

Senator's Appointment

Tuesday, August 26, 2014

SENATE

Tuesday, August 26, 2014

The Senate met at 1.30 p.m.

PRAYERS

[MR. VICE-PRESIDENT *in the Chair*]

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Devant Maharaj, who is out of the country.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

APPOINTMENT OF A TEMPORARY SENATOR

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

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

TO: MR. GARVIN NICHOLAS

WHEREAS Senator the Honourable Devant Maharaj is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, GARVIN NICHOLAS to be temporarily a member of the Senate, with effect from 26th August, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Devant Maharaj.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 25th day of August, 2014.”

Oath of Allegiance

Tuesday, August 26, 2014

OATH OF ALLEGIANCE

Senator Garvin Nicholas took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Annual Audited Financial Statements of the Urban Development Corporation of Trinidad and Tobago Limited (UDeCOTT) for the year ended December 31, 2007. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]
2. Annual Audited Financial Statements of Government Human Resource Services Company Limited for the year ended September 30, 2013. [*Sen. The Hon. G. Singh*]
3. Annual Audited Financial Statements of Trinidad Nitrogen Company Limited for the financial year ended December 31, 2013. [*Sen. The Hon. G. Singh*]

ARRANGEMENT OF BUSINESS

Mr. Vice-President: Leader of Government Business.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. Vice-President. In accordance with Standing Order 20(4), I beg to move that the Senate consider Government Business instead of Private Business.

Question put and agreed to.

JOINT SELECT COMMITTEES (APPOINTMENT OF)

Mr. Vice-President: Leader of Government Business.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. Vice-President. Having regard to correspondence received from the hon. Speaker of the House of Representatives on Tuesday, August 19, 2014, I beg to move that the Senate agree to the establishment of a joint select committee to consider the legislative proposal entitled, “The Draft Houses of Parliament Service Authority Bill, 2014” and further agree to appoint the following Senators to serve with an equal number from the House of Representatives:

Mr. Timothy Hamel-Smith

Mr. Anand Ramlogan SC

Mr. Emmanuel George

Mrs. Camille Robinson-Regis

Mr. Elton Prescott SC

Question put and agreed to.

Sen. The Hon. G. Singh: Mr. Vice-President, I beg to move that the Senate agree to the establishment of a joint select committee to propose a legislative framework to govern the financing of election campaigns and that the committee be mandated to submit its report with recommendations to both Houses of Parliament within six months of its appointment, and further agree to appoint the following Senators to serve with an equal number from the House of Representatives:

Mr. Ganga Singh

Mr. Anand Ramlogan SC

Dr. Bhoendradatt Tewarie

Mrs. Camille Robinson-Regis

Mrs. Helen Drayton

Mr. Elton Prescott SC

Question put and agreed to.

CONSTITUTION (AMDT.) BILL, 2014

The Prime Minister (Hon. Kamla Persad-Bissessar SC): Thank you, Mr. Vice-President. I beg to move that:

A Bill to amend the Constitution of the Republic of Trinidad and Tobago be now read a second time.

Hon. Mr. Vice-President, hon. Senators, I thank you very much for this opportunity to pilot the Constitution (Amdt.) Bill, 2014, and, of course, to participate in the debate throughout the course of today and perhaps if necessary tomorrow, and also to take this opportunity to share my thoughts, my vision and my hope for the future of the democracy of Trinidad and Tobago.

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

Some of you may recall that I began my political career as an alderman in the St. Patrick County Council in Siparia, but some may also recall that I began my parliamentary career in the Senate. [*Desk thumping*] And so, again, I welcome this time to have a conversation with hon. Senators.

I recognize that it is very rare that a Prime Minister will come to this august Chamber, to the Senate. Indeed, whilst the Prime Minister may be present in this Chamber from time to time, from our research, that research shows that a Prime Minister has never come to the Senate to pilot any Bill in the Senate. [*Desk thumping*] Indeed, the research shows that the last time a Prime Minister attended the Senate, the Prime Minister came to contribute on a Bill—and some say unconstitutionally so—with respect to postponing local government elections for the third time in 2009. That is what the research shows. [*Desk thumping*]

So, Mr. Vice-President, I am convinced that the proposed reforms contained in this Bill are reforms that would go a long way to take the power out of the hands of the politicians and to place the power in the hands of the people. [*Desk thumping*] Those are the reforms that we are now pushing forward.

Mr. Speaker, we do believe—Mr. Vice-President, and you will forgive me, but I will remember Mr. Vice-President—that we are indeed as politicians, servants of the people, and therefore, as much as we can, we should give as much power as we can to the people for them to assist and guide us in the way we conduct the affairs of Government and govern on their behalf, for them to be able to have more say in electing a representative who would be a representative that would be a majority representative from a particular constituency and, of course, in other regards as we will talk a little more in the course of our conversation here today.

And so, I emphasize that the position of the Government, and our intention is to take that power, some of that power out of the hands of the politicians to place in the hands of the people. Of course, more reforms are needed. Of course, the Constitution Reform Commission recommended many other reforms, and indeed coming out of this august Chamber, out of this Senate—I think the hon. Sen. Helen Drayton moved a private Motion dealing with campaign finance reform, and I am very happy that today—I did not plan it that way, but today the Senate has approved that a joint select committee be set up to deal with campaign finance reform. [*Desk thumping*] Just one of the measures.

This august Chamber, this Senate, also passed procurement legislation which we have never had on our statute books. That was a promise we had made; we have delivered. It was passed in the Senate, but delayed in the House. We gave

the commitment, it is back on the Order Paper. We will go forward. That is another promise that we have made, another commitment for better governance for Trinidad and Tobago. [*Desk thumping*]

So I am here, Sir, some may say unprecedented because I am of the view that we must not lead from the tower. We must lead on the battlefield [*Desk thumping*] not from the tower, and because I believe these reforms will go, as I say, a long way for a better widening and deepening of our democracy, I stand here to, best as I can, put our position, but also very important, to listen to the concerns expressed by hon. Senators during the course of debate. [*Desk thumping*]

1.45 p.m.

As I enter the political battlefield, I am mindful as some have said, many commentators—not many, but some commentators have said, I am mindful as I enter the political battlefield—that this may be political suicide. However, I am not daunted by the risks of my own political survival because I believe that is trumped by our desire to keep our promises to enhance democracy. [*Desk thumping*] As a politician, as Prime Minister, my interest is not for my political survival, but my interest must be what is in the best—and, if we cannot get the best interest for the people—what is in the better interest of the people of Trinidad and Tobago. [*Desk thumping*]

So here we are in 2014, 20 years, 30 years, maybe 40 years after our independence Constitution—sorry, 40 years from the republican, more than 40 years from the independence Constitution. In this very Senate, I have looked at the records and I have seen Motions have been brought dealing with the issue of constitutional reform here in this House. We have seen in our history since independence that there have been six—and today, seven—there have been six reform commissions.

Six of those commissions have been there and their recommendations have not entered into the statute books of our country: The Wooding Constitution Commission Report, the Hyatali Constitution Commission Report, the Draft Constitution of the Nine Independent Senators, the Draft Constitution by the Principles of Fairness, the Sir Ellis Clark Draft Constitution, the Draft Constitution by the Manning Round Table in 2009, and now the report of the Constitution Reform Commission, December 2013 and the postscript to that report of July 2014. So this is not a new subject and not a new topic for us. Indeed, as I have said, there have been many Motions in the Senate in this Chamber dealing with constitutional reform.

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

I refer to one of those to start with and that is the Senate Motion brought by the then Sen. Subhas Ramkhelawan, February 2011, dealing with the process of constitutional reform. It is very interesting here, Mr. Vice-President, to hear some of the comments which came from Senators at that time in 2011. But even previous to this, there was a Senate debate in 2002, I believe, brought by the then hon. Senator, Dr. Kenneth Ramchand. So we have had all these commissions. We have had debates here and, of course, in the Lower House on the need for constitutional reform.

Indeed, if we were to pursue and peruse the *Hansard* records, we would see that some of the measures that we are advocating today, our proposals today, have been mechanisms and methods recommended by Senators of this Senate, some who are still in the Senate and some who have now gone on to other business. So two—at least these two, I have been able to gather in our research and if necessary, I will share more out of those. So I say again, for those who are of the view that I am committing political suicide, I say I am prepared to take that risk because I am convinced that we cannot continue to do business as usual, we cannot expect change by the same old, same old, same way of doing things [*Desk thumping*] and we did promise change.

We did promise change, we made many promises. Very many promises we made in the run-up in our conversations to the population in the run-up to the 2010 general elections and those promises were condensed into our manifesto, our 2010 manifesto. And pages 15 to 16 of this manifesto highlights some of the promises, three of which are in the proposals before us today; others have been taken care of with respect to the procurement Bill and several others. I know my time is limited, but several of these have been met and I would refer hon. Senators to this document produced by the hon. Sen. Tewarie from the Ministry of Planning and Sustainable Development. This booklet lists achievements of the Government of the Republic of Trinidad and Tobago, [*Desk thumping*] and what it does is to review Government's 2010 official policy framework.

Mr. Vice-President, you may recall that after forming the Government, this manifesto was converted into government policy and what this document attempts to do is to go through the promises made and to see where we are with respect to these achievements. Now, I do believe this is the first time that any government has been brave enough to list where we are at with respect to the promises we had made in our manifesto document converted into official government policy. [*Desk thumping*]

In this document—on page 3 of this document in a statement here, the report says:

“...the Achievements Aligned to Government’s Framework for Sustainable Development provides a comprehensive review of the first official policy document for Government...”—and as this—“was undertaken...identifying approximately 260 commitments...or promises. As at March 31st, 2014, I am pleased to report that over 90% of these items were implemented, initiated or are in progress.”

[*Desk thumping*] Mr. Vice-President, 90 per cent of these promises.

Today, I speak specifically to promises made with respect to electoral reform. There are other areas of reform, other areas where we made promises, and pages 15 to 16 of the manifesto document, the official policy of this Government, lists some of those items. They are as follows on page 15:

“A right of recall for non-performing parliamentary representatives”

We also have contained:

“The introduction of Procurement Legislation...”

—which I mentioned is already before the House now.

“Fixed election dates for national and local elections

Limiting the Prime Minister to two successive terms as Head of Government

Mechanisms for a referendum...”

—and other areas contained in here, but also within this is a commitment to respect the voices of the minority whilst acknowledging the will of the majority.

[*Desk thumping*]

So what we promised, the right of recall of MPs; we promised also fixed terms for a Prime Minister; we also promised respecting the voices of the minority whilst acknowledging the will of the majority, contained in here, 15 and 16, so these are the promises. And so I come—we keep our promises with respect to these specific items contained in our manifesto and there is more to come.

The other areas we promised will come because the Constitution Reform Commission recommended that we bring the measures which require only a simple majority together first, and then bring in separate Bills the other items which require a special majority vote. So the referendum, for example, issues with recommendations dealing with proportional representation, and the commission did recommend proportional representation with respect to the Senate, for example, but they maintained a first-past-the-post system for the House. These, then, are promises made and we are seeking to honour those promises in this particular Bill.

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

What are the reforms contained in this Bill? Three, as we said, but there are really two, and one is a corollary or a consequence of the second provision. The first provision is, of course, the term limits for Prime Ministers and I would come back to the genesis of this and for the rationale as we see it. The second, the right of recall of MPs and the second ballot run-off voting. I do not think I need to spend too much time on the mechanisms of each of these because I really want to spend some time, in the limited time I have, on dealing with some of the concerns that have been raised during the course of this debate.

Mr. Speaker, I am so happy that because of these reforms proposed that there has been tremendous debate throughout the country and that is a good thing; [*Desk thumping*] that means it is a democracy alive and working. Democracy alive and working when we see so many citizens involved in having their voices heard. Now, we would have been happier should some of these voices have presented themselves at the—Mr. Vice-President, again, I am being reminded, Sir, and my apologies, Mr. Vice-President—at the 21 consultations held by the CRC, the commission, that if more persons would have come up forward, but it is better late than never. That is why we are here, that is why we are listening, we are taking note of the comments being made, and as I say, we will listen and then lead. So these are the three reforms.

Where did this idea of term limits for Prime Ministers come from? Where did that particular suggestion come from? It was first advocated in 1981 by the ONR led by the late Karl Hudson-Phillips when he advocated—he advocated term limits, two terms for Prime Ministers. Now, this happens in other jurisdictions. I heard there is a concern that in our jurisdiction, you may not find many examples of term limits for Prime Ministers, but because it has not been done before in Westminster-style common law jurisdictions, does not mean that it cannot be done here?

Again, I make the point, if something works and we see it working, there must be some time that somebody has to do it, maybe the first time, the second time or the third time. It cannot be that we will never take an idea and say nobody is doing it—nowhere else in the Commonwealth jurisdiction and jurisprudence do we find term limits and therefore pull it back. We have seen one of the largest democracies in the world. Their entire process is predicated upon term limits for the President in the United States. We have seen in many other jurisdictions, as I said, and we could share these with you, where term limits are advocated.

And so, throughout all the history of our elections, the Constitution has called upon His Excellency the President, he is mandated in the Constitution, I think it is '77 or '76, but he mandated within this document to appoint, after a general

election, the person who has the support of the majority of the elected Members or alternatively, where that is not forthcoming, where that cannot be discerned, then to appoint the person who is most likely to command the majority of the elected MPs. That is the power given to the President.

Throughout our history then, we would see where if party A receives 180,000 votes but more than 21 seats, if party B receives 220,000 votes but less than 21 seats—so more votes but less seats. What happens? The President as mandated by the Constitution appoints such a person, the leader of that party, as the Prime Minister. In the current system, all the leader of a party A has to do is to ensure he maintains a seat majority and he can be Prime Minister for as long as he wants, whether he breaks his promises, whether he keeps his promises, whether he delivers or does not deliver, and whether his Government delivers or does not deliver. That, in my respectful view, cannot be a true democracy. [*Desk thumping*]

With the two-term limit, now a constitutional barrier to anyone trying to strangle leadership, Prime Ministers must now focus on delivery and achieving a strong legacy because they know when the time comes, they must have achieved something, they must have achieved some of their promises, they must have delivered. This two-term limit will eliminate the concept of maximum leadership and will require parties engaged in thoughtful, meaningful succession planning in putting forward leaders from their ranks to be offered to the electorate. Two-term limits for Prime Ministers is how we can help to take the power out of the hands of the politicians and place that power more into the hands of the people. [*Desk thumping*]

2.00 p.m.

The other reforms, the run-off, right of recall. This one, as I said when I spoke in the other place, there are, I am told, 91 countries now which have the right of recall and Trinidad and Tobago, should we accept these proposals, will become country number 92. And this one, it is not correct to say, does not appear anywhere in common law jurisdictions, in Westminster-style jurisdictions. I do believe the Kenya Elections Act, and I have a copy here which I can share if one is interested, does give a right to recall of persons elected to the Parliament, to the Legislature.

Kenya also has a hybrid system, where their MPs are elected and then they also elect a president. In Kenya, you have a run-off. Now, it is either Kenya or Uganda, but I have both pieces of statute, so I do not want to be taken before the Privileges Committee. It is either Kenya or Uganda where you have both provisions, the recall provision and the run-off provision, and I know the run-off is the one most people are very concerned with so we will spend some time.

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

I just want to quote something from Sir Winston Churchill, that very distinguished politician, and it is this:

The Westminster system was a dictatorship punctuated by democracy of three weeks, once every five years. In other words, we only really get democracy when we have an election.

—Sir Winston Churchill.

And this is why the right to recall is so important that if a Member of Parliament is not functioning, a Member of Parliament is not representing his constituents, a Member of Parliament fails to attend any constituency activities, same man elected by the people who will wait for five years to go back and say vote for me again. But with this recall measure, constituents can be moved to apply for a recall petition, trigger that recall petition—and we can discuss the percentages needed, and so on. Those are things within the mechanism that can be negotiated and discussed. But the principle is that you can now have this right to recall a non-performing Member of Parliament. [*Desk thumping*] That is the right given to constituents. The constituents will not have to wait five years to vote out a Member of Parliament. They now have—within the term it could be midterm.

I think the Bill proposes three years but there has been some discussion, but say midterm. And the reason why we do not believe it should be from day one is because you need to give the person some time to prove themselves. They have to go out there and start working, so midterm is good. And then following upon our Constitution, we are saying in the last year, there should be no right of recall. The Constitution already does not permit any by-election in the final year of the term of office. So those two issues are there with the right of recall. We have proposed the mechanism in here. This was recommended by the Constitution Reform Commission, as was the term limits. And we are following through on those.

The other matter has to do with the second ballot run-off. That is the third proposal. If I may again quote from a very great philosopher, perhaps, who gave birth to the whole issue of democracy, and this is Aristotle in *Politics*, that is the title, 350 BC. He says this:

“The basis of a democratic state is liberty; which, according to the common opinion of men, can only be enjoyed in such a state; this they affirm to be the great end of every democracy. One principle of liberty is for all to rule and be ruled in turn, and indeed democratic justice is the application of numerical not proportionate equality; whence it follows that the majority must be supreme, and that whatever the majority approve must be the end and the just.”

And this is where the run-off provision falls into play; that it seeks to give the majority of voters in a constituency, 50 per cent, the right to have an elected representative who represents the majority of constituents. This is the principle behind the run-off. As I say, there can be discussions as to the mechanism to effect. But the principle is to make sure that an MP, when elected, does have more than 50 per cent of the votes of voters. [*Desk thumping*]

And I say it is a corollary or tied up with the recall provision because any Member of Parliament, elected with a very small number of votes but gains the plurality, gains number one versus number two, gains 20 per cent or 30 per cent of the votes, that person becomes an immediate candidate for recall, immediate candidate for recall, because if you come in with a 30 per cent it means there are 70 per cent out there who say: "I do not want you". If you come in with a 20 per cent, there are 80 per cent who say: "I do not want you" in your constituency. So you would be then placing this Member of Parliament in a very vulnerable position for the recall of that particular MP.

And I am very happy today to share with you, the concern that a Member of Parliament in the Opposition, for example, or even a Member of Parliament on the Government Bench, who does not get the support of his or her colleagues, may have a difficulty in performing, in terms of delivery. I know the Minister of Finance and the Economy, in his budget, is making provision for what we are calling a Constituency Development Fund. [*Desk thumping*]

Now, the Constitution Reform Commission recommended this particular measure. I have it here somewhere, the commission's report. It is okay, it is there in the CRC's report. But even prior to that report, talking about a Constituency Development Fund, in 2012, the Cabinet approved the establishment of a Constituency Development Fund. The main objectives of this fund is indicated hereunder:

- to improve service delivery by government, particularly at the municipal and community levels;
- to increase the effectiveness of representation by constituency representatives;
- to support and enhance existing initiatives by government;
- to facilitate the process of community participation.

The fund will take into consideration national and local policy frameworks.

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

The effectiveness and sustainable operation of the fund were centred around three broad areas:

- policy formulation;
- administration of the fund;
- sustainability issues.

And the Cabinet agreed:

- to the establishment of this fund;
- to the provision of approximately \$10 million per constituency, which will be, Minister Howai, \$410 million to be provided for in the budgetary allocations, the sum to be divided \$10 million per constituency;
- the Ministry of Finance and the Economy will have the new line item in the budget documents for the Constituency Development Fund;
- each MP will be responsible for identifying and deciding on projects in their constituencies based on set criteria.

Again, time will not permit for me to go through all the details but there will standards, there will be criteria and the moneys will not be lodged in an MP's account. The moneys will be lodged with the local government bodies and there will be strict guidelines and standards for drawdown on this fund.

So Minister Howai is working. Since 2012 we had done this. The Attorney General, of course, will prepare the necessary legislation. The Ministry of Planning and Sustainable Development to conduct a two-year evaluation of the effectiveness of the fund and to submit a report to Cabinet. This was way back in 2012. [*Desk thumping*] And it has become more important with our proposals for recall for Members of Parliament. So these are some of the provisions.

Let us move a bit to some of the concerns with respect to this. This is the ministerial committee for the fund. Let us move on to some of the concerns. But before I do that, I just want to repeat something I had said in the Lower House, and that is I find it passing strange that the Members of the Opposition have taken such umbrage to these provisions, when in their own party documents they have endorsed and supported all three proposals, and I have with me the approved constitution of the People's National Movement.

Sen. Al-Rawi: Good document.

Hon. K. Persad-Bissessar SC: I am sure it is a good document. I never said it was not. I am saying the three proposals that we are putting forward have been endorsed in this document. Election or removal of officers goes back to Article 18 of the substantive constitution, which says the people have a right to recall their elected officers within their structure.

It goes on to speak of instant run-off for the office of political leader where no one candidate for that office obtains 50 per cent or more of the votes cast, then the two candidates with the greater percentage of votes shall be involved in an instant run-off for election to that office. So it is contained in here, Mr. Vice-President. These are for their internal matters.

And there was a report done prior to this, going to the convention of December 02, 2012, where these matters were approved. There was an initial report where the matters were taken to a special general council. Again, I have that report here, and this report, inter alia, amongst other matters, speaks of the recommendation for an instant run-off as amended, was unanimously passed. The recommendation listed under “removal of officers” was unanimously passed and the recommendation on term limits was unanimously passed. So these are good for the internal elections, and I would like to ask whether these, having been accepted by your internal structures, what is wrong with the country benefiting from such good measures? [*Desk thumping*]

Sen. Robinson-Regis: PNM again, leading the way.

Hon. K. Persad-Bissessar SC: Then we come to—[*Interruption*]

Sen. Robinson-Regis: PNM again, leading the way.

Hon. K. Persad-Bissessar SC:—well you know—just one moment. I will pause because I am hearing the PNM again leads the way. One of the recommendations I did not read, which was unanimously supported: the recommendations under one man one vote were passed also in the UNC constitution. [*Desk thumping*] Let us not go there on gamesmanship, really. The point I am making is that these provisions are all—[*Crosstalk*] Mr. Vice-President, do I have your protection, Sir?

Mr. Vice-President: Yes, Prime Minister.

Hon. K. Persad-Bissessar SC: I thank you very much. The constitution of the PNM contains these provisions.

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

Now, only when we came with these proposals the Opposition brought forward a 10-point plan on the national constitutional reform, and I read with great interest, an article by Mr. Reginald Dumas, a very distinguished son of our soil, having served in the public service for a long time, carried in the *Daily Express* Monday, August 25, 2014, on page 13 and he writes as follows:

“I have commented a few times now on the shortage (the near absence, indeed) of policy positions from the People’s National Movement... An unceasing assault on the Government, yes, and on individuals in it, but nothing—or nothing worthwhile—on its plan for the country.”

He continues:

“Earlier this month, the PNM published what it called ‘ten points towards constitutional and legislative reform’.”

Now the first question is: Were any consultations held to come up with this 10-point plan? If they were held, when were they held to come up with this 10-point plan? And so, again, we ask of the doublespeak, when it is that the arguments being put out are no consultation, none. There were 21 consultations. [*Desk thumping*] And I will come to the point, should time permit, if not in the wind-up, on that same issue of consultation, with respect to the run-off, because there is some disquiet as to whether that went on or did not go on. I would come back to that.

And here it is now Mr. Dumas says these 10 points, and I am asking, from whence did they come? He says:

“Point one says ‘(a)ll parliamentarians should be full-time.’”

He continues:

“My recollection is that just recently, in the debate on the navel-gazing pensions bills, the Opposition argued MPs were *already* full-time, and thus entitled to...enhanced benefits...Now we are told everyone in Parliament ‘should be’ full-time. Which is it, ‘should be’ or ‘is’? Is it that some are and some aren’t?”

This is Mr. Dumas. He continues:

“Point two calls for an ‘in-depth examination...of all committees specified in the Constitution...’”

Mr. Dumas says:

“New standing orders of the House...came into effect with the current session of Parliament. They make provision for seven Joint Select Committees additional to the three categories that already exist in the Constitution...”

So we have already taken that on board.

“Point two...‘Parliament must be empowered to oversee the Government and the Cabinet’.”

Again, from the 10-point plan. Mr. Dumas says:

“I’m not sure what this means. Section 75(1) of the Constitutions obliges the Cabinet to be ‘collectively responsible’ to Parliament for ‘the general direction and control’...”

So it is already there.

2.15 p.m.

“Point three calls for a Cabinet of fixed size ‘to prevent a Prime Minister from creating ministries on a whim’. I think we all understand what the PNM means by that statement; even I have sometimes been stunned these last few years. But while the PNM intention is good, it may not be implementable—after all, none of us can say for sure what future national developments there might be and what they might necessitate”—having other Ministries.

“Also, in point ten the PNM says it ‘has stated that the Ministry of Local Government should be abolished...’”

And he asked:

“On what basis has the party decided that? Has it made a comprehensive study of present and past government activity, and possible constitutional and other changes (it cannot foretell the future)? Has it discussed this with the population? If not, how has it come to the conclusion one ministry should be done away with—the Ministry of Local Government.

So hon. Senators, I share these with you on 10 points put forward and I raise the issue of consultation and, of course the rationale, given Mr. Dumas’ exposé here, and I say exposé not in the sense of exposing, but Mr. Dumas’ words as contained in this article.

Concerns then, we come to concerns on these reforms, and I have a time check of—right. Thank you—

Of course, I mentioned endorsements have come just as there have been those where there have been no endorsements. We have seen some of those coming forward and it is interesting that in the Caribbean, we are seeing other Caribbean

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

nations really praising—if I could go so far, but really praising the proposals that are being debated in Trinidad and Tobago. You will get the *Jamaica Observer*, we have the *NationNews Barbados*—some others within the Caribbean in other islands saying, yes, we are happy with this. Let us recall MPs who are not performing. Let us have fixed-term limits for a Prime Minister. Here, we have voices on both sides of the divide.

And I will say to you, Sir, Gentlemen and Ladies of this honourable Chamber, that if you are engaged in a journey, on a pathway, and the end of it, the end of that journey is for something that would benefit the people of Trinidad and Tobago—I may use the example of if you are engaged in a journey, in a quest to find the pot of gold at the end of the rainbow, or if you are engaged in a journey in a quest to find the Holy Grail at the end of your journey—if it is along that journey you took route A, B, C, you did not divert into X or Y, you did not go into other routes that might have been possible. Does it mean that when you reach that pot of gold or does it mean that when you reach that Holy Grail—I am using an analogy—that you throw away the things that would benefit the people of Trinidad and Tobago because you disagree we should have gone route X or Y instead of going route A, B, C, D to get to that point? I make this comment because of the concerns raised that more consultation, delay the Bill, delay the Bill for consultations, and delay the Bill for how long? We have been talking constitutional reform for nearly 50 years, [*Desk thumping*] and so the time has come to not just talk that talk, but also walk the walk. The time has come. [*Desk thumping*]

So what is so fundamentally wrong with term limits for a Prime Minister? What is so fundamentally wrong with a recall provision? What is so fundamentally wrong with a run-off provision in the way—the mechanism we have set up? I know some people are advocating what is called preferential voting, this is the same. Preferential voting is the same, also known as alternative voting, and others, instant run-off, they are one and same, of the same family.

Now, to me that is a little more dangerous because when you go on a preferential voting system, what you will be finding is that when you cast your vote, somebody in the EBC is going to decide how to assign your vote. The preferential or the alternative voting is, you vote—my first choice is one, my second choice, third choice and then somebody in the EBC decides how to rank these now, whether to add number one with number four, number three with number two, and given the nature of our society, I think it will cause a lot of disquiet and distrust should that preferential voting—in fact, the hon. Leader of

the Opposition is totally against such a system. He spent the majority of his contribution in the House, in the Lower House speaking of what was happening in Britain, he called it “alternative voting”. That is why I say it is of one and the same form of fish or fowl, yes—in the same regard.

So preferential voting, our system is a sort of plurality system, the preferential voting is that of proportionality. To make that change, and we are not adverse to proportional representation, we go to a second hurdle. First, I said the disquiet and distrust that could arise when the EBC, behind closed doors, is adding up and taking away, and deciding who is the ultimate winner of these votes.

But we run another hurdle, our Constitution framers envisaged that we could make these changes only with a simple majority, they envisaged it. And some are still saying we cannot do it, they are tying it up with the right of freedom of expression, the right to join a political party, but due respect, the research will show the right to join a political party, the right to freedom of expression and so on, there is no right to vote enshrined in our Constitution. In fact, the case that was done—AG remind me—it is the—[*Interruption*]

Sen. Ramlogan SC: *Eric Bain v the AG.*

Hon. K. Persad-Bissessar SC: *Eric Bain v the AG*, that very question came up. Does the Constitution guarantee and enshrine a right to vote? It does not do so. What it does, it enshrines and entrenches the way in which the elections should be conducted; first, the first-past-the-post system. We are not removing the first-past-the-post system. We are refining the first-past-the-post system, [*Desk thumping*] so that he can get a fairer representation by a majority MP.

If we were to go preferential voting, if we were to go proportional representation, the Constitution entrenches the EBC, the constituencies, the boundaries, we would have to go for greater majority of either the two-thirds and/or the three-fifths. Of course, again, the Opposition has stated repeatedly, that they will not support proportional representation. Indeed, if I may quote the famous words, “proportional representation is a dagger in the heart of the PNM”, so that is the issue there. When we come to preferential voting, it is also tied up with proportionality, it is tied up and, therefore, we would have to make very serious amendments of deeply entrenched provisions within our Constitution.

But the Constitution framers were very wise when they did that, by deeply entrenching them that you needed a greater majority, and they were also wise when they indicated that the first-past-the-post system, that the Constitution allows us without any great fanfare and great majority, to amend and refine that

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

first-past-the-post. I repeat, our proposal is for a refinement of first-past-the-post, and the Constitution Reform Commission in their postscript indicated that it would give fairer representation by allowing this majority vote.

So let us come now to some of the concerns. We have several concerns. I do not know which one I should start with first. I think it may well be that there is a thought by some that this proposal for the run-off could end up in stealing an election. Now, that is a very dangerous charge. The question is, those who are advocating that the run-off will lead to stealing of elections have yet to describe how this could lead to stealing an election, have yet to give flesh to this blanket statement that this is to steal an election. If I may refer to the *Newsday* editorial, which I think puts it very nicely. *Newsday* editorial, yes, I think it is today, Tuesday, August 26, 2014, page 12. [Interruption] I am sorry, yes, yesterday. [Crosstalk] Today, yes, so I said today. I did not?

Hon. Senator: Yes, you did say today.

Hon. K. Persad-Bissessar SC: Did I not say—? Thank you all for the prompting. Tuesday, August 26—[Laughter] hon. Wheeler, thank you for your intervention—August 26, on page 12 it says:

“Behind the polls”

I will not read all of it because once again, time is upon us:

“One pervasive claim that has arisen in the debate is that the reforms are a ploy to ‘steal’ the election. However, this charge is yet to be demonstrated. It is one thing to say a new system is likely to result in a more favourable result for one party, and another thing to state that party is seeking to “steal” an election. In relation to the former, it has not been demonstrated how the runoff could benefit the ruling parties. The runoff procedure is not as predictable as some will say: the outcome of the second poll may well vary widely from the first. Facing a runoff is not necessarily a guarantee of defeat for an incumbent.”

So there is no guarantee to any of us here, and any party, that a run-off will result in a left side, right side or middle road, there is no guarantee. [Desk thumping] The votes could go any which way. In 2010, there was no run-off, there was a majority vote across the board. Not a single seat would have had a run-off, and if we are to believe some of those distractors, if we are to believe them, then there is nothing to worry about, because if this thing is so bad, what will happen? They will vote us out in 2015. The electorate will have the final say. [Desk thumping] They will be the final arbiters, the final acquitters and that is the democracy, Mr. Vice-President. The editorial continues:

“What is clear, however, is that the runoff, more so than first past the post, takes into account more precisely the will of the electorate. That argument is yet to be refuted. If that argument holds, how can it be claimed that giving the people, in effect, a greater say, is ‘stealing’ an election.”

How can it be said that giving people a greater say electing their representative is stealing an election? This is what it says and I totally agree with it.

“It may well be that the people will choose to vote out this government in droves under the runoff! Previously ‘safe’ UNC seats may well be subject to runoff, as equally so as previously ‘safe’ PNM seats. The point is no one should feel they are ‘safe’: Each politician should earn their place and be accountable to the people. That the runoff reflects the will of the people, however, is one of the points for debate. What is certain, however, is it is for the people to decide.” [*Desk thumping*]

Stealing an election, in what way will the run-off allow stealing of the election? Let me quote here now. There are some who are saying that this measure is to favour the Partnership, but some say steal election, some say it favours the Partnership. I quote here from Anil Goorahoo, *Newsday*, Monday, August 25, page 13:

“By arguing this new proposed system will improve the UNC’s chances in a general election, critics concede that the present system gives the PNM an advantage which they are not prepared to surrender – even to achieve a result which is fairer and more representative of the wishes of the majority of the population.” [*Desk thumping*]

Newsday, yesterday, Monday.

So concerns about stealing an election and favouring one party as against another, I have dealt with, but there are other concerns. And if I can get these, I think I identified about six concerns—the run-off elections. As I say, concerns being expressed in the public domain about the run-off which was recommended by the commission as a means of seeking a refinement of the first-past-the-post system, also as a protection to the election of MPs who would be subject to recall.

My further enquiry into the genesis of this proposal has led me to discover where it came from, and that it originated in our consideration of two things—that is here locally now. Where did it come from? The commission considered one, how to seek a fairer system of election under the first-past-the-post system in order to ensure that all MPs were elected on a majority basis and not on a minority

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

vote. And secondly, any MP who is now being made subject to recall would become immediately vulnerable to embarrassing calls for their recall by virtue of the minority status.

2.30 p.m.

This recommendation came from the CRC and its philosophical justification was approved by all members of the CRC, which is contained in the postscript, the addendum to the report that was sent to Government, July 18, 2014. That addendum has been published and forms part of the public record. And I ask if we can look at, at this time, page 23 of the December report and to look at pages 5 and 6 of the postscript where they discussed this particular provision.

In the December 2013 report, they did not specifically name it a run-off, but they expressed their concerns with the first-past-the-post system and were suggesting that some method be found. By the time they got to the postscript—and I am advised that the postscript ideas were sent out to all members of the CRC on April 30, and that was discussed among themselves, whether by text, email or however, otherwise—

Mr. Vice-President: Hon. Prime Minister, I am just reminding you that you have 10 minutes to complete your presentation.

Hon. K. Persad-Bissessar SC: Thank you very much, Mr. Vice-President. I will try to do justice to the 10 minutes. Thank you very much.

By the time we came to the postscript, they spoke of the word specifically now, of the run-off, and a refinement for getting a fairer process of the first past the post. So that is one issue of the genesis of this and of course, as I said, in other countries you do have run-off elections, and also in Commonwealth jurisdictions.

The second concern from what I have been reading is the effect it will have on third parties. That is another concern, the effect on third parties. But should we look at the empirical data, we would find that third parties stand to benefit from a run-off provision. The statistics are very clear. Third parties would have fared better in run-off elections should there have been such a provision before.

And so, if we look at the ONR in 1981, they got over 90,000 votes, not a single seat. The ULF got 62,000 votes and won eight seats and formed the Opposition. Had a run-off election taken place, the ONR would have featured in at least three run-off elections: in Nariva, Pointe-a-Pierre and Oropouche, where they polled the second highest number of votes.

NAR, 1991: in 1991, the NAR was virtually obliterated from Trinidad as it failed to win a single seat. The result of that election was PNM 21, UNC, 13, NAR, 2, the two Tobago seats. The NAR would have featured, should there have been a run-off provision, against the UNC candidate in Tabaquite and the PNM candidate in San Fernando West. There would have been a run-off of UNC and PNM candidates in the constituencies of Barataria/San Juan, Ortoire/Mayaro, Pointe-a-Pierre and Tunapuna. This was what happened in the NAR time. Should there have been a run-off, there would have been perhaps a different result.

Had the run-off procedure been in place in 2007, the COP would have featured—they got 148,000 votes, but, like the ONR, they did not get a single seat—and so run-offs would have taken place in Tabaquite, St. Augustine, should there have been such a provision; that their votes would have been counted. So the data shows, contrary to the concerns that the run-off system would kill off the third parties, this system, in my respectful view, allows these third parties to survive. Indeed, if we look at our history, there have been about 47 political parties over the years and very few have survived—third parties, if you want to call them that. Very few have survived, if any.

I do not think anybody will remember all these 47 various small parties that were obliterated from the landscape. Should there have been a run-off provision, some of these would have been able to make contributions to the Parliament. Think what would have happened if it is that such run-offs had taken place and others were given a voice in the Parliament.

And we know when a party does not have a voice in the Parliament it is very difficult for the sustainability of that party. And so I am saying that the run-off does not, in my respectful view, obliterate third parties, but instead may give them a second chance.

I made a comment, en passant really, by saying, you know, when you go into election, whether first party, second party, third, fourth, fifth party, you are not going in to lose; you are not going to come second; you are not going to come third. You are going in to win. That is what you are going into an election for: to win; but in the event you do not, you can have a second chance with the run-off ballot.

There were concerns about whether it would impair the smooth transition of power should we have these run-off elections. Again, we have had a history here, so we have precedence set when there was the 18:18 tie. We took almost 14 or 15 days before Government went into place. There are other examples. Time would not permit, but I know, when Mr. Panday, with the first UNC Government elections again, nine days perhaps, there was a wait.

Constitution (Amdt.) Bill, 2014
[HON. K. PERSAD-BISSESSAR SC]

Tuesday, August 26, 2014

So the Constitution provides for a mechanism for the President—I have spoken about it before—to appoint in certain circumstances. Should there be no clear winner, the President, as he did in the 18:18, uses his discretion and appoints the person he thinks is most able to command a majority.

What we have done, to make it very clear, is that where there is a clear 21-seat majority, the President is empowered to appoint the person who commands the support of that 21 or more, without waiting for any run-off. [*Desk thumping*] But should there be a tie, then the President will have to await the run-off where run-offs are possible.

Let us not get too carried away. It is not that we are going to have a run-off in every single election in every constituency. That is not going to happen on the balance of probability. I am not saying it is impossible, but on the balance of probability, you will not get a run-off in every single constituency. Some of those will come, so concerns about the smooth transition of power and in that 15 days—I think one person said in that 15 days the Government will run and raid the Treasury. But if that Government has been there for five years, you think they will use 15 days to run in there to try to raid the Treasury?

Is it that when Mr. Manning waited the nine days before Mr. Panday was appointed that something happened? I do not know. But there is that transition that takes place and it is there, built in to the Constitution that there is a transition. Sometimes there are recounts, without a run-off, you have recounts and the President has to wait on a recount to determine where the majority goes.

So this suggestion of impairing the smooth transition, undemocratic, again other colleagues who—that is one of the concerns they will have more time to deal with.

As I close, with three minutes left, I am here, as I said, as others, that we are quite prepared to listen to this debate. I think hon. Senators are well poised to bring a non-partisan view to the table and we look forward to hearing those views. We will take your suggestions, your contributions on board. Should you seek further information, we will seek our best here to provide same.

I want to end by once again highlighting the importance of the people in a democracy, of the majority. I do not know anywhere else in the world where there is a democracy that the minority rules in that. If you do, please tell me, because I do not know anywhere in the world where a minority, democratic “eh”—there will be places where it is a minority, but they may not be democratic. They may be military governments, dictators and so on. I do not know anywhere, so please tell me. That is the first point.

I quoted to you from Aristotle. There is a numerical majority. That is the importance that you cannot have, but, at the same time, you respect the voices of the minority. We said that in our document manifesto, and we honour that and so the third parties and other voices, minority voices, do have a chance. In fact, for the first time, this gives them a real chance of making every vote that they have count.

I close with a quotation from a very famous judge of the US Supreme Court. He is Judge Billings Learned Hand. Everyone knows him as Judge Learned Hand. And what he has to say is so important in my respectful view for this debate as I close. It is this:

“I often wonder whether we do not rest our hopes too much upon constitutions, upon laws, and upon courts. These are false hopes; believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it. While it lies there, it needs no constitution, no law, no court to save it.”

And that is why I say, come next year or whenever within the constitutional framework for the calling of an election, the liberty of the people will determine whether we were right or whether we were wrong in bringing this decision to the Parliament. I thank you very much.

I beg to move.

Question proposed.

Sen. Faris Al-Rawi: [*Desk thumping*] Thank you, Mr. Vice-President. I rise to make contribution into what is a very critical piece of legislation on the floor of this Senate. We as a nation are being invited by the Government of Trinidad and Tobago to consider amending our supreme law, the Constitution of the Republic of Trinidad and Tobago, by having the nation focus attention on this Parliament to simply see who will be the one. [*Desk thumping*] This debate has been reduced in the public domain to “all eyes on the Senate Independent Bench to see who will be the one”, who will be absent, who will be the one to give a yes.

Now, this particular dynamic has been brought about because the Government seeks to persuade us that this Bill requires a simple majority. The Government says to us that it has received legal advice in relation to this Bill. It certainly has not condescended to share that legal advice in its full form with the people of Trinidad and Tobago. It has said that we must trust it and rely upon advice that tells us that, constitutionally speaking, we are entitled only to a simple majority.

Constitution (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Tuesday, August 26, 2014

The Government tells us that it has gone about a mechanism of consultation; that a national consultation on constitutional reform, a constitutional reform committee, sat on 21 occasions and consulted the population on this. [Interruption] Thank you, Madam Prime Minister.

The Prime Minister has used a very beguiling term this afternoon. She said that a report was produced, but the beguiling term that she uses is put in the context of what she calls a postscript. She said there was a report of the constitution committee; no doubt she is referencing the report published on December 27, 2013, but she said to us, there is a postscript.

Now, for the average person paying attention to this debate, we are aware that in a letter, you will have a body of a letter and there is a postscript at the bottom, on the face of the document, which says, “PS: I forgot about a few things, please take note of this”. The Prime Minister says this postscript, together with the document ought to satisfy us that there has been adequate consultation and that we should be comforted that we are ready for this debate.

Well, Madam Prime Minister, that would be so, most respectfully, if it was that we had unanimity in the very committee which has produced this so-called postscript. [Desk thumping] It is a fact that cannot be pushed aside, that the addendum to the constitutional committee’s report has been openly criticized by 50 per cent of its membership; two out of the four people producing this report have come into the public domain and said: “We wish to distance ourselves forthwith from what we consider to be a deceit on the people of Trinidad and Tobago”. [Desk thumping]

2.45 p.m.

Permit me to put on the *Hansard* record in this Senate, the words of one of those members, and I speak of the fact that the commission is comprised of the hon. Chairman, Prakash Ramadhar MP, Dr. Hamid Alfredo Ghany, Justice Amrika Tewarie-Reddy, Mr. Carlos Dillon and Dr. Merle Hodge; if we take the four independent commissioners, leaving aside the politically interested personality of Mr. Prakash Ramadhar, a Member of Parliament as he is, we see that Mr. Justice Sebastian Ventour served for four months on this committee and he retired from the committee when he went on to the Integrity Commission’s bench, and that Mr. Carlos Dillon and Dr. Merle Hodge have come into the public domain to speak to this so-called “postscript”.

A very devious term, Mr. Vice-President, but Dr. Merle Hodge, in publications arising in the print newspapers, across the Caribbean in fact, in Barbados, in Jamaica, in Guyana, in the local news, Dr. Merle Hodge had this to say:

“‘The run-off provision did not come from the people, and it was never revealed to the people before Monday, August 4, 2014, one week before it was to be debated in the Parliament,’ she said. ‘It is therefore dishonest to claim that the people were consulted on this provision, especially as the Government is turning a deaf ear to what the people are saying about it during the week.’

Hodge clarified...”—she continues—“and when the run-off proposal arose.

Up until Friday, August 8, 2014, at 10.17 a.m., the purported ‘addendum’”—which the hon. Prime Minister calls a postscript today—“‘which contains the run-off proposal was an internal document, tagged ‘Private and confidential. NOT FOR CIRCULATION’.’” [*Desk thumping*]

She goes on:

“‘That document did not then bear the title ‘Addendum to the Constitution Reform Report’.

It had grown out of a meeting held on April 30, 2014, at which the CRC discussed and agreed to some proposals selected from the report to be taken to Parliament. The run-off proposal was not there because it was not in the report.

Further discussions were held at a meeting on July 9, 2014.’”

I am not sure what the Prime Minister is talking about April.

Further meetings—“‘were held at a meeting on July 9, 2014. Myself and another commissioner were absent from that meeting. I had other longstanding commitments for the July-August period.

Notes from that meeting were circulated on July 13 for review and comment. That was my first introduction to the run-off idea.

I did not warm to the idea of thousands of votes being cancelled, and I pointed to this as part of my feedback. I did not see the red flags at the time for the idea was developed with cogent arguments supported by concrete evidence. I don’t know where the run-off idea came from...

This confidential document’”—she continues to say—“‘addressed exclusively to the Prime Minister in mid-July 2014, is the one that became, on the morning of Friday, August 8, the ‘Addendum to the Constitution Reform Report’. It was never published and disseminated as the report was.’

Constitution (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Tuesday, August 26, 2014

Hodge said since the Government's strategy includes 'trying to make me a liar by putting out this 'addendum' story', she has had to reluctantly forget honour and breach confidentiality in order to clear her name.

'My concern with the run-off proposal is not so much where it first appeared; at this point, I don't care. My concern is how the population has reacted to it. Many people are offended and alarmed by this particular item, and a democratic Government would take heed, rather than respond with bad-john defiance to a week of widespread objection.'" [*Desk thumping*]

Mr. Vice-President, I have taken care to start off on that footing because that, by itself, completely belies every bit of comfort that the hon. Prime Minister has sought to persuade this Senate with. The fact is, Mr. Vice-President, this is an illegitimate approach to the Parliament of Trinidad and Tobago, this is an illegitimate consultation process—[*Interruption*]

Hon. Persad-Bissessar SC: Mr. Vice-President, on a point of order, 35(5) and 35(8), with respect to illegitimate proposals.

Mr. Vice-President: Standing Order 35(5):

"No Senator shall impute improper motives to any Member of either Chamber."

And it says in 35(8):

"The conduct of the President of the Republic of Trinidad and Tobago, Members of the Senate or the House of Representatives, or of Judges or other persons engaged in the administration of justice shall not be raised except upon a substantive motion moved for the purpose; and in any amendment, question to a Minister, or debate on a motion with any other subject, any reference to the conduct of any such person as aforesaid shall be out of order."

Sen. Al-Rawi, I would want to rule that you would refrain from using the word "illegitimate", as you have said, and I would like you to withdraw that aspect of it. Thank you.

Sen. F. Al-Rawi: Mr. Vice-President, I must be guided by your ruling. May I, by way of clarification, because it is a very important ruling that you have just given. I am about to state why I say the use—[*Interruption*] Excuse me, Mr. Vice-President, I am allowed a clarification relative to section 55 of the Constitution.

Mr. Vice-President: Yes, you are. *[Interruption]* Please. Please. Please. Please. You are allowed a clarification, but therefore I want you to connect exactly what you mean and to refrain from using the word that you have used. Thank you.

Sen. F. Al-Rawi: Mr. Vice-President, are you saying that the word “illegitimate” is unparliamentary?

Mr. Vice-President: In the context in which it has been used.

Sen. F. Al-Rawi: Yes. Mr. Vice-President—*[Interruption]*

Mr. Vice-President: I have ruled, Senator.

Sen. F. Al-Rawi: Sure. Thank you.

Mr. Vice-President, I am not ascribing any illegitimacy to the Members of the Government present here or elsewhere. I am speaking about the process and the Constitution of Trinidad and Tobago, *[Desk thumping]* and I am entitled to speak to the illegitimacy, as I see it, under the freedom of the speech that I have under section 55 of the Constitution *[Desk thumping]* and this Parliament under the Standing Orders. So whilst I will be guided in relation to the Prime Minister’s concern as to illegitimacy being poured upon her or her Members, I will certainly be speaking about the illegitimacy in terms of constitutional process, in terms of consultation, and I really thought that the Prime Minister was—*[Interruption]*

Mr. Vice-President: Senator, please. Senator, please. You have given the clarification, could you please continue with your debate. Thank you.

Sen. F. Al-Rawi: Yes, Mr. Vice-President. I was saying, I really thought that the Prime Minister was made of sterner stuff. I really thought so. I am quite surprised that she is as rattled that quickly in this Senate by approaches to deal with the law. *[Desk thumping]* It certainly belies her constitution.

So anyway, I hope the Prime Minister does not feel too feeble when I am finished with this debate because there is a lot more to come. *[Desk thumping]* So, Mr. Vice-President, the illegitimacy in respect of the constitutional approach to this Bill, which I speak about, is clear, and I hope to go into that in just a moment; the illegitimacy of the mandate of this Government, I propose to deal with in my constitution; the illegitimacy—*[Interruption]* Mr. Vice-President, I sat quietly while the Prime Minister spoke and she is chattering away.

Mr. Vice-President: Hon. Senators, could we please allow Sen. Al-Rawi to make his contribution. The Prime Minister did in fact, during her presentation, ask that it should be—*[Interruption]* Please.

Sen. F. Al-Rawi: Mr. Vice-President, we sat in silence listening to the hon. Prime Minister, at least she could return the courtesy.

Mr. Vice-President, the illegitimacy of the Government's mandate, I propose to speak to; the illegitimacy of the constitution of the committee in its addendum report, I propose to speak to, and if I start with the constitutional illegitimacy first, the Opposition's position in relation to the three elements which the Government seeks to persuade us with—[*Interruption*] Thank you, Madam Prime Minister. The constitutional measure that the Opposition gives to the three points that the Government brings forward: the term limits, the right of recall and the run-off provisions, the theory of our case is that whilst, in particular, section 73 of the Constitution, section 49(a) and section 49(2) of the Constitution, and section 67 of the Constitution, in its other parts, are not directly entrenched by the operation of section 54(2) of the Constitution of the Republic of Trinidad and Tobago, which enshrines the requirement for a two-thirds or a three-quarters majority of the Senate and the House of Representatives as it relates to deeply entrenched provisions.

While that may be the case, our position in reflecting upon this issue is that the rights enshrined in section 4 of the Constitution, which specifically include the right to freedom of political choice, the freedom of movement, the freedom of expression, we believe, and our position—which we will articulate here and elsewhere certainly, if the need arises—is that there is a direct requirement at a minimum level to achieve a section 13 exception to the Bill, that is a three-fifths majority. And that the law must be reasonably required and proportionate in a society such as Trinidad and Tobago, which has regard for democracy and the rule of law, and at a higher standard, we say that this Bill may impliedly require—by virtue of the operation of section 54(6) of the Constitution—the requirement for a deeper form of vote or entrenchment hurdling, and that is a two-thirds majority in the Senate at minimum and a three-quarters majority in the House.

Let me explain that in the limited time that I have. The first-past-the-post system which we are seeking to affect by amending section 73 of the Constitution, specifically in terms of a preserved law, in terms of the practice existing prior to the independence Constitution and prior to the republican Constitution, that is a mechanism which allows you only one past the post. It does not, in our humble estimation, allow you “two passes the post”, and that is a fundamental point. [*Desk thumping*] It is a fundamental fact that established precedent, established conditions prior to the independence Constitution and the republican Constitution, cannot be affected easily.

The courts up to the Privy Council have recognized the breadth of sections 4 and 5 rights in the Constitution, entrenched rights. They have also recognized the requirement for a three-fifths majority and, interestingly enough, the very case that was referred to in the House of Representatives, and that is the case coming out of the Privy Council in the Mc Leod matter, the *Attorney General v Mc Leod*, reported at 1984, 32 WIR 450. The Attorney General, I am sure, will be aware that the arguments which were offered at the Privy Council included the fact that there had been an abrogation of section 4 rights in the Constitution, and that the Privy Council and the Court of Appeal in Trinidad and Tobago felt comforted that they did not need to consider a constitutional argument simply because the 1978 cross-the-floor Act, which was passed in the Senate and the House of Representatives, had in fact achieved greater than a three-fifths majority.

That 1978 legislation, which amended section 49(1), section 49 of the Constitution of the Republic of Trinidad and Tobago, that Act was passed by two-thirds majority, not a three-quarters majority, and the Privy Council was very, very clear in its reservations at page 7, as reported in the West Indian Law Reports, to say that even if Mr. Mc Leod had been right in his original submission that the amendment Act had the effect of abrogating, abridging, or infringing some fundamental right to which he was entitled, under sections 4 and 5 of the Constitution, this could not avail him on the question of the substantive law because sections 4 to 14 of the Constitution are entrenched, not by section 54(3) but by section 54(2). And as was pointed out in the judgment of Bernard J., the majority by which the amendment Act was passed in each House satisfied the requirements of the latter section. [*Desk thumping*]

3.00 p.m.

So, Mr. Vice-President, we make an immediate reservation, even if section 73, which is where they seek to bed in the run-off provision, does not require, in their estimation, a two-thirds majority or three-quarters majority, we are saying that the abrogation of the entrenched rights in section 4 of the Constitution, fundamental rights, certainly do require a three-fifths majority.

We go further—and this ties in to the consultation and the theory that I have put forward and the statement that I have made, that the Government's consultation is illegitimate. Mr. Vice-President, when we say this, the proportionality that is required by section 13 of the Constitution takes this argument forward now.

Let me put it forward this way: the Government of Trinidad and Tobago embarked upon a consultation exercise. A report was produced by a national consultation on reform commission. That report has led the people of Trinidad and Tobago to

Constitution (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Tuesday, August 26, 2014

believe certain things. A legitimate expectation was created in the minds of the people. The people were specifically told that a constitutional reflection was happening. They were told that a document would be presented to them for consultation. They were told that the reform committee would come back and show the people the product of the work.

We have already demonstrated that the Government had not been truthful. In fact, one could put it this way, if you were to echo the thousands of voices outside: the Government has perpetuated an unwholesome, inveterate untruth upon the people of Trinidad and Tobago in seeming to suggest that there has been consultation on the postscript, as the Prime Minister puts it. That is certainly not the truth. [*Desk thumping*]

Mr. Vice-President, the constitutional reform document itself, the report of December 27 says at paragraph 34 of page 8:

“There was a clear recognition that any referendum on a new Constitution for Trinidad and Tobago should not be treated as a party political issue. Thus there should be some distance between the holding of a referendum and the holding of a general election. That, however, will be a matter of political strategy, which falls outside of the remit of the Commission.

The Commission is ever mindful...”—it says at paragraph 35—“of the fact that its recommendations will have to be converted into a Bill or separate Bills to be debated in Parliament and that, once these are successfully passed by the required majority or majorities in the Parliament, there will be new constitutional provisions for the country. For this reason, a deliberate decision was made to provide the country with a philosophical document that explains the rationale for its recommendations to provide a new constitutional formula. This is done with the understanding that the drafting of a new Constitution will require resources not currently available to the Commission. Additionally, there will need to be political consensus on the new constitutional formula before drafting can proceed.”

These are the words of the commission. Is the hon. Prime Minister seeking to persuade the country that a report which did not contain material information contained in an addendum labelled “private and confidential, not for circulation”, sent only to the Prime Minister at the end of July 2014, that document never having gone to the public, is proper consultation? [*Desk thumping*] Is that space for a new constitutional formula to be considered before drafting can proceed? That is where the inveterate, unwholesome untruth lies in the mouth of the Government.

Mr. Vice-President, the constitutionality aside, because time does not permit us to go into the fulsome arguments on constitutionality, save to make the point that first-past-the-post system means one past the post. Enshrined rights are being derogated and abrogated—the right for political expression—those require by an abrogation of those rights, a derogation of those rights, at minimum a three-fifths majority.

What could possibly make the hon. Prime Minister afraid of a three-fifths majority? What? What could possibly cause fear in the Government of Trinidad and Tobago that says, from the mouth of the Prime Minister, “Vox populi est vox Dei”?—the voice of the people is the voice of God. “Consult the people, consult the people, consult the people. Serve the people, serve the people, serve the people,”—platitudes. [*Desk thumping*] Platitudes from a Government that is afraid to seek the proper mandates of putting this thing to at minimum a three-fifths majority. [*Desk thumping*]

The work of this constitutional reform committee is diametrically opposed to all three of the elements that are proposed by this Bill. The elements proposed by this Bill are: right of recall, term limits for Prime Minister and run-off provision. The hon. Prime Minister says the run-off provision is to be deemed to be a corollary of the right of recall, that we should be comforted by the postscript, as she calls it, the one that nobody ever saw. The one that 50 per cent of the commissioners objected to and distanced themselves from in calling it a deceit on the people of Trinidad and Tobago. That one is the corollary and base.

So when we look to those three positions, the theory of the Government here is simple. It says: let us disaggregate the elements of this report. Let us on the postscript, as the Prime Minister calls it, the eyes-only addendum, the confidential addendum, disaggregate the elements of the Bill. Bring term limits separate; put recall separate; bring run-off—run-off which, of course, the population simply says was never there, never happened, nobody ever saw, never discussed—bring that forward, disaggregate them.

They are proposing a theory which says: bring the elements of a body and put the parts together after. Sunity Maharaj actually called it in her *Express* publication this weekend:

“Vote First, Debate Later; Repeal Now”—a very interesting headline. [*Desk thumping*] That appeared in the *Trinidad Express* newspaper on August 23, 2014:

“Vote First, Debate Later; Repeal Now”

Constitution (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Tuesday, August 26, 2014

In bringing these elements of the body together, they are saying to us, “Let us create a head, let us create an arm, a leg, a torso; let us put body parts together afterwards. Let us have a term limit for a Prime Minister of two terms; let us find that as a solution in Trinidad and Tobago. Let us have a recall provision for Members of Parliament; let us put that together afterwards with the measures that require a three-fifths majority.”

But when you look to this National Consultation on Constitutional Reform document dated December 27, 2013, you will note that the measure by which you are recommended to consider the recall of a parliamentarian is fundamentally tied to equality of parliamentarians. It is fundamentally tied to a theory by this committee that you must have elected Members in the House of Representatives, 41 people in the House of Representatives, who are not Ministers of Government. That Senators to be elected on a proportional representation formula should be Ministers of Government, and the Prime Minister should come from the Senate, but that the House of Representatives should be that. They should represent the constituency.

It says that they are to be people in similar circumstances treated equally; they are to have the same resources. They are to be put to work in the same measure, so that when you are comparing apples with apples, that you can actually have a basis for recall. This ties into the proportionality argument of section 13, because the right of Members of Parliament to be people treated with equality, when they stand as people in similar circumstances, must be proportionate to due process and the rule of law. The courts are clear that the antithesis of due process and rule of law is lack of consultation. The courts are clear on that basis.

So, Mr. Vice-President, they say to us, “Put in the system of recall right now, but do not worry about the equality”. But the Prime Minister of Trinidad and Tobago, at 2.06:31 p.m. this afternoon, dropped a bombshell on Trinidad and Tobago. She dropped something which can stand only as one of the most insidious mechanisms that will be launched on the people of Trinidad and Tobago. Let me call it by its name: the Constituency Fund. [*Desk thumping*] The Prime Minister has told us in the last debate in the House of Representatives, the Prime Minister told the country, “The budget is coming soon; in fact, September 08 is budget day,”—3.31:40 a.m. in the morning: Budget day is September 08. As we stand, the budget is two Mondays away.

The Prime Minister has told us today that everybody should be comforted, because the Minister of Finance and the Economy is going to come forward, he is going to have a Constituency Fund as a line item; all constituencies are getting

\$10 million and that the Attorney General is going to bring some kind of legislation somewhere. Hon. Prime Minister, we do not know the details of what you are speaking about for a number of reasons. Number 1, your Government has never condescended to something called a legislative agenda, so we do not know what you have. [*Desk thumping*] The legislative agenda is run by “voops”, “vaps” and “vaille-que-vaille”; make it up as you go along. [*Desk thumping*]

Secondly, I want to ask the hon. Prime Minister and the Government of Trinidad and Tobago this: after spending the largest budgetary allocation in a four-year period, where we have as a matter of fact received \$275 billion in expenditure in four years, with another estimated \$63—\$65 billion taking us over \$300,000 million in budget, after we have seen this particular point, is the Government now telling us that a Constituency Fund in year five is to replace what should have been spent by this Government in the last four years? [*Desk thumping*]

Are the Members of Parliament in Laventille West or Diego Martin West or Point Fortin, La Brea, to now find \$10 million and spend it quickly, to make up for an inequality of circumstance, so that they can be subjected to a right of recall, where the Government has not expended moneys in their constituencies? This Government has spent the largest budget allocations back to back; more than 12 to 15 years of budgets back to back preceding this Government. Take 15 years of budgets, add them up together, on average, and this Government has outspent that money in four to five years. [*Desk thumping*]

Let me remind the hon. Prime Minister, the Constituency Fund, when it was first floated, was resisted by the People’s National Movement because it was a recipe for chaos, scandal and disaster. And it has been proved that no comfort can be taken by the Prime Minister saying, “The MPs not getting the money in their hands. It is going to go to the local government entities. Doh worry about that.” Madam Prime Minister, LifeSport was in the hands of the Ministry of Sport. [*Desk thumping*] LifeSport expenditure was in the hands of the board of the Sports Company. LifeSport went through three audits by the Minister of Finance and the Economy. He found nothing of worth to come forward and tell the population about the scandal of expenditure that existed prior to the avalanche of information that came down on the LifeSport Programme.

3.15 p.m.

And here we have a Prime Minister telling us, “We promise right of recall. We are bringing the right of recall. Page 15 and page 16 of our manifesto has it.” But why did they not recall Anil Roberts? [*Desk thumping*] Why was section

Constitution (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Tuesday, August 26, 2014

69(3) of the Constitution of Trinidad and Tobago not put into effect to allow for the COP to expel, in its mechanisms, Anil Roberts, and prompt a by-election in accordance with the Constitution, section 69(3)? Why did the Prime Minister not fire him to cause him to move in the backbench and perhaps prompt his resignation sooner? Why did the Prime Minister wait on an immediate opportunity to recall someone engaged in now what is a national scandal, and now come to tell us about recall?

Sen. G. Singh: On a point of order.

Sen. Robinson-Regis: What is the point of order?

Sen. F. Al-Rawi: Which one?

Sen. G. Singh: 35(1), relevance.

Sen. F. Al-Rawi: Oh, that is the best you could do, Ganga? “Oh Gawd, man.”
[Crosstalk]

Mr. Vice-President: Sen. Al-Rawi, I have been listening to you and I have given you some laxity [Laughter] because I felt that you were going—but please come back on stream and let us go. Please, continue.

Sen. F. Al-Rawi: Mr. Vice-President, I thank you for the latitude [Laughter] I thank you for the latitude.

Sen. Ramlogan SC: It was a Freudian slip, man.

Sen. F. Al-Rawi: The Government is in a state of laxity, Mr. Vice-President. The PNM is in no state of laxity. Right? [Desk thumping] Mr. Vice-President, I will tell you why the PNM is not in any laxity, but rather enjoys latitude. We are the only political party in 59 years to still be in existence. [Desk thumping] We are the only political party who has held elections, being a major political party in recent memory, where the majority of our membership came out to vote. The UNC cannot speak similarly. So, therefore, it is by no mistake that the Prime Minister quotes the “greats”. That she quotes Aristotle, [Desk thumping] that she quotes Churchill, and that she must quote the PNM’s constitution; [Desk thumping] by no mistake, Mr. Vice-President. The “greats” must always be consulted, but let me put this into context.

We are dealing with a situation where the hon. Prime Minister tells us that this country should be satisfied that the right of recall is in order. We are told, ignore the fact that the right of recall avoids what has been enshrined in the Constitution, the supreme law, as secret balloting, have people go forward in an unexplained

length of time being 21 days, have them go forward and certify their names. The hon. Prime Minister tells us in relation to run-offs that the one system of run-off—let me translate it for the population. The system where you can vote for your constituency representative in a general election and say who your alternate would be, that that system should be rejected because the EBC will be behind closed doors coming up with the equation.

Madam Prime Minister, did you bother to reflect upon the fact that the EBC must consider the bona fides of the right of recall? The EBC must count the votes in the right of recall. The EBC must apply the laws that exist in Chap. 2:01 of the elections rules, Mr. Vice-President? How could the Prime Minister say, you cannot trust the EBC on the one hand, but trust the EBC this way?

Sen. Ramlogan SC: She never said that.

Sen. F. Al-Rawi: The AG has said that the Prime Minister never said that. How could it be suggested? How could the implied reference be, “you cannot trust the EBC behind closed doors”. [*Crosstalk*]

Sen. Ramlogan SC: You are being illegitimate in saying that now, man.

Sen. F. Al-Rawi: AG, I need no assistance from you, ever.

Sen. Ramlogan SC: I am not trying to assist you.

Sen. F. Al-Rawi: None, none at all. [*Crosstalk*] So, Mr. Vice-President, I will find the Prime Minister’s words. But the fact is that the suggestion outside there is that the EBC—it would be uncomfortable to have the EBC decide these positions. It does not mind or matter that the EBC is also involved in the municipal corporations’ operationalization for the implementation and the formula for aldermen. And that is a situation where you have the position of the EBC deciding how the remainder votes are counted. Do not mind that, the Government tells us.

But, Mr. Vice-President, the run-off position which we in the PNM say is the sinister element in this Bill, the run-off provision is being dressed between two roses; it is a thorn. I am putting it at its highest; highest in terms of platitude or niceness. The run-off position, for which there was no consultation, says to the people of Trinidad and Tobago that, accept it, because you have the position where “term limit” sounds good. Accept it because you have a right of recall. But, Mr. Vice-President, that run-off provision in our estimation is the recipe for disaster. And I want to address a point frontally right now.

Constitution (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Tuesday, August 26, 2014

The hon. Prime Minister said that we are moving away from a plurality or first-past-the-post system, and that we are instead moving to a system where the majority will happen. Since when in Trinidad and Tobago a first-past-the-post system was not based on majority win? Since when? Since when in any of the 41 constituencies in this country is the first-past-the-post system not done on the basis of the majority winner? Since when, if we are to accept the Prime Minister's standard, why are we discounting the third parties?

The Prime Minister put forward a theory that this could mean her own political suicide, that this is political suicide, some say. She was addressing that point, and in addressing that point, I want to point out to her, this is not suicide, this is infanticide or filicide because what the Prime Minister is doing, what the Government is doing in floating this idea is to comprehensively kill off any form of third party life in this country. [*Crosstalk*] The theories and bases of that, Mr. Vice-President, arise in the Wooding reflection, the report of the Hugh Wooding committee in 1974. They arise in particular in a seminal piece of work by Peter Jamadar called the *Mechanics of Democracy*. In fact, this particular book written in 1989, published in 1989, is almost chapter and verse the recommendations of the constitutional reform commission. In these pieces of work which deal with an analysis of Trinidad and Tobago and its society, it is posited that there is an entrenchment or hardening of divisive lines in our society when we further entrench a first-past-the-post system. The proposal offered is that proportional representation is instead a position.

Now, Mr. Vice-President, the Government says that it is a foregone conclusion that the PNM will not support certain things. I want to tell the hon. Prime Minister that in this Parliament in Trinidad and Tobago, in this Senate of Trinidad and Tobago we have supported 93 per cent of the legislation brought to this Parliament.

Sen. Ramlogan SC: Stay right there and keep supporting.

Sen. F. Al-Rawi: We have done so in the best interest of the people of Trinidad and Tobago. We have amended the Constitution of Trinidad and Tobago in improving its worth by the amendments that included the Integrity Commission, by the amendments that brought about reforms for the police service. We have never shied away from amendment. What we have said is that it is imperative that there be consultation in the process. And the hon. Prime Minister does not seem to want consultation in the population of Trinidad and Tobago [*Crosstalk*] because our estimation—21 is the echo coming across the floor; 21 meetings. What they leave out, Mr. Vice-President—[*Crosstalk*]

Mr. Vice-President: Please, Senators. Please, allow Sen. Al-Rawi to make his contribution, please.

Sen. F. Al-Rawi: What they leave out in that echo of 21—21 consultations when none of them included the addendum or postscript. Not a single one. [*Desk thumping*] So, of what merit is it to say 21? You are admitting—[*Interruption*]

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

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. C. Robinson-Regis*]

Question put and agreed to.

Sen. F. Al-Rawi: Thank you, Mr. Vice-President. Of what merit is it to say 21 consultations, when none of them reflect upon the basis of what this Bill has been based upon? The disaggregation having gone along the tangent of run-off and consultation. The disaggregation which is being brought here now, Mr. Vice-President, is to say that the head can survive without the body. It is saying, bring the recall provisions to the Members of Parliament, even though they are not in similar circumstances because we are going to give you a Constituency Fund. We are saying, automatically right now by way of repetition, that that constitutional fund is something that we will resist stoutly because it is something that is mired, first of all, in a lack of legitimacy. And it is illegitimate from our perspective, Mr. Vice-President, because if you wanted to put that into effect, you should have put it into year one or year two, not in year five after you have spent \$360 billion after your fifth year's budget.

Secondly, Mr. Vice-President, we say that to bring forward a position of run-off where the very provisions of the Bill that deal with run-off have complications. The run-off provisions here suggest that the Parliament will be prorogued, the Parliament will come to the cusp of dissolution because you prorogue Parliament and you call an election. Members continue in their respective capacities until a Parliament is dissolved. The Parliament is dissolved when it first convenes on its next sitting. But inside of this provision inside of here, in section 7 of the Bill, in amending section 67, we include a subsection (4). And that subsection (4) says, where there is an emergency that you will summon the previous Parliament. When you summon that previous Parliament, is that now a dissolution of Parliament? Are we going to the courts of Trinidad and Tobago to argue whether it is a dissolution of Parliament or not? [*Crosstalk*]

Constitution (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Tuesday, August 26, 2014

Mr. Vice-President, in the context of the amendment being proposed to section 67, the question that I am asking is, would this amendment to the Constitution as is proposed, result in a debate over the dissolution of Parliament, and therefore, the proper constitution of how Senators sit, the proper constitution of a Speaker of the Parliament, a proper constitution of a President of the Senate? And Mr. Vice-President, I have heard the hon. Leader of Government Business, Sen. Singh, say 18/18. I want to remind the population, the mischief of an 18/18 or 17/17/2 formula has been dealt with by the EBC, you know. We now have 41 seats. There are no even number of seats. [*Desk thumping*] It is not 36 seats. The fact is that we have a situation where only coalition politics can bring an issue to the table; only coalition politics.

And what this Government is essentially saying, in the run-off proposal, by knocking out every player except the first and second runners, what they are saying to the population of Trinidad and Tobago—as the Wooding report, as the Jamadar literature has produced, as many of the reflections in our society say—they are saying to the population, forget your vote for that party which you choose. Forget your political choice for that party which you choose. It falls into a hardening of the system which includes people asking themselves, “well why did I bother to vote for that third party in the first place”. Is the Prime Minister saying that the days of coalition politics are dead? We believe that the People’s Partnership died a long time ago. [*Crosstalk*] It died when Tobago saw the felling of the TOP into the Buccoo Reef. It died with four elections being held in the days of this sitting today. Chaguanas West lost; St. Joseph, lost; local government elections, lost; [*Desk thumping*] Mr. Vice-President, THA elections lost.

3.30 p.m.

So the mandate that this Government enjoys has been lost, [*Desk thumping*] but what concerns us in the PNM in relation to this is: why would the Government want to perpetuate what we have seen to be an untruth on the people of Trinidad and Tobago? What is the reason? What is the real reason? And in that list of questions, the hon. Prime Minister said some of the people have said that there is no evidence. The *Newsday* said that there was no evidence of how you could—[*Interruption*]

Hon. Persad-Bissessar SC: Steal.

Sen. F. Al-Rawi:—steal an election. Thank you Madam Prime Minister. But, Madam Prime Minister, the *Newsday* cannot look as far back as the—[*Interruption*]—through you, Mr. Vice-President, lest they get discombobulated, flummoxed as Senator—what is his name, said the other day, Sen. Sturge.

So, Mr. Vice-President, how can an election be stolen? Do we remember 25 projects, 10 days, one dazzling performance? Do you remember that? [*Desk thumping*]. Do you remember 25 projects, 10 days, one dazzling performance? Do you remember the hand-outs by state agencies of flood relief, the Friday before the Monday of an election? Do you remember projects going through this country like a “dose of salts”, Mr. Vice-President? The election can certainly be dealt with, but the hon. Prime Minister did not deal with the statistical flurry that the *Newsday* found itself in.

Imagine that the MFO survey which came out, and which was published in the *Newsday* itself, directly contradicts the MORI poll. The MORI polls suggest, and we have heard the Minister of Communications saying, 55 per cent, 54 per cent of people—sorry, the *Newsday*, sometimes Freudian almost, the Freudian slip aside, the *Newsday* said at times, that you have got 54 per cent supporting this measure, but they did not go to the fine print. The fine print says that the combined factor of people who do not know what it is about, who are confused as to what any information speaks to is 77 per cent, [*Desk thumping*] and that therefore, the MORI poll contradicts with the MFO poll, when one poll says close to 80-something per cent of people are against this run-off provision.

Hon. Persad-Bissessar SC: I did not say that.

Sen. F. Al-Rawi: Mr. Vice-President, the fact is that this Government is trying to explain its way out of a circumstance. It is making up the script as it goes along, it is doing exactly as it did in the municipal corporations amendments when they brought aldermen to the table, when the documentation, that was the consultation document, had nothing to deal with it, and this Government is seeking to entrench a system of first past the post diametrically opposed to proportional representation which they espoused as the solution.

It makes no sense to disaggregate the members of the body and to seek to put them back together after this Bill passes. To do so would make a nonsense. To do so would be to create a Frankenstein of a constitution, because if you do not have the passage of the proportional representation elements that they propose with the passage of the simple majority legislation that they propose, you have got an aberration.

And, Mr. Vice-President, many of the political analysts and observers in society have been speaking to what people perceive to be, the potential for civil chaos in this country. And I want to ask the hon. Prime Minister this, through you—

Sen. G. Singh: Who are those political analysts?

Sen. F. Al-Rawi: What do you mean by, do not split the vote? What is the vote? What is the entitlement to the vote? What do you mean by, in reference to Sen. Avinash Singh as a candidate, that we have lost one of our sons?

Hon. Persad-Bissessar SC: Where did I say that?

Sen. F. Al-Rawi: Why is the reference that one of our sons is Chaguanas West—what is that reference intended to mean? Are we not all sons of Trinidad and Tobago? [*Desk thumping*] Are we not all? The Attorney General in looking for his roots believes he is solidly Trinidad and Tobago.

Sen. Ramlogan SC: Tell them about the lineage.

Sen. F. Al-Rawi: Mr. Vice-President—

Sen. Ramlogan SC: Get the scroll, get the scroll.

Sen. F. Al-Rawi: You notice the level of interruptions by my learned colleagues, “eh”?

Mr. Vice-President: Please, please, allow Sen. Al-Rawi.

Sen. F. Al-Rawi: Mr. Vice-President, the old adage of empty vessels making a certain amount of noise comes to mind right now.

Sen. Cudjoe: Seagull, “seagullism”.

Sen. F. Al-Rawi: But, Mr. Vice-President, the fact is this, what are these coded statements intended to procure?

Hon. Senator: What about the Calcutta ship?

Sen. F. Al-Rawi: Yes, that is another unfortunate example. And my reference to these positions, as I am sure you would give me some injury time for the interruptions by the hon. Attorney General and Prime Minister, but, Mr. Vice-President, the coded messages in the society which find themselves erupting from time to time, and in particular by this Government, cause great concern. We did see a 1990 experience. We had a commission of enquiry into it. We saw in 1990 an attempted coup. I want to remind the Independent Senators present today, one member of the Independent Bench voted for the measures to take away benefits to public servants when the NAR was in Government, one Independent Senator.

Sen. Dr. Mahabir: He was the one—

Constitution (Amdt.) Bill, 2014

Tuesday, August 26, 2014

Sen. F. Al-Rawi: Perhaps he was the one, [*Laughter*] perhaps that was the tipping—

Sen. Ramlogan SC: Yeah, blame—an Independent Senator caused the coup.

Sen. F. Al-Rawi: One Independent Senator in 1990's experience—
[*Crosstalk*] Mr. Vice-President, can I have your protection?

Sen. Ramlogan SC: Trying to intimidate the Independent Senators.

Mr. Vice-President: Senators, please, please, please. Senators please, allow Sen. Al-Rawi to really go into it, please. [*Crosstalk*] Senators, please. Thank you.

Sen. F. Al-Rawi: Thank you. Mr. Vice-President, I heard the Prime Minister shout out a second ago, "I never said that".

Hon. Persad-Bissessar SC: Said, what?

Sen. F. Al-Rawi: "What Kamla said", story created June 29, 2013. "During her presentation of Khadijah Ameen as the United National Congress' candidate to contest the upcoming Chaguanas West by-election, Prime Minister Kamla Persad-Bissessar trained her guns on the People's National Movement's (PNM) candidate..." [*Interruption*]

Mr. Vice-President: Sen. Al-Rawi, what is the connection relative to the amendment Bill with that? Please, let us fall in line, please.

Sen. F. Al-Rawi: I will explain the linkage. I am talking to the potential for chaos in the amendment to section 73 of the Constitution as is proposed by this Bill.

"The PNM has chosen one of your children from Felicity to fight against your party. He has made the wrong choice..." [*Desk thumping*]

"I ask you tonight to show him his error and vote against him..." [*Laughter*]

Mr. Vice-President—[*Interruption*]

Mr. Vice-President: Sen. Al-Rawi, I have sat in this Senate with you on diverse occasions and there is a repetition of the said thing over and over which the Standing Order does not allow. You are repeating over one statement all the time, please.

Sen. F. Al-Rawi: Thank you, Mr. Vice-President. So I was saying, the coded messages that come directly out of the UNC, the coded messages that—
[*Interruption*]

Sen. Ramlogan SC: Blame it on Calcutta.

Mr. Vice-President: AG, please, please, allow the Senator to continue—
[*Interruption*]

Sen. G. Singh: Mr. Vice-President, 35(5)—when he made the statement coming out of the UNC—coded messages

Mr. Vice-President: I will not consider that aspect to be—I will allow Sen. Al-Rawi to continue.

“35(5). No Senator shall impute...”

I do not consider that is imputing improper motives based on what he has said. Please, Sen. Al-Rawi.

Sen. F. Al-Rawi: Thank you, Mr. Vice-President. “Oh so testy we are today, Government of Trinidad and Tobago, oh so testy.” [*Desk thumping*] Easily upset and discombobulated they stand. [*Desk thumping*] I do not know why, “methinks they doth protest too much”. [*Desk thumping*] Too much and no less a person than the Leader of Government Business and the hon. Prime Minister, I cannot understand it.

Sen. Ramlogan SC: Hilton Sandy, boy. Calcutta ship.

Sen. F. Al-Rawi: There is a potential inside of this Bill in particular with—
[*Interruption*]

Mr. Vice-President: I am giving you a minute based on—

Sen. F. Al-Rawi: Do I have a minute left, Mr. Vice-President?

Mr. Vice-President: Yes, yes.

Sen. F. Al-Rawi: Thank you. So, Mr. Vice-President, having laid points which will be extrapolated and expanded by my colleagues on this bench, I invite the nation to consider that there is an illegitimacy in this approach, insofar as the Constitution of Trinidad and Tobago is being breached. There should be, at minimum, a three-fifths majority for an abrogation of a section 4 right, the right of political expression and free will. We are saying that the consultation process in the document has been an inveterate and wholesome untruth to the people of Trinidad and Tobago as has come about and has been evidenced by the mouths of the very people that sat on that commission.

We are saying that the run-off provision is something which is designed to entrench hard-nosed first-past-the-post system. We are saying that the first-past-the-post system as an accepted practice acknowledged by our

Constitution means one past the post, not two passes, [*Laughter*] and that the method that the Government seeks to implement now is to abrogate the constitutional requirements.

We are saying that there has been no proper consultation on this Bill. We are saying that the Government is flipping and flopping. It is diametrically opposed to its own theories espoused in relation to proportional representation, particularly as evidenced in the Municipal Corporations Bill when we were told “wait for it to come”, and we are warning the nation that the bomb that the Prime Minister has slipped in and not yet defused, that that bomb of the Constituency Fund can be manipulated to no end, à la LifeSport, and that we recommend that the people of Trinidad and Tobago treat with them very, very carefully lest we all be deceived.

Sen. Ahmed: Mr. Vice-President, 37(1). [*Crosstalk*]

Mr. Vice-President: Sen. Drayton.

Sen. Helen Drayton: Thank you, Mr. Vice-President. [*Desk thumping*] Let me open by saying on behalf of the Independent Bench, I heartily welcome back the hon. Prime Minister to the Senate. [*Desk thumping*] Welcome. I do hope you find our contributions stimulating and worthy of consideration and also deep reflection. And I must say that after our excellent experience in the Senate last Wednesday, I wonder if Sen. Ramlogan is hearing this, at the committee stage of the Miscellaneous Provisions Bill, it is my hope that the wisdom, the inclusiveness, the non-defensiveness and the common sense of Sen. Larry Howai prevail today. Now, I know the important amendments would have been achieved with the concurrence of the hon. Prime Minister. So what I want to say then is that I wish the Senate was your place instead of the other place, and if you want to switch, well, you could always, Sen. Ramlogan—[*Laughter*]

Now, before I get into my contribution I want to commend the citizens of this country for their sterling involvement in the debate of this constitutional reform Bill. I have never witnessed so much passion, so much fervour of citizens in the affairs of the country. [*Desk thumping*] I think that is encouraging because it is what democracy is about and it certainly is civic-minded. I think this augurs well for our country’s future, whether persons support this Bill or not. I think that is secondary to the expressions of love for the country and I think that is a testimony that we can be dynamic, progressive, peaceful and an exemplary people.

Now, as we debate this Bill, this very minute there are people who are being brutally slaughtered because of their religion, ethnicity and political beliefs. And I think it is important that we reflect on that state of affairs in many parts of the world, if only to appreciate how precious the freedoms enshrined in our Constitution are and how sacred the Constitution is.

Constitution (Amdt.) Bill, 2014
[SEN. DRAYTON]

Tuesday, August 26, 2014

3.45 p.m.

In that regard, I want to first commend all the citizens who made the time and effort to participate in the constitutional reform consultations. [*Desk thumping*] I also want to commend the Government for its efforts to make good on its promises of recall of MPs by their constituencies and the two terms for Prime Ministers. [*Desk thumping*] I would also commend you for all your achievements to date and I certainly commend the Prime Minister for her calm and steadfastness under fire. [*Desk thumping*] There will be some more fire. [*Laughter*]

Now time is of essence so I will get into the statements at hand—the matters at hand. My approach to this Bill is to deal really more with principle and substance. I do not intend to dwell too much on the form. The form is really the details in the Bill, and I think once the process and once the substance—once that is sound, then there can always be negotiation and compromise where necessary, to get the Bill in shape.

Let me add that I am a believer in change, and that change must be progressive and it must build upon the strong foundations of democracy. It is therefore necessary to say a few words on change, the nature of change the process of change and the dangers when the principle and process of change become compromised.

It is said that change is a process of moving along pathways, it is building blocks to get to a different state. It is moving away from the status quo. Implicitly, there is a goal to be reached, maintained, enhanced, as new developments occur. So, in a sense, it is a continuum, and like the Constitution, which essentially is a work in progress, the process of change requires clear articulation to stakeholders as to why change is necessary, the contextual nature of change and examining various options before decisions are made.

Now, once an option is chosen, it might not be the best option, but it should be efficient; it should serve the broad common good and not narrow interests. The process defines a clear map to get there because people feel insecure when they are left in the dark. Change can be unsettling. I have heard it said that objectors to the proposal of the run-off election do not really want change. That is not true. They want change. I have also heard it said that they are politically motivated, and I think that view of citizens' expressions of concern is unfortunate, given the importance of the process of change, I have just mentioned. I think, intuitively, there is a perception that fundamental principles have been compromised. [*Desk thumping*]

Now, regrettably, the process has undermined the argument about the quest for deepening democracy and giving power to the people, by not giving citizens the opportunity to review and understand the pros and cons of the electoral process. The very heart of the democratic process is for MPs to engage their constituencies on important matters, but the elected representatives of the people were deprived of that opportunity, given the short time frame this Bill was brought to the House.

There was no consultation specifically on the run-off. The public knew nothing about that significant change prior to August 04. Now, I am not saying for one moment, or contending for one moment, that a government must come to the people with every single policy and seek consensus, otherwise you will get nothing done. What I am saying is that if it is an important change that goes to the very heart of the democratic process, then some consultation is necessary and, therefore, what has happened, it has gone against the grain of people's expressed reason why they want electoral change, which is a fairer system. They want a change from the majoritarian, winner-take-all system, as expressed in every single consultation that citizens were invited to on the Constitution.

Now, if democracy were only about taking three minutes to dip your finger—Sen. Ramlogan—to elect a representative, then the principle and the process do not matter at all. There is no need for Government to ever consult and inform citizens. But that is called tyranny by the majority. [*Desk thumping*]

It is true these changes may not require a special majority, but all laws, including the highest law in the land which is the Constitution, are based on a set of moral principles that is the foundation of all law, and while the Constitution did not specifically talk about voting, given the specificity about the first past the post, it implies voting, and embedded in the fundamental right is freedom of expression, and we express which candidate we want to vote for in the first-past-the-post system by the act of voting.

So there is a fundamental principle established in law, which is the intent and the spirit of the law, and the Constitution is our highest law. [*Desk thumping*] The framers of our Constitution would have known that at some point in time we would want to change the very axis upon which our electoral system is based. However, whilst they did not expressly provide for a constitutional majority, I would find it hard to believe that they intended that such a significant change will be made to the electoral system without due consultation on the specific change with the people. [*Desk thumping*] It was not in the CRC meetings' report. I have scanned every single newspaper clipping on reports of those meetings. It was not

Constitution (Amdt.) Bill, 2014
[SEN. DRAYTON]

Tuesday, August 26, 2014

discussed. I do not think it is the way to treat the Constitution. I do not think it is the way to treat the citizens, more so when I think the Prime Minister is genuine about deepening democracy. I think the Government is genuine about that.

Let us deal with the recall. The provision in this Bill is to give the constituency the right to recall an MP if the person is not performing. I do not think recall is dependent on a run-off electoral system, not how it is shaped in this Bill, as a mechanism for recall. You see, that, actually, I think, but intentionally, creates the impression that consultation was not necessary on the run-off since there was consultation and acceptance of recall, and the run-off is only a means of effecting the recall. But I would have an issue with that. Our society is, by nature, a suspicious one. Good intentions can easily be misinterpreted, but I think the public is intelligent. There is no reason to link recall to the run-off system if there is a sufficiently high threshold of the percentage of registered voters needed for the recall to succeed.

The threshold for recall in this Bill is not based on the number of votes an elected MP received; it is based on two-thirds of the registered voters. That is a very high threshold. The number of registered voters in constituencies, I think the minimum would be 25,000. It goes pretty close to 30,000. So this is sufficient to mitigate any real or perceived vulnerability of MPs who got the most votes cast at the national election, but not more than 50.1. I say 50.1 because this Bill specifically says the candidate must receive more than 50 per cent, and I will drill that down in a while.

In most of our elections, candidates usually receive more than 50 per cent. Others usually receive between 45, 47 and 50 per cent, and I want to put that in context in a short while. The strength of recall is that it should encourage MPs to conscientiously pursue the needs of their constituencies. The downside is dysfunctional politics, more so in marginal constituencies. Because the election race is keenly contested in those areas, it may prove quite a challenge for mischievous detractors to get two-thirds of the registered voters to remove an MP for frivolous reasons in a marginal community where the race was so aggressive and keen.

But regarding the time frame for recall, constituency members, I think, would know within 18 months to two years whether their MP—whether they have seen them at all within that time, whether they are performing. So to have to wait until the third year, then to get two-thirds of registered voters, which will be about 17,000 on average, and then for the Elections and Boundaries Commission to have to verify, validate every single signature, it will be a challenge. It is possible, but it is going to be a challenge. What has happened, it is going to be very dysfunctional.

Hon. Senator: And expensive.

Sen. H. Drayton: Now, what concerns me about the Bill is that it ignores the basic principles of fairness. MPs must be entitled to some form of due process. I am not saying for one minute [*Desk thumping*] if 10,000 people put up their hands and come to Parliament, or go to the Prime Minister's office, or go to the Leader of the Opposition's office and say, "Get rid of him or her"—I am not saying that at all. But if only to ensure political mischief is not at hand therefore, it is absolutely necessary that Parliament have a role in giving the MP a hearing through the bipartisan privileges committee once the initial step is taken for recall.

So while I fully support the principle of recall, unless there is an amendment to this clause, it will be hard for me to support something that is not fair, that denies a person what is a basic right, I think, to some due process. It is for this reason I agree with the high thresholds. I have heard commentators say that the two-thirds is too high. In fact, I think it is necessary because of the divisiveness in our society.

Now, it is necessary to make a few observations about the role of MPs. Their major responsibility is to represent the people at his or her constituency, and in the Legislature, and sit on parliamentary committees; that is a full-time job. There are also Ministers with substantial ministerial responsibilities, Cabinet responsibilities and other Government responsibilities. That is another full-time job. Then, of course, they have the responsibilities with respect to their political parties.

So by and large, that is why there is a problem with MPs' performance and we have to face that reality. The system is punishing as it is, and it is difficult for any normal human being to perform all these multiple roles with any degree of success, more so to have to walk an entire constituency where there are 25,000 people. Just imagine if even you had to hear just 100 of them. That is why there has to be some measure of due process. [*Desk thumping*]

Let me deal with the run-off system. The Bill seeks to ensure that the will of the majority of the electorate is expressed by candidates getting more than 50 per cent of the vote. Now would the run-off election deepen democracy? I have already indicated that a high threshold of registered voters is needed for recall to be successful. By and large, it is insurance against mischief. But even if recall is dependent on a run-off for persons to get more than 50 per cent of the votes cast to be elected, I ask my question: If we want to deepen the process, if we want to have citizens involved in their major institution, why is there really a need to rush

Constitution (Amdt.) Bill, 2014
[SEN. DRAYTON]

Tuesday, August 26, 2014

the Bill without proper consultation [*Desk thumping*] on the value and merits? You see, if this Bill is approved now and it becomes law, the earliest the recall could be triggered is in 2018. If it is implemented next year, the earliest is 2019. So I believe we have some time to look at this provision, and people want change, and they want change to come soon. It is not that they do not want change.

Now, if it is a precursor to PR as some people have alluded, then we have no such Bill before us. It could be brought with that Bill. But given the threshold of 50 per cent for a candidate to be elected, that will be totally inconsistent with any reasonable threshold or votes of a minority party would have to achieve to get a seat under PR, it is not possible. [*Interruption*] They will not, that is for sure, which is okay.

Therefore the message I get is that the Government will not introduce PR in the House of Representatives. I have no problem with that, incidentally, and I will say why later on. In most democracies, the majoritarian system is usually the preferred option for representation of the people—in most of our democracies. And whilst I tend to agree with that, I think in our case, given what the people's aspirations are, some tweaking could be looked at.

So this 50 per cent run-off could have very little to do, or nothing to do with PR, that is for sure. I do not think it is necessary for recall, and I have explained why. So why do countries implement run-offs? And we will talk about those countries in a while. Yes, they want to get a majority. Just bear in mind a lot of these countries have multiple parties, multiple interest groups, and when you look at where the vast majority of countries with this run-off, it is like the Central Congo, it is around the Middle East. All these are unsettled democracies in a constant state of strife [*Desk thumping*] with the exception of France, and France has a history.

4.00 p.m.

Sen. Ramlogan SC: America.

Sen. H. Drayton: I will come to America in a while because that is not so. I will come to it.

So why? Well, one of the things about this run-off is that in the second run it eliminates vote splitting. Ah, that is the Trojan horse. In the run-off it eliminates vote splitting. It is therefore friendly to coalitions. It refines the first-past-the-post system, thus reinforcing the winner-take-all system.

In our context, the run-off is not designed to deepen democracy, but will deepen the principle of winner-take-all and I think the review committee, they knew this and as just said, an MP has little time to consult with their constituencies

on policies that would affect them in the fundamental and significant ways—like this run-off; MP on constituency consultation is how democracy is supposed to work. That is how democracy is deepened. That is how you get people's participation from the ground up through their elected representatives; that is whether they get 45 or 50 per cent of the votes cast as long as they get most of the votes cast in a highly competitive election and fair election.

So power to the people sounds laudable, it is populist, but there can be no guarantee that the majority of the electorate would have expressed their will in a second round. It could be a minority minus a minority, and in our culture with the increasing number of voices saying none of the above—you read them in the papers every day. Put a ballot paper that says, "Put none of the above on the ballot paper". The second round could be and is likely to be a minority vote. So what happens elsewhere is not necessarily applicable here, and contrary to what I have heard commentators say that more people vote in the second round in other countries, oh, they do that with presidential elections. That is one race, and when you are dealing with the leader of a country, it is absolutely necessary to have a clear majority. There is no question about that [*Desk thumping*] and that is why it is used for presidential elections.

In 1981, Sham Mohammed of the PNM, St. Joseph, obtained 49.83 per cent of the votes cast. This is about .18 below the threshold specified in this Bill. So in the least, he would have had to achieve 50.1 per cent because we said it must be more than 50 per cent. Emanuel Hosein, Naparima, received 49.6; Amoy Mohammed of the PNM, 84.4 in Princes Town. Now all these candidates received most of the votes that were cast. None of them received over 50 per cent in a highly competitive and fair election, and they were legitimate representatives of the people. [*Desk thumping*]

The question is this: would their status as representatives of the people in their constituencies be less legitimate if Mohammed had received .17 more of the vote? Now that would have been equivalent to 150 more people and I will drill down further. I would caution that if in the 2015 election a candidate with a percentage just shy of 50.1 had to rerun, and in the second run someone else won with 51 per cent and that 51 per cent was 51 per cent of a smaller number of people who had voted in the first round.

Yes, run-offs have led to deepening divisiveness, violence and civil unrest in some countries. In 1981, with the ONR we would have had to go through 10 rounds of run-offs, and given their fervent quest for change and their demoralization after not getting a seat although they had the popular vote and

Constitution (Amdt.) Bill, 2014
[SEN. DRAYTON]

Tuesday, August 26, 2014

given the fact that the outcome was already known, I do not know how many people would have gone back there and voted. However, in some system of plurality they would have gotten seats, but let us examine the usefulness of run-off in our context. Last week, my colleague here, Sen. Dr. Balgobin, used a nice word and he put it in the context of stupidity.

Now, considering that run-offs would occur in mostly marginal constituencies, in the 1995 election, in the marginal constituency of Tunapuna, Edward Hart had 7,467 votes or 49.40; Hector McClean, 7,223 or 47.78; the other candidates: Theodore Charles had 2.34; Nathaniel Pierre .47; John Singh, .10. Now Hart and McClean ran a very close race. There was just 1.62 points between them. So let us say there was a run-off and let us assume that all the people who voted went back and voted for one of the candidates, one of them would have only gotten 426 more votes because that was all that was left. If we want to assume other people might have gone and voted when it was a hotly contested election, then we could make those assumptions, but that is speculation.

It has also been expressed by one commentator that if the system had included a run-off back then, the knowledge would have influenced how the electorate voted. Well, Mr. Vice-President, I talked about the process of change. Why should we change the Constitution based on speculative hindsight? [*Desk thumping*] Does having to vote twice and for parties you did not want in the first place deepen participatory democracy? While it is reasonable to assume some votes would shift to the final contenders, it is equally reasonable to assume that many will not bother to do so again if the national results are known.

Now certainly someone will say, “Well okay, Sen. Drayton, what is so wrong if we want a system where the people’s will is expressed by more than 50 per cent?” It sounds laudable, but we have to put that in context. I said the run-off is intended in this Bill to refine and reinforce the first-past-the-post with a winner-take-all system, and that is in direct contradiction to the plurality system, direct contradiction to the aspirations of the people. I think when we talk we have to put it in the context of the aspirations of the people. I am not saying I necessarily agree with all that they want.

So that in our constitutional democracy citizens do not directly elect a Government. We do not elect a Government. We elect individuals to represent constituencies. These individuals get a seat in Parliament and whoever controls the majority of seats forms the Government, and by extension, the Opposition. So where the more than 50 per cent majority counts is in Parliament so that the Government can govern. An MP does not govern his constituency. An MP

represents all the people in the community [*Desk thumping*] whether he got 10 per cent of the votes or whether he got 100 per cent of the votes, and he would always be a minority representative of the people because all registered voters do not vote.

Let me give you the statistics if you want to base it on the EBC's statistics. Assuming a person got 50 per cent of the votes that would be tantamount to about 35 per cent of electorate, and in UK anywhere there is a first-past-the-post system it is the same. The fact that you did not get 50 per cent of the vote, the democracy under which we operate says you had a keenly contested election and you got most of the votes. Now, if we want to set some hurdle that is okay, but I have just given the example of Sham Mohammed. Would you have run him off again for 17 to get to 50? Well, why waste money? Why waste time?

Hon. Senator: Mervyn Assam got—[*Inaudible*]

Sen. H. Drayton: Whatever it is. You could count any statistics, but the fact is a representative will also be a minority representative of all the people he is supposed to represent. [*Desk thumping*] So the answer to the question about the desirability and laudability of 50 per cent of the vote, it is a moot point. It is not necessary. Some countries have opted for the run-off system for their presidential elections; I said that is where it is necessary.

Citizens in this country have two fundamental issues: how do we create a fairer system and one that is more inclusive; does the run-off system do this? It cannot. It is not designed to do that. I know mention was made of the 18/18 tie, but that will never happen again here because we have 41 constituencies.

Sen. Ramlogan SC: If you have 20/20, one is going to run off.

Sen. H. Drayton: Well however you want to put it, but statistically a run-off would not necessarily break a tie. Now, how about the argument that it is a fairer system? It is not. Significantly, the run-off is a discriminatory process against minority parties unless [*Desk thumping*] that party is in a coalition. It deprives citizens of the right to a second vote simply because they made up their minds they did not want any in the first place. Now sure, but somebody will say, "Well, in the system right now you still do not want any". So what is the difference? There is a difference. There is a difference if I choose not to exercise an option to vote, but the law denies me the right to do it. There is a vast distinction and I have a fundamental problem with that.

What I said, I will make the distinction. If I choose not to vote, if I exercise that option so be it, but the law should not deny me the right to vote if I so choose to vote a second time. [*Desk thumping*] It does because once the party I vote for is eliminated, I do not want any more.

Sen. Ramlogan SC: Well, just do not vote.

Sen. H. Drayton: Well, that is easy to say. Okay, that sounds like the common entrance kind of thing, “Doh bother to vote”. That is so, but we are talking about a very important exercise of democracy [*Desk thumping*] and we are talking democracy is participatory. Democracy is not supposed to be exclusive.

Now, none of the literature I have read on different electoral systems suggest that a run-off is a fairer option. Not one. None of the countries using run-offs have the same population dynamics as we do, and none of them run off strictly in the manner as outlined in the Bill except where there are presidential elections. Further, countries using the run-off for parliamentary seats use other criteria as a minimum threshold for the second run-off to be valid. An example, more than 25 per cent of the electorate must participate in the case of Belarus. In one other country like France, and Franco-African countries, there is a threshold of votes candidates must achieve to stay in the second round. So they do not eliminate all, and in some instances it is as low as 12.5 per cent.

In Australia, voting is compulsory. So that throws a different light on the dynamics. Most of the countries that used to do so to elect Presidents include Kenya; otherwise they are around the Middle East as I said, none of them are settled democracies. Other countries use it as part of a hybrid system tailored to their demographics. South Africa uses proportional representation. The United States uses first past the post. [*Desk thumping*] This is a map of electorate system. [*Senator displays map*] However, in nine southern states they use a run-off linked with a ranked-choice voting system. It is not the same.

Now, is the run-off good for any purpose? Yes, inherently it is not bad. When there is a tie at the constituency level you will need a run-off and, of course, the major thing for run-off, it avoids splitting votes. So it favours parties in a coalition. Does it give third parties a chance?—the argument that a party with 20 to 30 per cent of constituency votes or the overall popular votes stands a chance with the run-off system or the first-past-the-post system. Remember, the run-off system is merely a refinement of the first-past-the-post system. That could be contentious.

However, in a system of proportional representation it is not speculation. The argument that in the first-past-the-post system, the third parties are eliminated anyway, I want to put that in context and I want to put that in the context of progress. The result of every commission with the people over the past 40 years revealed some form of PR. So they want progress from the winner-take-all. So do not tell me that the third parties are eliminated anyway. That does not make sense if we are talking progress and the people want progress, not regress.

4.15 p.m.

The Constitution must be viewed as a work-in-progress to capture the realities of the present, the future needs, the aspirations of the people. A run-off election is a subsidiary to the first past the post. It cannot stand on its own integrity. You cannot have a run-off unless you have a first-past-the-post system. So, in a sense, it is a retrograde step for us. It is what we have right now.

Now, the Chairman of the Constitution Reform Commission, who is also the leader of the political party and Minister of Legal Affairs, said it was a poor substitute for PR. Now, that irked me, that got me, because you have spent two years, you have spent my money, all these people who were out there giving of their views, their goodwill, and then you turn around and say that they must now accept a poor substitute. You know, all I could say there, if there was ever a reason for recall—I will stop there. [*Laughter*]

Now, why would the leadership of any political party want to subject the electorate to an inferior system when their aspiration is for a progressive one? No wise leader settles for poor substitutes to systems necessary for maintaining the integrity and good functioning on the pillars of our democracy, unless it serves a narrow interest. That is why I earlier spoke about process and principle. If the principle is bad, everything that flows therefrom is compromised. When the truth is not told, when leaders do not level with the people, intuitively the people sense something is odd. On principle, the leader of a political party and a Member of a Cabinet should never have chaired such a meeting. [*Desk thumping*] That was wrong.

We are dealing with the very instrument that underpins the democratic machinery of the State, which is election by the people and for the people. An election is a people activity, an election is not a government activity. An election is not the Constitution commission or committee activity. That is why any change must be people-centred. The problem is how we are governed by whichever government and the performance of MPs who have no time to consult with the people who elected them. That is the problem. Using a hypothetical situation, we could see why a minority party would forever be self-beholden—with itself be beholden—to a big brother party, never evolving to what it can become in its own right. It maintains a secondary status; it is an appendage, forever waffling on decisions, never taking an independent stand and thus undermining its own principles. I do not think we need to talk about examples.

If it is in a coalition or partnership agreement and it has to run off against an opponent, it is reasonable to assume its partners would encourage its supporters to cast votes in their favour, and that is why the political leader should never have

Constitution (Amdt.) Bill, 2014
[SEN. DRAYTON]

Tuesday, August 26, 2014

chaired that meeting [*Desk thumping*] and put a spin to an addendum to a document that was not discussed with the people. The process and the principle have been breached. It has brought the system into disrepute. [*Desk thumping*] So I do not think that run-off elections favour independence of third parties.

Quickly on race and divisiveness, it has been argued that the run-off would attract tribal voting, and race would play a major role thus deepening divisions in society. In that regard, if we examine population statistics and voting patterns, the group of people called “non-party aligned”, they are growing, they are independent, they are called, what the Americans term, “swing voters” and are increasingly making a difference to election outcomes.

Then, there is what you call the mixed race population which, according to the CSO statistics, is the fastest growing group averaging about 25 per cent upwards with the highest mixed population in Arima of about 60 per cent; Port of Spain, Diego Martin and Sangre Grande about 34 per cent. This does not mean that race will not be a factor, it is now. But certainly, it is reasonable to argue that a run-off would not improve the situation. However, I think citizens are maturing and they want to leave such contretemps behind. That is why I fear we do not want to have systems that hark us back to the past and hark us back to the dysfunction that we have now.

In summarizing the run-off, what are the advantages? It gives voters a second chance to reconsider the candidates with the most votes, people do change their minds; it encourages dialogue between the electorate and parties trying to persuade them, between monolithic parties and minority parties; it eliminates vote splitting, it is friendly in the polls to coalitions and partners. What are the disadvantages? It does not split votes but it does split hairs and angers people; it does not guarantee more votes in the second round and the result could be a minority vote; it reinforces the majoritarian system of winner takes all; it benefits large parties with the most votes in constituencies; contrariwise, it eliminates parties with the popular vote if that party is not involved in a coalition; it thus reinforces maximum control of the party and, by extension, control of the Executive over Parliament. [*Desk thumping*]

It fractures third parties or third parties remain dependent on large parties for share voice in decision-making. It could be divisive depending on the ethnic demographics of constituencies, especially those with a culture of voting based on race; it is unwieldy, it could be disruptive, it is expensive; it is also a Trojan Horse.

Now, the two-term Prime Minister, let us look at that quickly. I have no problem with that in principle. I think the whole idea of succession planning, I think those are laudable motives, but I think the real problem is the lack of vision and change management within political parties. I think any fossilization within our system, you will find a lot of that in a political party system. Therein lies the problem. In the first instance, in most developed and enlightened democracies, when a political party loses an election, the political leader graciously steps down. Candidates losing elections are forced back in some other form or fashion.

So, in effect, what we are asked to do is to make a law to force change at the party level. The country does not elect a Prime Minister. A Prime Minister is a person who is the leader of a political party and who subsequently may become Prime Minister if the party controls the most seats in Parliament. But I do not buy the argument that fossilization or autocracy or incompetence has anything to do with serving beyond two years. That could happen to somebody, I think, as soon as the power hits their head. [*Laughter*]

I believe if the electorate does not want a person anymore, they would vote them out. [*Desk thumping*] I think that is what we are doing. But I would support the two terms for the Prime Minister. It is what the people want but this Bill does not say two terms because a term—it says 10 years, and a term could be anywhere between one month and five years depending on when election is called or any major development. So, technically, if a Prime Minister made a good calculation, feels the pulse of the population, after two years, he calls an election, he wins, he goes back in for three terms; he calls an election again—it is open to some, you know. So—[*Crosstalk*]

Hon. Persad-Bissessar SC: It is cumulative, consecutive otherwise, one system.

Sen. H. Drayton: Yes, one system, okay. But this does not say two terms, it says 10 years and that is my problem. But it is not a big thing for me, that is not a big thing, I could easily give way to that.

Now, I just want to close by saying that changes should be progressive. Change should enhance governance at the constituency level, should create inclusiveness and advance democracy, and I think after all the years of wanting constitutional change and after all the consultations, I think it is sad that we are asked to accept what is a “poor substitute”, the words of the Cabinet Member, the Minister of Legal Affairs, and I think anyone would acknowledge it is certainly a poor substitute for any sort of plurality.

Constitution (Amdt.) Bill, 2014
[SEN. DRAYTON]

Tuesday, August 26, 2014

In speaking about proportional representation, let me hasten to caution, we only have to look at Suriname and Guyana to know that if we choose a wrong model, it would make the system more dysfunctional, it would frustrate governance. [*Desk thumping*] There are two major problems with PR: it results in quasi-coalitions to pass legislation including aggressive horse-trading, involving hard bargaining, compromising principles, often there are unscrupulous tactics involving secrecy deals, bribery. We already have a culture of corruption so I will be careful. I will be careful with proportional representation in the House of Representatives. I am not saying it cannot be tweaked but I cannot say right now I would lean towards a proportional system per se in the Lower House.

Now, but I would also have to say it is the Government's position because by virtue of the fact that the Government has put a threshold of 50 per cent, that suggests to me that the Government has agreed that proportional representation is not, you know, necessarily a great thing for the House of Representatives. I am just saying that.

Now, I advocate the need for a fairer system. I recommend—I feel we could look at a hybrid system with respect to the Senate. I think there is need to separate Cabinet responsibilities from constituency responsibilities, especially in the light of recall. And based on the very run-off proposal, I would want to say to the hon. Prime Minister, through you, Mr. Vice-President, I want to urge the Government not to ignore the goodwill and integrity of the people. [*Desk thumping*] As I said, if even you cannot recall anybody now, you cannot recall anybody until 2018, I am not saying let us—we have an abundance of information from all these constitutional reform committees. The tens and thousands of people who have participated in constitutional reform consultations and expressed their aspirations are 10 times more than the 500 people the Government polled on a quirky research published on Sunday. So let us not throw that in there, please. To start with, I could only say it does not look good and if you do not want to believe me, check with the people out there. [*Desk thumping*]

Now, the people did not have an opportunity to consider a run-off option. In principle, the run-off system is contrary to the aspirations of the people. I close by quoting the Constitution preamble:

“Whereas the People of Trinidad and Tobago-

- (c) have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of...national life and thus develop and maintain due respect for lawfully constituted authority;”

The people want to play a part in institutions of national life, and hon. Prime Minister, you have shown your willingness on other occasions to listen to the voices of the people, you have also shown compassion for those who are hurting. People want change but change must come in a way where the process and principles are not in disrepute. Let us adhere to the words—[*Interruption*]

Mr. Vice-President: Hon. Members, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. R. Balgobin*]

Question put and agreed to.

Sen. H. Drayton: So just a few words. I said people want change and change must come. We have got to leave the past behind but we want to treasure those good things of the past and when we change, we want to build upon the things that are good. I want us to embrace people, yes, to play that part in the national life. Let us subordinate political self-interest to the common good; let us be inspired by other words of the Constitution to:

“(b) respect the principles of social justice and...”—advance—“on the basis of recognition of merit, ability and integrity;”

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

Mr. Vice-President: Hon. Senators, the time is 4.28 p.m., you could say 4.29 p.m., I intend to take the tea break and to return at 5.30 p.m. [*Crosstalk*] It is too long to go for 5.30 p.m.? Okay, I will give to the wishes of the House, so therefore, we will return at 5.00 p.m. The sitting now stands suspended until 5.00 p.m.

4.29 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. Vice-President: Dr. Tewarie.

The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie): Thank you very much, Mr. Vice-President. I wonder how many Members in this honourable House are aware that the 1962 Constitution would have been pushed through the House in August 1962, on what would have been yesterday, August 25, and then finalized on August 26, just five days before independence in 1962. I think it is something worthy of reflection as we continue this debate on a Bill to amend the Constitution of the Republic of Trinidad and Tobago, which is now before this honourable House.

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

I listened to the hon. Prime Minister, and I want to take the opportunity to welcome her to this honourable House. [*Desk thumping*] I think she did the honourable Senate a great service by coming here and presenting her case as the pilot of the Bill. When she spoke, she spoke of power in the hands of the people and making the shift from not just the politician, but to the people. She made the point that this was not just a matter of political survival, as a matter of fact she argued that she was actively prepared to take the risks involved because she believed in the people and that they were the ultimate decision-makers and final arbiters of everything. But she said we had made commitments and we had made promises, and we had kept many and she referred to some of them and she said that these are some of the remaining promises having to do with Constitution reform that we would now like to pass in this honourable House.

But after her presentation I got a little confused as Sen. Al-Rawi started to speak, and when Sen. Drayton got up to speak I listened intently, at first, to become perhaps more alert to some of her issues and arguments, and I must say that between the two of them, Sen. Al-Rawi on the one hand and Sen. Drayton on the other, I really was quite confounded because Sen. Drayton ended her contribution by saying that we have got to move away from the past, but we want to save the things of the past that are valuable. But nothing she said in her contribution indicated to us, really, that she was prepared to see any movement into the future.

And Sen. Faris Al-Rawi repeated a speech that those of us in this honourable House would have heard in this Senate on countless occasions. He made minor modifications for further sensationalism and, of course, he was full of performance since the hon. Prime Minister was here. [*Desk thumping*] But all he succeeded in doing was bringing the House to laughter and really presenting himself not just as alarmist but very much, in my view, a clown. [*Desk thumping*]

So what did they—

Sen. Cudjoe: 35(5), Mr. Vice-President, 35(5).

Sen. The Hon. Dr. B. Tewarie: It is unparliamentary to say “clown”?

Mr. Vice-President: Yes, I think it is, I think you should withdraw the word “clown” referring directly to the Member.

Sen. The Hon. Dr. B. Tewarie: I withdraw the remark. Would “jester” be appropriate, hon. Vice-President?

So what did he talk about? I would not go into any detail because it is not really worth responding to, all right? His key points were about the nature of the postscript and where it should be, the addendum to the report; whether or not a

simple majority applied. He talked over and over again about the lack of consultation. He refuted any idea of a potential Constituency Fund. He talked about these amendments bringing an end to coalition politics and how dangerous it was to small parties, and then he descended even further than I expected by trying to extract from a statement made by the hon. Prime Minister, that one of the sons of Chaguanas West—and I suspect that the hon. Member Sen. Singh is, in fact, a son of Chaguanas West—trying to extract out of that some kind of statement, again, that would be alarmist, but in logical sequence makes no sense, unless it comes from a jaundiced mind.

So then he went on to talk about the chaos that would happen, and he even threatened the Independent Bench by saying that it was an Independent Senator who voted for a matter which came before the Senate that may well have triggered the attempted coup of 1990.

So you would pardon me, Mr. Vice-President, if I tell you that when he was finished I was very confused and I did not know what he was talking about and I had no idea why he would raise these issues in the way that he did and that it really made no sense in the context of the debate.

But I do want to say a few things in relation to him and some of the issues that he raised. I mean, the issue of the simple majority I want to ask him: did not the Chairman of the EBC, Dr. Norbert Masson, give his own sense of clarity on this matter, and did not Senior Counsel Martin Daly express his view on this? And if I am not mistaken, did not Mr. Kenneth Lalla who has served in various capacities in this country also express a view? Not to mention others but I would mention those. And, also, the former Chief Justice, Michael de la Bastide, I think he made his own pronouncement on this matter.

And, you know, as he fished around, the hon. Member Sen. Al-Rawi, talking about various things, I could not help but think that perhaps he was a man with a contrived theory of how Government, our Government, was operating, looking for a point of perceived vulnerability on which to hang his theory, but he never did and, as usual, as I said, he kept repeating the speech that he has given here on countless occasions, and I do not think the nation listening would have been any wiser for anything that he would have said. [*Desk thumping*]

Sen. Drayton, in her contribution—and I thought that her approach, certainly, was one of subdued tones, and I thought conciliatory in her contribution. But when I looked at the substance of it, she accused the Government of

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

compromising both principle and process. And I have a problem with that when I—and I will address some of the issues relating to the issue of principle and process, and I really do not think any principles have been compromised.

Many people have said that we should have had more consultation on one particular clause in the Bill having to do with the majority provisions for Members of Parliament which would require a run-off; that is true. And except for that issue, I do not see how it can be claimed that consultation and due process were not followed in the preparation of the matters contained in this particular Bill before the House.

She made many arguments saying that run-off will reinforce winner takes all, with which I do not agree, but which I do not want to argue here because I do not want the substance of my contribution to be about these things, and she did say that we should not worry too much about the small things, but we should look at the bigger-picture issues. And that they will result in less votes in the second round, that run-off favours a coalition, and so on, and many of these things I think you can have a different point of view on and argue the case very strongly. But I would not say anything about that.

But what I do want to say though, since the argument was about things like this, if a certain proposal or a certain constitutional framework favours coalition politics, does that basically not tell you that the first choice about coalition politics would have to come from the people themselves? And that when you see the proliferation of coalition politics in the world today and when you see the coalition nature of the governance process that is emerging in almost every country in the world, is that not a source of wisdom that must advise you to take into account the fact that the world is changing, that the way, the methods of governance require different requirements, and that one must take that into account if you are to think about the future, rather than the past? [*Desk thumping*]

She said that she did not favour the proportional representation system for elected Members of the House. There was a recommendation in the first report based on the 17 consultations for proportional representation and, yes, it is true that in looking at the question of how to make the electoral system fairer in the constituencies, the choice of the run-off provision was made to get majority vote in the constituency, because it was felt strategically that the proportional representation system provision would not be able to be passed in the House and in the Senate with less than a two-thirds majority.

Those things are, in fact, true, they come out, they are derived out of the documents that we have. But I want to say that that does not mean there is no direct contradiction, and I want to say that, because this is either falsely presented

or not clearly articulated so people understand that there is no direct contradiction between a system that calls for majority representation in the constituencies by the person who wins and a proportional representation system, especially in a context in which the potential is for two separate votes. Because there is nothing that prevents the first vote from being in the form or deriving from the principle of proportional representation and then informing the selection of Senators, and then you have the run-off which determines the issue in the constituency. So that there is no necessary direct conflict between these two.

But I want to say, as the hon. Prime Minister indicated in her own presentation, that the constitutional process has been long and hard in this country. And it is necessarily so because we came from a colonial tradition and we had the challenge of making ourselves an independent state in the world, and then we had the further challenge of managing a plural, what you might call diverse society at a time of political transformation in the entire world system, especially from the period after the Second World War and well into the 1950s and '60s as this country emerged.

We have had many interventions, I want to say, that are constitutional, and I want to say something about this country which sort of frames the arguments about the current proposals before this honourable House. Because it is easy to make claims and to make charges about these proposals if you do not understand the history of constitution making in this country, and if you do not understand the context. Because many of the things that are being articulated here about this are not true and, in fact, many of the issues that surround constitution making in this country need to be seen in context.

In 1956, for instance, we had what was known as the Legislative Council. We did not have party government in this country, and when the PNM established itself in 1955 under Dr. Eric Williams and he was able to win 13 out of 24 seats in the Legislative Council, 13 out of 24, which gave him a slim majority and established for the first time in this country, in its history, party government in this country, the British Government, under the Constitution that governed Trinidad and Tobago, still had five nominees. So if they had put five nominees, you would have ended up with a government with 13 members in the Legislative Council and you would have had, what is that, 11 and five, 16 members who were not part of the Government.

In order to ease the transition into party government in Trinidad and Tobago and to create the conditions for self-governance, the British Government took two of the nominees and gave it to the then ruling party, and they said, "You nominate

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

two people”. And then of the other three, they nominated two, who inevitably would have been aligned with the Government simply by the roles that they played. One of them was, in fact, the Colonial Secretary, who at that time was the person who would become Governor General and, in fact, Sir Solomon Hochoy, he was the Colonial Secretary. And the second person was the Attorney General, who was Sir Ellis Clarke—who became Sir Ellis Clarke. And in this way, Dr. Eric Williams, with his Government, from 1956 to 1961, governed in such a way, governed as a majority Government because the British Government created the conditions to make them a majority Government, and to buttress them by the Colonial Secretary and the then Attorney General, who were both locals in Trinidad and Tobago.

It is important to understand that constitutional history and, therefore, it raises the question of how do you address the issue of constitution making? The issue of constitution making is to facilitate the development and good order of the society. It is to ease the sources and points of tension and conflict in the society. It is to create the conditions for reasonable resolution of issues in a society.

Then we came in 1962 to the Constitution, the independence Constitution. I have just told you that the independence Constitution came to this Parliament on one day, the 25th and by the 26th, it was already passed. It was finished, this is the Constitution which gave us independence. It was passed here in two days. The same days as we are debating here today, August 26, and the 31st was independence. And you know how it got here? It got here because the party in Government at the time brought a Constitution and took it to Queen’s Hall and Dr. Williams was the chairman of that Constitution Committee and he chaired the Queen’s Hall Conference, and the Opposition was part of that consultation and when they saw what was going on and the manner in which the democracy of the moment in Queen’s Hall was being handled, they walked out. [*Desk thumping*] They walked out of Queen’s Hall, and they finished the constitutional document anyway, and they took it to Marlborough House to get independence for Trinidad and Tobago.

It was only because of the intervention of people like Tajmool Hosein, and on the other side, Sir Ellis Clarke, because he had gone with the Government’s side, and the discussion that ensued and the capacity of leaders to compromise because Capildeo did that. It was only because of that that we were able to get consensus on the Constitution. And there were many things that the Opposition argued for which remained in the Constitution up to 1976 and today, and that has to do with things like Public Service Commission, Police Service Commission, et cetera, okay? But we come here and we argue without the context and knowledge of the evolution of constitution making in this country.

Then we had the 1976 Constitution. The 1976 Constitution was passed in the House of Representatives and in the Senate in 1976 with no Opposition in the Parliament. There was a no-vote campaign in 1971, and Opposition in the Parliament did not exist, it became a farce, two members of the Government, in fact, defected from the Government and became the Opposition at one point. I do not want to go into that history because that is not my point today. The point that I am making is that when you are talking about democracy and democratic Constitution, and when you talk about constitution making, and when you talk about the motives of Government, et cetera, you must understand your own history and that history is not about you or me or anybody else, it is about us. It is our country making a Constitution. [*Desk thumping*]

And that Constitution was passed here, but I want to say how it was passed. A Wooding Commission was appointed in 1974, and it met and it consulted, and if you look at the Wooding Commission you would see all the people that were consulted there in the back. And after the consultation they did a Constitution report in which they advocated a mixed system of first past the post and proportional representation. And that entire document was thrown out and the leader of the country at the time, the leader of his party, and our first Prime Minister of this country, stood up and said as Prime Minister, talking about a national Constitution, that “Proportional representation is a dagger aimed at the heart of the PNM”. So his vision of Constitution making was partisan in nature. And I want to ask for anyone in this House to refute this fact, that in that—that the Wooding Commission was thrown out, that proportional representation was seen as a political dagger, and the Constitution was passed in a House in which there was no Opposition to plead the case of anyone, and that is a reality of Trinidad and Tobago. [*Desk thumping*]

And that Constitution was passed, and I want to say in the constitutional intervention, I want to point something out to you, which is part of our problem in this country. In that constitutional intervention in 1956, of course—in 1956, two of the key players were whom? Dr. Eric Williams and Sir Ellis Clarke. In the 1962 Constitution, who were the key players? Dr. Eric Williams and Sir Ellis Clarke. The Republican Constitution, what happened when they threw out the Wooding Commission, who were the key players? Eric Williams and Ellis Clarke.

Now, these are distinguished gentlemen. They have served this country well. I have the greatest respect for them and they are stalwarts, they are icons in Trinidad and Tobago. [*Desk thumping*]. But I want to make the point that two

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

heads helped to shape the entire constitutional framework and the thinking about the constitutional framework of Trinidad and Tobago over a period, over two decades, from 1956 to 1976.

And I want to say to you that when Sen. Drayton says here that we need to break from the thinking of the past, it is real. We have got to break from the thinking of the past and this is one of opportunities that we have here, and we tried to take that opportunity when the NAR was in Government in 1987, when former Chief Justice Hyatali was asked to chair a commission with a number of distinguished nationals in Trinidad and Tobago, and he wrote a document called—they wrote a document called “Thinking Things Through”, in which they identified a number of issues to be addressed.

But you would remember what happened in the NAR, a party that came to office with 33 seats in Government ended up as a party in conflict and, therefore, it was impossible to bring constitutional issues to the Parliament and be able to pass it. And in a fundamental way, the whole constitutional reform exercise had to be stymied, had to be left behind because of the reality of politics in the country, because of the reality of the split between Mr. Robinson on the one side and Mr. Panday on the other.

And then, suddenly in 2003, I want to remind you, the issue of executive presidency emerged in this country. Now, we had gone through the process from 1956 to 1976 with Prime Minister, with President, et cetera. We have gone through “Thinking Things Through”, raising the issue of proportional representation, trying to open up the system in the country and suddenly in 2003, the issue of the executive presidency arose and it was first raised by Mr. Panday in this country. But he did not do anything about it, he talked about it. But in 2005, former Prime Minister Patrick Manning initiated a process for the creation of a constitution to establish an executive presidency in this country, and that process went on from 2005 in different iterations until 2010. And, basically, it was stopped by the election of 2010 which was won by a party and a coalition government led by the hon. Prime Minister, Mrs. Kamla Persad-Bissessar. [*Desk thumping*]

I will say something about this executive presidency again, but I hope I have time to do it. But in 2010, I want to say what is important about this history of constitution making. In 2010 the manifesto in which the hon. Prime Minister was careful enough to go through almost every line of that manifesto, that hon. Prime Minister and this People’s Partnership Government made three commitments having to do with Constitution reform. Term limits for the Prime Minister, the

right of recall and the will of the majority recognizing the rights of the minority. And those are the three provisions that are before us here today in the Bill before you.

To this end, the Government established a constitution commission that consulted and deliberated for close to two years, two reports. You may argue about who might have been a better chairman or whether you should have had a governmental member as a chairman, but you are talking about a government member as a chairman after I just tell you the history of the last three Constitutions of this country? I mean, do you not see these are red herrings, basically? You could say that to people who do not know and it sounds nice and it sounds potent, but if you know the history of this country you cannot come with that kind of foolishness. [*Desk thumping*]

5.30 p.m.

The first report was done after 17 consultations and it is a full report. It is here and it is on the website, anyone can see it. And in that report it does not commit the Government to anything. All it does is report on what the people say. It says what the people say. It is a report on what the consultation put up in the discussion. That is all it does. I read it myself, so I know. You cannot tell me what is in it. It is a report of what the people said, and some of the things I like and some of the things I do not like. So the people could say things, just like politicians, that make sense and some of the things do not make sense at all, and that is the nature of the democratic process.

So they did the 17 consultations and they made a commitment that they would go back to the people after they had done their report, which they did. And when they went back to the people, they had four consultations and on the basis of that, the commissioners then sat down to deliberate. They would have had two sets of things to deliberate. One would be this, and the second thing that they would have to deliberate is the matters that would have come up in the four additional consultations. And they would sit down among themselves and discuss it, and it is only reasonable to expect that some of the things here would not have come up in the other four consultations and some of the things in the four consultations would have been different from here.

It is also reasonable to expect that if you have commissioners of the kind that Sen. Al-Rawi himself mentioned, and they are sitting down to deliberate, they themselves will have ideas. They will not be devoid of ideas. They will not take what the people say and take what the consultation says without engaging those

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

themselves as people with a brain and a mind and an imagination, some knowledge of constitution making, and take into account what might be the permutations that are possible.

And on the basis of that they did an addendum to the report and much has been made of this addendum. And this addendum is very straightforward, you know. This addendum is very straightforward—made a big deal of whether it is a postscript or an addendum. The point is, it was a deliberative—it was based on deliberations on the four consultations after the 17. But this document was a little different because what it did was it deliberated on what had been done, but it also made clear recommendations as to how to proceed, and that is how the question of whether to come to Parliament with a whole constitutional change which—given the position of the PNM, that they are not supporting any constitutional change, and that they are against proportional representation—would have meant that before you start, you cannot pass the Constitution. And they said there are some of these things that require simple majority, some of these things require two-thirds, some of them that may even require three-quarters and, therefore, on the basis of this, we recommend that you go with the things that can pass with simple majority first and you bring the others after they have been passed to test the system.

So it was not about an arm and a leg, and so on, as Sen. Al-Rawi was talking about. It was a question of the art of the possible. It was trying to make Constitution in a time of non-cooperation, when partisan interest is the dominant concern of the other party. [*Desk thumping*] So this is how they arrived at it, and I want—they said—this is item eight, it is on page two of the addendum. It says:

“To that end, the Commission arrived at the conclusion that different Bills requiring special or simple majorities ought to be taken to Parliament for consideration in order to allow an up or down vote on specific line item issues as opposed to the use of an omnibus Bill...”

That was a recommendation which we took because ultimately there was a process and this went to Cabinet and we agreed. So the recommendation was: separate the recommendations into individual Bills that require either a simple or special majorities.

Now, the other thing, the proposal for the right of recall, this is what it says in item 14:

“There already exists a right of recall in our current Constitution”—the 1976 Constitution—“that is available to the leaders of political parties in the House of Representatives...”

Constitution (Amdt.) Bill, 2014

Tuesday, August 26, 2014

They passed that. [*Desk thumping*]

“in cases where M.P.s who were elected on a party ticket and who have resigned from, or been expelled, by the parties on whose tickets they ran can be recalled.”

So the recall provision in the 1976 Constitution is based on party recall and we are saying that we do not want just party recall, we want to give the people a chance to recall. [*Desk thumping*]

So they say in 16:

“The recommendation of the Commission on page 24 of its Report is designed to expand the right of recall to permit the constituents who voted in the election that elected the M.P. to have a right to determine whether or not he/she ought to be the subject of a recall petition.”

You understand? There is a difference. There is a continuity. There is a connection. It did not come out of a hat.

And then:

“Recommendation: Introduce a separate Bill...”

Well, this one is about fixed election dates, which we have not brought yet to the Parliament.

And then I want to say what they said about PR. People feel that we have ditched the notion of PR. This is what they said about PR:

“The recommendation for proportional representation for the Senate was based on a desire to seek a fairer system of election than the first-past-the-post system.”

So they made the recommendations, having to do with the composition of the Senate.

“The Commission will advance a fairer method of electing M.P.s in subsequent paragraphs of this postscript,”—what they do—“but it prefers the introduction of the system of proportional representation into the Senate as a means of ensuring a transfer of the political membership in that House from the choices of the Prime Minister and Leader of the Opposition over to the will of the electorate by comparing the votes cast for all parties at a general election in such a way as to have an accurate reflection of their wishes in the membership of the Senate.”

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

So, they want proportional representation to be reflected in the number of Senators, based on the number of votes, in the constituencies and across the system, based on a system in which you name them, a system that we have used for local government in the last local government, and which we came here and passed. [*Desk thumping*] But that provision requires a three-quarters majority, I think, and, therefore it was not feasible to get it passed in the House, and as a result one had to leave it behind and bring the things that had a good chance of passing in the House and in the Senate.

And then there were other complications. I just want to read this part. This is 46 now. This is their recommendation:

“The proposal for the refinement of the first past-the-post system is designed to ensure that all MPs are elected on a majority basis. This is consistent with the proposals advanced by the Commission for proportional representation for the Senate.”

So you see, in their thinking, there is no denial of proportional representation for the majority representative. They see it as linked. Okay?

And then on 47:

“Seeking a threshold of greater than 50% for the election of all MPs so that the will of the electorate is expressed on a majority basis and not on a plurality basis. Given the emergence of a political culture that is seeking representation on the basis of majority or proportionality, any shift in the political culture of voting and elections ought to consider either majority or proportionality as philosophies to be embraced. Plurality (or minority) outcomes in constituencies ought not to be preferred over majority outcomes where representation of the people is concerned.”

[*Desk thumping*] So there were sound philosophical bases and there were clear recommendations and there was a clear strategy: do what is possible, come with what might not be possible and argue your case, based on achievement of what is possible, and then take the harder things and take it to the country if necessary; all the things like referendum, proportional representation, et cetera.

Now, I want to say something about this report that has been so maligned by both Sen. Al-Rawi and in some respects by Sen. Drayton. I was not looking for her there. All right? This is the first time that a Constitution report prepared by independent commissioners—yes, you may say that the Minister of Legal Affairs was not independent, but the others were. I do not think he could have colonized

their mind by sitting with them on a thing after the consultation. This is the first time that a constitution report, prepared by independent commissioners, has ever had influence on constitutional Bills which came before Parliament—[*Desk thumping*] the first time in the history of the country. And you are saying this one is not democracy, this one is not consultation.

The Wooding Commission report was discarded. I told you that. Hyatali report did not have the space to make its influence felt—I mentioned that—with the split in the NAR—but the 2014 Constitution reports have made their way to the Cabinet and have influenced the legislation now before the Parliament and will influence other legislation to come, the referendum, proportional representation, fixed date for elections, et cetera.

The first proposal is two terms only for a Prime Minister. I really do not think I should try to convince Independent Senators in this honourable Senate that they should support this measure, and I do not think I should try to convince citizens in this country that they should support and welcome a measure for two terms for a Prime Minister. Rather, I think I should ask Independent Senators in this honourable Senate this question: why would you not support a measure for limiting the prime ministership of a country, the ownership of prime ministership to two terms? Why would you not support that? And I think I should be asking thinking citizens: why would they not support a measure that calls for a Prime Minister to serve a limit of only two terms?

Now I would not think of asking the Opposition the same question, because I know why they will not support a two-term limit for the Prime Minister. I also know that most people in the country do not think like the Opposition and, therefore, would not like to see one Prime Minister govern for 30 years and our citizens are also not in favour of a constitutional dictatorship. Our citizens would prefer, in my humble view, to see leadership change and political renewal embedded in their Constitution, and this is what we are doing. [*Desk thumping*] Now, if that assumption that I am making is not true, then I would like to immediately concede that I am living in the wrong country. But I think that I am right about this. [*Desk thumping*]

The second provision gives citizens the right of recall of their elected Member of Parliament by a well-defined due process, and the due process is pretty simple, “two fellas sign”, there is then a 10 per cent requirement that is monitored by the EBC; once that is done, the process is then triggered by going to the Speaker of the House, and then the process starts in the constituency.

Now, why would Independent Senators want to deny the people that form of power? I do not think that Independent Senators would need to be convinced of the value of such a proposal, Mr. Vice-President.

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

5.45 p.m.

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

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Hon. F. Karim*]

Question put and agreed to.

Sen. The Hon. Dr. B. Tewarie: [*Desk thumping*] Thank you very much, Sen. Karim. Thank you very much, Mr. Vice-President, and hon. Senators.

Now, I know that Senators would see the value of placing the power in the hands of the citizens, but I also know why the Opposition would be against the right of recall.

Sen. Robinson-Regis: "How you know all what the Opposition would do?"

Sen. The Hon. Dr. B. Tewarie: I will tell you Ma'am. [*Interruption*] Their MPs have been at various times called "millstones" by their past political leaders, their MPs have been notoriously absentee parliamentarians who spent most of their tenure in Parliament in this country, in other countries.

Sen. Robinson-Regis: "Eh-heh, like who?"

Sen. The Hon. Dr. B. Tewarie: And they—"yuh want me to call name? "Ah doh want to do de man dat." [*Crosstalk*] And they once governed for five years from 1971 to '76, in spite of the fact that there was a national boycott of the general election, and almost everybody stayed at home on election day, but the people had no power. The Constitution gave the ruling party the power, and so a minority Government governed this country for five years and passed a Constitution [*Desk thumping*]. So what do they care about minority parliamentary representation? And from their point of view, why should ordinary people have the power? We believe that power should be in the hands of the people, but I know they do not share that view. [*Desk thumping*]

Sen. Robinson-Regis: [*Inaudible*]

Sen. The Hon. Dr. B. Tewarie: I am certain—because we know "whey yuh comin from". [*Interruption*] I am certain that Independent Senators and ordinary citizens see the wisdom of the people having the power, not just the politicians. Not that politicians should not have power, you need power in Government. You need power in Opposition. You need power in the Parliament. You need power in your institutions and the system, but you need a balancing act and, therefore, how

do you distribute it?—because that is one of the essential elements of constitution making. So I am certain that they see the wisdom of placing more power in the hands of the people, not just the politicians, but power to the people has been a shrill cry from our citizens since 1970. What has changed to prompt any one of us to ignore it?

The third proposal is, to have MPs in all constituencies elected by a majority of votes cast. I should not have to argue the merit of this to convince citizens. I should not have to argue the merit of this to convince Independent Senators of its value. I will simply ask, how could it not be desirable for each MP to be elected by a majority in his or her constituency? How could it be more desirable for a person to be declared a winner with 35 per cent of the votes, rather than 51 per cent of the votes? I want you to tell me the logic which leads you to answer that question?

But I know why the Opposition would be against majority MPs, because they craft their election strategy on the basis of low voter turnouts and multiple parties splintering the electorate. [*Desk thumping*] They do not believe in the viability of small parties, “all de talk dey talking about it”. Remember a Prime Minister who once said “not ah dam seat for dem?”

Sen. Robinson-Regis: Yes, there was none. [*Laughter*]

Sen. The Hon. Dr. B. Tewarie: They do not believe in coalitions, they have a motto, “great is the PNM, and it shall prevail”. [*Desk thumping*] They thrive on the proliferation of parties and they even manufacture them in order to guarantee results, they fear the word “majority”, and are very much at home with minority rule, this has been the tradition. It can be proven by statistical evidence—[*Interruption*] and it can also be proven by careful analysis of elections in this country. But I am certain that the Independent Senators believe that while minority voices must be taken into account in a democracy, democracy itself is strengthened by majority rule. [*Desk thumping*] I am certain that our citizens feel that the will of the majority is important.

So two-term limits for the Prime Minister, the right of recall by due process, and majority-supported MPs in all constituencies are all very democratic proposals, which support the development of a stronger democratic tradition in Trinidad and Tobago. I know that the Opposition will never support that, they have reasons, but it is important that progressives—by the progressive among us—do what we can to support our country’s advance one step at a time.

So let me now examine in detail some other issues, but I went through some of these already—1962, 1976—but I want to address the issue of the executive presidency. And what about the whole matter of the executive presidency public

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

debate, and the attempt to write a constitution built around an Executive President? The chronological order would seem to suggest the following: in the local government election campaign of 1993, Mr. Manning proposed executive presidency on the campaign trail; Mr. Basdeo Panday supported the executive presidency proposal; and then we had the situation in which a committee began to meet in the Prime Minister's office, under the chairmanship I may add, of the then hon. Prime Minister Mr. Patrick Manning, in order to begin the process of writing a constitution for an Executive President for Trinidad and Tobago.

The information coming out about the executive presidency was so fierce, and the structure of power so weighted in the hands of the President, and so low on checks and balances that, together with the Principles of Fairness Group, we initiated the process of writing a constitution—you can find it on the parliamentary website—that would address the issue of the executive presidency, but putting the necessary checks and balances to make sure that this country was not hijacked by a parliamentary and executive elite.

This continued in 2006, there were consultations, et cetera, and I do not know how many of you would remember that in October 2007, in an election campaign at a public meeting, the hon. Prime Minister, then a Member of the Opposition, revealed what was the secret Constitution for an executive presidency to the public, in the public domain, and that is how the country got wind that an executive presidency was in preparation.

So what would I say? “Doh come to me” and talk about this constitutional proposal being undemocratic. It is not in any way undemocratic and it is in keeping with our commitments, and it is in keeping with a desire to increase the authority and autonomy of the people of this country, and give political will in the hands of the people an opportunity to manifest itself, and these are in keeping with progressive measures for constitution making in countries around the world.

There is a spate of constitution making that has taken place across the countries of Latin America recently. It has happened in Nicaragua, it has happened in Ecuador, it has happened in Venezuela next to us, it has happened in Bolivia. The one difference between those constitution making exercises and this one here is the same difference between the constitutional exercises, between 1956 and 1976, and what we are seeking to do here to get a point of departure.

In Bolivia what they are doing is that in order—what they have done in order to create the Plurinational State, and to bring the indigenous Amerindian tribes into the process of governance, is that they have democratized and decentralized the process, that is true, but there is also a significant and inordinate amount of power in the hands of the Executive President of that country.

In Ecuador they have done the same thing, they have taken the power and they have moved it up to strengthen the executive presidency. In Venezuela here, you know, under Chavez it was an assault on the Parliament really, and well, a lot of the powers of the Parliament were actually taken into the Executive. In Nicaragua as you would expect, what they did was they removed two-term limits for the presidency, and strengthened the presidency in those countries.

So what we are doing here is exactly the opposite. We are not strengthening the presidency. We are not calling for an Executive President. We are calling for limits to the executive power of the Prime Minister. [*Desk thumping*] We are not talking for Parliament, about parliamentarians who can walk all over their people. We are talking about parliamentarians who have to account, and when the hon. Prime Minister mentioned the Constituency Fund, she was not saying something that is an aberration. If you are going to hold parliamentarians to account, and if you are going to ask them—ask people to measure their performance, you have to give them some basis on which they can be accountable for things that they are supposed to do. [*Desk thumping*] And you cannot tell them this amorphous thing, where a parliamentary representative is supposed to be a representative of the people, and he has absolutely no resources, except to sit every day in an office and call and ask favours from those in the Executive authority in the country.

Therefore, it is a means by which you entrench the system of constituency participation, and entrench the system of parliamentary representation in a country in which the people of this country have been crying out for representation. This Constituency Fund issue has gone through the process of Cabinet, and has made its way to a legislative review committee, and it is legitimate and reasonable for the Prime Minister to talk about it at a time when we are talking about the strengthening of parliamentary representation, and creating the conditions for majority parliamentary representatives in the system, who are responsible to the people and can be recalled by the people.

So all the provisions that we have brought here are provisions that have to do with deepening the democratic process. I do not understand what is the nature of the controversy that has been created in this country, because when I ask what is the controversy about—is it about the substance of the three provisions? I cannot see the logic that will tell me, yes, there is a controversial—these things are controversial in nature. You might have different points of view, but they are not unresolvable in terms of the nature of the controversy.

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. DR. B. TEWARIE]

Tuesday, August 26, 2014

When you look at these—the other thing then is, what is the—is it the process? Well, what has happened, you cannot fault the first two on process. We committed ourselves to it in the manifesto, they were part of the consultations, they came up on the consultation, so you cannot fault us on that.

Mr. Vice-President: Senator, you have two minutes to wind up.

Sen. The Hon. Dr. B. Tewarie: Thank you very much, Mr. Vice-President. You could probably fault us on the one which says that you—the majority of parliamentary representation, we want to see that come into office, come into reality, as a complementary piece to the recall provision. You may say that that—we did not say we would do that, or it did come up in the consultation, but that—listen carefully, if we say that the voice of the minority must be heard, but the will of the majority must be taken into account, and we say we want a fairer system of elections, and we want the people's voice to be stronger in the electoral process, and we look at the proportional representation issue, and we see the connection, but we understand that one requires a simple majority, but one requires a three-quarters majority, and you ask yourself, what is it that is really possible? Is it such a crime to take the one that is possible and say, let us put it in the first package, and let us pass these things, so that we can have a full and extensive debate on the matters that are truly controversial and contentious. Is it unreasonable to do that?

6.00 p.m.

Is that not an aspect of good governance that you will have the courage to do what you think is possible, to argue your case if necessary and bring it here? And the hon. Prime Minister, I want to say, she postponed the debate in the Senate here. She allowed for two weeks. There was a lot of protest, and when I look at it, you know, people are talking about these things, but I want to say something. They are talking about majority and minority and who will do this and who will do that.

Mr. Vice-President: Senator—

Sen. The Hon. Dr. B. Tewarie: Just let me wind up, Mr. Vice-President. I will take one minute.

You know, when you ask about these protest voices, yes, they are loud and yes, they are vociferous, but if democracy were really under threat in this country and if the sky was really falling in this country and if this Government was really doing grievous bodily harm to the body politic of this country, do you think that your protest would consist of 50 people or 100 people or 200 people? Do you not think that the whole country would come up and say, “Oh my God, this is the end; you cannot do this to us?”

There is no such thing. All the excitement, all the negativity is connivingly an assault on the democracy of this country by the Opposition, I want to say, [*Desk thumping*] and there are people who genuinely, in civil society, believe certain things. I have no problem with that; they are articulating their case. Let us carry on with this. Let us pass the Bill and let us proceed to advance the democracy.

Thank you very much, Mr. Vice-President. [*Desk thumping*]

Sen. Diane Baldeo-Chadeesingh: Thank you very much, Mr. Vice-President. Thanks for giving me the opportunity to contribute to what is arguably a most important debate in the current session of this Parliament and in the history of the Republic of Trinidad and Tobago.

But, Mr. Vice-President, permit me one moment to reflect on some of the things that Sen. Tewarie would have said. You know, he started his contribution the usual way, but today I have to give it to him, he did not use the word “rant”. Usually, he stands up and talks about the rantings of others. He was criticizing everybody under the sun, but I am not surprised, again, not listening to the voices of the people. [*Desk thumping*]

The reality is we gained independence without one drop of blood. We are dealing with real time today, but he did get one thing right. He said, “Great is the PNM”, [*Desk thumping*] “and we shall prevail”. He got that right.

Further, the reality is the issues—[*Interruption*] Yes, we will. You are walking in an area that somebody else is there as well. The reality is the issues in this Constitution (Amdt.) Bill, 2014 debate have energized and engaged citizens in every village, in every community, region, religious organization, political party, private sector organization, state agency, tertiary student body, university staff—academic as well as administrative—and the trade unions; the women’s organizations and the civil society collectives are all fully engaged in discussing and commenting on the entire process of this proposed amendment and the impact on the future stability of this nation.

Mr. Vice-President, even our regional neighbours and our international trade partners, as well as the United Nations agencies, the Diplomatic Corps are focused on these developments.

From the consultation to this legislative debate, this process has been very problematic, lacks due process and is specious in the very manner the consultation was conducted. The agenda of the reform was launched with great fanfare with

Constitution (Amdt.) Bill, 2014
[SEN. BALDEO-CHADEESINGH]

Tuesday, August 26, 2014

members of the Government and the selected team of commissioners at a very public event, but the change of the constitutional rights of the people is what the UNC-led Partnership Government sought by fallacious means.

Why not be open and put this to the people? [*Desk thumping*] The chairperson, hon. Prakash Ramadhar, embarked on a continuous consultation process—17 consultations in 2003—and in December 2013, the report was submitted. The contentious agenda item, the run-off, it has been revealed from the report and the addendum—now we know it as the postscript—that this was never presented at the public consultations and, therefore, was actually revealed in the other place on August 04, 2014.

No mention in the media of discussions of this most contentious amendment, the run-off. It was not known to the citizens and the MPs, certainly not the Opposition MPs, until the Prime Minister's laying of the Bill on August 04, 2014. Is this democracy? Is this your Government working for you?

In this amendment is any power being given to the people? It is a government using the Parliament to develop an advantage on the cusp of general elections. [*Desk thumping*] The pattern that has been evolving in UNC's partnership governance style is the abuse of the Parliament for the purposes of maintaining power and using undue influence. [*Desk thumping*]

Mr. Vice-President, I refer to an article; there were several of them in the newspaper:

25 projects in 10 days

—in the St. Joseph by-election. Full-page UNC advertisement featuring Alleyne standing against a background of people working on infrastructural projects. Government had allowed him access to and direction of state resources and he was campaigning on that process.

Twenty-five projects, 10 days? Mr. Vice-President? The Government is so eager, they intend, with this Bill, to force the electorate to vote for candidates of parties they do not support.

Sen. Ahmed: Mr. Vice-President, 35(5), she is imputing improper motives to Senators by trying to force the electorate to do anything. [*Crosstalk*]

Mr. Vice-President: Hello, please Senators, please. Senator, I made an observation a long time and my Senator friend here, "you does be absent from de House and when yuh come yuh disturb". [*Laughter*] I would prefer that you take—anyway, please continue. I do not see any improper motive. Please continue. [*Desk thumping*]

Sen. D. Baldeo-Chadeesingh: Thank you very much, Mr. Vice-President. This plan was being developed since the by-elections were held in two UNC seats. Their message to the partners in their UNC Government was, “Do not split the vote”. In Tobago, the UNC PP Government used the Parliament, again as their tool of choice, as they did with section 34 and the Anti-Gang Bill.

On the one hand, special interest parties linked to the Government escaped the court and, on the other hand, a state of emergency was called and thousands were detained, again using the Parliament. The lure of the internal self-government Bill for Tobago was hastily brought to Parliament to induce the electorate. In addition to this, excessive expenditure was spent on hurried projects just before the elections. In fact, there was such an indecent overlap of operations and campaign ruses, there was no discretion to separate these activities so that the electorate is not pressured to cast a vote under duress. These, Mr. Vice-President, are conventions of the Westminster democracy which must be observed.

With their loss in Tobago came retrograde remarks made of the electorate, “tribal voting” we heard. This pattern of disregard to electors who do not select the Government has now reached an unacceptable point. [*Desk thumping*]

The amendment seeks to disenfranchise non-UNC voters and to manipulate the traditional first past the post we enjoyed for years in this country and which the current Government found most acceptable when they won elections in 2010. [*Desk thumping*] They never had an issue with it. However, they were back at their breaching of the election process and disregard for campaign ethics in the by-elections of Chaguanas West and St. Joseph. They lost both elections.

The successful MPs were not from the UNC. In like manner, the customary breach in the process of the consultation was revealed when the consultation was completed. A final report was submitted in December 2013, but an addendum suddenly became declassified in July 2014, having been sent for her eyes only since December 2013. Declassified.

In this classified document was the dagger of the democracy, the run-off vote plan in this document. [*Desk thumping*] This has been a flawed, unethical and duplicitous process which is inconsistent with the Westminster democracy of the Commonwealth of which we are a member. Since that—[*Interruption*]

Sen. Ramnarine: Mr. Vice-President, 35(5), imputing improper motives: “unethical, flawed”.

Mr. Vice-President: Please continue, I do not see anything.

Sen. D. Baldeo-Chadeesingh: Thank you very much, Mr. Vice-President. Wow! I must be doing something right. [*Desk thumping*] But since that revelation, that there is a run-off election after a first election process, Trinidad and Tobago has not been the same. It has not. Every waking moment as well as private moments during the prayers of many public vigils up to last night, midnight, hundreds of persons out there and silent depressed moments in many homes as citizens are wondering what has happened. [*Interruption*]

I am hearing the reaction on the opposite side, so perhaps they missed the newspaper reports, so I will just indicate to them some headlines as they were reported. Mr. Vice-President, some headlines over the past three weeks in the newspapers:

“Bill’s swift passage disrespectful to ‘we the people’”

“Protest continues outside Senate over election bill”

“Deception, the Constitution Amendment Bill”

“COP MPs split on vote”

“Political Analyst: Dookeran, Seepersad-Bachan votes based on COP election fallout”

“Dookeran blanks Constitution bill”

“AG questions Dr. Merle Hodge’s ‘change of heart’”

“Ex-chairman resigns over reform bill”

“‘We won’t stop Bill’, Government says”

“...Law Association is entitled to give its view, but it is going ahead with Senate debate”

“Daily protest...to continue”

“Democracy under threat...”

“Bill backlash”

“MSJ supports Hodge”

“Law Association: Delay bill”

“All 31 Senators urged to reject Bill”

“...EBC not ready...”

Rings a bell, Mr. Vice-President? [*Desk thumping*]

6.15 p.m.

Mr. Vice-President, the doublespeaking has begun, empty explanations and suggestions of linking recall with run-off, but that is usual, now customary of the Government: strategic ambiguity, [*Desk thumping*] cognitive convoluted dissonance, confusing explanations have not cleared the fog deliberately created by Members opposite.

Sen. Al-Rawi: “Repeat dat for meh, I like dat one.” [*Crosstalk*]

Sen. D. Baldeo-Chadeesingh: Now customary of the Government, strategic ambiguity, [*Desk thumping*] cognitive convoluted dissonance, confusing explanations have not cleared the fog deliberately created by Members opposite. [*Desk thumping*]

The Bill was laid in the other place and, since then, the discussions, comments and protests can be considered to be at a flashpoint in the country. Every sector has concerns, every sector. [*Desk thumping*] In every sector in this nation, questions have arisen only after the run-off was revealed in the addendum of the report. This was never discussed with the nation, this is autocracy, [*Desk thumping*] supreme power concentrated in the hands of a few.

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until a convenient time for adjournment.

Question put and agreed to.

CONSTITUTION (AMDT.) BILL, 2014

Sen. Diane Baldeo-Chadeesingh: Thank you very much, Mr. Vice-President. In addition to the reaction here in this country, there are thousands of Trinidad and Tobago citizens who live abroad. They are engaged actively in letters to editors in the media and, as we debate today, are listening and viewing this debate. The technology we enjoy today has come a long way and we are, as the saying goes, just a click away. The televised consultations and the reports reveal this run-off was not discussed. This is not right, and such actions can be considered a breach of the oath of office, which each MP in the Westminster democracy takes publicly with the holy book of their religion. We are to serve with fairness and without favour, with equity and without fear.

The reason for the backlash from the public is the lack of process in communication with the public. The process of improving the methods of communication in the interest of all countries of the world took time and, as the

Constitution (Amdt.) Bill, 2014
[SEN. BALDEO-CHADEESINGH]

Tuesday, August 26, 2014

process evolved, the best of the options prevailed. With technology that is effective, more people are involved in news, and many more are involved as the Minister of National Security usually reminds us that we must operate in real time. Trinidad and Tobago is a democratic nation which adopted a Westminster style of democratic government and, consequent on this, evolved independence and the republican nation, and we enjoy and respect the tenets of democracy and function as a Westminster democratic republic within the Commonwealth.

The elements of this process of change within the Commonwealth means that Trinidad and Tobago is linked by bonds of common origin, democratic conventions and practice of Westminster, history and even legal traditions. We are one of 54 countries of the Commonwealth and, included in the common features of our republic, we share a Westminster style of governance and our two Houses of Parliament all enshrined in our Constitution. The most important is our Trinidad and Tobago Constitution, which is a written constitution and which clearly identifies or defines all the relevant authorities and processes. It is the law of this land and it is the highest legal authority in this nation, our Constitution.

The Constitution not only guides the entire nation's actions, but serves a critical supreme law in ensuring justice and protection of our democracy during the stability of the nation. Mr. Vice-President, where there is any challenge to the constitutional rights faced by the people as a result of governance, or a challenge of violation or denial of the rights of the citizens as a collective or as an individual, this challenge can be resolved in the courts by an independent Judiciary. The courts interpret the Constitution and act with legal authority, addressing the action or, as we see in this case, it is the court that can deem that the law and amendment to the law passed in the Parliament, null and void, and of no effect.

Now to the issues, Mr. Vice-President—issues with the process of the amendments to the Constitution in the Bill before us, that is the Constitution (Amdt.) Bill, 2014. Mr. Vice-President, what are the core issues with this infamous Bill, 2014, which seeks to amend the Constitution to have three actions enacted into law? The three changes proposed in the amendment which will alter the Constitution of Trinidad and Tobago are, one, restricting two-term limits for the Prime Minister, two, right to recall of MPs for poor representation and, three, a run-off election to determine a winner for a constituency after a first election process eliminates the candidate as winner. The winner, having received the majority of votes from the votes cast at a general election, is now considered as not being a winner if that candidate does not receive 50 per cent plus one of the votes cast.

Mr. Vice-President, that would be the new majority of the votes cast, according to the Government's amendment of our Constitution. Notwithstanding the constitutional protection of rights of all citizens to a freedom of expression and freedom to join political parties, and implicit in that freedom is the right to elect, by secret ballot, the party of their choice by voting for that party's candidate in elections, there is an amendment to take away that right. This is a right protected under the Constitution, which is the highest law of the land. That very Constitution also protects the process of voting. [*Desk thumping*] The wise framers of our Constitution ensured that any amendment must be approved and voted on by the people's representatives by a specific majority vote of MPs, varying from simple majority or two-thirds, or three-fifths, which is additional protection for our citizens, our nation and our Constitution.

Tampering with a constitution is a very serious process in any country, Mr. Vice-President. When a nation is attacked from within and governments are toppled by undemocratic means, the first thing that is suspended is the Constitution, the law of the land. So sacred is it to the heart of a nation, when governments are attacked from outside or by invading forces, the Constitution is suspended. Why? Without the Constitution enforced, the governance is now controlled by the power-seeking force, and the rights of the citizens of that nation are immediately revoked.

New rules of engagement are provided under the barrel of a gun and rights and freedoms are immediately revoked. Autocracy is the order of the day by the invading force [*Desk thumping*] seizing the authority for control of the country. Mr. Vice-President, in the telecommunications industry, changes have taken place over time to improve the lives of the people. IT is now a robust industry developed along a process that has produced results which changed fundamentally and lifts the lives of people. Unlike IT, these proposed amendments from this duplicitous process of consultation will create inequities and erode cherished rights in a society.

Consequent to the implementation of these amendments, there would be chaos and instability in the periods when the constitutional authority is being changed. The very method of elections, which will deny the constitutional rights of each citizen to vote and to freely elect the parties of their choice—these amendments proposed, seeking the approval of the Senate today, are developed by the constitution reform consultation exercise of the Partnership Government. That flawed process was one that resulted in this travesty of justice. The amendments to our Constitution by the UNC Partnership Government which are being proposed as simple are far from simple. [*Desk thumping*] The devil is in the details, which were not discussed. What a beguiling process, excluding the people of Trinidad and Tobago?

Constitution (Amdt.) Bill, 2014
[SEN. BALDEO-CHADEESINGH]

Tuesday, August 26, 2014

Mr. Vice-President, I had to say that because I could not say the other words that it means because it is unparliamentary. I checked my handbook before I came today. The effect of the proposed Bill is like a three-pronged fork, with the lethal central amendment like a poison on a dart. This amendment seeks to use the Parliament to pass a law that would take away the rights of the citizens and deny them a full participation in electing the candidate to represent them in the Parliament. *[Interruption]*

Hon. Senator: How?

Sen. D. Baldeo-Chadeesingh: I will tell you, just listen. *[Desk thumping]* I see you are engrossed because you yourself do not know.

They will be, therefore, unrepresented because the final decision to elect the MP will not be taken by all the electors as now obtains in first past the post. This is one of the three amendments referred to as the “run-off election”. A second election devised and reported as a suggestion from the public consultation, a result of the process of consultation, and nothing could be further from the truth. The citizens were never advised as to the run-off amendment. I wish to refer to this article, it is entitled “Bill Backlash”, created by Anna Ramdass, *Trinidad Express*, August 16, 2014, and she writes:

“Member of the Constitution Reform Commission (CRC) Dr Merle Hodge added fire against the bill, asserting that the people were never consulted on the run-off provision and the debate should be stopped.”

It goes on to talk about the:

“Law body calls for debate to be stopped

EBC not ready,

Ex-corporation chairman plans to quit UNC”

And it just goes on and on.

But, Mr. Vice-President, in preparing for this most critical debate, I embarked on a process of verification which would provide me with evidence that the run-off was indeed discussed during the months of consultation with the public, and you know what? I got my hands on 56 of the consultation submissions, and I got my hands on all of the reports of the consultations; 17, 21 reports of the consultation and all of the submissions that were presented. You know what I found, Mr. Vice-President? There is not one shred of evidence that this was ever

proposed to the public during the consultation. [*Desk thumping*] I could not believe it, and the startling fact that it was included in the addendum of the constitution reform report, which was classified for your eyes only, is a travesty.

It is a serious setback of the civil rights of the citizens of Trinidad and Tobago. Dr. Merle Hodge publicly attested to the fact that at no time was the run-off proposal ever discussed with the public. In general discussions among the commissioners such principles of voting were mentioned but the suggestion of any such practice was never formulated with either the commission or the public who participated in person or submitted their proposals.

6.30 p.m.

This is a critical flaw in the very process of the consultation. It was never discussed, yet it is being communicated as an outcome of the flawed process. It now finds its way into an amendment seeking to develop this repressive process of a second election. In this second election, which would exclude the candidates from the first election process of first-past-the-post majority, if they do not hold 50 per cent plus one, and their supporters, electors who voted in the first election—this new method is what is being proposed. It is not part of the Westminster democratic process, which is enshrined in the existing law, the Constitution of Trinidad and Tobago.

This is a grave constitutional breach of civil rights, constitutional rights, freedom of thought, expression and political freedom which are protected in our very Constitution. [*Desk thumping*] For any government to make a bold claim of strengthening the democracy and propose an amendment to fundamentally alter the rights of the citizen, cries out for justice.

Mr. Vice-President, although in this chaos of this process of constitutional amendments, there would be a candidate who will emerge the official winner by the existing Trinidad and Tobago constitutional provisions in what is called a first-past-the-post vote, this process is still used by all Commonwealth nations like ourselves to determine the election winners. However, this constitutional Bill 2014 deems that the winner is not a winner by assessing the percentage of the votes received; the Government proposes to develop a second election. Two candidates will be set up in a run-off election to determine who will hold the majority of the second election.

Now, Mr. Vice-President, while all of the electorate is eligible to vote in the second election, the level of trust in this process will be questioned, and I will tell you why. Since a winner is no longer a winner by the proposed Bill 2014, however, it is of interest to note that on October 22, 2013—after the local

Constitution (Amdt.) Bill, 2014
[SEN. BALDEO-CHADEESINGH]

Tuesday, August 26, 2014

government election results were announced, when the PNM won the majority of the corporations—that Government was celebrating their loss as a win and said publicly, “No one lost the elections, we all won”.

Mr. Vice-President, I found a very interesting article. It is titled “A Beautiful Thing”, and it really is a beautiful thing. It was written by Sunity Maharaj on August 16, 2014. Let us share a similar reference to what I just said on this matter. In their:

“...Theory of Mathematics, one from 10 leaves 11 and a minority from a minority makes a majority, magically transforming less votes into more democracy.”

Sen. G. Singh: “How she arrived at dat?”

Sen. D. Baldeo-Chadeesingh: And she goes on:

“...’run-offs’ between opposing parties which give third party voters the Hobson’s choice of either voting for a party they do not support or not voting at all.

The PM’s bill is a miniscule aspect of constitutional reform, tailored to suit narrow UNC interest.”

I said it was a beautiful thing, Mr. Vice-President. Even the polls show the majority of people do not want this new system, nor do they want any amendments to the Act.

The flawed process continued during the consultation, and the report states that since an individual candidate did not receive the majority numerical percentage selection by the commissioners, they suggested to the Government they seek to amend the process of voting we have been using for over 50 years. The candidate who receives the highest number of votes by the electorate that person is the winner.

The other two amendments are in themselves offering little or no value to our nation’s development, because a good Prime Minister with an effective team can generate such increased economic growth, provide an environment where all civil rights are protected, where laws are effected. The citizens enjoy freedom and a healthy quality of life. Those citizens should be free to vote to retain the Government of their choice.

The successful party dominates who is the Prime Minister, or determines who is the Prime Minister. The term of office is renewed by the public, and the successful party determines who is their political leader, and the Prime Minister emerges after the election results.

Sen. G. Singh: “So you against two terms?”

Sen. D. Baldeo-Chadeesingh: So while there is much emphasis on the term limits, I am suggesting that the three amendments have their genesis in the conundrum of the process of governance of coalitions. [*Desk thumping and crosstalk*]

In order to manage the voting patterns, these amendments have been developed to create a situation that allows partners to collectively gain dominance and then dominate the partners by passing a law to ensure they merge the votes of their partners so that dominance of the electoral numbers accrue to the dominant party who controls the Executive.

The COP and the MSJ partners enabled this Government, as it was a different entity, but as we have seen, the systematic unmasking of the Government reveals that a party emerged as dominant and suppressing the other partners. The UNC is intent on using the same sleight of hand to keep dominant powers by sacrificing their partners in the new amendment arrangements, to negotiate votes as opposed to free and fair elections with no duress or inducements as the second election proceeds. This proposed process is misleading and makes a scene of our democracy and the public.

This Government has used the most deluding consultation process, which never laid on the consultation agenda mention of the details of the run-off. The poor amendments being argued—and I heard it over the last three weeks, about citing France as a successful country having the run-off—are spurious and disheartening in their very intent. Those making these comparisons and suggestions to support this process have not traced the history of France. They are unaware that France actually evolved its Constitution and voting practice from its history from monarchy to revolution, the storming of the Bastille. France’s law evolved from the Napoleonic Code.

It was Charles de Gaulle who sought a method to literally kill off smaller parties and diminish their influence, that was challenging the Fourth Republic. You know what he did? Mr. Vice-President, de Gaulle was resolute and determined to institute this method to secure his full control of France in the Fifth Republic. The run-offs in France are exclusively for the post of President. [*Desk thumping*] The UK remains our historical reference, and people must not be side-tracked by the ambiguity and irrelevance of convoluted fluff, perhaps.

We are an intelligent people in Trinidad and Tobago, and since August 04, 2014 to date, the public has been resolute in their demands to have the Bill withdrawn. The people of Trinidad and Tobago will not allow such explanations

Constitution (Amdt.) Bill, 2014
[SEN. BALDEO-CHADEESINGH]

Tuesday, August 26, 2014

to detract them from the core issue which is a parliamentary script conceived in a consultation process, presumed to simply address election dates and to set limits on the term of the Office of the Prime Minister, which is also a breach in the decisions of the members of a successful party. To determine who is their Prime Minister and for how long he or she would govern is not a matter for any constitutional amendment.

Sen. G. Singh: It is for the people and the party.

Sen. D. Baldeo-Chadeesingh: Mr. Vice-President, the script has been revealed. The purpose of the amendment and the consultation process, flawed as it was, was merely to use the parliamentary process to advance a Bill which, by disenfranchising members of the public, strategic voters will emerge, who will enhance a particular partner in the general election. [*Desk thumping*]

Oh no, not now, again using the Parliament? “Yes, Chief Secretary Mr. Orville London say we big and we have sense. Mas, mas we know yuh; is not once, twice, thrice, but a habit to abuse the democratic process for individual interest and fool the people. This is not democracy, Mr. Vice-President.

Sen. G. Singh: What is it?

Sen. D. Baldeo-Chadeesingh: One analyst, former Attorney General of Trinidad and Tobago, referred to the process as political and parliamentary corruption.

Sen. G. Singh: Who is that? We have had several Attorneys General.

Sen. D. Baldeo-Chadeesingh: These actions should be taken to the courts. The rights of citizens are not to be wheeled and dealt in the desperate efforts of a government to breach citizens’ rights for unfair advantage in an election.

Sen. G. Singh: Who was that former Attorney General, John Jeremie?

Sen. D. Baldeo-Chadeesingh: Former Attorney General Ramesh Lawrence Maharaj.

Sen. G. Singh: Ooooh!

Sen. D. Baldeo-Chadeesingh: Is that how you treat your partners after all? Our political leader, Dr. Rowley—

Sen. Cudjoe: Man of steel!

Sen. D. Baldeo-Chadeesingh:—outlined in his address to the nation, the danger that lurks with the intent of this amendment. It is not any power to any people. People are losing their constitutional rights by clever means, using the Parliament as a tool of choice.

Today, as I join this debate, the analysis and the process of the amendments present not only chaos, but administrative instability with this new process for voting in elections proposed by the Government, recommended by this Constitution Reform Commission.

Mr. Vice-President, section 49(2), 76(4), will present chaos and uncertainty in Trinidad and Tobago. Let me share one of the references that I indicated. *[Interruption]*

You really ought to get a new line. You have been saying that since I was sworn in, the first day.

Sen. A. Singh: Come on Jerry.

Sen. Al-Rawi: Keep it fresh; keep it fresh.

Sen. D. Baldeo-Chadeesingh: Mr. Vice-President, 73(4)—

After the first poll of a general election one or more supplementary polls are to be held in accordance with section 73(4). The President shall not appoint the Prime Minister before the results of all the supplementary polls have been declared, but the current Prime Minister and Ministers shall remain in office until they are required to vacate office.

Mr. Vice-President, what will the newspaper headlines read during this period? The current upset in the public and the very obvious negative reaction to date are signs that would prompt responsible reflection from all Members of this Government.

The detailed process of suspension of the Parliament, during the period when these run-offs and supplementary polls would be undertaken, is a recipe for chaos and elections fraud. Instability and confrontations as was seen in the Chaguanas West by-election would taint the environment saturated with run-offs. Mistrust would prevail in communities, and the sustained suspense over loss of a vote would be akin to a match to a tinderbox.

6.45 p.m.

Given the sleight of hand in which these amendments were developed and strategically tabled in the Bill presented in the other place, and today, have already created mistrust, and the protests are building against the Bill and the current Government.

The deliberate ambiguity is well entrenched, while the Government claims that the run-off is not a second election. It is. *[Desk thumping]* The choice of candidates will be determined by the new process within 15 days of nullifying the winner. A new period of limbo will exist with defeated candidates entering a new

Constitution (Amdt.) Bill, 2014
[SEN. BALDEO-CHADEESINGH]

Tuesday, August 26, 2014

election, Mr. Vice-President. This is not democracy since voters who did not enter the second election will lose their vote because they will not support the second election having made an initial selection. Their vote will not count since they cannot vote for the candidate of their choice. The actual selection of two candidates for a second election violates the freedom of political parties to enter elections. This is a manipulative electoral process which uses compulsion to have the electorate select a winner in a contrived electoral slate. [*Desk thumping*]

Mr. Vice-President, the outcome of such a system is electoral mischief and is inconsistent with the Westminster democratic process. This process in fact disenfranchises citizens. This is not power to the people. These people would have lost their freedom to choose. The choices are not the same range of choices and the electors would not be the same. This is not democracy. [*Interruption*] So, is that your best hit?

So, Mr. Vice-President, one of the proposed amendments in the Bill was— [*Crosstalk*] oh, it was not for you— [*Interruption*]

Mr. Vice-President: Hon. Senators, the speaking of the hon. Senator has expired.

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

Question put and agreed to.

Sen. D. Baldeo-Chadeesingh: Thank you very much, Mr. Vice-President. Before I sat down—for my colleague before you moved that Motion, I have been here—I was sworn in as a Senator on December 10, 2013, and since then—so it has been a good number of months, but today is my 14th contribution to this House; my 14th, [*Desk thumping*] but I must admit— [*Crosstalk*]

Hon. Senator: More than all of them put together.

Sen. D. Baldeo-Chadeesingh:— [*Laughter*] you know, on the other side, since I came here in December until today, my 14th contribution, the one-liners, the one comments have just been the same. They really ought to work on new liners, honestly, Mr. Vice-President.

So, one of the proposed amendments in the Bill was never presented to the public at the consultation sessions, and thus a breach occurred. When the consultation team refused to present the three amendments, Mr. Vice-President, if other commissioners had known, then Dr. Merle Hodge did not. Was that commission manipulating information selectively among the commissioners?

Sen. G. Singh: You cannot say that.

Sen. D. Baldeo-Chadeesingh: The very consultation process was flawed from its inception, and from its style of management the inclusion of this run-off in the Bill as if it had been agreed to by the public attending the consultation, is far from wise and will alter the method of the elections which is protected in the Constitution.

To cast a vote to pass this Bill will be to sacrifice—sacrifice—our democracy and rights on the sacrificial altar of this Government of Trinidad and Tobago. They have tried to convince the public that the team was a coalition with a difference—a partnership. Mr. Vice-President, what we the public have unmasked is the Government, and what we have is the UNC-dominated partnership. [Crosstalk] A coalition Government producing flawed Bill after flawed Bill from a legislative agenda which is a tool merely to enhance its dominance, and at this time another flawed outcome.

Disenfranchise the electorate under the guise of strengthening the democracy. This is not strengthened democracy, Mr. Vice-President, it is entrenched governance which is leading to autocracy, [Desk thumping] destroying our very Constitution and the security of the rights and freedoms of citizens.

Mr. Vice-President, in addition to the loss of right to choose by those whose choices do not appear on the second ballot, there is to be renewed campaigning which will be very aggressive with an incumbent Government, still holding the reins of power and authority, will present opportunities for corruption and unfair practices to influence the outcome of the vote. May I remind you of the first article that I drew reference from, 25 projects in 10 days. [Desk thumping] While amendments are being considered, Mr. Vice-President, the very process of disenfranchisement and the less than open process of consultation has tainted the entire proposal. This Bill should be withdrawn. [Desk thumping] The people are not prepared to accept the continuation of the parliamentary process which, to date, is flawed, uncertain, as well as a breach in the Constitution.

The alert organizations whose focus is the adherence of democracy have already indicated their intention to take the flawed amendment Bill to the courts, and with the precedent firmly identified, the Bill would be struck down. This is what the alert organizations are saying.

But, Mr. Vice-President, my time is running out, so I wanted to draw some positions taken by people, organizations and churches. Mr. Vice-President, I wish to draw the Senate's attention to a *Trinidad Guardian* article published on August 20, Kalifa Clyne, "Protest continues outside Senate over election bill".

Constitution (Amdt.) Bill, 2014
[SEN. BALDEO-CHADEESINGH]

Tuesday, August 26, 2014

“Jamelia Reid-Cato said she felt the entire bill was unconstitutional and poorly drafted.”

These are some of the comments.

“Virgina Nevarra, from Marabella,...she was afraid of the implications of the bill.”

And, Mr. Vice-President, some of the placards out there read, “Run-off? Nobody talk to we; Doh mess with we vote”, and there are hundreds of them as we speak, Mr. Vice-President.

Hon. Senator: How much?

Sen. D. Baldeo-Chadeesingh: Hundreds! Hundreds!

Sen. Al-Rawi: Three thousand one hundred names on a petition right here.

Sen. D. Baldeo-Chadeesingh: Yeah. Petition right here. That is right.

Sen. G. Singh: Was that EBC certified?

Sen. D. Baldeo-Chadeesingh: Another article in the *Trinidad Guardian* published August 23, Kevon Felmire:

“Prime Minister Kamla Persad-Bissessar’s olive branch to civil society,...was yesterday rejected...

...chairman of the Constitution Reform...Olabisi Kuboni and...

Endorsing her position was the...”—endorsing Kuboni’s position was “...the Federation of Independent Trade Unions and NGOs...Trinidad Youth Council...Government Daily Paid Retiree Association, Trinidad Unified Farmers’ Association, the Constitution Reform..., Oilfield Workers’ Trade Union...Working Women for Social Progress, Highway Re-route Movement, Artiste Coalition of T&T, and the Communication Workers Union.”

And she said, and I quote this part:

“It was clearly a window dressing so that ultimately at the end of the day, they would ride on the backs of the population and bring into effect what... they want to bring into effect.””

Mr. Vice-President, I also wish to refer to two examples of other Westminster democracies where the recall provision proposal has been rejected and deemed not in the interest of true democracy. This is with respect, Mr. Vice-President, to the recall provision. And I quote from the Election Commission which is the equivalent to our EBC. And the commissioner’s name is SY Quraishi, and he held that, “it will ‘destabilize’ the country”, and this is in India—“‘destabilize’ the country, especially in areas where people already feel alienated.”

But another time, Mr. Vice-President, this same Mr. Quraishi who is the Chief Election Commissioner, he was being interviewed by a person by the name of Karan Thapar, and he was asked:

“So you are dead against right to recall? And he answered, “...absolutely. It’s not possible...in India. It will...destabilise the country. Everywhere discontented people will start recalling.”

Mr. Vice-President, [*Crosstalk*] in the UK scenario, Zac Goldsmith attacks the MP recall Bill and he says:

“The government’s draft Bill to create mechanisms for the recall of MPs has been described by the Conservative... Zac Goldsmith as ‘the worst and the most misleading’ piece of legislation he has seen.”

And I thought that was rather interesting. It is interesting to note that the challenges, Mr. Vice-President, in governance that arose in these two nations were all linked to the ongoing governance of parties in the coalition.

How much time do I have? Mr. Vice-President, could you indicate to me how much time I have left?

Mr. Vice-President: You have six minutes.

Sen. Al-Rawi: You have all the time in Gerry’s heart.

Sen. D. Baldeo-Chadeesingh: Is that so? [*Crosstalk*]

So, Mr. Vice-President, I have got to cut a lot of what I prepared, but I want to draw reference to some previous constitutional consultations which were extensive and detailed—example, the Hugh Wooding and Prof. Selwyn Ryan consultations for both the republic and independence constitutions. These were widespread, and all issues were open and very transparent. Mr. Vice-President, there can be no peace in essence, no peace, law and good governance if you do not consult with the people. [*Desk thumping*] And the present system of voting is now being interrupted by the Government using the power of incumbency as the [*Desk thumping*] parliamentary government to create a method to ensure their ability to garner greater power over the electorate. This is not acceptable, Mr. Vice-President.

And there is political instability in countries where such run-offs occur, and even where there is the run-off, and the recall also creates chaos and instability. And a few names that come to mind of the countries are the Middle East, Uzbekistan, Egypt. And there are 15 of such countries, and I wonder if, you

Constitution (Amdt.) Bill, 2014
[SEN. BALDEO-CHADEESINGH]

Tuesday, August 26, 2014

know—but this is not going to pass. But if this passes, what would be the headline in the newspaper not tomorrow, but the following day? Welcome Trinidad and Tobago, you are number 16, the bastion of political instability. [*Desk thumping*]

Sen. Al-Rawi: Sen. Howai ready to cry. [*Crosstalk*]

Sen. D. Baldeo-Chadeesingh: So, Mr. Vice-President—how much time have I got left? Three minutes? Okay.

Mr. Vice-President, I wish to, at this point, indicate from our country's development from colony to our republican status to date, we have a history of struggle for the right to vote. And today we will struggle to keep that right to vote. Persons such as Tubal Uriah “Buzz” Butler, Elbert Blaze, George Weekes, CLR James, Captain Cipriani, Cola Rienzi, Dr. Eric Williams, from crown colony to republic, people of Trinidad and Tobago must stand up. Our heroes and our ancestors who worked hard to develop this nation would be turning in their graves. Stop this Bill.

So, we got the right to vote, every adult. There were times only when the landowners with a deed were allowed to vote. No government must be able to take away our right to select our representatives. [*Desk thumping*] No one. Stop this Bill.

On the eve of Independence Day celebrations in Trinidad and Tobago, out of everything, we are here to debate this.

7.00 p.m.

Mr. Vice-President, I hold in my hand media reports, commentaries, articles, submissions, against the Constitution Bill, 2014. [*Desk thumping*] We often hear the voice of the people is the voice of God. Mr. Vice-President, the people are speaking. Who is listening?

Hon. Senators: Not them.

Hon. Senator: I am.

Sen. D. Baldeo-Chadeesingh: Mr. Vice-President, our bench, the PNM Opposition Bench, does not support this Bill as we stand on guard for Trinidad and Tobago. [*Desk thumping*] I thank you, Mr. Vice-President.

Sen. Dr. Rolph Balgobin: [*Desk thumping*] Thank you, Mr. Vice-President. I rise to make a contribution to this debate on a Bill entitled, “An Act to amend the Constitution of the Republic of Trinidad and Tobago”. This Bill, of course, has excited the imagination of the public. It has got people stirred up; it has interested them to no small degree in what happens in our Parliament and by extension in what happens to our democracy.

In thinking about this piece of legislation I have to confess, I feel a little sad for our Constitution, bless her. Much discussed and maligned over the years, held responsible for human incompetence and political corruption for many, many years, [*Desk thumping*] and these things have been driven by men, more than anything that we could set down on paper which is where this Constitution rests, but in my view and through you to the people of Trinidad and Tobago, I am not of the view that the Constitution is an evil document, or a wicked one. It has kept us safe and sound, these many years, and the ills that we have seen in our political culture have come from the behaviour of unscrupulous leaders, and not from anything that is written there. If we want a better democracy, we need better leaders, not just better rules. [*Desk thumping*]

Hon. Senator: Very true.

Sen. Dr. R. Balgobin: I have learned a great deal in relation to this debate from outside the Parliament and inside it too, I did not know that the Independent Bench was responsible for the coup. [*Laughter*] I just found that out. I am grateful to learn, nor did I know that the idea of a constituency fund was a bomb placed by anybody, because I know that idea has been around for many, many years and so if it is a bomb it is a piece of unexploded ordnance. [*Laughter*]

I have listened to the radio, Mr. Vice-President, I have read the newspapers, engaged the “placarders”, talked to people. I have received many emails, letters and so on, and, of course, I have talked to people, and people have approached me opportunistically and at random, and many of them have taken the manner of approaching to me with a wagging finger. They will say, “I hope you are not voting for that”. And so I listened to that and I propose to speak to that in a little while, but you know this idea, “I hope you are not voting for that”. And then, of course, it morphed into, “Who will be the one?” [*Crosstalk*]

Okay, okay, who will be the one? Okay. It took me almost a fortnight to work out that this had the elements of a very well-run public campaign. And one of the things that I found interesting was that I was not able to receive a cogent answer to a simple question I put to people who walk up to me wagging their finger, because, you know, after a fortnight the fingers start to wag before they even say anything, so they are walking up to you, “I hope...”—so, you know, it takes a few seconds. So you could almost predict what they are going to say, and so I posed the question, why did you say that? And the answer I get, very often has been one where the eyes glaze over, and someone says, well, you know, the run-off thing, “nah”. I said, well, okay, what about it specifically? What is the issue? And I have not been able to engage people and get the kind of answers that I wanted.

Constitution (Amdt.) Bill, 2014
[SEN. DR. BALGOBIN]

Tuesday, August 26, 2014

So that tells me that there is an element of this discussion that remains unexplored—that is yet, you know, the depths, Mr. Vice-President, have not been plumbed. I thought the early interventions of Daly and Farrell to be quite useful, but I did find too that many commentators have fallen into the trap of expressing an opinion on relatively low-quality reporting. And what that does is it has the effect of lending intelligence to increase ignorance. And we must be careful, we must be careful. It is our democracy, this is the place we all have to live.

And I will say something about this “we all”. I listened to the radio, since this thing has come up, I have been in school, I am going through all the radio stations and I hear people on the radio saying things, you know—“we have to deal with these people”, and, “we cyah let these people get away with that”. And I am thinking, who are “these people”? These are our brothers and sisters. These are people we lime with, we want to take a wine on for Carnival, [*Laughter*] we are playing mas with. These are the same people, not so, Mr. Vice-President?

Who are these people that we are talking about? How it is that we have come to address each other with such hostility and intolerance, where is this thing coming from? What is it that we are unleashing in our society? Is it really acceptable for us to tell ourselves that it is an election year so things must naturally get hotter? Is that really acceptable? No, I do not see why we cannot continue as a society to have a public discourse with some degree of decorum and we not heap disrespect [*Desk thumping*] and discourtesy on each other. Let our ideas win the fight.

And so, here we are all gathered, once again, in what seems to be the centre of the storm. A nation fragments, lines are drawn. I wonder, coming into this debate, whether the framers of this document, the Constitution, really expected, ever, that it would fall to Independent Senators to have to defend the democracy. I wonder. Is it that that is what we were—or cause a coup—

Hon. Senators: Design—

Sen. Dr. R. Balgobin: But not that one so far. Was that really the intent of the framers?—I wonder. Of course, wherever they are they must be smiling; they perhaps do not have to stand here and take a position. But this really is my jumping-off point. Is the Constitution under attack? Does our democracy need defending and if so, what is the best way forward?

I propose therefore to address some salient parts of the legislation and offer as balanced a perspective as possible. I have not really made up my mind coming in here. I remain open to persuasion. I merely wish here to pose some points for the

consideration of debaters to come. In terms of term limits, I am of the view that this is a very important development. I support it fully. I commend the Prime Minister for putting it forward because it—what does this democracy require? It requires leaders who are willing to fetter their own prospects so that the society may advance. That is what we want from a leader. And I see elements of that here when we speak of term limits. And, yes, people say we have never had a two-term, a Prime Minister that has gone through two terms after Dr. Eric Williams and so. But that is not the point.

Sen. G. Singh: Mr. Manning had more than two terms, consecutively.

Sen. Dr. R. Balgobin: Well, yeah, “and I ent counting that”. [*Laughter*] So I think it is a worthy idea. One of the changes that I would want to see is that we make it two terms or 10 years, whichever is shorter. Because I think we say term limits but we are really giving year limits. And so that is something that really the Government ought to consider as we move forward with this discourse.

In terms of recall as many of us would have done, you know, it got to a point where, I think I must have reviewed most recall legislation in most parts of the world. And I found that what we have in 49B(3) is clumsy in terms of the changes that we wanted to make. If I look at the British Columbia legislation, for example, I think it is quite succinct. It says only one election for any electoral district may be held under this Act during the period between the elections. Simple, plain English. Ours is a little more convoluted. But British Columbia also gives us 60 days for the petition to be signed as opposed to what we have in our proposed legislation. And certainly the bar is higher for us where we have two-thirds; some jurisdictions again like British Columbia have 40 per cent.

I love the idea, Mr. Vice-President, of recall. I do not think that elected office should have a degree of permanence around it. I like the idea of being able to hold my Member of Parliament to account between elections. I like the idea of my Member of Parliament being on the edge of their seat. I have not seen my Member of Parliament since I elected the fella.

Hon. Senator: Name him man, name him. Call him out. Identify him. [*Laughter*] Embarrass him.

Sen. Dr. R. Balgobin: And had this provision existed—[*Laughter*] you know, you do not know what might have happened. I might be the petitioner. [*Laughter*]

7.15 p.m.

So, you know, I “cyar” see you for election time and then after that, you know, “yuh gone”.

Sen. Dr. Mahabir: He must have a constituency base too, man.

Sen. Dr. R. Balgobin: And no organization either, and nobody turns up. And so, you know, it does not leave me, as a member of a district, a constituency, feeling good. My experience with elections is not a good experience. So now I take the most out of an election that I can get, and I can tell you exactly what that is, that it may advise and inform those who are similarly minded.

Every election truck that passes, I stand there and I say, “Gimme ah jersey!” [Laughter] And I take the jersey and I wash my car with it. [Crosstalk] No, I will insist on jersey still. So I can tell you a lot about the quality of election jerseys and who had the best jersey, because I use them for pajamas, I use them to wash my car. So I can tell you.

Hon. Senator: They make excellent car cleaners.

Sen. Dr. R. Balgobin: They do.

Sen. Hadeed: “Doh wash yuh car wit de red jersey.”

Hon. Senator: They are very durable.

Sen. Dr. R. Balgobin: No, no, doh say dat. The PNM jersey held up very well to soap and water. It is a very good quality jersey. [Laughter and crosstalk] And that is all I get. After that, well, those T-shirts have to last me for five years. So, of course, future candidates walking around my constituency will now know why I am so happy to see them. And if there is a third party, that is just an extra T-shirt for me.

But, Mr. Vice-President, what does recall do? It introduces a measure of humility to the question of service. Some years ago in the United States, someone asked a United States President how he felt about demitting office, and he says, “I view it as a promotion because those in office get to serve me”. Too often in this country we view service as an elevation above the people; that we lord over them. I have had situations where previous Government Ministers would not even talk to you. I have been in and around this Senate for 10 years now, and I will tell you a little bit about some of those experiences shortly.

But I think it is unfair for a Member of Parliament to have five straight years to run until his employment comes up for review. The threshold, of course, for a recall, is set higher, for good reason. I think it protects against arbitrariness and against unfair removal. I do find that three years is a little long for me to realize you do not know “wha yuh doin”, and so I would advocate that that be reduced. I want to check on you halfway. So two and a half years is my suggestion, and I am hoping that I can insist on that and get that kind of consideration from the

Government because after three years “I so fed up, ah doh even feel ah will sign a petition. [Laughter] I go jes wait fer de next two years and, you know, deal with you then.”

And so, we come now to this—I just have two or three things more I want to raise. One has to do with this question of run-off. Then I want to address the question of our casting vote, recusals and so on, and why I feel this thing has as much heat in it as it has. I am not of the view, having studied what is before us, that clause 9 perpetuates the life of a government. In fact, given clause 9, amending section 76(1)(c) of the Constitution, I do not see that. So I asked someone: what is the issue with a run-off? They say, well, in that 15 days they can cover their tracks. Well, all right, but if you are in government, I would think you would know when the last year of your term is, so you could spend the last year covering your tracks. I am not sure what can be done in those 15 days that cannot be done in the 15 preceding months. So, okay.

So then I moved on to the next question which was: does this kill third parties? There are arguments for and against that, and I have struggled with both. What I do know is this. I think that Sen. Al-Rawi has a very strong point regarding the importance of the first-past-the-post system. Unfortunately for me, very often in this country first past the post has translated into winner take all, or put another way, devil take the hindmost. I see this as really disenfranchising a growing centre that is supporting a third party.

If I look at the election results of 1981, 1991, 2007 as examples, what do I find? You know, there are potential—there are big third party showings in 10 constituencies in '81, 11 constituencies in '91 and 14 constituencies in 2007 that would have caused a run-off. When I analyze the numbers, in 100 per cent of the cases, the second and third parties got more than the first party, regardless of whether it was UNC or PNM or whoever. And so, the third party really represents for us, a growing and very important—a powerful question: how do we involve a third party in our politics but in a way that does not give anybody an unfortunate advantage, or an unfair advantage, over anybody else?

Now, I did not see it as being injurious to a democracy to have a next election because, as far as I am concerned, let us say I voted for a third party—you came third in the election; the election is declared—well, I am “sucking salt” from that point on. Whether the person won 30 per cent of the overall vote, or 49 per cent, I am “sucking salt”. I voted for the third party. I have nothing to get, except maybe a jersey. [Laughter] So I am already out.

Constitution (Amdt.) Bill, 2014
[SEN. DR. BALGOBIN]

Tuesday, August 26, 2014

If you have a run-off, well, okay, I may be able to have another say, or I may not. I can choose. But one of the things that I like, if I play this thing out to its practical conclusion, is, I wonder whether a run-off, a forced run-off between the top two performing parties does not force the two main parties in this country to broaden their agenda to accommodate the interest of a third party. [*Desk thumping*] And I am wondering whether that is not a good thing because I feel so sad to see our people feel so disenfranchised when their party does not win. And five years is a long time to be out in the wilderness, and this country is, in terms of population, as well as physical size, too small to jam big winners and big losers together for five years. You must have friction. You must have chafing.

So I think it may inch us towards a more representative democracy. Then the question arises: well, why not an instant run-off? So I looked at that too, and I did the numbers and what I found was a curious anomaly. If I do an instant run-off, it actually disadvantages the two mainstream parties, unfairly so, because voting supporters of either party will not put each other as their second choice. They will put the third party. So the third party suddenly becomes second.

Hon. Persad-Bissessar SC: The third party comes first.

Sen. Dr. R. Balgobin: Well, it could. Well, okay, if you want to come second or if you want to come first, earn that. The People's National Movement earned their place in the history of this country. The United National Congress earned its place in the political landscape of this country. If you want to be a third party and you want ranks, win votes. Win your votes! Earn your place. No affirmative action for you.

So instant run-off is probably not ideal. Run-off, I am not so sure it is an evil thing. Certainly, no one has been able to explain that to me to my satisfaction. I understand what the precedent is elsewhere and so on, but as I said in the last debate, which is no longer anticipation—it is more reflection, which is, I believe, allowed—I find that we pay a lot of attention to what other people are doing and we do not often have the intellectual confidence to chart our own course. [*Desk thumping*]

Before they slam the table too hard, that is often a mark of madness or extreme stupidity, eh. We have to be careful. But I do not think, in the scheme of things, that this is some big, massive, dangerous leap. I do not know. I am open to the idea. What I do know is that I think the first-past-the-post system has given rise to the very issue that plagues our democracy now, in that it, more than

anything else, subordinates third parties, and to an extent, I am of the view that it reinforces ethnic voting patterns. I do not see that a run-off would do that anymore than an initial vote would. So I am not convinced about that either.

I am of the view, Mr. Vice-President, that we must move to proportional representation. [*Desk thumping*] That is the fairest system for citizens of this country. I cannot imagine—and you know, when people want to protest and when people want to rail, demonstrate against everybody—because nobody has brought it, and that is really what you need, so we vex with everybody. “Doh mix wit some”. No one has brought it and it needs to be brought. And so, to the extent that these run-off provisions inch us in that direction, I want to go there, so I am open to that direction.

What it also means, to my mind, is that you can no longer slander third parties because you might need their support in a run-off. [*Laughter*] What I like is that this debate has helped to focus parties and the public on real change, and I think that all parties involved in our democracy must accept that there is a problem with participation in our democracy. There is a problem, and we must begin to address it. I am of the view that the base assumptions that are being ascribed to the UNC and the PNM about third parties, in relation to this run-off, are wrong. I am of the view that the base assumptions that are ascribed to these two political party about third parties, in relation to a run-off, are wrong.

7.30 p.m.

Nothing says that a third party will necessarily vote for the UNC. So if this is a ruse or a guise by the UNC to perpetuate power, well that is a hell of an assumption that these third party folks are going to come by you. I do not think that anybody else, the PNM or anybody else, should make that assumption either, because I have seen nothing in the voting patterns to suggest that that is so. The evidence is there, you know. The numbers are there. So, I am kind of agnostic on that particular point. I am just dealing with the arguments as they have come to me.

In terms of making changes to this thing, I also have developed a more flexible view, and the view I have is that we really ought not to entrench a voting system to the extent that it cannot be changed. Because I think if you do that, political parties can then entrench their power, and really, Mr. Vice-President, that is why we have never been able to implement meaningful change in the public service because the bar to driving through the change is just too high. It has become too politically expensive for us to align, to agree what to do. So the thing is a big massive problem and everybody knows that, and no one has the legitimacy to do anything about it and this has bedevilled us for 40 years.

Constitution (Amdt.) Bill, 2014
[SEN. DR. BALGOBIN]

Tuesday, August 26, 2014

So I want to turn now to this question of consultation because I was quite confused and interested by it, because something there did not ring quite right with me. The consultation issue therefore for me is quite confusing.

The Constitution, the supreme law, makes provision for consultation and because it makes provision for consultation over the years, the definition of consultation has come to be made pellucidly clear and, that is to say, I can consult with you but that does not mean I have to agree with you.

A government is elected by the people. It is not appointed representatives bringing this here. It is elected people. So that, to my mind, engages the question of consultation because I am not sure, Mr. Vice-President, that there is a guarantee that consultation, whether by elected people or appointed people, or anybody else, would result in anything near agreement. If I look back at the history—perhaps a little less querulously so than some—as far as I have been able to determine, because at the time I was not a thought in my—I did not feature in my father's contemplation at that particular time, but Marlborough House, there was disagreement even in there.

I recall at the end of the last Parliament I was in the Senate, and at that point in time there were several alternative constitutions floating around the place, and so, I am not sure about the idea that consultation and consultation and consultation is going to generate alignment about what ought to be done. I think we have found ourselves in a part of the political landscape where anybody who tries to interfere with the Constitution is going to face a barrage of criticism and assault. But if you rewind three or four years ago, just before the election, there were three or four alternate constitutions floating around the place.

There was no alignment about what ought to have been done, and then even if we set that aside and we say no, consultation can generate alignment, which as I say is highly unlikely, but if I set that concern aside and I say consultation can generate alignment, I would be very concerned about the structure and form of these consultations, and the degree to which we view these consultations as being representative of the will of the people.

I am not walking up the hill to go Palms Club 10 o'clock on a Wednesday morning to attend a consultation. So, in research terms it raises the question of internal validity. That is to say, are we sure that what these consultations are producing is representative of what the people actually want? Are the people attending these consultations representative of the population? You cannot defeat that concern with location only.

I looked at the polls on the weekend—or was it yesterday?—I saw one in one newspaper say, “Pull back”, and another one in another newspaper say, “Go forward”. So I thought, a point in two directions is as bad as a point in none. But when I looked at the polls, both polls used 500 people—magic number. You have 1.3 million people here, so the Ministry of Planning and Sustainable Development says; some people might argue that it is a little bit more than that. So I know that statistically someone, a statistician, could come and argue that 500 people is representative because you have an end that is greater than 30 and so, along the rules of normal distribution, this thing is representative. I do not buy it. A small country is like a microprocessor. The smaller it is, the more complex it is. The people in Penal proper feel differently than the people in Debe; the people in Morvant will feel differently to the people in Laventille; the people in Westmoorings feel differently to the people in Goodwood Park. It is everywhere.

And so, I would be cautious about guiding the population this way or that, on the strength of what 500 people say. How did you pick those people? Did you do a random search through the phone book? Did you call somebody name Ramkissoon and just kind of assume that that person was Indo Trinidadian? That is a dangerous assumption to make now, you know. That is a dangerous assumption to make now. So I think it really strains the question of validity for me without knowing a little more about who these 500 people are, and so I think that we must take a more balanced approach and move from consultation to engagement. We have to find ways to engage people.

I think, Mr. Vice-President, it is unlikely that there would have been agreement on a model going forward because it would have been inevitably subjected to the political party test. Is this good or bad for us as a party? This creates, of course, a gap between the needs of the people, the citizens on the one hand, and the needs of interested political parties on the other hand; they are not the same. In the same way as sometimes employers find themselves caught between the interest of their employees and the interest of the labour union representing them. They are not the same as you would well know. *[Laughter]*

And so, I sense that there is a political component in some of these calculations that I see and in some of these noises that I hear, but Governments have over the years been constrained to do what they felt was best. In a previous Parliament, I recall that moves were made to delay local government election.

Hon. Persad-Bissessar SC: Three times. Four times and passed.

Sen. Dr. R. Balgobin: At that point in time, a lot of the people that I hear making noise now did not make any noise. So noise now, no noise then, okay, that does not mean that commentators are politically aligned. I think it also suggests that we are becoming more politically aware as a people, and I must commend the PNM, the UNC, the COP for that because the people are waking up and when they wake up and they start to ask you hard questions, well you will have to be able to answer.

No doubt this is a product of a process which to my mind may have been less than ideal. No doubt! Anybody can in a fairly defensible way look at this Bill and say, “But whey dis ting come from?” Even the people who were retained to develop the report on it, have sought to distance themselves from aspects of it. Now I do not know if I agree with that. If you sign you agree. [*Desk thumping*] There is a thing in this life. In parliamentary life we know if we do not agree, we submit a minority report. Tom Cruise made quite a lot of money some years ago making a movie of that name. But a minority report is a very useful device because it says, “Hey, I see this ting and I doh like it”. Okay, fine. We did not get any minority report, no problem. A person can say, “Well, you know, this has not reached in front of us by virtue of the ideal process”. The process is less than ideal.

The problem I am having, Mr. Vice-President, is that given the fractured and cannibalistic nature of our politics, I cannot figure what the ideal process should look like because we have been doing this for about 40 years now and we still did not get any alignment. Is it that I am running out of time, Mr. Vice-President?

Mr. Vice-President: I will ensure when you reach the time.

Sen. Dr. R. Balgobin: I am grateful.

Mr. Vice-President: You have two minutes in your original time.

Sen. Dr. R. Balgobin: Okay. Fair enough. So, if we cannot figure what the ideal process is, it may mean that some Government has to make a move and see what happens. You do the best you can with the sense you have and the information you have and you see. Of course, you could play it safe and do nothing because as you know, Confucius say: Man who does very little make very few mistakes. [*Desk thumping*]

On the other hand, if anybody makes a move to implement change and we do not like it, as an electorate we reserve the right to vote you out. Out you go. Sayonara, it was nice seeing you. We like seeing the back of you even more. Do not let the door hit you in your back on your way out. We can vote you out. We retain that power. It has not been fettered.

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

Motion made. That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. D. Mahabir*]

Question put and agreed to.

7.45 p.m.

Sen. Dr. R. Balgobin: Thank you senators, and thank you, of course, to my dear colleague, Dr. Dan Mahabir; lovely man. I am very grateful for him moving the Motion. [*Laughter*]

Yes, I am comfortable enough, if I could wear pink, I could call him a lovely man. "Wha happen to allyuh? Handsome man, handsome man, right, handsome man, yes. [*Laughter*] No, not romance, "bro-mance", if anything.

I am of the view, Mr. Vice-President, that if this thing had been consulted more widely, it may have gained more political support. On the other hand, it being an election year, I suspect that anything brought in relation to this would be viewed through tainted lenses. And if so, the question is why bring it at all? But why should you stop doing your job just because an election is a year away? I do not see the logic of that. And so in plumbing the depths of this, I found that a big part of the objection, really, to me seems to do with the mistrust with which governments are held, in general, and with which this Government is held, in particular. [*Desk thumping*].

There is no question that section 34, governance failures, arrogance and mishandling of even the simplest things have contributed to the jaundiced view that people have of a Bill such as this. I am not excepted, I have found sometimes, as with, you know, I have found that the Government sometimes can be dismissive, self-motivated, even arrogant at times. My first experience with the Government was when Sen. George was the Minister of Science and Technology, and he fired me by fax. [*Laughter*] Yes, he fired me by fax. I was a member of a board and I got a fax saying, "You are fired".

So, okay, and I do not think that the corporate governance that they have done was all perfect. No, I think a lot of it went quite wrong. However, I also found that the last Government was guilty of many of the same things. There was a big hue and cry about SAUTT; about the Revenue Authority; about, you know, the property tax. And those things in hindsight and on reflection may not have been

Constitution (Amdt.) Bill, 2014
[SEN. DR. BALGOBIN]

Tuesday, August 26, 2014

so bad. And so we have been—our Governments have been victims, present and past, of a kind of mistrust that has taken root in our culture and, of course, some of our leaders do not help.

I remember in a previous Parliament with a previous Government, talking to a Government Minister and having the singular experience of him speaking to me while he was walking away. He was speaking ahead and he just turned his head and said—you know, he was answering me while he walked away. I did not even merit a pause in his perambulation.

Sen. Ramlogan SC: And you would not have even gotten a fax; he was multitasking.

Sen. Dr. R. Balgobin: I only give the example, Mr. Vice-President because that same Minister remembered my phone number and called me incessantly for help with a job after he found himself without employment. And so these masters of the universe, one day they fall to earth like Hyperion, and then what happens? They call for help and then what you see?—then you see the humanity of the person and you help. [*Laughter*]

Hon. Senator: Can I get your phone number?

Sen. Dr. R. Balgobin: You could reach me through the Parliament.

But, fortunately, I do not have to vote based on my feelings. I just have to vote—or about if I trust you or not. I have to vote on the issues and that is what I will take a position on, the legislation that is in front of me.

And so, I wish to just make a comment about this Senate process before I close, and I wish to speak specifically to the—regarding the other occupant of that chair—the President of the Senate, if you would permit me.

Mr. Vice-President: The Standing Order gives provision that you ought not to bring the President into the debate while—

Sen. Dr. R. Balgobin: Well, it depends on what I have to say.

So let me say this then, if hypothetically an issue arises about whether someone should recuse themselves from a discussion or not, but that person is a creature of the Government and is replaced by someone else from the Government Benches, hypothetically—I am confused about the issue. Because, you see, Mr. Vice-President, Standing Order 44(2) says that the occupant of that chair exercises a casting vote. But how shall the occupant of such chair use that vote? May's *Parliamentary Practice* is clear on the point. On page 413 of the 2004 Edition, it says that:

Such a person shall have a casting vote. But in order to avoid imputation upon his impartiality, it is usual for him to vote in such a manner as not to make the decision of the House final.

For the uninitiated out there, this means he is compelled to vote against, he must keep the question open.

And so if someone, hypothetically, were to advocate that a course of action be taken which has the effect of keeping the question open, then it is a nonsense to demand their recusal. And I only make the point because I am of the view that it is a kind of contemptuousness born of laziness to do so, because simple research would indicate that in that hypothetical case a recusal is not necessary and that, in fact, a casting vote would be to keep the question open. And I say that only to say that if we hold ourselves out as people to be listened to, we must be careful not to say things without merit that can diminish the respect that both man and office deserve. And that is all I will say about that, hypothetically, about my hypothetical case. But I did not like how that played out in the hypothetical case.

In terms of broadening the democracy, how do we say that we are broadening the democracy if we require the vote of one Senator, and really this is the last thing I want to say on the topic. Special majority legislation, Mr. Vice-President, is passed in this Senate all the time and that requires just four. It does not help the democracy either, strictly speaking—that is just three more people. The idea that the proposed law is offensive because it needs one Independent to pass it assumes the other eight will oppose. This is not the history of this Bench or any other Bench I have sat on. We heard an example of one person that caused a coup some years ago. But I am not aware of any other such example; certainly in the 10 years I have been in and around here, I have not seen it. Usually the Independents vote more or less along the same lines or it splits evenly.

I say that, Mr. Vice-President, just to say, to create the idea that one against eight is, to my mind, improper. Each of us, each of us here keeps our own counsel. [*Desk thumping*] And to imply that any of us voting one way or the other means we will be breaking ranks is frankly foolish, at best, and an attempt to play with the mindset and the decision process of the Independents. I, for one, do not like that at all. [*Desk thumping*] I do not appreciate it because you cannot bully me into replacing my ideas with yours on the basis of volume. You have to convince me, and I am open to being convinced. Give me a reason to share your point of view, and I will share it. I have no vested interest in this either way, but the discussion seems to have become so polarized, perhaps we need to reset the field. We cannot continue to do the same thing and expect a different result. Our democracy needs to move forward, it needs to morph, evolve and advance.

Constitution (Amdt.) Bill, 2014
[SEN. DR. BALGOBIN]

Tuesday, August 26, 2014

This legislation is not perfect. There are changes, of course, that I would like to see. But if you are willing to be open and accommodating, then perhaps the debate would benefit from the maturity that comes with early resolution. And so, if I can get reasonable changes, notwithstanding the polarized debate and argument inside and outside, you need one, you may have one.

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

Mr. Vice-President: Minister Howai.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Mr. Vice-President, thank you.

I rise in support of this legislation, and I want to say how pleased I am to be part of this most historic debate, a debate which has been going on since the birth of our nation and even before that, as we have struggled as a young nation to come to terms with the rules that would govern us, that would decide how we move forward, that would frame the relationships that exist among all of the key stakeholders that make up our country.

It is true that this piece of legislation is perhaps just a small step in the direction of getting to where most of us would like to be as far as Constitution reform is concerned. But, nevertheless, it is a step—they represent steps, rather than a step, but steps in the right direction, in my view, of getting us to where we should be as a society. [*Desk thumping*]

But, Mr. Vice-President, I sympathize with the Independent Bench because I recognize the tremendous pressure that must be placed on each and every one of them. And I was—[*Interruption*—well, I am glad that—we recognize. Thank you very much. We recognize; thank you.

8.00 p.m.

And I really really was, myself, taken aback by one headline which sort of put everybody up and they asked the question, well, which one will be the one. I do not think that that was fair to the hon. Members on that bench. I do not think—this is something that we need to look at as dispassionately as we can. It is something that certainly evokes a lot of emotion and we see it both inside and we see it outside. It evokes a lot of emotion because it touches all of us in a deep and fundamental way given the very importance and the depth of the Constitution and what it means to our nation and to any nation.

I would also like the opportunity, Mr. Vice-President, also if I may be allowed to digress, simply to correct, again, the hon. Sen. Al-Rawi who always keeps misquoting my figures. Every year, you know, every time he speaks and he mentions the budget and budgeted figures, he had the LifeSport Programme at \$800 million.

Sen. Al-Rawi: Half a billion.

Sen. The Hon. L. Howai: I got him down to 400, he went back up to 500 and now he has my poor budget at \$360 billion.

Sen. Al-Rawi: 275 plus 65.

Sen. The Hon. L. Howai: Yeah, 275 plus 60 getting into 360. Right? Well, actually, for the four years, the budgets were \$50 billion, 51.4, 52.8—the actual expenditures—and 59.5, giving a total of 213.7, plus we asked for a further amount in the—[*Crosstalk*] No, these are actual expenditures. Right? [*Crosstalk*] Well, we have to use how much we spent, we cannot talk about how much we thought we would have spent, right, and \$4 billion of—or 3.8—say \$4 billion of appropriation this year which will put you at \$218 million—217.7, so let us say 218. Right? I would really literally have to have a budget this year of \$140 billion which is about three years almost back to back for me to get to 360. So I just want to, Mr. Vice-President, for purposes of the records, just to correct that.

Sen. Ramlogan SC: Yeah, set the records straight, man, misleading the House.

Sen. Al-Rawi: I will deal with you in the budget.

Sen. The Hon. L. Howai: [*Laughter*] Look forward to it, Senator.

But the thing, Mr. Vice-President, if I may be allowed to come back to the matter at hand, from—I suppose Mr. Capildeo coming forward to Mr. Best, even coming forward to even some of our local thinkers, as far as the issue of the Constitution is concerned, I think more voices have been raised in favour of us having some kind of Constitution reform rather than not. Most people have indicated and that there is need for us to recognize the diverse culture that we have, to recognize the fact that we are significantly very different to the United Kingdom which is the antecedent which we have used to form our own constitutional agenda, and our own Constitution, and that we need, therefore, to consider our own local circumstances in determining how we move forward.

In particular, because the issue of the run-off has been a matter which has raised a lot of ire, a lot of concern, a lot of emotion, we are all aware that in many instances, governments have ruled with 28 per cent of the vote and what we are saying is that we have a legislature where 70 per cent of the people of this country are excluded from having a voice because of the nature of the system. It is not a plot by anybody, it is the nature of the system that 70 per cent of the people will not have a say. And really, the Prime Minister and this side ought to come

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. L. HOWAI]

Tuesday, August 26, 2014

forward with perhaps some even more far-reaching changes to this Constitution. Some more far-reaching changes that will help to change the structure and composition of these particular Chambers.

But, we recognize the fact, as my hon. colleague, Sen. The Hon. Dr. Bhoendradatt Tewarie mentioned just now, we recognize the fact that these need special majorities which on the basis of the feedback that we have would suggest that it would not be successful, and therefore, what we have strived to do is to establish a process to move this debate that has been going on for more than 50 years, find a way to move this thing forward in some way, [*Desk thumping*] and this is an effort to do so.

A Constitution, as we know, is a living, breathing organism. It defines how and determines how we as a country are going to be governed and therefore it must be subject to change and amendment as your country changes. There is no question about that. And if you start from a point of view that you say that “look, this thing, we starting with this but it doh really represent what we really are”, then as you change and you change and you go further along the route of who you are and what you are becoming and what you are likely to become, you need to consider the changes that you need to make to continue to be relevant to all the changes that are taking place in your society: customs, values, needs of a people evolve over time and we have to keep change with that evolution that is taking place.

In doing some of my own research into this matter, I have looked at a number of Constitutions and the Constitution of the United States, for example, which has been in force since 1789, has had 33 amendments. Now, they sat down and they determined their Constitution without going to England or Marlborough House or anywhere else. They all sat down and they sat down and they decided what their Constitution would be. But they have had 33 amendments in 225 years, and perhaps if I could use a calculation borrowed from the good Sen. Al-Rawi, I can say 225 over 33 is one every seven years they make—yeah, but it does not really work that way because it is not really one every seven years, it happens—you know, sometimes you have a couple ever so often. But—[*Interruption*]

Sen. Al-Rawi: Would you give way so I would not have to use the Standing Orders?

Sen. The Hon. L. Howai: Sure, okay.

Sen. Al-Rawi: Thank you, hon. Minister, for giving way. I would be very grateful if you would allow me to state that the figures that I have volunteered to the Parliament of 245 come by way of total expenditure statements broken down

year for year taken from the Government's expenditure budget programme, and that the precise figures spent by the PP from these figures is \$245,000,000,069, and that these figures I have can be backed up by the facts and figures. So thank you for the opportunity to elucidate that. I am sure about the figures that I have presented.

Sen. The Hon. L. Howai: All right. I want to say, hon. Member, that before actually quoting my figures, I actually asked the Permanent Secretary in the Ministry to provide me with the numbers and those are the numbers that I quoted here for the *Hansard*. All right. [*Desk thumping*] So if I may be allowed to go back.

So, the thing is that we have 33 amendments to the US Constitution which has been in existence for something like 225 years. We have had a number of amendments as we have gone along but, again, those amendments, in a sense, as the hon. Member had indicated, did have some of the constraints that, perhaps, we wish we could have dealt with in a different way, and amendments which, perhaps, in as diverse a Chamber as we have today, may have perhaps benefited in a much better way from the deliberations of Members such as Members of this honourable Chamber.

So, I would not go into all of the details concerning the different attempts we have had at constitutional change. My hon. colleague has done that well, as well as previous speakers and so on. I want to, perhaps, instead deal with the issues that we have in front of us. Over the years, we have seen the fight against entrenched leadership, the desire to be rid of underperforming candidates, the victory of minority MPs and so on. We have, in a sense, as a people, come to the position that—I think the three areas, which we have identified, which fortunately are areas that, Mr. Vice-President, we can deal with by way of a simple majority, are term limits, the right of recall and the run-off. These are three areas that persons have been agitating for for years, and I think the hon. Sen. Balgobin perhaps expressed it in the best possible way, in terms of explaining why some of these issues have been major issues for us over the years.

The first two, that is the issue of term limits and the right of recall were in the manifesto of the People's Partnership and these were, therefore, on the table from 2010, and when people voted, they understood in that voting process that these were two issues to which the Partnership was committed and I do not think anyone is surprised at the fact that these two issues have been placed on the table, on the agenda of this honourable House. The third is, in my view, a logical extension of the second, that is the right of recall. I will come back to that in a little while.

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. L. HOWAI]

Tuesday, August 26, 2014

But starting with the issue of the two-term limits for Prime Ministers, I want to say that this, of course, as you all know, exists in a number of countries, for example, France, Finland, South Korea, Austria, Germany, et cetera. For most of us, the concept is familiar in the context of the American Presidents, so I will use that example. Prior to the 22nd Amendment which restricts US Presidents to two terms in office, the limit was really self-imposed. George Washington, the first or the founding father of the United States, he retired after two terms as President, and for the most part, his successors followed his example until about a century and a half later when Franklin Delano Roosevelt came into power and he was elected in 1944 for an unprecedented fourth term.

I think, at that stage, the people of the United States began to worry that a political leader wilfully ignoring tradition and precedent could become entrenched. So it was in 1947 that the United States enacted the two-term limit for their Presidents and that has been in effect ever since.

Of course, over the years, sometimes some people sort of grumbled about it, because they have a leader that they are comfortable with, and that goes to the point that had been made before—I think Sen. Drayton had made it—that, you know, if you are a two-term president and you want three and the people want to vote for you, by all means, let them decide, let the people decide; you do not decide it for yourself. I hope I am not misquoting but that is what I understood was being said, Sen. Drayton, that if persons wish to vote for that person, they should be allowed to do so. I was not quite sure whether you have come down one way or the other on two-term limits and so on. [*Crosstalk*] Okay. All right.

But, I suppose in today's world, being familiar with leaders who tend to overstay their welcome, you know, I think that even here in Trinidad and Tobago, and not just here, in many other places, the whole issue of two-term limits is an issue that people would like to pay some attention to. In fact, as far back as 1981, the Organisation for National Reconstruction, 33 years ago, had proposed a two-term limit for the Prime Minister in their manifesto back in 1981, and I am told that in 2007, the Congress of the People also featured term limits along with the right of recall for non-performing MPs. So, Mr. Vice-President, I think that tends to be more of a non-contentious issue—the issue of two terms.

8.15 p.m.

I think, as has been pointed out before, a number of the benefits of having something like this, an arrangement like this, have been identified, for example, the fact that it promotes succession planning, certainly people have to pay attention now to developing leaders within their parties and developing leaders

who can move the nation forward. It removes this issue of the maximum leader concept, which we all tend to fall afoul of. Particularly when power goes to our heads, we tend to suddenly get caught up with “maximum leaderitis” and we tend to want to retain power. It helps to remove that concept from within the party because you know you are going along.

But what I think is a very important part of it is the fact that, by the time you get to your second term, in a sense you stop thinking politics and you start thinking legacy. You start thinking: what are the things I need to do for this country that will build my legacy, that will create some value for the future, put things in place that would, in a sense, cause people later on to say: “if it was not for this fella we would never have something as great as this.” So, it really helps to focus leaders on legacy and it causes leaders to make good long-term decisions and that is something that is very, very important.

Because, in a democratic system, one of the difficulties you find yourself faced with on an ongoing basis is the fact that you have to make a decision recognizing the fact that you have to face the electorate next year, next two years, next three years, whenever it is and, therefore, to some extent you get a bit of pandering that takes place in politics that, perhaps, you could do without at times. And when you get to a point where a leader is focused on the future and on legacy and on doing things that set the foundation for a great nation, I think that is something that is very much a positive when you are dealing with the issue of a two-term limit. And, therefore, it is something that I would certainly want to recommend to this honourable Senate.

I saw a note where Peter Wickham who is a political consultant and principal Director of Caribbean Development Research Services and he was on a UTT-taught leadership series, relating to the Constitution reform and he made a comment here which I thought was very, very apt. He said:

On Constitution reform in Trinidad and Tobago, specifically term limits for the Prime Minister—he specifically said—if you attempt to depoliticize this issue and look at the good, look at the concession that is being made and also look at the benefits to governance and look at the extent to which Trinidad and Tobago is blazing a trail in relation to a unilateral surrender of power, which is something that a politician never does, I think it is something people should embrace.

But I think it goes beyond. I think it goes beyond just talking about what, perhaps, people should embrace, in terms of an individual giving up power, and we need to look at it in the context of what it adds, in terms of value for our nation and our governance processes as we go forward from here. [*Desk thumping*] I think that is very important.

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. L. HOWAI]

Tuesday, August 26, 2014

Mr. Vice-President, I turn to the second amendment to this Bill and the right of recall. In this particular area, I was interested to see that, after the expenses scandal in the United Kingdom, the YouGov 2012 poll showed that 79 per cent of Britons actually were in favour of sacking their MPs between elections, depending on their performance, 79 per cent, which was pretty close to the 70 per cent that I saw in the MORI poll, which said that Trinidadians will support the right of recall.

I think intuitively, when I listened, even to Sen. Dr. Balgobin, and even myself. I mean, my experience probably is no different to Sen. Dr. Balgobin's. My—I suppose I can call his name—representative is the hon. Stephen Cadiz and I have only seen him once since the last election. I mean, I have seen him otherwise but in terms of—*[Interruption]*

Sen. Ramnarine: Every Thursday.

Sen. The Hon. L. Howai: Yeah, but other than that, as his constituent, I have only seen him once but then, perhaps, that is my fault and, perhaps, as constituents it is two sides of the coin: we have to play a role in seeking out our representative and interacting with him and not only expecting him to come outside the gate and ring the bell, and so on, and look to talk to me and go to his office, and so on.

But, the thing is that we are faced with a problem of underperforming and underachieving MPs and that is something that we all are accustomed to. But, of course, we cannot just be willy-nilly in terms of how we change the people who represent us. We cannot just get up one day and say: “well we vex with them so, for whatever reason, so we want to change them.” It has to be subject to some process that is reasonably well structured.

I was reading something—in fact, let me just look for it—which sort of dealt with that, written by Peter McCormick who is a professor of political science at the University of Lethbridge. What he was saying here in the *Canadian Parliamentary Review*—which I see the date here last updated August 05, 2014—he was saying:

“First of all, the recall is a device linking officials to the people who elected them. You can only recall your own representative, not anybody else's, no matter how angry that person might make you as a voter.”

So the thing is that if it is that, perhaps, I may be upset with Sen. Hadeed because he is not a good Minister of Tourism—I am not saying he is not. I am just using an example.

Sen. Hadeed: Aw. *[Laughter]*

Sen. The Hon. L. Howai: But if he were my representative, I could not fire him because I was vex that he is bad Minister, you know. It has to deal with the facts that, in terms of how he represents me as a representative for the constituency, and I think that is very important. It has to be brought into the context of how we make the decision.

Also, it is a right of recall for your elected representative and not for the entire Government. So, Prof. McCormick was making this point that, when you are dealing with the right of recall, you are dealing with it in those two contexts.

He went on to speak to why the right of recall was actually a good thing. First of all, he said that elected Members would know that they had to take their elector seriously all the time, not just once every four or five years, as has been said by the speakers who spoke previously. But what he said that was also important is:

“I see the recall as a device not to limit private members, not to reduce their role, but to increase it. I think a lot of private members would welcome the chance to have a second master to play off against the caucus master they now clearly have and that they would benefit from that opportunity.

In the longer run, I think the only real road to a more effective Parliament is a feistier set of backbenchers, and I value the recall for the chance that it might contribute to exactly that outcome.”

What the Professor was saying here is that you tend to have, of course, the caucus and the whip requiring Members to vote and think in a particular way and, in fact, having the right of recall helps to create a balance, helps to put persons or the backbenchers who really do not have the kind of say that they would like to have, in a position to push back, in a position to say: “listen, I am faced with this possibility that I could recall and I need you guys to help me to meet the needs of my constituents.” And, therefore, it gives a little bit of additional ammunition to the poor backbenchers who, many times, do not have much to lean on, as far as getting the support is concerned, and particularly when they may have fallen out of grace with a leader, for example, and you may find that for whatever reason, your constituency things are not going your way. In a sense, having this right of recall allows you, gives you something that you could use in the fight to get the benefits that you want for your constituency.

So, I think it helps to move us away from, I suppose the—as I am speaking here, I remember Black Stalin’s calypso where he was exhorting the electorate to “keep the chalice burning, vampire passing”. I think it is something I remember from the old days. The poor Members of Parliament have always found themselves in a very disadvantageous role themselves in dealing with their own constituents and the right of

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. L. HOWAI]

Tuesday, August 26, 2014

recall, and also the point which the Prime Minister raised about the question of the constituency development fund is something—because if it is that you are putting this guy in a position to be recalled, you need to also give him the tools to ensure that he can discharge his duties and responsibilities in a way that helps to manage it in the best possible way. I am not suggesting by any means that you just simply give away this money. There has to be proper parliamentary controls and oversight over this particular issue.

But, the point is that you need to give the MP the tools which he can use to deal with the demands and requirements of his constituents. So, I think, you know, Mr. Vice-President, the points which have been raised before, I have simply enumerated them. Perhaps I have repeated them in some ways. Perhaps, I may have added maybe one or two nuances to it. But, by and large, some of the points that have been raised by this side as well as the Independent Bench, suggest that these two proposals, the term limits and the right of recall, are things that have widespread support, I think, among the population of Trinidad and Tobago and I think that it would put us in a better position as a nation going forward, in terms of the development of the democratic process and the development of our democracy here in Trinidad and Tobago.

Now, Mr. Vice-President, I would just like to turn to the third and final amendment, which deals with the issue of the run-off. I suppose, over all the years that we have had democracy, not just here but elsewhere, democratically-elected governments have struggled with what is the most effective way to go about the election and the most democratic way to go about an election. Translating votes into seats is not as simple a thing as, perhaps, we have gotten accustomed to because of the fact that, in a sense, we have taken the first-past-the-post system to be a system that is almost taken for granted, it is second nature. It is something that has always been and will always be. It is a universal truth. It cannot change. But as we know, there are many countries in the world where there are many different forms of governance and not just first past the post.

In certain countries that we are accustomed to that have some of the Westminster tradition: United Kingdom, United States, they do have two dominant parties. Here in Trinidad and Tobago, we also have two dominant parties but also in countries such as Germany, France, Spain, Greece, and so on, you have different formulae and I have here some notes on all the different types that they use, but I do not think it is necessary for us to go into that now, except to say that I know that, in the case of run-offs—and I have gone through the full list of run-offs; I did not check how many countries there are but there are quite a number that use run-offs—but as has been said, I think France is probably the pre-

eminent one among them. A lot of them are a lot of smaller countries which, perhaps, may not have had a long history of democracy as some of the other more developed countries have had.

But, I think one of the things we have to recognize is that other countries do not have a run-off because they have another system of governance, you know. They have proportional representation. They have other forms which represent broader forms of governance than we are trying to put in place here. We are taking one baby step forward in that process. We are not going where, perhaps, I in my own personal view think we should go, which is with the full step towards proportional representation. I think we are just making a small step forward. Because these countries have these formulae and they have these different representative mechanisms, there is no need for them to have the run-off system in the way that perhaps France has.

8.30 p.m.

So there have been many criticisms of this particular run-off vote, and there are many different formulae for getting to the run-off vote. There is an alternate vote method which I understand is used in Australia, which is like the automatic run-off. And I think now—I know people have raised issues around how that works, given the fact that you have to vote for first, second, third and fourth choices, and how you allocate those votes and so on, but I think there are computer programmes that allow that, but we are not going into that. The computer programmes have defined algorithms that determine which is going to be added to what, based on a defined set of characteristics that are being agreed to beforehand, in terms of how it works, so that there is no individual intervention in some of these numbers and so on.

But the point is that I do not think, you know, I do not want to go into how the run-off system works. I think we all know how it works. I think we all have addressed the process for how we get there. What I think I would like to deal with would be some of the issues that have been raised as far as the run-off system is concerned. Now, it is true that the run-off system cannot guarantee a majority, you know, of the electors. It would not guarantee a majority of the electors. It could perhaps guarantee a majority of people who voted, and you could, on a run-off, end up with less persons voting the second time than the first time.

So I recognize the fact that it could happen that way, but it could also happen the other way as Sen. Balgobin pointed out. You could end up with more people voting and, therefore, at the end of the day, what will always happen is that you will have at least 50 per cent of the electors, sorry, 50 per cent of the people who

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. L. HOWAI]

Tuesday, August 26, 2014

voted because other than that, because you would be down to a run-off of two and the only way one could win is that one has to have at least over 50 per cent of the vote. So you will have at least 50 per cent of the people who voted, it would not guarantee that you would have increased the number of electors.

I think the fact that you have the opportunity to go back, the fact that you have the opportunity to make the case, the fact that you have the opportunity to—another chance to galvanize the electorate, you also have a chance to increase the number of people who would vote. So it cuts both ways. It also cuts both ways as far as the issue of well, who it would benefit, which one of the two major parties. I think both parties would benefit, have the potential to benefit, both parties could end up with—being the winner. It could work in favour of one or in favour of the other, and it really depends on how you approach the run-off, what strategy you adopt, and how you execute on that strategy as you go forward.

So I think that particular issue, I understand the issue, as I understand the fact that there are pros and cons for every aspect of this piece of legislation, not just, you know, it is not that anything is a perfect solution. Every system known to man has some form of—some kind of defect that one could identify. We are not perfect, but the thing is, we are seeking to find which is the formula that brings us closer to the point where as many people as possible, have a voice in these honourable Houses.

If, for example, again, using the run-off and the issue of whether it will kill a third party, for example, you know—I think one of the Senators had pointed out clearly why it can benefit third parties. I would say further to the point that was made that, in fact, you know, certainly if three parties and let us say, it is an MSJ, and I am MSJ, say, and I am third, and people want to get my vote, I would certainly want to say, well, listen fellas, I am prepared to ask my supporters to come behind you, but could I get two seats in the Senate at the same time? You know, so you have 15 seats, well, give me two seats in the Senate so that the people who supported me, the people who support my ideals, the people who support my philosophy will, in fact, have the opportunity to have a say in the—
[Interruption]

Sen. Robinson-Regis: A barter system.

Sen. The Hon. L. Howai: No, it is not a barter system. It is a system that allows everyone—[Interruption]

Hon. Senator: A negotiation.

Sen. The Hon. L. Howai:—that is right. No, it is not a barter. It is a system that allows people who would have been voiceless to now have a voice, to have a chance to stand in the Senate or in the—well, Lower House, wherever they happen to be, well, certainly in the Senate perhaps, and be able to represent the views of those people who would have voted for them. It is a step forward. It is not yet proportional representation, but it comes close to getting us there. Then, of course, there are the bogies of well, everybody will “tief out de Treasury” in the two weeks, or there will be chaos and confusion and so on.

I do not think those things are points that, perhaps, have as much credibility as some of the other issues that have been raised. I think other persons who have stood before me here, and who have made the point that, in fact, you know, if you are in Government for five years, certainly a year before the election, if it is that you had any ill intent perhaps, one could deal with it there.

You have also had the issue of chaos and confusion, and again, the whole issue of, you know, the fact that we have been through 17-17-2, we have been through 18-18, and we know the fact that—*[Interruption]* you could end up in—you know, the country itself continued, and you know. In listening to the Prime Minister, I understand that she is certainly open to amendments, to considering possible proposals that could further refine and enhance what we have in front of us. I am sure if there are issues and concerns there, that we could find formulae and ways of dealing with those particular areas, when we get into the committee stage of the Bill.

So, Mr. Vice-President, you know, we are in a situation where we think that what we have before us, these three particular pieces of legislation, while they do not get us to where perhaps we would like to be, while it does not get us as far down the road as we would like to go, we recognize the fact that these will require specific kinds of majorities and perhaps may be difficult. In fact, even now, we are struggling with a simple majority, should we get to a point where we need a special majority, certainly, that will pose even greater challenges. The Prime Minister has indicated her intention perhaps to come with other aspects of constitutional reform, which we can implement, which we can consider and put to these honourable Houses, in order to get to the point where we can get to a form of Government, and a process which best reflects the very diverse and cosmopolitan nation that we have in front of us.

So, Mr. Vice-President, I think that the three items that we have before us, I would like to—I would certainly like to commend to this honourable House, there have been the calls for consultation and further consultation. I have heard those calls, and there has been talk about the number of consultations that has been held so far. But for my own—for me personally, I am not quite sure where the consultative process

Constitution (Amdt.) Bill, 2014
[SEN. THE HON. L. HOWAI]

Tuesday, August 26, 2014

will take us, unless you are dealing with something like a referendum. Because at the end of the day, I do not know that there are many more alternatives to what we have in front of us that could be generated out of such a consultative process. We will have the same people coming who will make the same points, who would have raised the same bogies, and at end of the day, whether it takes us further down the road, I myself am not sure. So these are things that we need to bear in mind. I, for my part, am very clear. I have given quite a lot of consideration to this matter.

I have spent long hours thinking about the implications for our nation, about where this carries us as a nation, about the importance that one must attach to it and, therefore, the need for us to think very carefully about it before we proceed. I have no doubt in my mind that these represent a movement forward, they may be just baby steps, but they represent a movement forward in the process of taking us to the point where we would like to be, where we could have perhaps a much more representative democracy in our nation, Trinidad and Tobago.

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

Mr. Vice-President: Senators, dinner I understand, I have been advised, is ready. I would like you all to go singularly, those who are desirous of having dinner, so we will always have a quorum.

Sen. Avinash Singh: Thank you, Mr. Vice-President. Today, I rise to contribute on a Bill entitled the Constitution (Amdt.) Bill, 2014, that seeks to amend the sacred Constitution of Trinidad and Tobago.

Mr. Vice-President, I would like to start my contribution with a quotation from the hon. Prime Minister of the Republic of Trinidad and Tobago, taken from the *Newsday*, Friday, July 17, 2009 newspaper, and I quote:

“This is a matter of high constitutional importance affecting the democratic rights of the citizens to free and fair elections in St Kitts/Nevis. Moreover, I believe that this has impact not just for St Kitts but for the whole Caribbean including Trinidad and Tobago.”

Mr. Vice-President, the Prime Minister went on to say that:

“...the lesson for Trinidad and Tobago is that citizens must know their rights and must vehemently oppose the infringement of those rights whenever it occurs, especially because a government is not infallible and neither are statutory bodies. She said, ‘It is the responsibility of every citizen to ensure that their freedoms remain freedoms and that their rights remain rights.’”

It seems as though the hon. Prime Minister has short-term memory because just a few years ago she:

“...was part of a legal team which on Tuesday won an injunction to halt a general election in St Kitts and Nevis on behalf of the opposition People’s Action Movement (PAM).”

—in which electoral boundaries were being changed in time for an election. Let me repeat that. The hon. Prime Minister of the Republic of Trinidad and Tobago, in 2009, represented the opposition People’s Action Movement in St. Kitts/Nevis, in which the electoral boundaries were going to be shifted and changed in time for an election.

So when I hear—and I have sat here seven hours and not interrupted a single speaker, took my notes and I am here to respond—so when you hear the hon. Prime Minister and other Members of Government speaking to the will of the majority, recognizing the rights of the minority, is it not perception that an opposition party is the minority in a country’s governance? So it is good then, for the hon. Prime Minister to support the opposition People’s Action Movement in St. Kitts/Nevis when the rights—[*Interruption*]

Sen. G. Singh: Would the hon. Senator give way? Would you—since I am not familiar with the documentation you are reading from, would you advise us in what capacity was the Prime Minister at that time dealing with? Was it a representative capacity? Was it a privileged client relationship or in her capacity as an attorney-at-law?

Sen. A. Singh: Thank you, hon. Senator, but I would refer you to the newspaper:

“Kamla stops St Kitts elections, Friday, July 17 2009,” perhaps if you read that, you might be able to get that cleared up. [*Desk thumping*]

Mr. Vice-President, what we are being asked here today is very similar to the St. Kitts/Nevis situation, but unfortunately, the very same person who defended the people’s democratic rights in St. Kitts/Nevis is now proposing to take away those rights and freedoms from her own citizens here. [*Desk thumping*] And I am emphasizing the point that whether it is the capacity of an attorney-at-law, it was the same person and this point proves, and it emphasizes the need that situations of legal challenges, if this Bill is passed, will come.

8.45 p.m.

I have heard the hon. Sen. Howai speak to power and when it goes to your head. He made some references to that. So, in my humble capacity, I am really astonished as to the split personality that exists when power really goes to people’s heads. They seem to forget.

Constitution (Amdt.) Bill, 2014
[SEN. A. SINGH]

Tuesday, August 26, 2014

It is also very unfortunate, given that the people of this great nation have been systematically excluded from the very reforms that this Government claims would make our democracy stronger, particularly because they had no part to play in the constitutional reform process. Mr. Vice-President, that also includes a member of the People's Partnership Government, the COP.

Thousands of citizens have expressed their dismay and outrage and I add my voice to theirs. I echo their sentiment that this Constitution (Amdt.) Bill, 2014 is undemocratic and unconstitutional and this august Chamber has resorted to the fancy of parties, with their own will, in an attempt to hold on to office.

And where consultation is concerned, even the Holy Scriptures that we all used when we were sworn in here in this august Chamber stress on the importance of consultation and let me go into some of those. Allow me to make reference. "Chora" or consultation in the Holy Qur'an is mentioned three times and Muslims are encouraged by the Qur'an and the Prophet Muhammad, peace be on him, to decide their affairs in consultation with those that will be affected by the decision.

The Holy Bible refers to consultation on countless times. One example is Proverbs 11:14 (NIV):

"For lack of guidance a nation falls, but victory is won through many advisors."

And last, but not least, Mr. Vice-President, the Holy Ramayana refers to the importance of consultation. In the Yuddha Kanda Book of War, Chapter 6, verse 8, even the evil Ravana was wise to consult his ministers and his people when a decision was to be made.

In that chapter, three types of statesmen have been described by the wise. The best among these are the ones who commence his ventures after consultation with his ministers and blessings with the blessings of God. The middling is the one who consults only himself, decides the right course of action and carries it out according to his own decision. And the worst is one who fails to consider what is right and what is wrong, who ignores the divine and who says, "I will do it".

So when I am here listening to claims by the hon. Senators across, of having 21 consultations, I say to that, how can people decide on something they have not been consulted with? How can people make a judgment on something that was not brought to the attention of their intellect while the consultation process was being carried out? And that is the run-off provision. That was never in the consultation during the consultative process. So you cannot make an allegation that there were 21 consultations. That is a non-issue. It is irrelevant because run-off was never a part of it.

I have no problem with politicians seeking the support of the electorate by lawful means, but when our Constitution is being tinkered with for political expediency, that is triggering the emotions of all right-thinking citizens to fight for their civil liberties and to safeguard their democracy and you have seen that day after day, night after night downstairs, in front the Parliament Chamber. It was also raised here that a petition—in fact I saw it on my desk, too, where it accumulated over 4,000 signatures to that effect.

What we have seen in the last two weeks is a Government more interested in self-preservation than proper governance. [*Desk thumping*] What we have witnessed over the last few weeks is distraction after distraction after distraction and attempts to cover up misbehaviour in public office, if it is not trying to award a former Prime Minister with the country's highest national award via a skewed process, with no process or, in fact, no process at all.

It is trying to buy out the acquiescence of professionals like Dr. Merle Hodge, the only commissioner that had the temerity to speak out on the dishonesty of the Government, particularly the Attorney General. So when hon. Senators mention if you sign, you agree, I am in disagreement with that because if you sign a document that has A, B and C and later that document surfaces with A, B, C and D, how is that signing to something that you agreed on? And then later on, she responded. She issued a minority report, if you want to call it that. She made it public that she signed that document and the run-off provision was not part of the consultative process. So she signed a document without the knowledge of that.

And then there was the addendum. I think hon. Senators, they would have spoken to that. My very learned colleagues have all explicated, dissected and simplified various aspects of this Bill, mainly the two-term limit and the recall of MPs. So I would really like to concentrate my focus on clause 8, which seeks to amend section 73 of the Constitution.

[SEN. DR. ROLPH BALGOBIN *in the Chair*]

In essence, this clause, deconstructed, is basically additional provisions for which a person can and cannot be elected into the House of Representatives. It speaks to having a supplementary election, commonly referred to as run-off poll, activated after the first poll when no candidate received over 50 per cent of the votes cast. I would safely call it a disruptive by-election and I would explain my use of the word “disruptive” as I continue, Mr. Presiding Officer.

Constitution (Amdt.) Bill, 2014
[SEN. A. SINGH]

Tuesday, August 26, 2014

Having had a taste of a by-election on July 29, 2013, in which a sitting Member of Parliament resigned his post and subsequently pursued re-election for the constituency of Chaguanas West, I am in a better place to share my own personal experience with hon. Members of this Senate.

This Bill introduces a 15-day period for which a run-off election is to take place. So let me also add that this Government really did not think this Bill through, since nowhere in the run-off provision a by-election is referred to. So I am to assume that if a by-election is triggered outside of a general election, all protocols would have to be automatically adopted into the process of a by-election.

Mr. Presiding Officer, upon reflection and reminiscence of the Chaguanas West by-election, I took the responsibility of my future and ventured into my political aspirations like many other young professionals in society today, who also wish for the opportunity to enter a national election and represent their beliefs and hunger for a better nation, one constituency at a time.

I am sorry to inform all young persons with political aspirations in the future that their dreams would soon be divorced from reality. So to all those students reading for their Bachelor of Science in political science at the University of the West Indies, at the Faculty of Social Sciences, and to all the other citizens who desire to form their own political party or institution, to them I say, if this Bill is passed, they have no political future of existence or survival, but rather you will have to choose between the already existing two strongest political entities. [*Desk thumping*]

So, let us check the political atmosphere where that provision will have to be utilized. On the one hand, we have the UNC, the United National Congress, a strong party with no structure, no principles, no foundation. [*Desk thumping*] Or the People's National Movement, with doors wide open. Sen. Howai, with doors wide open. Sen. Ramnarine, with doors wide open.

Sen. Ahmed: And a run-off constitution.

Sen. A. Singh: And 59 years of sound fundamental principles, disciplined with structures and policies for the betterment of all in society. I know there is no choice really or no comparison, but we in the PNM believe in democracy and the rights enshrined under our Constitution and, perhaps, Mr. Presiding Officer, this UNC People's Partnership forget how they are even sitting across there. They seem to forget.

Sen. G. Singh: Neemakharam.

Sen. A. Singh: And I was coming to that. In fact, had it not been for that cohesive relationship between five parties in 2010, this Government would have been probably on this side or, in fact, on no side. [*Crosstalk*] And to emphasize that and their yearning for a constitution that they can probably use as their own, they reflected on the PNM's constitution today on more than one occasion. The hon. Prime Minister quoted from it.

What I am trying to say is that small parties have always played a role in our political atmosphere. So when you have the UNC-predominant PP coalition having consultation and having their own Cabinet Ministers vote against their own Bill, it leaves the public to wonder what is really going on. But in the words of a former Prime Minister, as he called some of his Members when they were misbehaving, there is no better word to use than “neemakharam” for the behaviour with which some of these members of the UNC are treating their COP members, their colleagues.

Mr. Presiding Officer: If I may just make the observation that we should be careful about language which may be deemed to be unparliamentary or cause offence to the other people in the Chamber. So let us just be careful about that.

Sen. A. Singh: Thank you very much, Mr. Presiding Officer. But I have been listening to some radio stations recently where the hosts are really predominantly UNC hosts and when these members call in and you hear them talk about their own brothers and sisters belonging to the COP, a better word to use is “ungrateful”, “maha” ungrateful.

Sen. G. Singh: No, you must use the German, “uber”.

Sen. A. Singh: “Uber”?

Sen. G. Singh: Yeah.

Sen. A. Singh: Same meaning; different word, same meaning. So Mr. Presiding Officer, the United National Congress should really look at themselves, look at their own constitution as a matter of fact; have their elections. They are running on fumes. They are running with no direction and apparently they want to run this country the same way; no legislative agenda. You see it time and time again.

9.00 p.m.

Mr. Presiding Officer, the late Nelson Mandela is quoted as saying:

“I learned that courage was not the absence of fear, but the triumph over it. The brave man is not he who does not feel afraid, but he who conquers that fear.”

Constitution (Amdt.) Bill, 2014
[SEN. A. SINGH]

Tuesday, August 26, 2014

In my quest to conquer that fear of participating in a national election for the first time, I was brutally mesmerized by the utterances of a person who claims to care, a person who claims to respect democracy, a person claiming to serve the people, serve the people, serve the people, to my horrific shock, the hon. Prime Minister of the Republic of Trinidad and Tobago—[*Interruption*]

Sen. Ramnarine: Mr. Presiding Officer, Standing Order 35(1).

Mr. Presiding Officer: I did not find that he had strayed very far from where he ought to be and, therefore, let us allow him to continue his contribution. [*Desk thumping*]

Sen. A. Singh: Thank you, Mr. Presiding Officer, for that ruling, but let me connect the dots, if the need be, for the hon. Member. Mr. Presiding Officer, if the Member was paying attention he would have heard me say I was going to deal with clause 8, section 73, which is the run-off provision, the 15-day period, what happens or what could happen during that 15-day period. I am just letting this House know that in my quest to conquer that fear of participating in a national election for the first time, I was brutally mesmerized by the utterances of a person claiming to care—to my horrific shock, the hon. Prime Minister of the Republic of Trinidad and Tobago.

Mr. Presiding Officer, let me remind you of the message sent to every single young person, like myself, with aspirations to represent the People's National Movement, the longest-standing political entity in this country, and I quote her as reported under the headline, What Kamla Said, in the *Trinidad Express* newspaper on June 29, 2013:

“The PNM has chosen one of your children from Felicity to fight against your party. He has made the wrong choice in standing as a soldier for the PNM.

I ask you tonight to show him his error and vote against him.

Instead of standing to fight for what is right and what is best for Chaguanas West and Trinidad and Tobago he chose the side of oppression and neglect.

He embraced those who subjected you and him as well to the worst form of abuse and discrimination. And that is why you have to fight against him; you have to show him the power of the righteous.”

There are the words of the hon. Prime Minister of the Republic of Trinidad and Tobago, the hon. MP for Siparia, hon. Kamla Persad-Bissessar SC.

Mr. Presiding Officer, only I could contest to how I felt when I read that in the newspaper. That was a blatant coded message. [*Desk thumping*] No one here could justify how I felt. I am here and I am telling you how I felt. [*Interruption*] Come on, I stand here for seven hours and not—Mr. Presiding Officer, I crave your indulgence for protection. [*Crosstalk*] The truth offends, but let us move on.

As I was saying, no one here can justify the feelings that I had because it is only I. I was the one that was the centre of attraction, [*Desk thumping*] so I am letting this Government know how I felt. I felt discriminated upon. Does the Prime Minister have information that I do not? Was I subjected to the worst form of abuse and discrimination that I do not know of?

You know, I was actually willing to give way for the Prime Minister to vindicate her office because the public perception of that statement is sincerely unfortunate and disrespectful. [*Desk thumping*] When a Prime Minister could reach to that level and speak like that against a civilian, with the liberty of participating in our democratic process, as a nation we have failed. We have failed every single line of our National Anthem. No wonder the hon. Prime Minister wants to automatically cut her office term and shrink it down to two terms.

Mr. Presiding Officer, that reflection, as I just shared with hon. Members—in fact, they will laugh, they will make fun, because they were not the centre of attraction. They did not have a sitting Prime Minister of a country make those remarks against them. A Prime Minister who was supposed to represent all, all the people, including the PNM too. In fact, when I reflect on that inciting remark, my neighbour comes to mind. You know, he would go out, lime, come late, late hours in the night, my dogs are there barking, and he would stand by the road and talk, and he normally sounds like that. He talks like that. In fact, people normally speak like that when they consume different types of beverages.

When a run-off election is triggered, it is election atmosphere all over again: intense campaigning, music trucks, banners, flyers, party symbols being permanently affixed to the nation's roads. In fact, I saw this truck with a machine; they came up with a machine that stamped "UNC" on the ground, permanently. I can show you right now. The hon. Leader of Government Business, he is a caretaker of the constituency of Chaguanas West now, so I could show him some of the stamps that is there one year now, and it is still there. So it is permanently branding our nation's roads.

Mr. Presiding Officer, the public media hypes up, not to mention the procurement of goods and services by the incumbent to secure votes. Chaguanas West was no stranger to that, in that UNC quest to dethrone outgoing Mr. Jack Warner MP, they spent millions of taxpayers' dollars before the election to sway people to vote for their candidate. In fact, I raised this during the election, a massive water and WASA project was initiated in the most populated village of Chaguanas West, Felicity, where four-inch-main water lines were being planted all over, every nook, every cranny, but the point I am trying to draw, I am talking about work that was not a priority since Felicity already had a substantive pipe-borne water supply.

Constitution (Amdt.) Bill, 2014
[SEN. A. SINGH]

Tuesday, August 26, 2014

Let us not forget the timing and the way all this was taking place, ditches were left unfilled around the Green Park savannah and around the Shri Krishna Mandir, both locations that were supposed to be used by a political party to host their activities. Overnight, the party had to go and hire these Bobcats to fill those ditches. Mr. Presiding Officer, irrigation channels—and this is the big one—irrigation channels were cleaned and infrastructural works done at the Felicity Food Crop Project in the form of 118 subprojects, or projects, under the URP Agriculture. Strange enough, it was requested by another MP, not the sitting MP, not the ongoing MP, Mr. Jack Warner; it was requested by another MP, Mr. Devant Maharaj. So probably he was eyeing the constituency and then the hon. Leader, you know, whatever transpired, but the point—\$48 million allocated to clean some drains that once cost the Agricultural Society some \$300,000.

Let me put that into context. The Felicity Food Crop Project has irrigation channels, it was cleaned a few years ago for three-hundred-and-something-thousand dollars. During the election of Chaguanas West the Government spent \$48 million to clean the same drain, and I have every single contract here. [*Desk thumping*] I could call them out by names. In fact, Mr. Presiding Officer, I was always around when some of this claimed work was being done and, can you imagine, I am yet to see, up to this day, some of the listed contractors who would have claimed contracts.

I am yet to see, Tuesday August 26, 2014, I am yet to see some of these contractors who claimed moneys on the site. [*Desk thumping*] I am yet to see them. No way around. I do not even know them and I live there. So what that tells you? In fact, it “doh” tell you, I mean, everybody educated now so everybody could understand what I am drawing at.

Sen. Ahmed: Mr. Presiding officer, 35(1), relevance, please.

Mr. Presiding Officer: You know, I do not want you to take advantage of my short time here, but I find that it would be good if you could come back to the matter at hand. I think it would be helpful to all of us. Thank you.

[MR. VICE PRESIDENT *in the Chair*]

Sen. A. Singh: Thank you, Mr. Presiding Officer, welcome Mr. Vice-President. I was through with the point anyway, so they were a little late on the draw. Mr. Vice-President, can you imagine this kind of behaviour by an incumbent government controlling state resources to retain a constituency, far less a government?

As a candidate for a by-election I had to be publicly humiliated and accused by a battery of Government Ministers for squatting. One of the largest communal farming groups exists in central Trinidad. Mr. Vice-President, one of the largest communal farming groups exists in central Trinidad in which over 200 farming families are actively involved in putting food on everybody's table, including Members across. [*Desk thumping*] I will connect the dots, so perhaps some of the Members are a little bit jumpy. But as a professional farmer—[*Interruption*]

Mr. Vice-President: Senator Avinash, I just came in and I heard the Presiding Officer spoke to you about getting back in line, and I really cannot see the connection. You have spoken about that about five times in all your speeches on the very said thing, so please keep in line with the amendment Bill. Thank you.

Sen. A. Singh: Thank you, Mr. Vice-President. I was drawing to the fact that clause 8, which amends section 73, talks about a 15-day period, a by-election has to take place in a 15-day period. I am giving you evidence and I am responding to hon. Howai's position, and I am letting this House know what the population has to expect on those 15 days in a run-off election, because I was part of an election. I was part of the Chaguanas West by-election, I am giving you my experience. [*Desk thumping*] It directly implicates run-off provision.

Mr. Vice-President, the fact of the matter is that a Government had to go that low and accuse an opponent, or a person who was seeking to become a Member of Parliament, and have their whole entire Government's charade in that constituency. That was just one by-election, so we can just imagine if this run-off provision is to be enacted in 13 or 14 constituencies after a general election. What I am saying here is that I am just setting the tone for participants, or people seeking to run for an office later on. In fact, people seeking to represent the PNM in the future, they would have to expect this under this UNC coalition Government, because after I was announced as the PNM candidate, out of a farming population of 216 families, Avinash Singh was singled out during that campaign period—and this is the campaign period I am talking about.

So we are here in an election mode, we have a run-off provision, 15 days to play with, and the Government is using its resources to discriminate a candidate who is not in their choice, who is not in their favour, and you hear the Government talking about the will of the majority.

Sen. G. Singh: You still in occupation of the lands.

Sen. A. Singh: If you have proof, bring it.

Constitution (Amdt.) Bill, 2014
[SEN. A. SINGH]

Tuesday, August 26, 2014

9.15 p.m.

Mr. Vice-President, if I was such a lawbreaker then, during the Chaguanas West by-election in fact, why was no action taken against me up to this day? [*Laughter*] Why was no action taken against me?

I wish to caution that, like the hon. Prime Minister, as she defended the Opposition party in St. Kitts, I will not allow the farming population to be bullied, nor will they accept any bribe to give their livelihoods for the promise of a one-lot residential, because that is what is taking place right now, [*Desk thumping*] to lure votes in your basket. That is what certain individuals are doing in Chaguanas West.

Mr. Vice-President, I had the opportunity to travel recently to visit the largest democracy in the world, India, and to my despair, a phone call: UNC activists in front my door. I say to them: “Doh” ever come by my house when I am not home—I invite you to come when I am home—and make racial comments to my parents that were discriminatory, during the election period.

Mr. Vice-President, Felicity transformed into a Prado city during the by-election, and we can just imagine what is going to take place for 15 days in any election or any run-off provision that is being called, anywhere in this country.

Sen. Al-Rawi: It was not a run-off, it was a “run-over foot”.

Sen. A. Singh: Almost every single Government Ministry, almost every single Government Minister was there in Chaguanas West trying to persuade the vote, for people to vote according to their party. This country was on autopilot for just one by-election, and it disrupted the smooth flow of goods and resources to the average citizen outside of Chaguanas West. And not to forget where Prados are concerned, Mr. Premnath Rampaul, my villager, my resident of Felicity, was knocked down by a vehicle attached to the AG’s Office. So the population must be prepared for similar cases and situations in the heat of a general election, or in the heat of a run-off election, during an election campaign.

We are here debating the run-off provision, and the Government’s argument is that the transition in the past has been smooth. The nine days or the 10 days they indicated have been smooth, but what we are trying to enact here is not just a transition period. These 15 days include additional campaigning for votes. Mr. Vice-President, I did not win that election, but the Government did not win either, notwithstanding the millions spent during that campaign.

Let me just give you another scenario of what Trinidad and Tobago will have to face, if we take God out of our thoughts and allow this Bill to pass, especially where this run-off provision is concerned. Can this population really handle another St. Joseph by-election? Let me remind the population through you, Mr. Vice-President, of what took place during the intense campaign, after the constituency of St. Joseph was declared vacant.

I am raising these issues, because while the run-off poll is proposed to come into effect after the first poll of a general election, current trends by this People's Partnership administration indicate that we may have run-off elections more frequently than just after a general election.

Mr. Vice-President, do you remember the campaign slogan? It was raised here today—10 days, 25 projects and one incredible performance. Notwithstanding the stand-off, and this is very important, between the former MP and the UNC candidate for the Chaguanas West by-election, where the former MP, while praising the PNM's candidate, slammed the UNC candidate and branded him as a cheap fraudster for taking credit for projects that were claimed to be ongoing before a by-election. While I am not going to get involved in the internal dispute as to who should take the credit for the work done, my point is, we had a campaign on the way, where candidates could boast of achievements and performance to be used as an advantage over all the other candidates.

State funds were being used blatantly, immorally and unethically, and projects consisting of laying of pipes, similar to Chaguanas West, the construction of box drains, pavements, paving, drainage, installation of street lights and the construction of basketball courts, all necessary for the general development of a community, but under the circumstances of that election, the way it was done was not right.

When questioned about the manner in which work was being done, the hon. Leader of Government Business is quoted in the *Trinidad Guardian* on October 31, 2013, as saying, and I quote:

“I think it is the right of every candidate to request some state agencies to do projects that are needed by the citizenry and Ian Alleyne has done that and there has been a response by the state agency. There is nothing illegal, but what it demonstrates is a proactive, entrepreneurial candidate,”

Mr. Vice-President, 10 days, 25 projects—my maths is not so good, but if we were to stretch that into 15 days, simple calculation, that is thirty-seven and a half projects. So is that going to be their slogan for a 15-day run-off? Fifteen days, thirty-seven and a half projects?

Constitution (Amdt.) Bill, 2014
[SEN. A. SINGH]

Tuesday, August 26, 2014

When asked if that was an advantage on the UNC candidate's part, the hon. Leader of Government Business also said:

"...it was the delivery of the goods and services to the citizenry, to which they are entitled."

He also said that:

"...this was the power of incumbency and the unfair advantage does not arise when there is incumbency. 'Unfair advantage does not arise when you are a part of a government in power and the government delivers and is supportive of its candidate and the needs of people are being met.'"

Those are the words of the hon. Leader of Government Business.

So the population, having gone through that intense campaign for the Chaguanas West by-election, whenever another run-off election is called, those 15 days, we are going to see a repeat of this, because it is the hon. Member's admittance in his words:

"'Unfair advantage does not arise when you are part of a government in power and the government delivers and is supportive of its candidate...'"

We also saw it in which flood relief cheques in the sum of over \$2 million were distributed to farmers in Aranguez as part of the PR for the campaign. Mr. Vice-President, as a farmer I will declare my interest, but whether the farmers deserve compensation, it was out of the ordinary procedures and processes. To these effects the responsible Leader of the Opposition wrote to the Integrity Commission asking for a probe into Government expenditure on many of the projects undertaken, and we are yet to get those findings.

Looking on to even the Tobago House of Assembly election that took place recently, it was reported over \$50 million. So whilst this Bill here seeks to address three elements of our Constitution, we still have the campaign and party financing to deal with. I was glad to hear that the Prime Minister mentioned that in her presentation, so we look forward to that.

In fact, all these elections that went by: the Chaguanas West by-election, the St. Joseph by-election, the local government election, the Tobago House of Assembly election, there were basic campaign slogans and basic campaign trails throughout these elections, and there are many allegations made in the public domain.

We heard of food cards, and that is a state-funded entity. We heard about the cell phones and jerseys, and Sen. Balgobin indicated his willingness to accept any amount of jerseys to wash his vehicles and so on, and then some may even say "rum and roti campaign", all these things aimed at getting votes. But the

underlying point—let me quote the Prime Minister. The Prime Minister always says, *vox populi vox Dei*—the voice of the people is the voice of God—and the people spoke, and resoundingly said no to the hon. Kamla Persad-Bissessar SC and the PP administration in all of the elections.

Sen. Al-Rawi: Four times.

Mr. Vice-President: The speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. C. Robinson-Regis*]

Question put and agreed to.

Sen. A. Singh: Thank you, Mr. Vice-President and thank you hon. colleagues.

Mr. Vice-President, I will not take up too much time. I just have one point to make, and I will close shortly.

In fact, in some of these scenarios I have mentioned during my contribution, I have tried to demonstrate some situations where this Government is capable of breaching some processes in terms of procuring goods and services during an election campaign, acting contrary to the mandate that they were voted in for.

The pictures that I sought to paint, some may say they are really no pictures, it is actual reality, and will be reflected as our history for generations to come. This move, in my humble opinion, is nothing but a move as desperate a move to really hold on to power, and where defeat is staring them in the eye, they are prepared to destroy this beloved, peaceful nation.

While the hon. Prime Minister broke ranks today and created history by bringing and debating a Bill in this Senate to fundamentally change our democracy and execute and prosecute the process of voting, it will also be recorded for the world to see, and for all right-thinking citizens, the brave, courageous and bold actions by the Members of the Opposition carrying the flags of both the nation and the longest-standing political institution that laid the foundation for nationwide development, the People's National Movement, headed by the dynamic, no-nonsense leader, Dr. Rowley, who craves good governance. I must also add he is not obsessed or in love with office.

In closing, I wish to thank all of civil society, especially all those citizens who made their voices heard at all hours of the day and night, [*Desk thumping*] supporting the Opposition's position on this Bill, and for demonstrating that they are prepared to fight for their rights and defend their nation against all odds, and indicate that we the Opposition will defend our supreme, sacred Constitution in the best interest of country and not self nor party. [*Desk thumping*]

Constitution (Amdt.) Bill, 2014
[SEN. A. SINGH]

Tuesday, August 26, 2014

Mr. Vice-President and all hon. colleagues, I am grateful for this time and attention in which I got to contribute, and I unequivocally reject this Bill. Therefore, I will not support this sin to contribute to political instability and possibly civil unrest.

I end as I began, with a quotation from the late Mahatma Gandhi:

“I understand democracy as something that gives the weak the same chance as the strong.”

Withdraw this Bill. I thank you.

Sen. Dr. Victor Wheeler: Thank you, Mr. Vice-President, for allowing me a not long, but not short contribution.

First of all, I must commend the Government for bringing this Constitution reform process onto the forefront and into the national agenda for debate. It has been discussed for over 50 years. Various attempts have been made in the past and I am happy that an attempt is being made this year. I must also applaud the hon. Prime Minister for leading off the debate.

9.30 p.m.

Now, Mr. Vice-President, this Bill before us today is said to be part of the Government fulfilling its manifesto promises when it won the election in 2010. Nothing is wrong with that. However, on page 63 of that document:

“Tobago side by side. Side by Side and Together, Not One Behind the Other.”

There was a promise to, in collaboration with the people of Tobago, and I am quoting here:

“...we will,...attend to these specific areas:

Revisit the provisions of the Tobago House of Assembly Act, and in particular, the Fifth Schedule, with a view to granting greater autonomy and responsibility to the people of Tobago over matters that directly impact on Tobago.”

Mr. Vice-President, I am very disappointed that this is within the last year of the Government, and this promise has not yet been fulfilled. In fact, there was an attempt made just before the last Tobago House of Assembly elections when it was, in fact, laid in the House of Representatives, and the debate did start and it came to an end, a premature end. Since the elections of 2013 I have not heard anything from the Government regarding fulfilling this promise that was made regarding giving Tobago greater autonomy, and I must place this on the record, Mr. Vice-President.

There are no discussions being held now, but I am aware the THA has continued consultations throughout Tobago; they came to Trinidad last weekend. I am not quite sure what will be the final product of the THA's discussions, but at least something is taking place. So, I would like, in short order, whether the Government is successful in this Bill or not, that the amendment to the Tobago House of Assembly Act be brought forward as a matter of urgency, and would be dealt with in due course. [*Desk thumping*]

Mr. Vice-President, several speakers before have commented on the process used to arrive at where we are today, and I will also make some comments on this. I looked at the document, the report of the Trinidad and Tobago Constitution Reform Commission presented December 27, 2013, and this commission was chaired by a Government Minister, the Minister of Legal Affairs. Mr. Vice-President, I believe this was wrong. I do not agree with a commission that is supposed to discuss changes to our country's Constitution, to have a chairman that is likely to bias and polarize the outcome and the results of the report. [*Desk thumping*]

Previous commissions that I have seen, for example, Thinking Things Over, in 1987, the Hyatali Commission. The members who were Sir Isaac Hyatali TC, Miss Monica Barnes SC, Dr. Patrick Solomon, there was also Dr. Hamid Ghany who is also a member of this commission, Mr. Michael de la Bastide, Dr. Selwyn Ryan. These were people that are high calibre, Mr. Vice-President, and I do not think bias is something that would have entered that report. There was also another commission report, Thinking Things Through, in 1972. This was the Wooding Commission chaired by the Rt. Hon. Sir Hugh O.B. Wooding TC, FPC, CBE, LLD. The Deputy Chairman was hon. Justice Philip Telford Georges.

I am just calling those names to make the point, Mr. Vice-President, that I believe from the conception of this particular constitutional reform process, it was flawed. And it is not surprising we are seeing today some of what could have been avoided if a non-partisan approach was taken to producing this report. For example, well the report had said there were several meetings in different constituencies throughout Trinidad and Tobago. Do we know who were the people who attended these meetings? Do we know if they were only the supporters of the Government in power? We do not know. Could it be the same set of people that were moving from constituency to constituency to provide support? I have seen the report, it has pictures, several sessions, but you just do not know.

Constitution (Amdt.) Bill, 2014
[SEN. DR. WHEELER]

Tuesday, August 26, 2014

Now, I know that certainly all the attendees of these meetings were not members of the Partnership because I am seeing on page 14 the Chief Justice present, and I would imagine there would be one or two—I have been told that there were one or two PNM MPs who were present. So it was not entirely all Partnership, but we just do not know. I do not know if a register was taken of the members who attended these meetings because when it is presented today this is the result of all of this consultation. If you are only consulting with one section of the community, of the public, and I do not know if this is the case, but if in fact you were, then you are likely to have one section of the population that may be in favour of it, [*Desk thumping*] and another section that may not be in support of it. [*Desk thumping*]

And if as we have seen, and certainly when I came to the Parliament today, there was a whole section of people in red with placards in the front; and at the back when I thought things were clear there was another set of people in yellow. There were entrances, it seemed, for Members of Government to enter, and I presume another part for the Opposition to enter. I do not know if there was a special entrance for the Independents. I came very early [*Laughter*] to make sure that I got away from all of that, so I really do not know.

But there has—and I think it is no secret—been a lot of opposition to this Bill. I have read reports of several interest groups. I received about eight unsolicited position papers to read through in addition to my normal research where I would collect data myself, people were just sending emails, sending reports, left, right, and centre. I have been lobbied by various groups. I have been lobbied by church groups, NGOs, union, Opposition parties, and I have also seen, from what took place in the Lower House, that even Members of the Cabinet of the Government also opposed what is happening in this Bill.

Mr. Vice-President, I am a doctor and over the past week every day I am asked by patients, you know, “Doc, what is your position? I hope you are going to do the right thing.” And my practice is in Tobago. More often than not I have been told, make sure I make the right decision. I mean, I do not encourage discussion because I am very careful about giving my opinion beforehand, but I have been in this Senate since June of 2010, and I have never seen so much interest in a particular Bill that this Bill has generated, and I have never personally been lobbied as much as I have been.

Some of it, I must confess, I am a little uncomfortable with because to see your picture in the press, front page, and then a big question mark, “Who is going to be that Judas?” I did not think that the politics in Trinidad and Tobago would reach to the point where Independent Senators, as we are, have been put on the

spot in the way we have been put on the spot. I was a little bit surprised and taken aback, and I am still a little taken aback by the intensity with which that has been done. Nevertheless, when I said “yes” to accepting the position, it was to do a job and this is what I plan to do without fear or favour.

Now, I have also seen, Mr. Vice-President, where two of the authors of the Bill have expressed some reservation. And I have heard it said, well you know a minority report could have been prepared, but at the end of the day I would have thought, if you sat for probably a year, had 14 meetings, you would have worked long and hard because I have been part of groups to do research, to prepare reports. And one would like at the end of that, the document that you worked on would be something that you would be proud of. And for two members of that commission to express reservations in the way that they have been, is a problem.

Some of the concerns I have heard said would be, “this Bill is produced to steal the election”; the aim of it is. I have also heard it said, “This Bill requires a special majority, not a simple majority”. If the Government succeeds with this Bill, what next will be changed in the Constitution—I have also heard it said. And in Tobago in particular, one or two people mentioned to me “Well, if they get through with this amendment on a simple majority, well maybe the THA Act might really be next”.

Now section 141 of the Constitution—if I should just get to it—lays out the THA Act. And 141:

“There shall be an Assembly for Tobago to be called ‘the Tobago House of Assembly’, in this Chapter referred to as ‘the Assembly.’

The Assembly shall simply consist of a Presiding Officer...”

goes through several things with the Assembly.

Now section 54 of the Constitution, which spells out those sections of the Constitution that require either a two-thirds or a three-fifths majority, is mentioned. And scanning through section 54, I do not see section 141 mentioned at all. So in my non-legal opinion it seems that to alter or change the THA Act may not require a constitutional majority at all. And even though the promise in the manifesto was to—and if I should quote it:

“...the Fifth Schedule, with a view to granting greater autonomy and responsibility to the people of Tobago over the matters that directly impact on Tobago.”

Suppose a Bill comes to the House where instead of increasing the extent of the Fifth Schedule, it might be decreased. We have already seen complaints from the THA whereby the Ministry of Tobago Development is encroaching in the areas

Constitution (Amdt.) Bill, 2014
[SEN. DR. WHEELER]

Tuesday, August 26, 2014

of agriculture and education. So, I mean, I do not think that would be the case, but some people might argue that maybe a change in THA Act might result in a reduction in powers of the THA.

I was present when in 1976, the PNM lost the election in Tobago for the first time, and there was a Ministry for Tobago Affairs, and after the election the Ministry of Tobago Affairs was closed. In the election last year January there was, for first time in the history of the THA elections, the PNM won 12-nil. I hope that what is going to happen, I hope it does not happen, that there would not be a decision to potentially reduce the powers of the THA. The reason I am stressing this is, because of the lack of proper consultation in the process that we have presented here today, it allows all sorts of concerns to take root and flourish. So it might result in people saying and thinking all kinds of things when it may not really be a fact. And that is another problem I have with what is happening now.

Mr. Vice-President, now to go directly to the Bill at hand, it essentially is to do three things. The first thing is to limit the term for the Prime Minister to two terms or 10 years and six months. The second, recall of an MP by amending section 49(2). The third is to have an MP elected by the majority of the votes cast. So, I will just quickly go through and make some comments on these three changes.

9.45 p.m.

Now, with respect to the term limits of the Prime Minister, Mr. Vice-President, this population has demonstrated that no matter however long you are in office if they want to get rid of you, they will get rid of you. They have demonstrated repeatedly that if a Prime Minister is not wanted at the very next election he will be voted out. Tobago did it as I mentioned, in 1976, Trinidad did it in 1986, and since 1986 unpopular governments or Prime Ministers have been voted out of power.

So I do not really believe anyone is really fearful of a Prime Minister in power and believing that they can remain in office against the wishes of the population. This has not been our history. So in my view I actually do not think that a two-term limit is necessary.

However, what about the position of the Chief Secretary in the Tobago House of Assembly? The current Chief Secretary was elected January last year for his fourth term in office, that is 16 years. And if I will just go through—well I had election results somewhere, in the first victory, I think it was in 2001 when they won by eight seats to four. The second election in 2005, that went up to 10:2. In 2009, they lost some way, they won by 8:4; and by 2013 it was 12:0.

Now, from looking at those figures, it is clear that the people of Tobago are not averse to having a leader who serves more than two terms, but what, for example, the Prime Minister that you have at the end of two terms, the economy is going well, unemployment is very low, crime is down and the people want to have that continued prosperity. If this Bill is passed it will deny those people that right, because I know that we have two-term limits in other jurisdictions and we have seen whereby you have a successful President and then that President has to demit office and someone replaces him and things do not always go that well. I am of the view that the population should still be given the option if after two terms you want to have your Prime Minister re-elected, they will re-elect you. If they do not want to have you as Prime Minister, they will tell you it is time to go.

The next significant change or what we have presented today is the right of recall. And I want to really ask, what really would be the basis of an MP being recalled? Because it now begs the question, what is the role of the MP? I have been looking through documents and I have not seen anywhere where the role of an MP is clearly specified. Now, I heard people say today, you know, you have an MP, you have not seen the MP, but is it the role of an MP to visit every household in his constituency when he wins the election? It is true when they are campaigning you want to go around, you have a big entourage, you meet your constituents, but should a criterion for a successful MP be that he visits and sees everyone in his constituency?

Is the role of the MP to fix every problem in the constituency that he is responsible for? If a pipe bursts, is it the role of the MP to fix that? If there is no electricity, is it the role of the MP? If there is a gas leak, is it the MP to fix that? I do not think so, because the country has several agencies that are perfectly capable of carrying out their job.

Now, our system of Government is that you have people who are Members of Parliament, those Members of Parliament are also Ministers—some—and some of them also sit on various parliamentary committees. So obviously, someone who holds all those posts will have a lot of difficulty dealing with constituency issues. But I believe that if we are going to ensure—and this is just my opinion, if we are going to introduce recall, I believe in the way that it is presented here, there should be some criteria by which you are going to use it. I do not think that it should be that two constituents wake up in the morning and decide, well look, they want to get rid of this MP, because the way how our politics is, every party has some level of support in the country, and particularly, in the marginal constituencies you might find yourself—this recall is only after three years. So the

Constitution (Amdt.) Bill, 2014
[SEN. DR. WHEELER]

Tuesday, August 26, 2014

first three years you are fine, but in the fourth year you might find yourself—there are only 41 constituencies, there might be about, maybe, 10 to 15 marginal. Every month you might find yourself having to go through a recall process.

Now, for the actual mechanics and operation of this particular clause, clause 6:

“The Constitution is amended by inserting after section 49A, the following new sections:

49B.(1) Two persons who are registered to vote, and who reside, in a constituency may, in the form set out as Form No. 1 in the Fourth Schedule, apply to the Elections and Boundaries Commission for the...petition...”

So you get the petition.

Then you have to get 10 per cent of registered voters to sign this petition and, of course, you have to wait until three years before you can canvass for signatures. But then, when you get this 10 per cent registered members to vote, you can now have the Elections and Boundaries set up a register with people to come in and vote on this particular MP if they want to get rid of him and you would require at least two-thirds of all the persons who are registered voters in the constituency to be successful.

Now, looking at the last election of 2010, the average voter turnout was in the region of about 70 per cent. If you were to take that 70 per cent average—and that is total votes cast—I am not certain if there was any MP who actually attained two-thirds of the registered voters in the country, far less, if you are going to have what amounts to a by-election process, where we know the voter turnout is traditionally very low. There is no way I can actually see anyone, not anyone—but two-thirds of a constituency which averages about 25,000—actually voting against a particular individual, because the person who is being targeted will have a party supporting him and they are obviously going to lobby their supporters to vote against it.

So really, I do not think that this particular provision with two-thirds of all the persons who are registered to vote is attainable. And the other thing to remember is that this only kicks in in the fourth year, because in the fifth year there is no by-election that can be held. So as to this second thing that is proposed, I do not think that it really makes sense if you are going to use two-thirds. Maybe if you use a lower percentage, a lower proportion, and if you are going to—when I look at the next proposal which is 50 per cent, maybe 50 per cent might be something you might want to consider, but even then that might be difficult to attain.

The last matter which this Bill hopes to address and which from the proposal that I have received—looking at the newspapers, the radio—is the most contentious one, is this run-off poll. The aim of this particular clause is that, it is argued that you want to have an MP that is elected to be a majority MP and for him to be a majority MP you must attain more than 50 per cent of the votes cast. But using an average voter turnout, again, of 70 per cent and sometimes it is 60 per cent, sometimes it is 50 per cent, let us say you take an average voter turnout of 70 per cent, it means for that MP to be a majority MP he would need to get 35 per cent plus one, 36 per cent of the votes. It means that there may be 64 per cent of registered voters in that constituency who would not have voted for that MP.

So looking at this run-off poll as presented, it will still give you a minority MP. The MP would still not be representative of the majority. And supposing the run-off is okay—the first poll you had someone getting 44 per cent, someone getting 36 per cent and then you have a third party. It has been argued that this particular proposal will result in the death of third parties. But suppose in, you have the first ballot, you got—no one got more than 50 per cent, and then okay, you have the second run-off where you take the top two. But suppose in the top two, let us say for simple sake, you have 100 people voting, one person gets 49, one person gets 48 and there are three ballots that are spoilt, you would still not get 50 per cent of the votes cast unless you are going to not count the spoilt votes. I mean I do not know if that is what EBC does. But you might very well find yourself that if you count all the votes, all the people that voted, you may still not get 50 per cent after the second run-off, and then what are you going to do? And as I had mentioned before, this 50 per cent run-off would conflict with the recall of the MP where you are required to get two-thirds of all the voters supporting it.

Now, as I said before, this run-off provision has been criticized. It has been said to be not constitutional and I have seen legal arguments where it should require a special majority passage. Further, it is said that it might be a Trojan horse and I have also heard, it is said that it might be—the aim of it might be to keep the People's Partnership in power.

Now, Nigel Henry of Solution by Simulation which has done several credible polls, I saw him when he was doing an interview and he actually said that the run-off poll will actually give voters a greater choice. If the first time you voted and your party came third, whereas in the first past the post they would be eliminated, with the run-off now, there would be an opportunity for those voters to vote a second time to choose their MP. Nothing is wrong with that. But he also said that the run-off poll works against strong third parties and that certainly

Constitution (Amdt.) Bill, 2014
[SEN. DR. WHEELER]

Tuesday, August 26, 2014

would tend to support the argument that has been said that this particular provision is something that would more favour a coalition of parties if you have several parties that have either operated together as one as in the current coalition or have ideals that may be similar, but not quite the same.

The parties that share similar philosophies are likely to then combine and be successful, even though in the first run-off neither of them may have attained the highest votes. I have heard it said, if party A gets 49 per cent, party B, 40 per cent and party C, 10 per cent, and then at the run-off, party B wins, it meant that under the previous system, party A which would have won in this run-off position, party A would not have won. I have heard it said, this may result in, you know, all sorts of public upheavals and all of that. I am really not convinced that that would be the case, but these are some of the things that I have heard said.

10.00 p.m.

Mr. Vice-President, for something as fundamental as changing the Constitution, I believe there should be every effort to have maximum support, and for there to be maximum support in this Bill, it must be all-inclusive, there must be some level of compromise. Now, I have heard the Prime Minister say that the Bill is being presented in the Senate to listen to the concerns, so I hope there will be some level of compromise. But I do not believe that taking steps to change your Constitution, any aspect of this Constitution, should be by a simple majority. [*Desk thumping*]

The other thing is if the approach that seems to be now where there does not seem to be an effort to have Opposition support and, also, when you have so much outside opposition to the Bills as presented, then when it comes to, as has been said, you are going to deal first with those Bills that are a simple majority and then after that you are going to deal with the ones that require two-thirds majority, if an uncompromising approach is taken for the simple majority Bills, then there is no way that you are going to get agreement for the two-thirds majority Bills.

I have sat in this Senate for the past four years and as recently as last week we were debating a Bill, Miscellaneous Provisions (Proceeds of Crime, Anti-Terrorism, Financial Intelligence Unit of Trinidad and Tobago) (No. 2) Bill, 2014. Before the committee stage the Government had one view, the Opposition and some Independents had taken a view, and you were present presiding over that committee stage, Mr. Vice-President, and there was a give and take, and at the end of the day, in fact, to use some of your words, to quote you, you wanted “to have some consensus, so that we can move forward for what is best for the country”.

Constitution (Amdt.) Bill, 2014

Tuesday, August 26, 2014

I believe something like Constitution amendment, changes to the Constitution, every effort should be made to have consensus. Every effort should be made to have consensus. [*Desk thumping*]

When I look at the Constitution report itself—because again it is said this is what the people want, you want to give the people what they want. Looking at what was stated here, referenda and citizen participation. Number 70:

“The Commission received submissions to the effect that there should be a right to citizen participation on fundamental national issues through the medium of referenda. This was proposed in a variety of ways such as:

- (a) changes to the Constitution should become the subject of national referenda;
- (b) major policy issues should be made the subject of national referenda;
- (c) the performance of the Government should be made the subject of national referenda.”

It is my view, Mr. Vice-President, that the process so far has not truly produced what the people want. It may have produced what a section of the population wants, but certainly not the entire population. Now, we all know that it is not possible to have everyone agree on everything, but—

Sen. Ramlogan SC: How do you define consensus?

Sen. Dr. V. Wheeler: Well, in my view, to find out, at least, what people want, you have a referendum. So one of the first things I believe should happen is, for example, these are what you propose in the Bill, put it to a referendum first. I do not know if it is within our laws to do that.

Sen. Ramlogan SC: You need a special majority to put that.

Sen. Dr. V. Wheeler: Well, if, I mean, I do not know if that was put to the Opposition, but I believe the only true way to know what the population wants, put it to a referendum, itemize it and let people vote; otherwise what will happen is that things that are only passed with a simple majority will not have the population support, and it will fuel—[*Interruption*]

Sen. Ramlogan SC: “Yuh ha tuh have a run-off on the proposal.”

Sen. Dr. V. Wheeler:—what some believe would be polarization of the country.

Mr. Vice-President, I just want to quote from a document here, Thinking Things Through, and this is by Sir Hugh Wooding.

Constitution (Amdt.) Bill, 2014
[SEN. DR. WHEELER]

Tuesday, August 26, 2014

In the final analysis, it must be remembered that a Constitution does not live and breathe of its own accord, it must be given life. It must be able to work. If the people do not cooperate to make it effective, it will surely fail. There can be no better way of ensuring the cooperation of the people in the working of a Constitution than by involving them in its creation.

And later on in the chapter:

This Commission looks forward to the people playing an active part in each stage of this historic process. Without their participation, there cannot be produced a Constitution representing the contract under which the independent people of Trinidad and Tobago have agreed to dwell together in unity.

Mr. Vice-President, I believe what we have before us today does not have the cooperation of the people, maybe because the people were not properly involved in its creation. [*Desk thumping*]

Evidence of this is by, well, the crowds that you had outside earlier today, and the various other interest groups in this country that are opposed to various aspects of this Bill. I believe a referendum, at least an attempt at a referendum, should be the first thing to do. If this Bill—it is really on this basis that this Bill, as presented, I would have a lot of difficulty supporting.

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

Mr. Vice-President: Leader of Government Business.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. Vice-President, having regard to the time of the evening, and with the undertaking given to both the coordinator of the Independent Bench and the Leader of the Minority in the Senate, I do now move that the House do adjourn to Wednesday, August 27 at 11.00 a.m. I know before that we have tributes to move on behalf—on the Government's side, Sen. Minister of Justice, Emmanuel George, will move the tribute to the former Vice-President of the Senate, Sen. The Hon. the deceased Ainsley Mark, on behalf of the Government.

Mr. Vice-President: Hon. Senators, before I put the question to the House I wish to make this pronouncement.

Hon. Senators, as you may be aware, a former Vice-President of the Senate, Mr. Ainsley Mark, passed away on August 19, 2014. I now invite the Senate to pay tribute on his life. [*Desk thumping*]

CONDOLENCES
(MR. AINSLEY MARK)

The Minister of Justice (Sen. The Hon. Emmanuel George): Thank you very much, Mr. Vice-President.

Mr. Vice-President, I stand to pay tribute, on behalf of the Government of the Republic of Trinidad and Tobago, to Mr. Ainsley Mark, a former Senator, who passed away on Tuesday, August 19 2014. On January 13, 1992, Ainsley Mark was appointed as the Eighth Vice-President of the Senate, a position he held until 1995. In his capacity as Vice-President of the Senate, Ainsley Mark chaired committees such as the Special Select Committee of the Senate on the incorporation of SWAHA in November 1992, and the Special Select Committee of the Senate on the Incorporation of the Foundation for the Environment of Trinidad and Tobago around June 1993.

Mr. Mark was also appointed as a Member of the Special Select Committee of the Senate on the Constitution Amendment Bill, 1994. In addition to contributing as a participant in the proceedings of the Fourth Republican Parliament, Ainsley Mark was a true patriot who had a love of giving back to his country.

On a personal level, I met Ainsley Mark while I was studying at the University of the West Indies, St. Augustine, in the early 1970s and he, a lecturer in accounting at the institution, in the Faculty of Social Sciences.

Before I speak on my own interaction with him, however, Mr. Vice-President, I would attempt to provide this august House with some background that I have managed to obtain about his past before his stint at UWI. I have learnt from his colleagues that he entered Queen's Royal College in 1956/57 and was immediately recognized as being a very bright student. In fact, he was skipped from Form 1 to Form 3 and he eventually wrote the A level examinations in Form 6. Being very bright, as I said, and particularly so at mathematics, it was no surprise to his colleagues that he would go on to further his studies post his QRC life.

His former schoolmates and colleagues tell me that at QRC he was a mischievous boy, always up to pranks and having fun and a good laugh with the other boys at the school. He was immensely popular in spite of and perhaps because of that mischievous disposition.

Ainsley Mark was involved in all aspects of college life; in particular, in sports and played football at the Colts level. Even though he was not of the calibre to make the QRC representative teams, no QRC boy was a more ardent supporter of the QRC teams and his support of them at competitive games was both voluble and passionate.

Condolences

[SEN. THE HON. E. GEORGE]

Tuesday, August 26, 2014

When Ainsley Mark left QRC after completing Form 6 and displaying an above-average competence at mathematics, he went to the University of Toronto, Canada, where he read for his Bachelor of Science degree in commerce and finance. Upon his return he became a lecturer in accounting at UWI, St. Augustine Campus.

Although I was never a student of Ainsley Mark, I came to know him on a personal level because we were in the same environment at the University of the West Indies, St. Augustine, in the Faculty of Social Sciences, where I was pursuing studies in economics. We would, of course, meet oft-times in the corridors and other social events and we had an extremely cordial relationship. But from my fellow students who were reading for their degree in accounting, I was able to glean that Ainsley Mark was a very competent lecturer and tutor in accounting. He was a very hard taskmaster and he drove his students to always do their best and to never be satisfied, even though they would get an A.

Many were the stories of Ainsley Mark correcting his examination papers very hard, so that to get high marks in accounting, you had to work very, very hard. The high quality and capability of many of our accountants who now work or have worked in the corridors of power, in both the Government and the private sector in Trinidad and Tobago, are direct functions of Ainsley's teaching and guidance and his uncompromising approach to excellence.

His friends and former schoolmates have made the observation that even though he was a devoted lecturer and tutor to his students at university, he never forgot his roots at Queen's Royal College. He kept in constant touch with the past pupils and with the principals and teachers at the institution, always seeking its interest and always interested in its development.

Indeed, Mr. Vice-President, he joined the QRC Old Boys' Association and he was outspoken and progressive in his ideas as to how that body could assist the college. After a short while as a member and being impatient with the archaic and conservative ways of the QRC Old Boys' Association, and their resistance to implementing what he found were progressive recommendations, he started the QRC Foundation, and with it several fund-raising initiatives that were very successful in bringing much-needed revenue that assisted the college's development.

Somewhat against the advice of the traditionalists among the QRC Old Boys' Association he started the QRC Carnival fete Outta de Blue, the very first fete amongst the colleges and which was the catalyst for other colleges following suit in ensuing years.

He also introduced the steel pan into the former QRC Jazz Festival. It eventually came to be called the Trinidad and Tobago Steel pan and Jazz Festival, and Chefs Royale, and together with the Carnival fete, Outta de Blue, these became significant revenue earners for the QRC Foundation.

The funding raised was used not only in support of the traditional sporting activities at QRC, such as football, cricket and athletics, but also to nurture the QRC Jazz Ensemble and other cultural pursuits, and extracurricular activities for the pupils of QRC and to help needy boys who were going to the school.

10.15 p.m.

I should make mention that in respect of the QRC Carnival fete Outta de Blue, Ainsley Mark came to me to seek my services as a disc jockey when he was launching that enterprise. Well, he had to come to the best eh. *[Laughter]* For the better part of a decade I provided these services for that fete and the jazz event, and stepping away from my normal modus operandi, I permitted Ainsley to pay what he could have paid after the event and after he had done his sums.

Other persons would have spoken very highly of his interest in things cultural, and I should mention that Dennis Phillip, a student at UWI in the 1970s when Ainsley Mark taught there, and also a member of the Birdsong Steel Orchestra, penned a lovely piece recently carried in a daily newspaper in tribute to Mark's devotion to, and association with, Birdsong Steel Orchestra and the yeoman service he played in the development and success of Birdsong.

In more recent years, and in particular since I became a Minister, I sought Mark's advice, guidance and input in the preparation of my Integrity Commission submissions and, in fact, up to May 2013, for my submissions to the Integrity Commission in respect of the year 2012, he sat with me to discuss and advise on the preparation of that submission. The only reason we did not meet earlier this year was because of his illness, but having learnt from his guidance, I was able to, on my own, complete my Integrity Commission forms for the year 2013 and submitted them before the May 31, 2014 deadline.

In closing, all who knew and interacted with Ainsley Mark would agree that here was a very competent and able professional accountant, but his competence and ability were not confined only to his profession. He was able to use them also to help his college and other institutions that called on him for assistance, as well as to help his friends and acquaintances. To QRC, to whom he owed a great debt for his education, he tried to return the compliment right until the end. To his country, he gave of his knowledge and experience by serving at the highest level in the Parliament.

*Condolences**Tuesday, August 26, 2014*

[SEN. THE HON. E. GEORGE]

Mr. Vice-President, this country has lost one of its brightest and best sons, and to his family and long list of friends, we on the Government side convey our deepest condolences and wish them to know that for the part he played in our lives, personally and professionally, and in Trinidad and Tobago's development, he is gone but will long be remembered. [*Desk thumping*]

It has been said that if you would thoroughly know anything, teach it to others. Ainsley Mark did just that. He imparted his knowledge and he taught others through his own actions, to give and to serve. For this, his legacy of generosity will live on.

Mr. Vice-President, Members of this Senate, and my Leader of Government Business, I thank you for giving me the opportunity to pay tribute in words to former Senator, the late Ainsley Mark.

I thank you. [*Desk thumping*]

Sen. Camille Robinson-Regis: Thank you very much, Mr. Vice-President. Mr. Vice-President, I rise on behalf of the People's National Movement to recognize, with a great degree of sadness, the passing of Ainsley Mark who served as Vice-President of the Senate from 1992 to 1995. The PNM and my own family offer deepest condolences to his wife, Claire, and to his three sons, and for me, personally, to one of his sons, Sekou Mark, with whom I worked closely when I was Minister of Planning and Development and he operated at the IDB. So I offer particular condolences to Sekou whom I know quite well, and his extended family and close friends. We are indeed sorry for your loss.

I was fortunate to work with Mr. Mark in the Senate during the period that he was Vice-President and I learnt from him the power of being frank, the power of observing, interacting and collaborating with him and persons like him. Ainsley Mark operated with a high degree of professionalism, fairness, respect for others and a deep commitment to the job we were doing and its impact on the people of Trinidad and Tobago, and the fabric of our society.

From Ainsley Mark I learned about the important requirement in the Senate of setting aside one's own personal needs and goals for the chance to contribute to the development of a more laudable goal, the development of the society of which we are all part.

Ainsley, though he achieved great successes, professionally and via his sons who are all successful in their own right, began his life in Arima, and hard work propelled him to Queen's Royal College and to a career in accountancy, which allowed him to start his own company. At Pannell Kerr Forster where he last served, Mr. Mark was responsible for moulding many young accountants.

Ainsley Mark can be counted as one of the true sons of the soil of Trinidad and Tobago and we in the Senate are fortunate that we have his legacy as part of our history, as we move forward in the continuous development of our country.

Once again, Mr. Vice-President, on behalf of the People's National Movement, and on my own behalf, I offer sincerest sympathies to his wife, Claire, his sons, his family and his friends.

Thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Hugh Russell Ian Roach: Mr. Vice-President, I thank you for the opportunity to pay tribute to former Vice-President of the Senate and Senator, Mr. Ainsley Albert Mark who passed away on Tuesday, August 19, 2014 at the age of 70 years.

As brief as my remarks may be, it has no bearing on the length and contributions made to our beloved country by Mr. Mark, both in his public and private life. Ainsley Mark was well known and highly respected in his chosen profession as a chartered accountant and one of the founders of the accounting firm, PKF, formerly Pannell Kerr Forster, established some 32 years ago.

As a former Queen's Royal College student he continued during his time with us to play a mentoring role in the affairs of the college, financially, academically and socially, helping to secure and influence upright, confident and civic-minded young men as they made their way in all aspects of life in Trinidad and Tobago. The QRC Old Boys' Association will give testimony to the invaluable service he gave to the college foundation, Outta de Blue, and extracurricular activities like the well-attended annual all-inclusive Carnival fetes and steel jazz festival, the funds of which, I am told, are used to assist in paying part-time teachers at the college and helping needy boys to attend school.

Michael Toney, his good friend for more than 40 years whom I also knew well, said that he was a very generous person who never paid much attention to material things, a quality a lot of us can do well to emulate in serving our country.

Ainsley Mark was a lecturer at the University of the West Indies in the Department of Social Sciences and also served as the Dean of the Faculty between 1971 and 1981—while his accounting firm was well known in its yeoman service to the credit union movement and labour unions.

As a Senator between the years 1992 and 1995, Ainsley Mark made noteworthy contributions on debates concerning the budget and other financial matters at the time. In reading one of his contributions on the Appropriation Bill

Condolences
[SEN. ROACH]

Tuesday, August 26, 2014

in the Senate on January 28, 1992, you quickly got the sense of a man who was motivated and committed to doing what was for the good of Trinidad and Tobago. I quote:

“It is evident even when criticisms are levelled at provisions, or lack thereof, of the 1992 budget, one gets the distinct impression that while we may be disagreeing on specific strategies or tactics, we all share the fundamental concern for the welfare and happiness of all of our peoples of Trinidad and Tobago. It is crystal clear what we want to achieve. What we need therefore is the continued consultation with debate and the maturity to accept the give and take that is necessary as we move forward together.”

This was someone, as a legislator, who was willing to listen and consult, in moving forward together with an agenda that was in the best interest of the peoples of Trinidad and Tobago. The record of Parliament would show that on November 10, 1992, and in June 1993, he was appointed chairman of two select committees. On March 23, 1995, he was also appointed a member of the special select committee of the Senate on the Constitutional (Amdt.) Bill, 1994.

In this regard, one cannot help but wonder what the former Senator would say about this current debate on constitutional amendment. I dare say he would say, whatever is in the best interest of all the peoples of Trinidad and Tobago, after listening and consulting.

Mr. Vice-President, I respectfully submit that you let the record of the Senate reflect that the passing of Ainsley Mark be seen as the loss of a true patriot of this beloved country whose wisdom, intellect and unselfish deeds will surely be missed by those who were privileged to have worked with him and known him personally, and by a country full of gratitude for his service to us all.

On behalf of the Independent Bench and on my own behalf, I say, may his soul rest in peace and may the virtues of his character continue to influence us as we seek to conduct the business of this Senate in the best interest of the people of Trinidad and Tobago.

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

Mr. Vice-President: I would like to join with hon. Senators who preceded me in paying tribute to Mr. Ainsley Mark. May he rest in peace. Hon. Senators, could we please stand for one minute’s silence?

The Senate stood.

*Condolences**Tuesday, August 26, 2014*

Thank you, hon. Senators. Hon. Senators, it is my intention to direct our Clerk to send a suitable letter of condolence to the family, along with the tributes that have been said here this afternoon to the family of Mr. Mark who has passed away.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.28 p.m.