbered title deed to property to take your bail or hard liquid cash. The poor people in this society, the mothers whose wail, scream and cries we hear, when you hear the gut-wrenching screams from Laventille to Caroni, those mothers of those sons and daughters, we do not hear about them, do you know why? When bail is granted, they do not have unencumbered deed and title so they go in the jail because they cannot make the bail and they have nobody to take the bail.

So I ask the question: Would we really be here today—when that was within the contemplation of the legislature; when we, with our eyes wide open, approved this measure—if Mr. John Nelson, age 17 and Mr. Maniram Singh, age 18, from Laventille and Caroni, had made applications under that provision? Would we really be here if applications were made outside of those which were the subject of focus? I dare say we may not have even batted an eyelid.

I say that because I want to caution my learned friends on the opposite side that the Constitution still has a right to a presumption of innocence and we must be very careful—in making all sorts of allegations of conspiracy and allegations of collaboration and collusion and all kinds of financier and all kinds of foolishness—that we do not jettison the presumption of innocence on the altar of political expediency.

When you do so and you make prejudicial statements, those statements themselves can be latched on in the court to justify the very applications that we are trying to prevent.

So, Madam Deputy Speaker, I say that we should look at this in a panoramic and global manner and we need to look at what transpired in a frank manner.

In singling out of particular cases is an inherent danger, and I want to say, for the record, on behalf of both sides really, that in using illustrative references to matters that are pending, no comment is actually made as to the merits of any matter and that we accept, as a Parliament, the presumption of innocence which carries through in all those matters.

I sat here and I listened to the Member for Diego Martin West and it really strikes you as being a bit odd that someone who aspires to present himself as a credible alternative to the Prime Minister of the country, someone who aspires to present himself as a—[*Crosstalk*] I did not say aspire to present himself as a credible alternative Prime Minister. I said aspire to present himself as a credible—somebody credible and worthy of being considered—

**Mr. Warner:** Which country?

**Sen. The Hon. A. Ramlogan SC:** In Trinidad and Tobago. And they start off a contribution in a major matter like this, where responsibility and maturity of the Parliament is called for, by waving and quoting from a copy of the *Mirror* newspaper and then launches a tirade that is reminiscent of the most unfavourable description—given by a former leader and Prime Minister—of the Raging Bull. He gets up and says: “I am lean, I am mean and ah ain’t ‘fraid nobody and you could investigate and all ah dat.”

I want to tell you, Member for Diego Martin West, “dem kinda ting doh scare nobody on dis side.” You can make fun of the Member for Chaguanas West and all the children who speak with a little lisp and stutter. You can make fun of the children we give laptops to and imply that we are giving laptops to “duncey head” children and you can make fun of that, but I want to apologize, on behalf of the Parliament, to all those mothers with children who speak with a little lisp and stutter for that behaviour in Parliament today. Mocking someone who speaks with a stammer is not acceptable parliamentary behaviour. [*Desk thumping*]

**Hon. Members:** Shame! Shame! Shame!

**Sen. The Hon. A. Ramlogan SC:** We will not tolerate that. You can pelt a teacup and get away, but you cannot mock the little children in this country and get away. You cannot do that. [*Desk thumping*]

Quite frankly, I prefer to listen to someone with a speech impediment than to listen to someone with a brain impediment. [*Desk thumping*] It is better to listen to someone who stutters than someone who splutters.

So, Madam Deputy Speaker, they do not like it when we expose and lay bare for the nation their behaviour in the Parliament of the country. On a happy note, I am pleased to say that I note from the statement issued today by the DPP that the premise that is acted upon in not appealing that decision is a true premise. Permit me to quote from that release today. It says:

It should be noted that to date we have received committal documents for Piarco 1. Piarco No. 2 is still the subject of a preliminary enquiry although those proceedings are coming to an end, the prosecution having closed its case.

Madam Deputy Speaker, in tabling this amendment, we have circulated a list and we have considered some of the legal points that have been made during the course of the debate. You will see that we have specified the date that the Act is deemed to have come into force—and that would have been the date of assent, December 16, 2011.

We have voided pending proceedings, so we have said that all proceedings under the repealed section 34, which were pending before any court immediately before the date of assent of this Act, shall on the coming into force of this amendment, be void.

We have dealt with the question of any expectations, legitimate or otherwise, that may have arisen and we have said that notwithstanding any law to the contrary, no rights, privileges, obligations, liabilities or expectations shall be deemed to have been acquired, accrued, incurred or created under the repealed section 34.

In drafting these amendments, we took into account the need to exercise great care and caution not to trespass or transgress on the well-defined territory of the independent judicial arm of the State. It is for that reason we have not sought to interfere with the discretion of the court in any form or fashion. What we have concentrated our attack on, in terms of the amendment, is the procedural right given to file the application under the repealed section. I think that will take us a long way in dealing with this matter which has caused some consternation.

**11.10 p.m.**

Madam Deputy Speaker, it is my hope that in the same way that we rose to the occasion that led to the passage of this Bill, it is my hope that we will rise to the occasion again and demonstrate the kind of political and legislative responsibility that is required so that we can correct this matter once and for all in the public interest. I beg to move. Thank you very much. [*Desk thumping*]



*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*House in committee.*

*Clause 1 ordered to stand part of the Bill.*

*Clause 2.*

*Question proposed:* That clause 2 stand part of the Bill.

**Sen. Ramlogan SC:** Madam Chairman, the amendment as circulated is to delete the words August 31, 2012 and substitute words December 16, 2011.

**Mr. Imbert:** Madam Chairman, could the Attorney General please explain why he selected December 16, 2011? Just the explanation for that please, on the record.

**Sen. Ramlogan SC:** For the record, and I am grateful for the enquiry. That is in fact the date of assent.

**Mr. Imbert:** What would be the effect of this date?

**Sen. Ramlogan SC:** The effect of that date would be that that is the only time pursuant to which one can get any form of expectation of a legal right.

*Question put and agreed to.*

*Clause 2, as amended, ordered to stand part of the Bill.*

*Clauses 3 and 4 ordered to stand part of the Bill.*

*Clause 5.*

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

**Sen. Ramlogan SC:** Clause 5 as amended as circulated to insert after the word “repealed” the words “and deemed not to have come into effect”.

**Mr. Imbert:** Madam Chairman, could the Attorney General explain the meaning of the words “and deemed not to have come into effect”?

**Sen. Ramlogan SC:** It means that it is deemed not to have come into effect.  
[Laughter]

**Mr. Imbert:** I know, but what does that mean. In law what does it mean?

**Sen. Ramlogan SC:** It did not exist. It means that it does not exist. The legal effect intended it is as though it never existed. *Ab initio!*

**Mr. Imbert:** Do not say that. Do not say *ab initio*.

*Question put and agreed to.*

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

*New Clause 6.*

**Sen. Ramlogan SC:** Madam Chair, I proposed a new clause 6 as follows:

- 6.(1) Notwithstanding any law to the contrary, all proceedings under the repealed section 34 which were pending before any court immediately before the date of assent of this Act shall, on the coming into force of this Act, be void.
- (2) In this section and section 7, “repealed section 34” means section 34 of the Act which is repealed by section 5.

**Miss Mc Donald:** I have a question to the Attorney General. Should this clause be struck down as being invalid, what effect will it have on the rest of the Act?

**Sen. Ramlogan SC:** The repeal provision is a stand-alone provision. Once you repeal it, whether or not this section is invalidated, the legal effect of the repeal is that it pulls the legal rug out from beneath the feet of the applicant, and in fact the legal premise and authorization for the application no longer exists. That being the case, that application is nullified. It cannot be proceeded with.

**Mr. Imbert:** So what you are saying, even if this clause is declared invalid it does not matter.

**Sen. Ramlogan SC:** It ought not to matter because, in my opinion, the effect and the corollary of the appeal is that there is no basis in law for the application to proceed.

**Mr. Imbert:** I would like to propose an amendment to the clause to include the words, before the word “all,” “notwithstanding any law to the contrary”.

**Mrs. Persad-Bissessar SC:** Agreed!

**Mr. Imbert:** And that is to deal with the Interpretation Act, section 27. We are stating the fact that this is notwithstanding any law to the contrary. Madam Chairman, may I read the amended clause? “6(1) notwithstanding any law to the contrary all proceedings under the repealed section 34” et cetera.

**Sen. Ramlogan SC:** We will just insert the words “notwithstanding...”.

**Mr. Imbert:** Inserting the words “notwithstanding any law to the contrary” before the word “all” and make it a common ‘a’ instead of a capital ‘a’.

*New Clause 6 read the first time.*

*Question proposed:* That the new clause 6 be read a second time.

*Question put and agreed to.*

*Question proposed:* That the new clause 6, as amended, be added to the Bill.

*Question put and agreed to.*

*New clause 6 added to the Bill.*

*New clause 7.*

**Sen. Ramlogan SC:** I propose a new clause 7 as follows:

7. Notwithstanding any law to the contrary, no rights, privileges, obligations, liabilities or expectations shall be deemed to have been acquired, accrued, incurred or created under the repealed section 34.

*New clause 7 read a second time.*

*Question put and agreed to.*

*Question proposed:* That the new clause 7 be added to the Bill.

*Question put and agreed to.*

*New clause 7 added to the Bill.*

*Preamble ordered to stand part of the Bill.*

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

*House resumed.*

*Question put:* That the Bill be now read the third time.

The House voted: Ayes 35 Noes 0

AYES

Moonilal, Hon. R.

Persad-Bissessar SC, Hon. K.

Warner, Hon. J.

Dookeran, Hon. W.  
Sharma, Hon. C.  
Ramadhar, Hon. P.  
Gopeesingh, Hon. Dr. T.  
Peters, Hon. W.  
Rambachan, Hon. Dr. S.  
Seepersad-Bachan, Hon. C.  
Volney, Hon. H.  
Roberts, Hon. A.  
Baksh, Hon. N.  
Griffith, Hon. Dr. R.  
Baker, Hon. Dr. D.  
Ramadharsingh, Hon. Dr. G.  
De Coteau, Hon. C.  
Khan, Hon. Dr. F.  
Douglas, Hon. Dr. L.  
Indarsingh, Hon. R.  
Samuel, Hon. R.  
Roopnarine, Hon. S.  
Ramdial, Hon. R.  
Alleyne-Toppin, Hon. V.  
Seemungal, Hon. J.  
Partap, C.  
Mc Donald, Miss M.  
Rowley, Dr. K.  
Cox, Miss D.  
Hypolite, N.

Mc Intosh, Mrs. P.

Imbert, C.

Jeffrey, F.

Hospedales, Miss A.

Gopee-Scoon, Mrs. P.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**The Prime Minister (Hon. Kamla Persad-Bissessar SC):** Thank you, Madam Deputy Speaker. I think it is totally in order and I thank you for the indulgence you have provided for us to record our appreciation for the manner in which you conducted the House today for the first time as Deputy Speaker of the House. [*Desk thumping*] We want to thank you very much, and I am sure the first female Chief Whip will totally agree with me. You have us women and men very proud. We thank you very much. [*Desk thumping*]

#### ADJOURNMENT

**The Minister of Housing, Land and Marine Affairs (Hon. Dr. Roodal Moonilal):** Thank you very much Madam Deputy Speaker. I beg to move that this House do now adjourn to Monday, October 01, 2012 at 1.30 p.m. On that day the 2013 national budget will be read. I beg to move.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 11.25 p.m.*