

**SENATE***Thursday, August 28, 2014*

The Senate met at 2.00 p.m.

**PRAYERS**[MR. VICE-PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

**Mr. Vice-President:** Hon. Senators, I have granted leave of absence to Sen. Camille Robinson-Regis 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, S.C., O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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. FITZGERALD HINDS

WHEREAS Senator Camille Robinson-Regis is incapable of performing her duties as a Senator by reason of her 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) (b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, FITZGERALD HINDS, to be temporarily a member of the Senate, with effect from 28<sup>th</sup> August, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator Camille Robinson-Regis.

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 28<sup>th</sup> day of August, 2014.”

**OATH OF ALLEGIANCE**

*Senator Fitzgerald Hinds took and subscribed the Oath of Allegiance as required by law.*

**CONSTITUTION (AMDT.) BILL, 2014**

[Third Day]

*Order read for resuming adjourned debate on question [August 26, 2014]:*

That the Bill be now read a second time.

*Question again proposed.*

**Mr. Vice-President:** The list of those who spoke Tuesday, August 26, 2014: hon. Kamla Persad-Bissessar SC, MP, Prime Minister, mover of the Bill; Sen. Faris Al-Rawi; Sen. Helen Drayton; Sen. The Hon. Dr. Bhoendradatt Tewarie; Sen. Diane Baldeo-Chadeesingh; Sen. Dr. Rolph Balgobin; Sen. The Hon. Larry Howai; Sen. Avinash Singh; and Sen. Dr. Victor Wheeler.

Wednesday, August 27, 2014, those who spoke were: Sen. The Hon. Anand Ramlogan SC; Sen. Hugh RI Roach; Sen. Dr. Lester Henry; Sen. Garvin Nicholas; Sen. Shamfa Cudjoe; Sen. Dr. Dhanayshar Mahabir; Sen. David Small; Sen. The Hon. Embau Moheni; Sen. Rev. Joy Abdul-Mohan; Sen. Camille Robinson-Regis; Sen. The Hon. Raziah Ahmed; Sen. Dr. Sharon Le Gall; and Sen. The Hon. Gerald Hadeed.

All Senators wishing to join the debate may do so at this time.

**Sen. Daniel Solomon:** Thank you, Mr. Vice-President. It is indeed an honour. I am extremely humbled to be asked by the Prime Minister to be here today in this august Chamber, to make a contribution on what is a landmark accomplishment for the reform of the Constitution of Trinidad and Tobago.

As I was also very privileged to have participated in the previous debate, wherein we debated, quite heatedly, on the Miscellaneous Provisions Bill, which dealt extensively with money laundering provisions in the FIU provisions, and it was heartening to see the quality and level of the contributions of my senatorial Members from all sides. What was even more heartening was to actually see how you, Mr. Vice-President, managed to bring everybody together in a consensus and work out the differences and come up with what ended up being a unanimous decision. I really applaud everybody for that. [*Desk thumping*]

I know this Bill may be somewhat more contentious, but I for one certainly do believe that it is in the interest of this country that constitutional reform, such as this, is indeed passed.

In doing so, I hope during my contribution, as we did with the criminal Bill, the Miscellaneous Provisions Bill, to show you how a direct corollary is between

the improvement of the lives of the citizens of Trinidad and Tobago. You have a situation, Mr. Vice-President, where for the first time, for instance, through the initiatives of crime, criminal policy being put onto the ground, such as the Miscellaneous Provisions Bill, how it directly impacts on the improvement of the situation of crime on the ground.

For example, I think the acting Commissioner of Police recently announced at an award ceremony, that for the year 2013 serious reported crime was at its lowest in 20 years. I just think about that for a moment. Serious reported crime in Trinidad and Tobago for the year 2013 was at its lowest in 20 years. Why is that? That has to be because of these sorts of initiatives: bipartisan policies, Acting Commissioner of Police, everybody moving towards solving the problem of crime.

I am hoping here today that we can make a similar contribution, and that we move together as a country towards improving the democracy of this country, and reverting some of the power that is held on high and devolving it back to the people of Trinidad and Tobago.

I heard a lot of the contributions well-articulated, well thought out, and a lot of the concerns and angst were to do with the process involved, the consultation process involved. What can we say about the consultation process involved? When did it start? What is it about? What was involved? How much thought went into it? Well it began—I would go as far as to say for the past 50 years, our country has been struggling to get constitutional reform off the ground, and we have failed. We have had commission after commission, energy, time, hours, by many illustrious people to try and get constitutional reform going.

Prior to the 2010 election, our Government went out, walked the streets, spoke to the people, listened to their concerns, heard what their needs were and got a feel for what they wanted. These were then taken back, digested, reduced into a policy, or into a manifesto rather, which is here. [*Sen. Solomon lifts document*] Once this was drafted, and I will read the provision for you, Mr. Vice-President, if you grant me the indulgence—“Participatory Democracy” is the title:

“The People are Sovereign

Our Government will create a continuing awareness among our People that they have a right to participate in the Governance of our country. We will incorporate mechanisms which would permit the Voice of the People to be heard and to be taken into account in the Policies which we adopt as a Government.

Some of the actions that we will take are:

Constitutional Reform

As a matter of urgency, our government will engage the population in consultations for Constitutional Reform. We will observe the bedrock principle that the Constitution should emerge out of the collective aspirations, will and judgment of the people of Trinidad and Tobago.”

I go on to say that the issues which we have heard from the people that need to be addressed and put into the manifesto, number one:

“Respect for the voices of minorities, while acknowledging the will of the majority...”

**2.15 p.m.**

That may sound complex, but it is a very simple concept, Mr. Vice-President, and that is where you get the run-off. Number two:

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

And on the next page of the manifesto:

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

We will establish a Constitution Commission to engage in the widest possible consultation as a pre-requisite to constitutional reform.”

So there you have it: articulated, consultation, manifesto, publicized on the platforms for everybody in the country, the length and breadth of the country, news interviews, justification for why we came up with this, and a definite plan as to how we are going to go about it, and we are going to achieve it; promises made, over 400,000 people voted for this document, voted for that promise to be fulfilled. We want this. No question about it. It was said on the platform time and time again. Having done it, we go about trying to deliver it. You cannot make promises and not deliver on your promises. [*Desk thumping*]

Flowing naturally from that was the constitutional reform formed, a commission was formed, and they explained in the introduction, a document that was publicized throughout the country, the undertaking to reform the Constitution of Trinidad and Tobago was made in the manifesto of the People’s Partnership when it campaigned for the general election of May 24, 2010. At page 16 of that manifesto the following promise was made:

“We will establish a Constitution Commission to engage in the widest possible consultation as a pre-requisite to constitutional reform.”

And that is what we went about doing. We embarked on that, and we completed the task as assigned, in keeping with the manifesto, following up from all the previous commissions. The commission was established on Saturday, March 22, 2013, and it embarked upon a hectic itinerary of consultations all over Trinidad and Tobago. The general thrust of the consultation process was to engage the population in a dialogue about their aspirations and desires in respect of their constitutional reform.

The range of issues raised at these consultations encompassed both constitutional and general public policy matters. The commission adopted an approach of listening, something that I do not think the people of Trinidad and Tobago have had much experience with over the past 40 years—a Government that listens to the people. [*Desk thumping*] They spoke on matters on which they wished to raise rather than exercising a judgment on whether a particular matter being raised was of a Constitution nature or not. The engagement of the general population ranged from the traditional meetings to crossing the digital divide, to permit electronic submissions through the official website of the commission, [www.reformtheconstitution.com](http://www.reformtheconstitution.com), which allowed an even broader participation well beyond attendance at the formal meetings. I will go into that later.

It was believed that okay, how many people can we get involved? We need to get as many of our people involved in this serious issue. What can we do? We need to have meetings, and we cannot just have one or two meetings in central areas. We recognize that we need to go to many of the constituencies far and wide from Toco to Port of Spain to Tobago, over a lengthy period of time, notify people. In addition to that, we need to do electronic media so that we can capture persons who may not go—may not feel. My brother, Sen. Dr. Rolph Balgobin said, “Perhaps I might not feel to go”, but he has the opportunity even if he does not want to physically go to the meeting to spend an evening talking about constitutional reform, Mr. Vice-President, he can access the Internet.

And not only is it access of the Internet, which we can get to later, it invites participation through the Internet. So you do not have to be physically present, you can make your contributions on the Internet. I ask you, how many people did it? Okay? Perhaps you might say to me, “Well Senator, we do not know how many people knew about it”. And that would take me to the point where a significant media programme was initiated. Okay? And that included television, radio, Twitter, facebook, every possible social media was engaged, and a market and media campaign was undertaken nationally.

The website [www.reformtheconstitution.com](http://www.reformtheconstitution.com) gives access to documents produced by previous commissions and committees—just something I will speak

to later—on constitutional reform. A listing of reports and Bills relative to the Constitution, constitutional reform and the Tobago House of Assembly, as Dr. Wheeler was mentioning. Below there is a file for download and table of contents of relevant newspaper articles and clippings on constitutional reform, giving as much information to the public as we possibly can. Academic articles and reports on constitutional reform advertised all consultations on the website, on traditional media and on social media.

Videos were taken of these meetings, and these were put on the Internet via YouTube, and reports of the meetings were also circulated. Polls were provided and feedback on those proposals. It allowed you not only to receive information, but to put forward your views. It allowed you to submit your recommendation on the TTCRC Report. You can drop documents in and your views in by hand at the consultations, you can fax to the secretary to the commission or you can email at [reformtheconstitution@gmail.com](mailto:reformtheconstitution@gmail.com). You can post to the Registrar General's Department, 2nd floor, Registration House, 72-74 South Quay, Port of Spain.

In addition to that there was a website called Power to the People website which articulated and educated the population about constitutional reform, what the intentions were. This did not come as some would have you believe as a thief in the night, Mr. Vice-President. This is going on and on and on. Now what is interesting to say is, what was also taken into consideration, you can say, well there were only 21 consultations, Mr. Speaker, but what about—Mr. Vice-President, I apologize.

**Hon. Senator:** You have aspirations?

**Sen. D. Solomon:** Clearly I have aspirations. I apologize, Mr. Vice-President. The commission in their considerations also took on board all the hundreds of man hours of work and consultations of the voices of the people from all the other commissions. So to say that it was only the 21 consultations, all the other commissions were included, from the 50 years back.

If you fail to address constitutional reform and actually stop talking about it, there must be a time when you draw a line in the sand and you say, okay, we have to stop now, and now we have to make recommendations, Mr. Vice-President, and we have got to make action out of it. That is what we need to do. [*Desk thumping*].

The Bill was brought to and passed in the House of Representatives, and now we find ourselves here in a debate. And I want to say a word, that it has been amazing that and I think a few of the commentators, which I will get to later, did

comment on the fact that there is a certain apathy amongst our people, unfortunately, about participating in these consultations, about participating in politics. Perhaps they are cynical about it, whatever their personal reasons might be. Perhaps they do not feel they need to be part of tribal politics as one may feel. Perhaps they do not feel a home. Perhaps they want to think on ideas, on issues rather than on ethnicity, race, and that is something that I think we need to elevate our country above. We need to elevate ourselves from that. And that is what this is about. It is a step in the right direction.

I heard certain mentions about the panel. I looked at the CVs on the last page of the report, and I read and looked at the persons involved, and I really cannot think that any of these esteemed individuals can be criticized as not being eminent persons in our society who are patriots and are interested in betterment of the nation. [*Desk thumping*] And one must take serious offence and umbrage when persons go out there, face the public night after night after night, to be told at the end of your work that “you eh no good”, Mr. Vice-President.

You have Mrs. Justice Amrika Tiwary-Reddy, a retired judge of the High Court, Dr. Hamid Alfred Ghany, everybody knows his qualifications. Do I really need to go into this?

**Hon. Senator:** No. No. No.

**Sen. D. Solomon:** Let it be read into the *Hansard* that the CVs are, in my opinion, extremely acceptable.

There is something that I wanted to read just from the report:

“There was a general understanding that the fate of the report of this Commission ought not to be the same as that of the Wooding Commission whose report was rejected by the then Government in 1974. The Minister has a direct responsibility to take this report to the Cabinet with a clear mandate for implementation”—get the job done.

And he did. [*Desk thumping*] You know, it is funny that certain persons would take the view that giving power to the people by giving them the right to recall errant Ministers, by giving the right for the majority to be in power rather than the minority—they claim to be defenders of our sacred Constitution. And I think to myself, you know, not too recently, rights, fundamental rights were taken away from me and the citizens of this country, by whim and fancy. That is a serious—that is an affront to the Constitution. What you have said to the population is, “you cyar vote in no local government elections”. In fact, forget that; forget local government. How is that possible?

**2.30 p.m.**

How can you wholeheartedly decide unilaterally that that is the case. Not once, not twice, but three times. This confounds me. So, I look at it and I say, “okay, where was the public consultation on that? Anybody came to your house, or were there any meetings about the removal of local government elections?” Tell me, because I have not heard any. Was it that you put it in your manifesto that we would be postponing for the next three terms local government election? Was it? No, that was just done, and that was a usurpation of fundamental rights. How could that be allowed?

Mr. Vice-President, I have an article—you know, the other thing that flabbergasted me was, it is a philosophical thing where you take away the right to vote, you take away local government, your whole layer of representation for the man on the street is gone. Here we are trying to bring something where we are giving power back to the people, you have a right to recall, you have a right to hold your MP to account. You have two votes. You have a right to get a majority leader instead of a minority leader, but we have a problem, consultation. Where the consultation was for that?

You see, the difference between the philosophy of our hon. Prime Minister and our Government is devolution of power. Giving power back to the people. What was the last constitutional reform commission formed? What was their objective? As I recall it, it was to become an executive president. [*Desk thumping*] So that more power could be taken away from the President and the Cabinet and reside in the hands of one man. So, what you have going on, right, is a two-tier system. You are mashing up the man on the street’s power to get representation through his councillors and his aldermen and get stuff done in his community. “Dat gone”. And you know what? Your President going too, and it all coming higher up to one man. Hmm, the logic defies me. It is about maximum leadership. It is about that mentality where you want ultimate power, you want to keep the people down. That is what you want to do. Let me read an article by Anil Goorahoo of the *Newsday*:

“The late Dale Kolasingh, one of the finest journalists this country has ever produced, made a point of constantly reminding his newsroom staff that one of their first priorities in reporting was to ‘separate the news from the noise’. He understood clearly that in any important debate, particularly those involving politicians and moreso during election silly season, ‘legitimate news is almost always obfuscated and sometimes lost’ in the noise of political rhetoric inspired by partisanship and self-self-interests.”

I think that is what is happening here and I am so grateful that there is an august Chamber such as this that can soberly and calmly look at the facts and look at how it affects the nation, how it benefits the people. It is about giving a voice to the voiceless. Imagine, 148,000 people under the Congress of the People in 2007 were just totally obliterated.

**Sen. Griffith:** I was one too. [*Laughter*]

**Sen. D. Solomon:** And it did not make any sense. So, what we have is, we have 148,000 people with no voice at all. Many of these people they made the decision that, aye, I want to move away from this tribal thing. I want a united kind of face. I want to be part of a cosmopolitan party. I want new politics, I want policies of procurement, I want transparency, I want accountability. Good people, Mr. Vice-President, taking a leap, under intimidation.

I for one as the candidate in 2007 in Port of Spain, and there is intimidation. But once you accept the fact that I am here for you, I am putting myself at service for you, people come around, and there is a contract when you dip your finger for me. I put my name on a ballot, I say, “hear what, I am doing this thing, I am going to put myself up for service”, and you put your name on a ballot as many of us in here might have done. [*Desk thumping*] As a lawyer a contract of some form is derived, and it might be a social contract, but it certainly is a contract. Your name is down, the ballot is there and you are meeting the people and the people telling you what they need. Point blank: “Yuh know, I need this, help meh, meh community centre lock up in Belmont Valley Road for the past four years, meh children smoking ganja underneath on the steps there, oh God, can you help me?” That seems like a plausible thing. I feel if I was the MP I could do that. Yes, I would help you to do that. That is a contract, Mr. Vice-President.

So, you gather a list of what the needs are, almost like a community manifesto you start off with, and that community manifesto forms part of what—you go to the communities and you say, “what do you need”?—“I need a bridge, I need my flooding sorted”. It is a perennial problem in Port of Spain. Simple things: “light up meh basketball court”. Okay? You make that list, that becomes your community manifesto. Maybe there are four or five other communities and you have manifestos for those, and then you do a constituency manifesto, much like this [*Holds up manifesto*] except this is a national one, and you promised the people that this is what you are going to accomplish. So, you lose. You have 4,000—5,000 people behind you, but the game is not over. Your people still have a chance of getting what they need.

So, you have two candidates now to go to, in a hypothetical situation, and say, listen, I have 4,000 votes. You, Mr. A, can you fulfil the promises that me and my

people need? Yes? No? Depending on how the response and what the feeling is of him. Candidate B, same list. Can you fulfil? And you go down the road so, and depending on where you feel you can get success you can throw your voters together and have a town hall meeting and say, “fellas, we believe that candidate A will serve us”. Now, this is where the recall comes in. That was the run-off provision I was describing there and the positive effect of it.

You have the next stage now where you have the undertaking, but you are not sure, because this man is not really part of your original party. In fact, you all might have been giving each other “a bit ah picong, and doh vote for he, vote for me”. The issue is what I am concerned about, accomplishing what the people need. Delivery for them is all what it is about.

Now, let us say a year down the line, two years down the line, “your bridge eh get fix, your community centre still lock up, he eh done with yuh, but you have your 4,000 people, and yuh meeting them in the market, yuh meeting them in the street, yuh children might be going to school with them, and you know what. Here what? We eh gehing nowhere, you know, leh we call a town hall meeting, leh we talk about starting a recall, because this Minister lied and he has failed us”. [*Desk thumping*]

What I am trying to do hon. Senators, through the Vice-President, is to show you on a ground level what it is like, how positive and energizing, and new this entire Bill is. It is exciting. It gives the people an opportunity to get involved, because right now, to be quite honest, people do not believe it. They do not believe that they are going to see their MP. You go around on the streets and start canvassing for yourself and say that I am a candidate, they will say, “man, I only see you when it is election time but give me a T shirt, nah”, as my brother, Senator said. And it is true. That is the truth. But this will give you the opportunity to call him back. What do we have? The present system “ain’t” working. We need to do something new, and this is the measure that will do it. I just want to quote from an article I read in today’s *Express* by Ralph Maraj, my good friend.

**Sen. G. Singh:** Oh Ralph.

**Hon. Senator:** Not UNC.

**Sen. G. Singh:** No, no, PNM. [*Laughter*]

**Sen. D. Solomon:** Well, you know Ralph has not been all that friendly to the present Government, but you can always rely on him for some candour and some insight. He says:

“No more staleness”. He goes on to say:

“AT THE TIME OF WRITING, the Constitution...Bill...has not been passed but seems likely to succeed. If it does, the sun will not stop shining.”

**Sen. G. Singh:** That is your Ralph.

**Sen. D. Solomon:** Sen. Hinds, the sun will not stop shining.

“Indeed it could remove the staleness from the politics of Trinidad and Tobago. Parties will have to deal with a new dynamic. It will certainly reduce political hitchhiking and challenge smaller parties to carve and sustain their own place in the sun.”

**Hon. Senator:** It is a pun.

**Sen. D. Solomon:** Perhaps it is a hint. So, Mr. Vice-President, the smaller parties, the COP, the MSJ and ILP have their work cut out, he says. They can get together in a united third force, or each try to carve their own terrain, each shared to the vote, and to be in a position to bargain in return for their support in any run-off. [*Desk thumping*]

**Sen. G. Singh:** Exactly the point you made.

**Sen. D. Solomon:** That is what I am saying, you can bargain. You have your people and they will stick with you once they get the delivery.

**Sen. G. Singh:** Bring back politics too.

**Sen. D. Solomon:** Bring back power to the people. Get them involved in the process. He goes on to say:

“And smaller parties shouldn’t be daunted by the challenges of standing alone. Political hitchhiking has always destroyed third forces in this country.

They should learn from the experiences of the ONR and its reincarnation, the COP. Both had the courage in 1981 and 2007 to challenge the stale status quo and provide the electorate with a genuine attempt at a multi-racial alternative to the tribal UNC and PNM. They got 90,000 and 150,000 votes respectively and confirmed a place for a third force in our politics.”

You see, Mr. Vice-President, it is about opening up the playing field. It is about including persons of all ethnicities to have a voice. Not be daunted. Not feel as though, well, I am not black so I cannot join the PNM, or I am not Indian so I cannot join the UNC. “Ah havta do meh own thing”. It is not about that. It is about issues. I do not care if you are PNM or you are UNC or you are ILP. I care about

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delivery for my bridge, for my flooding. That is what I want. That is what I want. And if it is a PNM man going to do that or a UNC man going to do that, I will put my votes with him. [*Desk thumping*]

**2.45 p.m.**

He concludes:

“The government is coming with PR.”—proportional representation—“Big change is on the way. The run-off is the forerunner, the promise of an end to the staleness of our politics in Trinidad and Tobago.” [*Desk thumping*]

There is nothing to fear, but fear itself. Change is coming. [*Pause*] One minute, please, Mr. Vice-President.

Two-term limits for the Prime Minister. I will just touch briefly on it because we have heard it so exhaustively, and some persons have certainly articulated it better than I could, and I am sure that there are going to be better articulations to come.

We see a Prime Minister immediately “fettering away” her power, recognizing the importance of succession planning. If you approach the two terms differently your performance will be different. It will intensify the need to deliver, it will intensify, because you know you have a set time limit to get your jobs done, fulfil your promises, plan for the future, give room for young people to come and get involved, and know that they can aspire to the top. Mentoring, it is awesome, it never existed in Trinidad before the way I have seen it, and we need to attract the best people that we can into the leadership of the country, and that is not happening, Mr. Vice-President. [*Desk thumping*] You can compare that to the movement for executive presidency.

**Hon. Senator:** Clause 14. [*Laughter*]

**Sen. Ramnarine:** Not the MSJ. Movement for—

**Sen. D. Solomon:** I mean, this is nothing new, USA and many other advanced democracies have it; keep your promises to the people. Margaret Thatcher used to say she would go on and on and on—“not healthy”.

The right of recall. I think it is fair to say that becoming a Minister is a daunting task, it is a steep learning curve, there are lots of duties on you, a lot of responsibilities. You have your Cabinet duties, Mr. Vice-President, you have your constituency obligations to the people and perhaps you have a Ministry to run. Are the people being served while you are engaging in all these other activities? Is

the bridge being built? Is the flooding being addressed? You need to know, and this is the thing about the right of recall—is that once the threat of a recall emerges, that will galvanize this Government into action or any Government into action, because they realize, okay, we have a Minister, he is not performing, he is not delivering to his people, what does he need? He would say, okay, well, I need this bridge built, I need this done. The end result is that the Government is not going to want to lose a Minister to a recall. They are not even going to want a petition launch that creates a whole embarrassment in itself.

What they would want to do is to curb that and encourage, coach, mentor that MP who may be in government for the first time, back into the streets, get him a mentor, get him a retired MP who knows the ropes and shows him how to deliver. The end result to that is the people getting delivery. [*Desk thumping*] And it is up to them to trigger it, fully endorse it.

I know that time is limited. I wanted to read from an article. You know, what is amazing is this has triggered an entire wave of excitement, not only in Trinidad and Tobago, but also throughout the region and I have been looking at it. *Jamaica Observer*, headline reads:

“PM proposes seismic constitutional shifts for country’s executive.”

By Garfield Higgins, dated Sunday, August 17. And I think my sister, Sen. Raziah Ahmed, had quoted from it:

“I have made no secret of my tremendous admiration for the strength, stick-to-itiveness and political foresight of the prime minister of Trinidad and Tobago, Kamla Persad-Bissessar.”

She leads and she leads from the front.

“I have said in this space...Mrs Persad-Bissessar, we have a leader who is not worried about leaving a legacy of election victories as her major accomplishment, but is much more concerned about the kind of country she will bequeath to her children, grandchildren, and the people of Trinidad and Tobago. Evidently Prime Minister Persad-Bissessar is not dwarfed by realpolitik that is influenced by a process of what I call ‘regional political osmosis’. She has shunned the description that P J Patterson attached to Jamaica’s politics—‘a fight for scarce benefits and spoils carried on by hostile tribes which seem to be perpetually at war’”.

It goes on to say:

“Why would anyone who believes in true democracy not support term limits for prime ministers and parliamentarians? [*Desk thumping*] The only

explanation I can think of is that they suffer from a Methuselah-like political complex. These are often the politicians who have...”—[*Interruption*]

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

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

*Question put and agreed to.* [*Desk thumping*]

**Sen. D. Solomon:** Thank you, Mr. Vice-President, and thank you Sen. Faris Al-Rawi for your support. I do appreciate it, an honourable gentleman.

“A ten-year term limit, as is being proposed for the”—I am reading again from the same article from the Jamaican newspaper—“T&T Constitution, is the perfect deterrent to our lifelong politicians. Indeed, any prime minister and/or parliamentarian who cannot operationalise his/her objectives for his/her country and/or constituency within ten years is simply a freeloader who does not want to do an honest, hard day’s work for an honest day’s pay. These are the dinosaur-types that we desperately need to rid ourselves of in the region. As to the argument that the regional states are small and cannot put such limits upon those who serve at the highest...I say pure, unadulterated rubbish.”

And the article goes on in a most laudable fashion of these constitutional reforms. I would not bore you with it because there are others to go to. I want to show you how the region is reacting.

Barbados, *NationNews*:

“FIRING LINE: Power of recall needed.” By Shantal Munro-Knight, Saturday, August 16, 2014.

“ONE OF THE MOST interesting aspects of the constitutional reform engineered by Prime Minister Kamla Persad Bissessar of Trinidad and Tobago is the ability of the electorate to undertake a petition which can trigger a vote on the suitability of an existing elected representative to continue in office. Imagine if we had this in Barbados right now.”

She goes on to say:

“Such a move by Trinidad and Tobago instils the highest level of accountability...” [*Desk thumping*]

It ensures:

“...in the political system...that politicians cannot just ignore the electorate which put them in office in the first place. This is perhaps a feature which all mature and advanced democracies should have within their constitutional arrangements.

Right across the world in every field of endeavour managers and leaders are assessed based on their performance. In every international sport, managers are fired (perhaps with the exception of West Indies cricket) based on team performance. In most areas of employment, success, promotion and salary increases are based on performance. We have been talking about introducing performance-based assessments in the public service for some time because we realise there has to be a way to objectively reward and encourage good performance among public officials; so why should not the same thing apply for elected leaders? What makes them so privileged and untouchable that we should have to wait a full political term before we can ‘say not good enough.’”—You have got to go.

She goes on a little later to say:

“Nevertheless, it is becoming increasingly clearer every day that our current political system does not even have the semblance of accountability outside of the end of the official electoral term. Ministers can choose to respond or not respond to public concern. Moreover, they can be both dismissive and derisive of public sentiment.”

So you have Barbados as well. There are a number of other articles of the region, but I would not get into them.

*Trinidad Express:*

“Run-off system more democratic.”

This is from Nigel Henry. And he says, Nigel Henry of the *Trinidad Express*, he is a renowned pollster and political analyst. Date of it, August 09, 2014:

“The majority of the public discourse surrounding the controversial proposed run-off election system holds that it is undemocratic and distorts the intended will of the population.

The run-off system calls for a second election if no candidate receives at least 50 per cent of the vote. Most pointedly, commentators hypothesise that the run-off system will do little to loosen the stranglehold of our democracy by the two dominant parties—which is perhaps of particular significance given our population composed of two major ethnic groups in near-equal

proportions. Scrutiny of the numbers and empirical data elsewhere in the world argue against this view.”

Something that is of great concern and I thought it was such a great misconception, and perhaps through time now it becomes clearer. But when you read it and you take the time and you attend the consultations, you read the Internet and you take the time to digest and understand what is happening here, you will see that, in fact, this is not killing off third parties. This is rejuvenating third parties. [*Desk thumping*]

“It is well established in theory and practice that the FPTP system entrenches a two-party system. This is the reality in our local context, where voters complain of having to choose between the lesser of two evils in order to prevent the less preferred option from winning. In cases when a significant share of the electorate did select a third-party—22 per cent for the ONR in 1981, and 23 per cent for the COP in 2007—the third party was left without a seat;”—these he says were—“very undemocratic results indeed”.

Mr. Vice-President, “undemocratic results indeed”, this needs to be addressed. And this is what these reforms seek to address.

### **3.00 p.m.**

“Rather than concentrating power in two parties, the run-off system gives significant third parties a chance to win.”

There we have it. [*Desk thumping*] I am sorry Dr. Wheeler is not here. This one is for him.

“Appendix 10, the *Tobago News*:

‘Yes, yes, yes’”—by Farley Augustine, dated August 09, 2014. There is a preamble and then I will go into—

**Hon. Senator:** Shamfa is here.

**Sen. D. Solomon:** “The Prime Minister used the opening of the final session of Parliament to propose the following: (1) Term limits for the Office of the Prime Minister; (2) The right to recall; and (3) Second voter run off. Motives of the PM aside, I say YES to all three motions, whilst requiring some alterations to two of the motions.

Firstly, I am unequivocally in support of term limits for the office of the PM. I have advocated this before. Two terms and go! Should this motion become a reality, then we could well see a serious reduction in the creation of elected

dictators.”—[*Desk thumping*]—“There is NO right to the office of Prime Minister.”

Mr. Vice-President, there is an article by Dr. Hamid Ghany; it is a news report, dated August 06, 2014. It says:

“If passed, the Bill will bring about positive change to the nation’s political landscape. I am very happy with what I have seen here because I think that this is fundamental change that is coming. The political culture of the country can be meaningfully changed by shifting the balance of power away more from those who hold office towards those who elect people to office, and that is going to happen in a number of ways. Nothing prevents the party from continuing to have someone as leader who is no longer eligible to be appointed as Prime Minister. It is just somebody else will be appointed.”

Norbert Masson, I think we have heard about some things he said before. I would just do it very quickly. *Newsday*, Wednesday, August 06, article by Andre Bago, page 5:

“The Chairman of the...(EBC) Dr. Norbert Masson, yesterday concurred with the Government’s view that a move to introduce run-off elections requires only a simple majority in Parliament.

...he called on the Government to go further and introduce full-scale proportional representation...”

Daphne Bartlett, President of the San Fernando Business Association.

“Daphne Bartlett believes the proposals by Prime Minister for constitutional reform will contribute towards better representation of the people.”

It goes on. Richard Sirjoo of the *Trinidad Express*:

“...Chaguanas Chamber of Commerce director Richard Sirjoo said he did not believe the proposed changes are a distraction from issues affecting the country.

‘It is also important to note that the proposals were contained in the manifesto of the Government from day one’—[*Desk thumping*]—“so it is nothing new’, he said.

He said he fully agreed with the move to consider a two-term limit for the prime minister.

‘I think the overriding philosophy is one of accountability and control, to the extent that the presidential system of two terms versus the Westminster model creates an exit strategy for the prime minister’...

As to the proposals for the right of recall of an MP, Sirjoo said he sees this as a check and balance mechanism to ensure parliamentarians ‘do not get too comfortable and complacent in exercising their duties’.”

We move on to:

“The Trinidad and Tobago Chamber of Commerce, the country’s biggest business group, says it supports two reforms in the Constitution legislation but still has questions about the second run-off ballot voting aspect of the bill.

In a statement yesterday, the Chamber said it believed those holding public office must practise good governance, accountability, transparency and effective representation.

‘Having viewed most of the debate (on August 11 and 12) on the Constitutional (Amendment) Bill...we continue to support, in principle, the following reforms proposed in the Bill: 1. Expanding the provisions for the recall of members of the House of Representatives, and 2. Limiting of the period for which a person can serve as Prime Minister’.”

Gillian Lucky, *Guardian*:

“Fifty years is too long for a nation as young as T&T to operate without substantial constitutional reform says director of the Police Complaints Authority Gillian Lucky”—an attorney-at-law.

‘Constitutional reform is absolutely necessary especially in the context of a nation being 50 years independent with no major constitutional reform and many areas which require better systems to ensure accountability and transparency’.” [*Desk thumping*]

Chief Justice Ivor Archie, *Trinidad Express*:

“...confirmed that the aspirations for new arrangements extend beyond the political milieu. The Chief Justice bluntly observed that ‘aspects of the existing (Constitution) are not working satisfactorily’.” [*Desk thumping*]

Ken Lalla, *Newsday*, Wednesday August 06:

He “welcomed proposals to introduce fixed terms for prime ministers, a right of recall for MPs, and run-off elections.

‘It is great to see that they have adapted this recall proposition and two terms for the prime minister’.”

It goes on and on. There is article after article after article. I think that at the end of the day the people of Trinidad and Tobago deserve the best that we can do to

ensure that they get the best representation, and one of the ways to do that is to give the power back to the people. [*Desk thumping*] I do not think I need to say anything more.

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

**Mr. Vice-President:** Sen. Vieira. [*Desk thumping*]

**Sen. Anthony Vieira:** Thank you, Mr. Vice-President. Mr. Vice-President, today is day three of this historic debate, a debate I feel honoured and privileged to be part of. Much has been said. Indeed, so much has been covered from so many angles, I wonder what more, if anything I can usefully bring to the table. Today, hopefully, we will draw towards a resolution.

Now, how will this end? Will Government have its way and the Bill passed? Will the Opposition have its way and the Bill be defeated? Or, is there a third option, for example, by the Bill going to a joint select committee, by general agreement, or us reaching some sort of consensus, or by Government deciding to withdraw it? What is, without doubt, is that this Bill has become one of the most controversial pieces of litigation—of legislation in our history.

**Sen. Dr. Mahabir:** You are thinking like a lawyer.

**Sen. A. Vieira:** That might be a Freudian slip. [*Laughter*]

**Sen. Dr. Mahabir:** Always a lawyer. Always a lawyer.

**Sen. A. Vieira:** Without a crystal ball, I have no way of knowing how this will end, but what is also without doubt is that whichever way I vote, somebody is not going to be happy about it. [*Laughter*] Accordingly, let me declare from the start that when I do cast my vote, it will be a conscience vote based on what I see before me and not for or against any political party.

In similar vein, my contribution here today will be based on my understanding and analysis of the proposed legislation, what I think is right, and what I believe faithfully represents the most responsible position I can take for, and on behalf of, the citizens of Trinidad and Tobago.

Now, given the wide media coverage and public interest shown, I cannot help but wonder if this event is a marker in our history. Is this going to be the turning point where we realize the greatness we are capable of, where different races, religions and cultures all clumped together at the same time on these two little islands, are able to synthesize and to deal with difficult issues in a harmonious, respectful and responsible way?

Mr. Vice-President, in societies where there are just two different races, or two different religions cohabiting the same space, there tends to be great tension, often civil unrest. Unsurprisingly, such societies have, on occasion, become immobilized. Some have even become failed states. So I wonder, is this the point in which the seeds are sown for that to become the scenario of our future, where the lines of division are deepened? Or is this the point in which we are able to demonstrate that here, where we are divided by race, religion, culture, class and even geographically—being in two separate islands—we are still able to move forward and function in a civil and even joyful way?

I have had to pray about what I was going to say here today, as I know that many of my fellow Independents have as well. I have prayed for clarity of thought, for the power to bring sense and reasoning to the issues at hand, and that we can demonstrate to our people, a people who are fundamentally peaceful and fun-loving, that this Senate is a sacred place, where we engage in rational discourse and debate on matters relating to governance, administration and the national interest. Here there are no sacred cows. Here we are able to ponder and weigh all policies and ideas which are proposed, even dangerous and discomfiting ones. As Sen. Abdul-Mohan has reminded us, this is the place for sober, second thoughts.

Now, as the last of the Independents in this debate and coming in the wake of so much information and sharpened points of view, I think it necessary to step back a bit, to revisit the fundamentals and to carefully weigh the competing views dispassionately and as responsibly as I can, even perhaps at the risk of being repetitive and being accused as pedantic by those who are impatient to cut to the chase.

There has been a lot of talk about process these past few days. Now, process is important because if people lose faith in process, if they come to believe that we do not have a fair and transparent form of process in being able to resolve our differences, whether here in Parliament, or in the courts, or using some ADR method like mediation, if people come to feel that the process is a sham, or that it has been otherwise curtailed, then all fall down. All parliamentarians and lawyers have an obligation to inculcate and fortify in the hearts and minds of our citizens that our systems, flawed as they might be, can still work, and that in our journey forward, as a people, one constant citizens can, and should be able to rely on, is that the integrity of our agreed processes will not be compromised. It is not sufficient to just get the right result. How you get there is equally important. *[Desk thumping]*

Now, this Bill posits three simple propositions: having a fixed term for Prime Ministers, having a right of recall for Members of Parliament and having the run-off system as part of our electoral process. Now, while simple enough on the face of it, the issues they raise are complex. They do not lend themselves to a knee-jerk answer or reaction. As Sen. Small has shown, time and time again, while we may think in generalities, the devil is in the detail. One needs to look carefully at the data and be mindful of the fundamentals.

So, before focusing on the substantive aspects, I think it might be helpful for the edification of the listening public, and by way of background, to say a few words about the Constitution, democracy, amending the Constitution and elections.

**3.15 p.m.**

Mr. Vice-President, the Constitution was described by the Hyatali Commission as the body of basic rules—Madam Prime Minister. The Constitution has been described as the body of basic rules by which the people of a country agree to govern themselves. The Constitution enshrines fundamental doctrines and rules of a nation from which stem the duties and powers of the Government, and the duties and rights of the people. It establishes the basis for relations between citizens and governmental bodies, and those who are vested with public authority. It provides scope for good Government, while at the same time it places limitations on the powers of those who govern.

In a democratic constitutional state, such as Trinidad and Tobago, all those holding public office must abide by the rule of law under which we are all equal. It is by binding state authority to the law of the land, the freedom of all the citizens is ensured. The Constitution, therefore, is the bedrock of our democracy and the basic law of citizens. What do we mean by democracy? —a concept which as Sen. Abdul-Mohan has said, “We need to keep at the forefront.” Democracy originates from the Greek word “*dēmos*” meaning people, and “*kratos*” meaning power. Put together, it means people power and offers a philosophical and political outlook based on people sharing equal rights, notions of fundamental freedoms and human rights, and necessary checks and balances through the separation of powers.

Our idea of democracy, therefore, places citizens at, and as the source of power. It recognizes the rights of citizens to participate in the state and public affairs, and it represents a form of organization of political life which reflects free and competitive public choice of any alternative political party. If democracy is Government of, by and for the people, then constitutional democracy is the

antithesis of arbitrary rule. It suggests the need for consultation and political consensus.

Now, just as a comprehensive Constitution and a well-drawn up set of rules is crucial to the well-being and proper functioning of any club or association, it is well accepted that such rules need not be adhered to forever. It may transpire that the rules are not working satisfactorily or they have ceased to be useful or relevant to the needs of the particular body, and when that happens the Constitution can be changed from time to time. It will be noted that Constitution commissions, not just here in Trinidad and Tobago, but across the region, over the last 20 years have made many far-reaching recommendations for constitutional reform and the need to revitalize democratic governance. So, the bottom line here is that it is not only permissible, it is entirely right and proper for the Constitution to be amended from time to time, and the Wooding Constitution Commission recognized the need for the country's Constitution to provide for its alteration. Indeed, section 54 of the Constitution specifically provides for this.

Some provisions are regarded as ordinary enactments which Parliament can alter by a simple majority vote in each House. Others are entrenched and cannot be supported by the votes of not less than two-thirds of all its Members. While others are so deeply entrenched, they require for their alteration, support by the votes of not less than three-quarters of all the Members of the House of Representatives and two-thirds of all the Members of the Senate.

As to the majority needed for the passing of the provisions of this Bill, I agree with the hon. Attorney General that a simple majority is all that is needed, but I would respectfully suggest, through you, Mr. Vice-President, that there is a significant difference between what the letter of the law allows and what the spirit of the law requires. Majority rule is neither self-authenticating nor self-legitimizing. The matter of legitimacy raises questions as to the moral nature of the limits imposed on the legitimate exercise of governmental power in the society, and the Wooding Commission touched on this when they warned and I quote:

That care should be taken to require a broad consensus before any important alteration can be effected. This may lead to a certain rigidity in the constitutional system, but that is by no means an unreasonable price for maintaining public confidence or mutual trust.

What matters most, therefore, is that in embarking upon constitutional reform, such revision should not, as Derek O'Brien has so succinctly put it in his book, *The Constitutional Systems of the Commonwealth Caribbean*, a contextual

analysis which was published earlier this year, the revision should not be presented as the product of an oligarchic elitist exercise, rather than the collective self. It should not be imposed, and therefore, lacking legitimacy. If proposed constitutional change is to have legitimacy, then as far as possible there should be overall support for it.

Elections. General elections have been described as a sovereign political act of the people. It recognizes citizens as the source of power as they get to decide who governs, and it also implies that the authorities are accountable to the electorate.

In considering the matter of elections, it may be helpful to distinguish the difference between election laws and election systems. The former governs the process of elections: who can vote, how and when an election will be called, party campaigning and how to determine the election results. Election systems, however, deal with the actual process of the elections itself. That is to say, it concerns the mechanisms used for determining loser and victors. Electoral systems are about the means by which votes are translated into seats, and this is a central issue on whether we should or should not have the proposed run-off system. What lies at the heart of this debate is the understanding and recognition that the election process can influence the outcome.

Now ideally, when electoral engineers design election systems they have a number of objectives, and these kinds of objectives include making sure that electing qualified or at least suitable representatives, providing strong and able Government, ensuring a smooth running of the process, ensuring legitimacy of the system. But there can also be a dark side, and that is where the system is specifically designed to make it harder or easier, for particular politicians to win seats. So, the integrity of the electoral system we put in place must be a vital ingredient for the quality of our democracy, and this is what has gripped the minds of the public in this debate.

Accordingly, this is an important debate, in that it has occasioned the general public to consider the comparative advantages and disadvantages of the various electoral systems. One thing is certain—whether we opt to continue with the first-past-the-post system, or we adopt a run-off system, or perhaps proportional representation, or some other system—one thing we know for sure is that there is no such thing as a perfect electoral system. So at the end of the day, it is really a matter of horses for courses, and us designing something that will keep the wheels of our democracy functioning properly and fairly. This debate requires us to consider whether, as someone has said, the Government is just tinkering with the Constitution in order to win the next election, or whether the electoral system

under consideration will positively or negatively influence the overall political system.

I turn now to the specific proposals in the Bill, fixed term. This is clause 9 amending section 76. Now at first glance, the provisions regarding fixed terms for Prime Ministers seem eminently reasonable and something right-thinking people would want to support. As someone who has drafted numerous constitutions for various bodies and clubs, this is a provision I always recommend. One does not have to look far to see organizations in this country which have had the same executive since in its inception. Not only presidents for life, but secretaries, treasurers and officers, who if not holding the same office throughout, just rotate titles amongst themselves in a sordid game of executive musical chairs.

So I tend to agree with the hon. Prime Minister when she says that fossilized leadership is anathema to the principles of democracy and growth, and that this provision has the potential to curb monopoly. Terms limits, it is hoped, will assure that a re-elected Prime Minister would be concerned with the good of the country, rather than seeking re-election for a third term. [*Desk thumping*]

In the United States, the President is limited to two terms, eight years. In ancient Rome, there was a six months' time limit for dictators, while in Mexico the President is limited to a single six-year term. So there is ample precedent for fixed terms in countries around us and going back in history. But having said that, it may be recalled that Lee Kuan Yew governed Singapore for three decades, and that continuity is hailed as the reason for that country's success. So while term limits can be used to weed out those who might be re-elected repeatedly, despite being ineffective, it can equally force out effective and dedicated leaders, those who have extensive experience in making Government function and those who have goodwill at home and abroad.

The case that comes to mind for me is, of course, Bill Clinton. I have no doubt that had he been able to go up for a third term, he would have won, and not just America, but the world would be a different place today. So, one of the drawbacks in having fixed terms for Prime Ministers is that good leaders might end up being replaced by persons who are less competent, and even where the new Prime Minister may be competent and he comes with a lot of good ideas and intentions, it could take a while for him or her to acquire a deep understanding of the various policy issues. It will be observed that in the United Kingdom there are no time limits. The Prime Minister can remain in office for as long he or she can command confidence of the House of Commons.

In Canada, there is no limit on the number of times a Prime Minister can run for office. Some commentators hold that, in theory, term limits should not be necessary as elections are the significant check on the power of Government. Having elections is the method of reform intended by the drafters of our Constitution and elections remain the most stable and fundamental reform that exists.

**3.30 p.m.**

An interesting observation in this regard comes from Robert Drinan, a law professor at Georgetown University who writes:

“...term limits ‘are the wrong cure to the wrong problem’. Term limits will not make the rousing change that is expected of them. The problems that are behind the call for term limits are not as a result of Members of Congress remaining in office for lengthy periods of time. The real problem lies in the use, or misuse, of power in the...government and the distribution of power”—in government. “The solution to this problem does not lie in limiting the terms of the people who can work with this power. The solution lies in restoring the power to where it should be...”

I think there is a great merit in that observation. So the jury may still be out on whether or not term limits are a step in the right direction and whether or not they will achieve the reform that is needed.

For me, however, the more pressing issue concerns the tendency of the Westminster model to concentrate power in the Executive and, again, as Derek O’Brien puts it: to concentrate power in the Prime Minister, which has been exacerbated by the very extensive powers of appointment vested in the Prime Minister, and by the Prime Minister’s power to request a dissolution of Parliament at his or her convenience and which has led in different countries and at different times to a highly autocratic style of government.

The real challenge, therefore, is how best to structure political power in order to achieve the best possible situation whereby a proper balance can be maintained between our elected officials being able to do what they need to do in the best interest of the country, but not in a capricious or autocratic way and the protection of individual rights is assured.

But we are not here to engage in academic exercises, and since the matter now falls for determination, I am required to take a position. In the event, I tend to support the notion of time limits for Prime Ministers bearing in mind the amount of influence that office has in small states, such as ours, using the Westminster

model. History has shown more often than not, that people when given power will eventually be corrupted by it. So I accept that prolonged rule can have negative consequences and having term limits could be one way of limiting that possibility.

I turn now to the right to recall or, as some have put it, the right to fire your MP. Clauses 5 and 6 amending section 49. For me, this is the most troubling provision in the Bill. This is the area that causes me the most anxiety. As we are aware, petitioners can apply to the Elections and Boundaries Commission for the issuance of a petition for the recall of the Member of Parliament who represents that constituency. The EBC must verify that the application is in order and if it is not in order, presumably the application will be refused.

It is not clear, however, what happens if the petitioners are not in agreement with the refusal from the EBC. It is also not clear how the EBC will verify the 10 per cent of those persons who are registered to vote and the two-thirds of those persons who are registered to vote in the constituency specified in the petition. How will the EBC determine whether the submitted petition carries the signatures of the genuine voters? How will it ensure that the signatures of such a large number of persons have not been forged? Again, the relevant time for verification is unclear to me. Is it at time of the application or is it at the date of the run-off election?

A second concern, and this is perhaps the aspect which troubles me most in the entire Bill, pertains to the fact that no grounds are needed for the application to be made. My understanding of the provision, as it is worded, is that once the numbers are there, the petition for recall must be initiated, and to my mind, such a provision may be open to abuse.

On the face of it, having the proposed right of recall appears democratic. It is a noble intention that citizens should have the power to remove or, in effect, to de-elect a non-performing Member of Parliament before the end of his or her term of office. The belief is that Members of Parliament, having that sword of Damocles hanging over their heads, will be astute in serving their constituents with vigour and purpose. It assumes that they will only be recalled for just and good cause. Now, I cannot help but wonder what the knock-on effect is likely to be, however, if a Minister can be removed merely on the basis of numbers.

The right of recall exists in Vancouver, Canada, and there, a Member cannot be recalled during the first 18 months after his election. There, in the recall petition, there must be a statement not exceeding 200 words setting out why in the opinion of the applicant the recall of the Member is warranted. If the Chief Electoral Officer is satisfied that the requirements of the section have been met,

the petition can proceed. In Vancouver, to date, the Chief Electoral Officer has approved 24 recall applications since 1995.

Now, it is interesting to observe some of the grounds given in the Vancouver petitions as warranting recall, so let me run a few of them by you:

- the Member was not adequately representing the constituency;
- the Member repeatedly refused to listen or to represent constituents on numerous critical issues going so far in one case as having publicly ridiculed and verbally attacking the very people who brought the request and who raised valid concerns.
- the Member demonstrating that he does not work for his constituents but for his Government thereby leaving the people without a voice;
- the Member misleading constituents on important matters or failing to disclose conflicted relationships;
- the Member working on behalf of special interests and against the interest of his constituents.

An interesting development is that the constitutionality of the recall provision is currently being challenged as ultra vires the Constitution of British Columbia, on the ground, amongst others, that it introduces political institutions foreign to and incompatible with the Canadian system of democracy. Now, that is the case between the *British Columbia Civil Liberties Association v Attorney General of British Columbia*. This case is noteworthy if only because of the grounds advanced against the right of recall. I am not going to go through all of them because it is a lengthy petition but the ones that leapt out at me include:

- that the recall provisions weakened the fabric and practice of responsible and representative government;
- that the recall provisions entrench a theory of government which sees Members as merely the delegate or mouthpiece of their constituency rather than their representatives in the legislative assembly;
- that the recall provisions interfere with the tenure of Members even though they have committed no crime or have otherwise engaged in corruption or other serious misconduct;
- that the recall provisions undermine the established systems of party discipline and determination of confidence in the government;

- that the recall provisions undermine government stability particularly when the government is elected with only a small majority;
- that the recall provisions will result in recall campaigns that might be disruptive, divisive, polarizing and abusive;
- that the recall provisions interfere with the enactment of laws and other public bodies that are in the public interest.

Now, another interesting ground advanced in the Vancouver litigation is that the recall provisions are contrary to section 33 of their Constitution Act which limits the grounds for which a Member shall forfeit his or her seat to situations where the Member shall become bankrupt or an insolvent debtor, or a public defaulter, or be attained—first time I saw that word—of treason or be convicted of felony or any infamous crime. It will be noted that sections 48 and 49 of our Constitution similarly provide the circumstances under which a person may be disqualified for membership of the House of Representatives.

So the point I want to make is that in Trinidad and Tobago, there are already constitutionally established grounds under which a Member of Parliament must forfeit his seat, but this amendment goes further in that it allows for a Member to be de-elected simply because a number of persons registered to vote in the constituency have signalled that he should be recalled. This, even if he is a performing Member of Parliament; accordingly one must be concerned whether this provision has the propensity to undermine the principle of electing good MPs and giving them a chance to govern until the next election or whether it might lead to abuses by well-organized special interest groups. One has to question whether on balance the recall provisions will really make MPs accountable to their constituents or whether we will, in effect, be emasculating them, with apologies to the members of the other sex for perceived gender bias.

It is also interesting to note what is taking place in England, at this moment, on the subject of recall. As Sen. Howai alluded on Tuesday, there in the wake of the expenses scandal, it was felt that genuine recall would empower voters, increase accountability and improve the relationship between people and power. So the Government, the coalition government, committed to introduce the power of recall allowing voters to force a by-election when an MP was found to have engaged in—and they actually have a reason—in serious wrongdoing.

The UK Government, now, is however on its back foot in having to justify why this promise has not been met. It appears that the UK Government may be having second thoughts. Perhaps mindful of concerns similar to those raised in the

Vancouver litigation or perhaps because of the difficulty identified in an article from *The Economist* magazine dated February 22, 2014 entitled “Recall, recalled. Good government is worth a few bad MPs.” In attempting to explain the UK Government’s apparent reversal, the correspondent writes:

“The real reason is rooted in an old tension in British politics. American and French voters have one vote for their executive (the president) and another for their legislators. When Britons cast their ballots in a general election, they are voting for both at the same time. MPs therefore owe a double loyalty—to their constituency and to the party they represent. It is up to each parliamentarian to judge where the boundary between the two should lie. The right of recall would have nudged it away from the party hierarchy.”

Now, I am very mindful of this tension under our current constitutional arrangements, and I believe it raises serious cause for concern especially when viewed in tandem with the grounds raised in the Vancouver litigation, and I will make a copy of the petition available to you, hon. Attorney General.

**3.45 p.m.**

So when I tally the positives and the negatives on this particular issue, and notwithstanding the noble intentions in providing for a right of recall, on balance, I think that the provisions as cast cannot be supported for all or any of the following reasons: the Bill does not require reasons for the recall. At the very least, it seems to me that the petitioner should be able to make out a case that the MP has engaged in serious wrongdoing, is corrupt, is guilty of financial impropriety, or has substantially neglected his duties as a parliamentarian and for his constituents. The fact that criteria for recall have not been set out is a serious flaw in the Bill. I also think it is arguable that the clause may be in conflict with those provisions in the Constitution which limit the grounds for which a Member shall vacate his seat.

Now, I have not studied the matter in depth but it appeals to me intuitively. And I agree with Sen. Drayton’s concern that the Bill appears to ignore the basic principles of fairness and natural justice in that no right of hearing or appeal is given for the respondent MP. Now, I heard the Attorney General say: “Well how yuh gon do dat?” Well, alternatively then, may I suggest that the recalled MP should be allowed to run as a candidate in the by-election?

**Sen. Ramlogan SC:** He is.

**Sen. A. Vieira:** Yeah? The hon. Attorney General spoke about the likely psychological value the right of recall will have, but, to me, it seems that the

likely effect is that Members may become overly concerned with keeping their seats and thereby refrain from acting in the public interest to avoid conflict or controversy.

I also wish to adopt as valid concerns, the following grounds as raised in the Vancouver litigation: that the interest of the organized, wealthy and dominant in the society may be favoured to the disadvantage of minorities, the poor and the less well-organized, and that it offends the principle of collective responsibility, and may undermine the effectiveness of Cabinet by rendering elected Ministers vulnerable to special interest and pressure groups, including those that are not even in the constituency, who are critical of government policy and legislative decisions. In the event, I am deeply concerned that by allowing for MPs to be removed without justification, but just on the basis of numbers, we may be handing power to those with resources and influence, or those driven by personal grudges.

I turn now to the run-off or the two-round system. The run-off or two-round system is common where Presidents are elected directly but far less common in the case of legislative elections. Under this system, electors are given a second chance to make a choice, but in circumstances which, it may be argued, could be very different from those in the first round. For in the 15-day hiatus leading up to the conduct of the supplementary polls, opportunities will undoubtedly arise, especially in an environment such as ours, where effective electoral campaign financing laws are non-existent; for manipulation of voters by means of corrupt practices such as bribery; or treating—and here one recalls what occurred recently when Ian Alleyne competed in the St. Joseph by-election, the 22 projects, 10 days on one dazzling performance referred to by Sen. Al-Rawi; or by the country being further bombarded with tasteless but expensive media blitzes; and worst of all, depending on the background of the two candidates, by making appeals to ethnic and racial divisiveness, thereby increasing the potential for political instability in the lead-up to the holding of the supplementary polls.

Now, I am not alone in having this concern. Former Independent Senator, Mr. Martin Daly SC, has also raised the spectre of the interim period during which the run-off polls are being heard as being able to provide opportunities for manipulation, financial inducement and corruption.

I am also concerned that the second round of elections will be administratively challenging, if not impossible, for the Elections and Boundaries Commission. By my calculation, in the 2007 election, there would have been 14 run-offs. Can you imagine the logistics involved if the EBC has to conduct 14 run-offs next year?

The demand on schools which serve as polling stations, students would lose two days at least. On polling day, public servants and people in the private sector, employees would have to apply for time off to go and man the stations and to go and vote. The EBC would have to rent and set up booths and equipment. One needs to be mindful of the cost, the inconvenience and the logistics involved, all within a very short 15-day time span. And what about the special voters? What arrangements are being put in place for them? Will they get to vote before the election day, as is the practice—that is to say within the 15-day period—or will they be allowed to vote afterwards?

In the text, *Electoral System Design: The New International IDEA Handbook* published by the International Institute for Democracy and Electoral Assistance in Sweden in 2005, the comparative advantages and disadvantages of the run-off system have been identified as follows:

“Advantages

- a. First and foremost—it—“allows voters to have a second chance to vote for their chosen candidate, or even to change their minds between the first and second rounds.
- b. It—“can encourage diverse interests to coalesce behind the successful candidates from the first round in the lead-up to the second round of voting, thus encouraging bargains...”—[*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. Dr. R. Balgobin*]

*Question put and agreed to.*

**Sen. A. Vieira:** I thank you Sen. Dr. Balgobin and thank you Senators. So, one of the advantages is that the second round system:

“can encourage diverse interests to coalesce behind the successful candidates from the first round in the lead-up to the second round of voting, thus encouraging bargains and trade-offs between parties and candidates. It also enables the parties and the electorate to react to changes in the political landscape...between the first and second rounds of voting.”

and it:

“lessens the problems of ‘vote-splitting’, the common situation in many plurality/majority systems where two similar particular parties or candidates

split their combined vote between them, thus allowing a less popular candidate to win the seat.”

This is not my research but this is the finding of people who have studied the thing.

I turn now to the disadvantages and these are not my words, “eh”, I am quoting.

“a. The run-off system places considerable pressure on the electoral administration by requiring it to run a second election a short time after the first, thus significantly increasing both the cost of the overall election process and the time that elapses between the holding of an election and the declaration of a result. This can lead to instability and uncertainty.”

As the run-off process is a refinement of the winner-take-all system, it suffers from the malaise of disproportionality.

“Research has shown that in France it produces the most disproportional results of any Western democracy, and that it tends to fragment party systems in new democracies.”

And I know Sen. Robinson-Regis quoted this paragraph in her contribution last night, but I think it is significant enough to bear repetition, and I quote:

“c. One of the most serious problems with TRS is its implications for deeply divided societies. In Angola in 1992, in what was supposed to be a peacemaking election—it had the effect of restarting the civil war—“which went on for another decade. In Congo...in 1993, prospects of a government landslide in the second round of a run-off election prompted the opposition to boycott the second round and to take up arms. In both cases, the clear signal that one side would probably lose the election was the trigger for violence. In Algeria in 1992, the candidate of the Islamic Salvation Front...led in the first round, and the military intervened to cancel the second round.”

Now, that is the empirical data that I think we need to take most careful note of.

Mr. Vice-President, France is a country that has a particular culture. It has developed in a particular way, but that culture and the French systems do not successfully carry over to other countries, and we need to be mindful that in those countries in which the run-off system was imported, it actually served to heighten the divisions in the society, and that is the last thing we need in Trinidad and Tobago. [*Desk thumping*]

Now, in the debate on the need for campaign financing, I went on record as being supportive of proportional representation and against the winner-takes-all nature of the first-past-the-post system, which has given rise to the worst kind of adversarial politics.

Under the proportional representation system, the goal is to ensure that the number of seats each party wins reflects as closely as possible the number of votes it has received. Proportional representation best mirrors, in Parliament, the people at large. Under that system Parliament should feel, think and look like the population. As the run-off process is a refinement, an extension of the winner-take-all system, I cannot, whether from an ideological point of view or in all good conscience, support it.

Without the triangulation referred to by Sen. Mahabir, I am inclined to believe that the run-off system will exclude minority interest and may lead to a fragmentation of our political party systems. I am inclined to believe that it will not solve voters' rights problems, and I am inclined to believe that it will not provide for fair and accurate representation of all parties, or offer fair representation for all.

Further, after all is said and done, I hold the view that the proposed run-off system is ultimately undemocratic because it is a winner-take-all system. If the proposed legislation is intended to overcome these inequities, then what is proposed is not the answer. Notwithstanding the PNM's historical opposition to proportional representation, I deeply believe that the time has come for us to firmly grasp the nettle and to put forward proportional representation for serious consideration. Let the electorate decide between good and bad, rather than between bad and less bad. [*Desk thumping*]

It is healthy for our young democratic nation to ponder the importance of the Constitution and to re-evaluate its processes. It is important to raise and challenge ideas, and it has been good to hear our political leaders articulate their views and concerns. It has also been good to see the amount of critical commentary, arguments and information this Bill has generated and for us to all appreciate that the public does in fact monitor the manner in which issues are dealt with in the political arena. This debate demonstrates loudly and clearly that the political passivity characterized by the Wooding Constitution Commission is now a thing of the past.

I agree we need constitutional change. Left to me, such changes would include:

- doing away with the Privy Council, make the Caribbean Court of Justice our final court of appeal for all matters;
- doing away with opposition politics altogether;

As I see it, the adversarial system is both divisive and counter-productive. Look at Guyana, the adversarial system only entrenches and deepens the divisions in that society.

- I would give campaign financing reform constitutional status;
- I think that the principle of judicial independence should extend to and include the Judiciary having financial and administrative autonomy over its own affairs;
- I would provide for referenda on important issues;

And that is easily done today, if you use the Internet, the new technologies and social media. I think that the provisions regarding our Service Commissions, including the Integrity Commission and the Salaries Review Commission, they are desperately in need of overhaul.

#### **4.00 p.m.**

I would love if we could follow the Ecuadorian model, giving nature constitutional status as a rights-bearing entity to be treated with priority under the law. But such important matters should not be dealt with incrementally, they need to be dealt with holistically, they should come in one omnibus document, [*Desk thumping*] and in the wake of sustained, genuine and informed public consultation. [*Desk thumping*] I agree with Sen. Roach that constitutional reform ought not to proceed on a cherry-picking basis.

The Wooding Commission reached the conclusion that the Westminster Model, in its purest form as set out in our present Constitution, is not suited to Trinidad and Tobago's society. What is needed, as the hon. Chief Justice is reported to have said, is a complete rewrite of the social contract. I think it is also necessary and important to recognize that constitutional democracy demands discipline and tolerance.

I am distressed when I hear the invective or see the sort of personal attacks being hurled by members in the various political camps against their counterparts. I am distressed when hon. Members of the Senate are booed and jeered for simply participating [*Continuous desk thumping*] in the democratic process. I am distressed when people I like and admire, mock the way other people I like and

admire happen to dress, or worse, drag into the heat of the debate their children and family members. [*Desk thumping*] That is not befitting the sentiments of a Senator. It does nothing to strengthen the force of one's arguments, and I wish to caution, it puts us on a slippery slope. If that unfortunate tendency is not halted now, it can only take us downhill fast. [*Desk thumping*] Our politicians and their supporters must respect the rights of others to differ about ideas, ways of life and beliefs. [*Desk thumping*]

We live on the same islands, we breathe the same air, and we share the same energy field. We live in a land blessed with natural and human resources; by rights, this should be a virtual paradise. We need to appreciate the benefits of having people of diverse beliefs, ethnic and racial backgrounds as part of our community. This is what enriches and ennobles us, and at the end of the day, what is this all about, if not to address the challenges of our society, the common struggle to realize a vision, for a good and better society and about nurturing national pride, unity and spirit?

This Bill, this debate, has demonstrated a deep division of opinion. Even in my own home, opinion is divided. [*Laughter*] We have seen passions raging on all sides. We can fuel fear, mistrust and doubt, which the society is already experiencing, or we can demonstrate patience instead of anger, goodwill instead of hostility, and generosity instead of mean-spiritedness. We can and we should focus on our respective strengths, rather than our respective weaknesses.

As we approach the 52<sup>nd</sup> anniversary of our independence, it is my hope that we will do more than just trade opinions. It is my hope that we can move beyond the social premise, based on paranoia about tyrants and racists creating mischief, which only fosters an environment of suspicion and fear. Let us not seek to stir the pot of discontent, but to favour harmony over homogeneity. If harmony is to come about, it must be based on civil dialogue and that exchange must be grounded in an attitude of respect.

Having said that, let me close by saying that this is not legislation one can dismiss lightly or flippantly. It has been carefully drawn up by intelligent, purposeful people, and it has been equally criticized by intelligent, purposeful people. It seems to me that those for and against the Bill come in equal measure, and there are strong arguments on both sides. So this needs to be treated with discipline, tolerance and respect.

I have already signalled the way I am inclined to vote, and why philosophically I disagree with the proposals being put forward. But I want to say even if I was in agreement on all counts with the Bill, I would still urge

Government to withdraw it. I have a lot more to say, but I see time is running short.

Look, I understand that polls show that 85 per cent of the people interviewed would like Government to halt the debate process, and to allow for more consultations; another states that 54 per cent would support the proposals. I do not know which poll is right or wrong, but it seems to me that half the country supports this Bill, regard must be had for the other half who does not. If only 45 per cent of citizens are against this Bill, to my mind, that is a significant number for the legislation not to pass. This is not just a matter of getting a simple majority in the Senate today, and it should not just be about Government doing that which is within its constitutional reach and grasp. This involves matters of trust and whether people will continue to trust the Government and the legacy it leaves behind. Trust must be the essential ingredient for a free society. So whether this is good or bad law, it is beside the point. What matters is that many in our society genuinely feel we are not ready for the proposed legislation, and the Bill does not have the necessary buy-in.

The proposed constitutional changes will only work when they are accompanied by transitional buy-in. I am concerned that the rush to pass this Bill will be viewed with suspicion by many in the population. I take my seat with the humble suggestion that Government needs to guard against unmanaged or mismanaged transitions. As the ancient Romans said, *festina lente*, hasten gently.

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

**Mr. Vice-President:** Hon. Senators, forgive me for not congratulating Sen. Solomon on his maiden speech in the House. [*Desk thumping*] Congratulations Senator, you did well.

**Sen. Solomon:** Thank you, Mr. Vice-President.

**Sen. Fitzgerald Hinds:** [*Desk thumping*] Thank you very much, Mr. Vice-President. I enter this debate with a margin of disadvantage. I was not here over the last couple days when elucidation on the matters before us was laid out. Quite apart from that, I have not been here for quite a while, and as such I may be afflicted with a modicum of ring rust, so you must—[*Interruption*]

**Hon. Senator:** Get some CRC!

**Sen. F. Hinds:** Yes. You must bear with me, Mr. Vice-President. Sen. Vieira was rather analytical in his approach to what is in front of us. I had the benefit of hearing the entirety of his contribution. He was very passionate and, you know, he

demonstrated some legal and practical subtleties around what is in front of us here today, but I am not going there.

Sen. Vieira mentioned that it might be very logistically difficult for the EBC to verify the authenticity of 2,500 signatures, those that are necessary to support the two-man petition in order to trigger the process for the recall of the MP, a very interesting point, very interesting point, but I am not going there. My question is, what is the role of Parliament? What is the role of the Senate in a matter such as this? Parliament as we all know is for the purpose of making law, and where does the idea for these laws come from? Usually, in our system, they come through the Government; note I said “through”. Not necessarily from the Government, because the Government, one, takes it, gets its inspiration from the people it serves, since the people inspired it, and elected it to serve their interests. It is like a lawyer in other words.

When someone comes to a lawyer with an idea for a contract or for an agreement, or what have you, the lawyer takes instructions from the client, and he or she puts it into legalese, using the skills that are available to him or her as a professional, as an attorney-at-law. Similarly, is it not the case, Mr. Vice-President, that the Parliament makes law, do we make the policy? Particularly the Senate which is not populated with elected persons, but all of us are appointed, 16 appointed by the Government, six by the Opposition and nine by His Excellency the President of the Republic.

What, therefore, is our role? With that in mind, Mr. Vice-President, I must ask the question, when we are dealing with the people’s law, not lawyers’ law or business law. The Constitution is the people’s law, we must consult them and take instructions and put it in Parliament language, in legalese, in the format that we know, but it is the people’s law. And if today, any Member of this House on this side—and we are opposed to it on the Front Bench here in the PNM—but if any Independent Senator decides today that he will offer the Government amendments or an amendment to what it has come with, where did that Independent Senator get the idea from? From himself? [*Crosstalk*]

Is he—because you know, Sen. Vieira told us, you know, that we have—  
[*Interruption*]

**Hon. Persad-Bissessar SC:** In other words, he is telling the Independents do not—

**Sen. F. Hinds:** I am making my contribution, Madam Prime Minister, would you—thank you. Where would the consultation have been, the same consultation

we are all saying that the origins of this Bill should have come with? If someone in here decides that rather than 50 per cent, it should be 75 or rather than 50 per cent, it should be 10 or 20. Where goes the consultation of which we spoke originally? These are matters to consider. I heard Sen. Vieira truthfully and potentially suggest that the Government—well, MPs, and I trust by that he meant elected MPs—but MPs have a split or dual loyalty to their party and also to their constituents.

The Government and Opposition Senators, we have no loyalty to any constituents because we have none. We have a loyalty to our parties, on Sen. Vieira's exposé. But as for Independent Senators, I suspect they hold neither, except that they are—let me say this, I have always considered Independent Senators to be as political and as politician as we are, except that we are politicians for the Opposition PNM, and the Government are politicians for the UNC or the PP, and the Independent Senators are politicians for all of the country having been appointed by the President. [*Desk thumping*]

So it should be no surprise to Sen. Mahabir when the public expresses its emotions in the way it has over the last few days. Because I heard Sen. Vieira as well say, I heard him say that good Government deserves—and I hope I am not misquoting him—but it is to embrace and accept a few bad MPs. So if you have a few citizens booing or expressing their emotions, that should not surprise us too badly. I will not encourage them to do that, because civility [*Desk thumping*] and good behaviour demands otherwise, [*Interruption*] but I will not be surprised—[*Interruption*] as a matter of fact—on all sides—[*Interruption*]

**Mr. Vice-President:** Please allow Sen. Hinds to continue with his contribution. Thank you.

**Sen. F. Hinds:** When these measures came before the House, I was not privileged to be here as a temporary Senator. And from the time I heard about run-off, Mr. Vice-President, I said to myself, this is a serious issue and—God is my witness—immediately I said to one of my colleagues, the people of Trinidad and Tobago are entitled to express themselves even emotively on this matter. I said so, because this is a serious situation, very serious. This is no game. This thing called the Constitution affects all of our lives.

**4.15 p.m.**

Let me, before I continue, treat with a few comments I heard from Sen. Solomon. I heard him talking the language of the UNC and talking about power to the people. When I heard that, I remembered, in 1969, as an 11-, 12-year-old boy,

I walked along the streets of Port of Spain shouting “Power to the People”. We used to run away from school and join the thousands on marches in the city. I walked from Port of Spain to San Juan Hill cemetery in Basil Davis’ funeral; red armband, in my school clothes, just making sure my father did not see me. That is all. Once he did not see me, I was all right because, of course, I was supposed to be in school.

I remember shouting with meaning: “Power to the People”, and now I hear the Government taking that very hallowed and historical and powerful phrase to support something that has no roots in consultation with the people [*Desk thumping*] and no power from the people and no sanction from the people, not even the 45 per cent that Sen. Vieira spoke about. So I want them, please, leave that hallowed and powerful phrase alone. Leave it out of your business!

There is a website they call “Power to the People”, some website page. It has been virtually ignored by the population; ignored, three short paragraphs and they did not even have the good sense to put the arguments against their measures. They just put one side. How boldfaced!

The site [www.reformtheconstitution.com](http://www.reformtheconstitution.com), again, few if any hits, and completely ignored by the population. I find Sen. Solomon a pretty strange gentleman, for two reasons. I heard him quoting Dr. Hamid Ghany in this debate today. Imagine that! [*Desk thumping*] He quoted Dr. Ghany, the same Dr. Ghany who was working very closely with the last administration and making high-flown constitutional recommendations diametrically opposed to what he has recommended to them in what is before us.

I read a book many years ago entitled, *The Redundancy of Courage* and, as I thought of him, I thought quite flatly, cannot resist it, the redundancy of principle. And this thing about “eat a food”, Mr. Vice-President, it does not only afflict those of our brothers and sisters who work at the lower and the minimum wage elements in our society. It appears to me that it afflicts all of us, from top to bottom in Trinidad and Tobago, and you can get anything for a price.

**Sen. Ramlogan SC:** “All members of the commission he attacking now.”

**Sen. F. Hinds:** How sad! Well, I heard the Attorney General telling me about commission, but it was he who told the country, when one courageous, outstanding, brilliant woman called Dr. Merle Hodge stood up and spoke the truth, [*Desk thumping*] I heard that Attorney General shamelessly hint how well paid she was, as if she was paid to speak his lines, so he should just remain quiet like Starsky and hush. [*Desk thumping and laughter*]

I did say I found Sen. Solomon rather strange, not only because he was quoting Dr. Hamid Ghany, but every time he made a point that he considered to be a good point today, I saw him put down his notes and start to beat the desk for himself. I have been here for a while; I have never seen that before. You talk about self-serving; but, after all, he is a member of the UNC.

I have just a few—and, I think, all the discussions I have heard from afar on my radio and on the television, I want to compliment our colleagues here in the Senate. I think everybody made a genuine effort to analyze and to present arguments as best as we could as a Parliament, acknowledging that this is not the place to make the policy. We were supposed to put it only in legalese after thorough consultation with the people. [*Desk thumping*]

But I have issues around the consultation process like everyone else, the process for bringing this into existence, whether there is need for a specified majority. These matters have been ventilated, but I am disadvantaged. I was not here. Is the run-off good or bad for us? I think bad from the outset and, more potently, did the framers of our Constitution envisage that one day, on a matter of constitutional reform, an Independent Senator, one—and this is to cast no aspersions on my learned and dignified friends who have come here time and time again for the years since independence and made valuable contributions [*Desk thumping*] and continue to do so.

Did the constitutional framers intend that, on a matter of significant proportions, constitutional reform—not just constitutional reform, not constitutional reform about the death penalty or about all the things that we can deal with, but about the elections process, the lifeblood of democracy—did the Constitution framers envisage that it will come to one Independent Senator acting on his own appeal and volition to make a decision for all of us? Could any amendments proposed in this House save it from the infamy that it has already acquired? Could it? Could any amendments here legitimize what is essentially an illegitimate process? I think not.

As we all know, the Constitution is an almost sacred document, basic, fundamental, our supreme law. It establishes the relationship between the three arms of the State. It establishes certain offices under it and it regulates all of our affairs. It entrenches certain rights and, by implication, responsibilities. Very importantly, in sections 4 and 5, we have these rights and responsibilities outlined and, of course, as we know the Constitution itself provides measures for its amendment and the requisite majorities that should go with it.

The Government, the Opposition, civil society and various individuals in our society acknowledge without more, acknowledge easily, that there has to be some

constitutional reform. The Constitution is not fixed in stone; it cannot be. It has to be organic. It has to evolve with the evolution of the social requirements of a modern Trinidad and Tobago. We have the 1962 Constitution, the 1976, and there have been many amendments over the years.

I sat as a Member of Parliament between 1995 and 2001 and saw, with my colleagues' support, at least 17 amendments to the Constitution proposed by a UNC Government in which the Prime Minister today was a member of that Cabinet. We have no trouble doing that. Our record would show that. So when I heard Sen. Hadeed and others present a case yesterday—I heard a bit of him on my radio—suggesting as though we have been obstinate and intransigent and recalcitrant and we never support “nutten” about the Constitution in this country, it is simply an untruth.

**Sen. Al-Rawi:** Twenty amendments.

**Sen. F. Hinds:** Twenty amendments, I am being reminded by my friend. I counted 17. It is simply untrue and it has to be rejected as it was stated as an untruth.

I remember, in 2007, we negotiated with that UNC. The Prime Minister, she was a part of the team for the Government. When we had tripartite talks dealing with the police service; crime was the problem at that time. We had a serious problem with burgeoning crime in the society and we recognized that the police service is the institution that is mandated under our law and our Constitution to prevent crime, to detect crime, to protect us from crime; but it was not growing and it was not as modern and responsive as it should be.

And we recognized that there were some institutional changes that had to be made and we went to the Opposition and we talked about it and they extracted a price. At that time the Prime Minister had a veto on the appointment of a police commissioner and that Government, led by the Member for Siparia, now the Prime Minister, extracted a price that Mr. Manning as Prime Minister at the time must give up the veto power in order to get agreement with the issues around the Constitution.

You will remember, as well, it was a UNC Government that negotiated the presence of the Caribbean Court of Justice headquarters in Port of Spain. They went and asked for it and got it, agreed with it down the road and, as soon as the Government changed, they changed their hearts and their clothes and told us that the reason why—and the Prime Minister was part of that; I could hear her now—they were opposed to that change—and Sen. Vieira said just now if he had his

way he would remove the Privy Council and assume jurisdiction of the Caribbean Court of Appeal.

What was their position on it? They would not support it; they do not want any piecemeal arrangement. We have to come with holistic constitutional reform. What do they bring to us today? Holistic?

**Sen. Al-Rawi:** H-O-L-E.

**Sen. F. Hinds:** Yes, H-O-L-E. Well said.

I would like to see other things. I had my note here as well: Public Service Commissions, the Office of the President, death penalty. These are matters, but the only matter, after four years of government in this country, and they went into the election with a manifesto talking about constitution reform. After four years, the only aspect of the Constitution, they could come to interfere with, on a piecemeal basis, is elections process and arrangements to interfere with the election. [*Desk thumping*]

[SEN. DR. ROLPH BALGOBIN *in the Chair*]

And it is on that basis that the trust that all the commentators in the society have spoken about has been lost, irretrievably lost, never to be regained. The one thing that you and your Government will know as you leave office is that you came with a tremendous amount of goodwill and you left without a scintilla of trust. You eroded it completely over four years. [*Desk thumping*]

And when, Mr. Presiding Officer, you hear you have to interfere with such a basic document, the Constitution, as important as we all agree that it is, then you have to bring certain qualities, certain attributes to the table. One has to be trust because if you are coming with an idea to arrange something that affects all my life and that of my future, then I have to trust that you are acting in my interest. Trust is a critical ingredient. “Intangible” is the word I was looking for a moment ago.

You have to bring intellect as well. And I listened to Sen. Vieira. He laid it bare. Intellect is absolutely lacking in this. The point he made about the 2,500, it has not been properly thought through. [*Desk thumping*] This Government is a helter-skelter Government. They are reckless and they are careless.

You heard Sen. Vieira tell us, as I was also about to tell you, the risk they are putting us at. This is not an easy society, you know. This is a difficult society, you know. All the colonial masters understood that from the days of slavery, through indentureship to today. All Governments will tell you. This almost sent Dr.

Williams crazy, you know. This is not an easy place and the balance that has to be maintained requires care.

**Sen. Ahmed:** Mr. Presiding Officer, 35(1), please.

**Mr. Presiding Officer:** I note the objection with 35(1), but I am of the view that he should be allowed to continue. So, please—[*Desk thumping*]

**Sen. F. Hinds:** She should speak to Sen. Vieira and understand what he meant about people's clothes.

**Sen. Ramlogan SC:** “Why yuh calling Vieira name every sentence so, boy?”

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

**Sen. F. Hinds:** Because, unlike you and your Government, he made sense. [*Desk thumping*] When you come to bring constitutional reform—[*Interruption*—Can I be protected? I know that the Attorney General has an extra supply of energy, but save it for somebody else, “nah”.

**Sen. Ramlogan SC:** “Calling de man name it doh make sense.”

**Sen. F. Hinds:** You have to come with moral legitimacy and those, as I say, intangibles, very, very necessary.

As I say that, you know, I heard the Attorney General, very earlier in the public discourse on this matter, read an opinion of a Queen's Counsel called Beloff.

**Mr. Vice-President:** Senator. Sen. Henry, you were here yesterday when I spoke in terms of turning—

**Sen. Dr. Henry:** My apologies.

**Mr. Vice-President:** Thank you.

**Sen. F. Hinds:** Thank you. He read early o'clock in this matter, the hon. Attorney General told the country that he received an opinion from Mr. Beloff. What Beloff is his name? Anyway, Michael Beloff I think is his name, some Queen's Counsel, learned constitutional expert.

**4.30 p.m.**

He was careful to say that Mr. Beloff found that there was no infringement in these measures on the enshrined rights in the Constitution, sections 4 and 5. You see, that is so, that is why they came here saying that it required a simple majority, because the measures that they are bringing here did not offend any of

the sections in the Constitution, including sections 4 and 5, that required a specified majority.

What he did not tell us is that there are some supra-constitutional principles akin to the conventions in the UK system that are also subject to challenge on constitutional grounds, on the grounds that they are unconstitutional but, as usual, he directed our minds only to the expressed written provisions, and bore no attention to the need for consultation as a supra-constitutional principle, and proportionality another, and such like.

So, Mr. Vice-President, I just remembered a young calypsonian called Alana Sinnette. She made the point in a song, “Yuh have no moral authority, you have none, none.” Constitution is serious business. Men have fought and died over this. The settlement of 1776 in the United States is evidence. The north and south were at war; the Norman conquest in England. The British Constitution, as we know, is largely unwritten, very fluid, and that fluidity, to me, reflects the need for balancing a large empire that consisted of Northern Ireland, Wales and Scotland and different ethnic elements with a 700-year-old history and Parliament. [*Desk thumping*] Handling a Constitution requires great skill, subtlety and care. [*Interruption*] Yes, you see.

Mr. Vice-President, let me just quote for you from an article that one of my colleagues, Sen. Al-Rawi, shared with me. “Constitution-making and Reform—Options for the Process” by some international group called Interpeace. The authors are: Michele Brandt, Jill Cottrell, Yash Ghai and Anthony Regan. The preface is by Scott Weber, and I am just going to quote a little part. This is about making peace and establishing constitutions particularly after war. But what is proposed is equally applicable and helpful in circumstances where you want to prevent war, I submit and I quote:

“Establishing the constitutional foundation in these cases is not business as usual. Conflicts over resources, rights, powers, identities, and past injustices are endemic, and mistrust runs deep. Every point of tension is potentially explosive, political, and urgent. Because of this urgency, the tendency—in particular within the international community—can be to focus on putting a constitution in place quickly as a way to reorder society and further the political transition. This is a common peacebuilding problem—a tendency to focus on the *what* rather than the *how*. However, it is precisely in such contexts that the constitution should develop through *a process* that encourages a durable consensus and allows democratic processes, principles, and values to take root.”

A major point we can focus on. That is why I am not going there to get into all these subtleties and arguments over the contents of the provision. I am contending that the process is equally important—if not, more important—and the process by which we got here is fundamentally flawed, fundamentally flawed. [*Desk thumping*] But we have it here, it is in front of us, and we have to deal with it, but we have to deal with it as well carefully.

“The heart of the challenge is building trust”

—the article goes on to say. And, finally, I quote again:

“For a constitution to be credible and durable, the voices of the people from across society must be heard and incorporated in its creation.”

Same for amendments, especially far-reaching, dealing with the election process. A situation where you say, you are now just going first-past-the-post-system, and one candidate must get over 50 per cent to participate in a run-off.

**Hon. Member:** You have it wrong.

**Sen. F. Hinds:** I have it wrong? I am saying to you, if the winning candidate did not get over 50 per cent of the vote, there is going to be an instant and automatic run-off between that candidate and the person gaining the next highest amount of votes. While I am saying so, who is a third party? You cannot decide a third party just because “it name ILP or COP”. In some cases, in 2007, I heard the very Attorney General say that in Tabaquite the fight was between the UNC and the COP. So, the PNM was the third party? And then there was a fight in Chaguanas West recently between the ILP and the UNC. So the COP or the PNM is the third party? You could only know which party is the third party after the election result. You cannot just decide who is third party. So stupid, it does not make sense.

**Sen. Ramlogan SC:** It is the candidate.

**Sen. F. Hinds:** I am talking about the third party. They are saying—the proposal says once the winner does not get over 50 per cent, and the argument is, Mr. Vice-President, that they want to avoid a minority MP. That is the argument. And we have heard a thousand times—I think Sen. Mahabir established it clearly in figures yesterday—that it is possible in the run-off that you could get less votes than the 50 per cent or the under-50 per cent that you got in the first round. That is crazy, it does not make sense—[*Crosstalk*—and now be a majority winner. It does not make any sense. It is not well thought out. It is crazy, not to mention the hiatus of 15 days.

And do you know what? They came to the Lower House saying that if there was one seat up for contention, even though the PNM—let me use a powerful, truthful and anticipatory example—won 25 seats and one seat was up for the run-off, the President could not appoint a Prime Minister. When they were confronted with that, they went and they made a change and they have now reversed that, so the President could put a Government in place. But, what if, Mr. Vice-President; the seat that is in contention, the 26<sup>th</sup> seat, happens to be the political leader of the party? What if? So the President will go ahead and appoint a Prime Minister of the other 25, not the leader? Yeah, a caretaker Prime Minister. And then he comes and wins the seat in the by-election in the run-off. You have chaos in this country, and that is why you come to this with intellectual force, not a half-baked foolishness, and they are accustomed to that.

When we were talking about the CCJ, they did not go to our Caricom partners to determine whether you could bring the CCJ in. First of all, they were gung-ho about it. They went and begged for the headquarters here. They got it. They established it up on Henry Street—between Henry and Charlotte Streets, just over Park Street—and then reneged on it, and then went back.

You see, independence has become a sad state of affairs for me, you know. Every time since they are in power, independence brings me trouble. I remember one independence night we got clause 34. I remember another independence, at our 50<sup>th</sup> anniversary, they gave somebody \$5 million to make a song, up to now I “eh” hear it yet; a soca song. And this independence, this is all the UNC could bequeath to the nation on our 52<sup>nd</sup> independence? Grief, pain, and trouble? That is all?

So, Mr. Vice-President, they really have not thought this thing through clearly. So, on the intellectual test, they have palpably failed. [*Desk thumping*] On the moral test, they failed a long time ago. [*Desk thumping*] and now they are going to sit and rely on Independent Senators to make amendments to make this thing palatable. It cannot be saved; it cannot be saved. It is hopeless. Hopeless!

Let me quote from the Prime Minister when she put forward a “Statement by Minister” on August 04, which is the first time we were hearing about run-off, eh. Even people on the CRC, the Constitution Reform Commission, Dr. Hodge and Dr. Collins or whoever he was, even they never heard about it before, for someone not present in this talk about addendum. And talking about that, do you know, Mr. Vice-President—well let me quote the Prime Minister first. Hear the Prime Minister in that statement at 1.45 p.m:

“Mr. Speaker, if I may give a brief background as to how we have arrived here. On March 02, 2013, the Cabinet appointed a national commission on constitutional reform to engage in the widest possible consultation...”

Not true eh. Well that was the intention. It was not realized. I will continue the quote.

“...as a prerequisite to constitutional reform.

Matters for consideration were to include limitations on terms of service by the Prime Minister, a right of recall in respect of non-performing parliamentary representatives, respecting the voices of the minorities, while giving effect to the will of the majority, making every vote count, and also for provision for fixed dates for general elections. These matters, and of course others, were considered by a very distinguished”—her words—“constitutional commission, chaired by the Hon. Minister of Legal Affairs, Mr. Prakash Ramadhar and included Madam Justice Amrika Tiwary-Reddy, Mr. Justice Sebastian Ventour, Dr. Merle Hodge, Dr. Hamid Ghany and Mr. Carlos Dillon.”

So, even at that point, on August 04, Dr. Merle Hodge was still very distinguished. Today, as far as they are concerned, she is just a rabble-rouser and a troublemaker for speaking the truth. I have to say if the truth troubles you, I have to wonder where was your morality in the first place. [*Desk thumping*] If you are troubled by the truth. And she said to us, this Dr. Merle Hodge, since then—yesterday as matter of fact, that as far as she in her intellectual understanding is concerned, there were no consultations.

These 21 sessions which Sen. Garvin Nicholas, Sen. Hadeed and the Prime Minister came here to boast about were brainstorming sessions asking people, what would you like to see? No consultation and certainly not about any run-off. You know something, Mr. Vice-President, look, the Prime Minister goes on to say:

“This is a copy”—and she waved it—“Mr. Speaker, of the report of the Constitution Commission, and thereafter, they went back to the public for further consultations, and then a supplementary report was also produced.”

I do not know, and I want to be fair to the goodly Prime Minister, whether she meant in this supplementary report, the addendum. I suspect that is what she meant. So, she said here, they went back to the public for further consultations and then there was a supplementary report. If I am talking about the addendum, then that too is not correct.

But, Mr. Vice-President, would you believe that as we speak, she waved it in the Lower House, but that CRC report has not been laid for debate in this Parliament. It is not now before us [*Desk thumping*] nor the addendum. Neither has been laid on the Table, so the matter is not even properly before us, and we are spending a whole parliamentary session debating this as a matter of urgency during the vacation.

We are not a banana republic. The people of this country have a right to express their views, emotively on this matter if they wish. I told you people have fought and died, bled for their Constitution and their rights, and the people of Trinidad and Tobago are no different once they confine themselves to the law.

Even Mahatma Gandhi, by civil disobedience, refused to accept the laws of British Colonial India, and others in South Africa refused to accept an unjust law. So the people are entitled to express themselves, and this is no banana republic. Imagine, Mr. Vice-President, the people are outside the Parliament expressing themselves democratically as they must. There were barriers put for them. [*Crosstalk*]

**Mr. Vice-President:** Please. Sen. Hinds, please continue.

**Sen. F. Hinds:** Thank you very kindly. The next thing, you know, I heard, I read on the newspaper the police are doing their work, the demonstrators are doing theirs, expressing their constitutional selves, following the laws of the police, and all of a sudden the police got instructions from somebody. I heard the Commissioner of Police saying he gave no such instructions. It must have come from the senior officer on the scene at the Parliament.

**4.45 p.m.**

The question is, where did he get those instructions to go all of a sudden and start to push the people away from where they were all along, and a little scrimmage and issues broke out. I am afraid that—this is not a cliché anymore—like we are losing our rights, like we are becoming a banana republic. [*Interruption*] I prefer to ignore the Attorney General. As far as I am concerned, nobody in the country takes him seriously. In a debate such as this, the legal advisor to the Government, the Attorney General, nobody is taking—he adds no value to this debate. [*Desk thumping*] Nobody is taking him seriously.

An Attorney General, God knows the days of men like Basil Pitt, God knows, men like Russell Martineau, Keith Sobion, and the greats who walked the annals of this Parliament. Nobody is taking the Attorney General seriously. [*Crosstalk*] I understand yesterday the Prime Minister had to “boof” him into silence on a

couple of occasions [*Desk thumping*] as well, and I would not waste my “boof”. I would not waste my “boof”, Mr. Vice-President. [*Interruption*] I will deal with you another time. It is serious business you know. We did not come here to play, you know, this is the people’s business. This is not a joke, and I will not be distracted by a jokey Attorney General. [*Desk thumping*]

So, Mr. Vice-President, for four years they have spoken untruths to the people of this country. For four years they have overseen a lot of cheating, false résumés, bogus contracts. For four years the people of the country are saying, “Our Treasury has been raped”. For four years they obscure and obfuscate in the extreme, everything is a cover-up. They mismanage, LifeSport is a perfect example. They develop in a most un- and inequitable way. We see no development on certain parts of the country and it flourishes in other parts. They discriminate and, therefore, for those reasons and more, they cannot, and the people do not trust them. Do not interfere with our Constitution, [*Desk thumping*] you have to bring some things to the table when you are coming, you have to have the stature, you have to have the intellect, and you have to have the moral legitimacy, so that when you say something for the Constitution at least we could believe that it might very well be for our good.

Mr. Vice-President, this run-off provision, it is a measure, not only for trouble, but it really—I agree with Sen. Vieira and all others who have said it—it is a measure that will divide our people. It is a dangerous measure and I join all of the voices which call on the Government to pull back, it is not too late. If you ram this down the population’s throat there will be more angst, there will be more disaffection. What is the hurry? What is the urgency? Go consult with the people. Think it over and come again. I plead with you for Trinidad and Tobago’s sake. Every institution now including the Constitution they have disrupted. The Parliament was brought into disrepute two independence celebrations ago.

The office of the presidency, a president wrote to the Prime Minister under section 81 of the Constitution for an explanation, it was never forthcoming. There are strong and forceful arguments that the Cabinet has been used to facilitate wrongdoing.

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

**Mr. Vice-President:** Sen. Hinds, whilst I know you are very passionate in your contribution, but I would like you to keep on the Bill and refrain from making statements that are irrelevant to the debate.

**Sen. F. Hinds:** Mr. Vice-President, you know, to show you how extreme this thing is, it is the first time in my parliamentary existence that I saw the Whip

removed in a vote, and we know that Whip was only removed after it became clear that there were elements in the Cabinet who were taking strong dissent on these matters. I heard one of them say, “I will not only settle for the removal of the Whip in the House in the debate, but I will take that to the Cabinet in respect of Cabinet responsibility”, but so far nothing has happened. So far nothing has happened. Maybe if they continue with this and pass it here, maybe we might see some more action on that threat from a certain Member of Parliament.

Mr. Vice-President, I heard the Prime Minister say she is taking a fatalistic approach, she is prepared to risk political suicide. I only want to say to her in very benign terms, “You cannot kill it if it dead already”. [*Desk thumping*] “Nobody could kill something dat dead already, and you cyah commit suicide if yuh dead already, dey are politically dead already.”

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

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

*Question put and agreed to.*

**Mr. Vice-President:** Sen. Hinds, please continue. [*Desk thumping*]

**Sen. F. Hinds:** Thank you very much hon. Members for the extension. If you do not believe me, Mr. Vice-President, “it get half kill in Tobago, it get half kill in the local government elections and it was badly wounded in-between in St. Joseph.” They know full well that they are walking dead, and this is a last gasp for air. These measures, this run-off is a last gasp, an attempt to hold on down to the very last, but it will not work. We have seen it before, you know, even in West Indian cricket, when West Indies was dominating the cricket world, beating our old colonial masters routinely, five-nil and thing in England and everywhere else, they—[*Interruption*] Mr. Vice-President—[*Crosstalk*]

**Mr. Vice-President:** Senators, please allow Sen. Hinds to complete his contribution.

**Sen. F. Hinds:** I liked the example she used. [*Crosstalk*] Yes, that is all right. It is potent, it makes the point and it is worth repeating. They changed the rules of the game to gain an advantage, and that is what this Government is doing, [*Desk thumping*] they are changing the election rules hoping to gain an advantage. One of the supra-constitutional principles, as my sister may have pointed out, is the ad hominem principle where you make law for yourself or for somebody. This law is

for two people, it is for the UNC and for the PNM. It is to give the UNC an advantage and hopefully to be disadvantageous to the PNM.

I would have heard some of our colleagues in this Senate demonstrate with facts the paucity of countries that have this run-off system for parliamentary or congress elections, and we are fully aware of what obtains in France and the intricacies of that system, and the structures that are in place to support and to buttress it. These are non-existent here, they are incapable of that level of intellect but they want to jump and grab things from wherever they see it in the world and put us at risk. To make matters worse, about a year and a half ago, or two years, they came and told us about the probability or the possibility of this \$10 million constituency MP fund, and then that was shelved.

As they come with this run-off, and they come with the proposal in particular for recall, they were confronted with the fact that an MP, if he is in Opposition and he is being starved of opportunities and resources as is happening, how could he perform? He will be very, very subject to recall by his dissatisfied constituents. So you know what they do? As if when you tell one lie, you know, in the metaphor, you tell one lie and when you are confronted you tell another one to try to cover up that, out of the blue came this \$10 million fund. Since they were told that the MP will be vulnerable for lack of resources they pull out of the hat the \$10 million fund, and if you ask them now—I challenge any one of them on that side—if you ask the Minister of Finance and the Economy, the Minister of Local Government, who will manage this \$10 million fund, for all the MPs anyway, but if you ask them to produce for you now any procedures and regulations for the use, operation and management of that fund, they do not have it, and the Prime Minister has announced that it will be presented in the 2015 budget. *[Interruption]* I know. Well thought out? Well thought out?

To conclusion, Mr. Vice-President, the main argument that the Government has been putting for this run-off provision is that it will give third parties a voice. I do not know how they could argue that with a straight face because when you have the run-off, the third party after the result, and any others, will be taken off the ballot paper; they will not participate. It is the top two vote winners will be in the run-off—they gone, and then they are telling you that how they will participate is that they could call on their supporters now to influence either one of the two parties and they participate in that way. Which political leader could tell 3,000 people who to vote for behind a blind in a run-off? Who? And how do you know, even if you told them that, they will follow your suggestion to vote? It is just debased. It is just without any intellectual force. It does not make sense. To put it in plain words, it is stupid.

So, Mr. Vice-President, I thank God for the opportunity to have brought to bear this, and I want to say for the benefit of Sen. Hadeed as I close because I happened to have heard some of him last evening criticizing the PNM for not consulting. Well I already told you, they extracted a price in negotiations when we wanted to amend the Constitution to accommodate new arrangements for the police service. I want to remind him, only recently he would have seen the THA's Leader, Mr. Orville London of the PNM, come to Trinidad to consult with Trinidad so that it will bring to bear its views on arrangements for internal self-government in Tobago. That followed a very thorough process where farmers and fishermen and businesses and everybody were consulted, including political parties were asked to participate in the process, and after a thorough consultative process, they tell you that they have not come with any firm positions for those measures as yet, they are still in the process and it could not be done until they heard from Trinidad who has an interest in this. That is consultation. That is process. [*Desk thumping*]

I want to say as well, and we heard a lot about it here, I remember Dr. Williams responding to Sir Hugh Wooding's commission (1974), constitutional reform, where proportional representation was recommended, Dr. Williams made history on that occasion and spoke for more than two hours in a debate in the House on the matter, there was consultation. That commission went about the country, did its work, it presented its report and there was major debate on it, whether you agree or not—procedure, process.

I want to say to Sen. Hadeed that in 1962, and as I said, I do not know if anybody articulated this before, but the team that went from Trinidad and Tobago to Marlborough House discussions in our independence conference leading to our independence, led by Dr. Eric Williams, the Right Honourable, may his soul rest in perfect peace, he must be turning in his grave at what Trinidad and Tobago has become under that Government. He led a team including trade unionists—hear the team: GA Richards, S. Mohammed, Wilfred Alexander, Rudranath Capildeo, A. Sinanan, Tajmool Hosein, Sir Padlock Hobson, J. Rotas, MTI Julien, Sir Learie Constantine MBE, Ellis Emmanuel Innocent Clarke, Mr. J. O'Neill Lewis, SC Maharaj, Lionel Seukeran, Peter Farquahar and O. Mathurin; a team including a trade unionist who I am sure you would recognize. A massive team and they met with a team of equal number: Rt. Hon. Reginald Mauling, Sir Hugh Fraser, Hilton Poynton, all these representing the British, JA Peck, D. Williams, Cruchley, Mr. Whitelegg, Mr. LB Walsh-Atkins; a team of equal number in the United Kingdom—consultation.

So I want to reject and debunk for the benefit of the history, [*Desk thumping*] for the benefit of the posterity of Dr. Williams and those who have gone, and for the benefit of young people of this country, I want to reject what Sen. Hadeed said. [*Desk thumping*] The PNM has a proud record in this country. Everything they touch they have tarnished, even our national awards, but suffice that to be so.

Mr. Vice-President, having had the opportunity to say these few words, I want to thank you and my colleagues in this House. I want to thank the Almighty God that I had the good favour to speak on this matter in this historic circumstance in Trinidad and Tobago and to advise you, as I did some time ago, you have not seen the last of me. I thank you. [*Desk thumping*]

**Mr. Vice-President:** Hon. Senators, the time now is 5.01 p.m., one minute past five, therefore I intend to take the break now for tea and we will be here at 5.31 p.m. This Senate stands suspended until 5.31 p.m.

**5.01 p.m.:** *Sitting suspended.*

**5.31 p.m.:** *Sitting resumed.*

**Mr. Vice-President:** Senators, the debate on the Constitution (Amdt.) Bill has now resumed, and the last speaker was Sen. Hinds. The debate continues.

**The Minister of Local Government (Sen. The Hon. Marlene Coudray):** Mr. Vice-President, I thank you for the opportunity to join the debate this afternoon on this very historic piece of legislation, on the Constitution (Amdt.) Bill, 2014.

Before I get into my contribution, let me first welcome to this Senate the hon. Prime Minister of Trinidad and Tobago in her piloting of this Bill. Mr. Vice-President, I also need to congratulate on their maiden contributions in this Senate, the Government Senators Mr. Daniel Solomon, and His Excellency Garvin Nicholas, our former High Commissioner to London and, of course, Independent Senator Dr. Sharon Le Gall. [*Desk thumping*]

I want to join my colleagues, and particularly the first one who raised it, Sen. Dr. Mahabir, in condemning what has taken place outside this Parliament over the last few days—[*Desk thumping*—those who chose to stand out there and boo and jeer both Independent and Government Senators as we came into this Senate to undertake the people's business.

**Sen. Al-Rawi:** And Opposition.

**Sen. The Hon. M. Coudray:** Only if you walked out with one of us. The boos were not for you, in case you were mistaken.

My condemnation is directed more so to those who organized and orchestrated those persons to engage in such despicable conduct against Members of this Senate. [*Desk thumping*] If we reflect over the years at the conduct of the PNM, we should not be surprised because that is their *modus operandi*: antagonizing, bullying, intimidating whenever they cannot get their way. [*Desk thumping*] Raging bulls. They brought out their thugs against appointed Senators in this Parliament. Mr. Vice-President, I say so from a vantage point, that is the *modus operandi* of the People's National Movement.

What we saw in the last presenter, temporary Senator, came in here this afternoon, what we saw was a continuation, that kind of intimidatory tactic moved inside the Senate this afternoon.

**Sen. Hadeed:** Very true.

**Sen. The Hon. M. Coudray:** Some of the Independent Senators expressed that they would not be intimidated, and I am sure—I walked out there the other night, and I know about them, having been accustomed to them, it did not faze me. But I am sure some of the others, my dear friend, Sen. Raziah Ahmed, and others were very disturbed.

**Sen. Hadeed:** Me too. [*Laughter*]

**Sen. The Hon. M. Coudray:** In our fifty-second year of independence it is really unfortunate that people continue—this so-called long-standing organization in this country—continues in their attempts to divide and rule this population.

Mr. Vice-President, we are here in terms of this Bill which seeks to do three things. I think earlier speakers on either side would have exhausted all the pros and cons of the Bill. I am here to add my piece and to say I stand here in strong support of these measures and of this Government.

We said a lot of things in terms of what the Senate ought to be and what has not been happening in terms of the nature of the contributions being made in the Senate. But I want to say to you, Mr. Vice-President, and I want to say to this Senate that I have abandoned my script. I came here this morning and I wrote a new script, after what has happened over the past few days in this Senate.

I make no apologies for whatever I have to say here in my contribution because I think it is important, after all the lies, the innuendoes and mischief that was made in this House over the last two days by the Opposition, it is my right—  
[*Interruption*]

**Sen. Al-Rawi:** Mr. Vice-President, 35(5).

**Mr. Vice-President:** Minister Coudray, we are debating the Constitution (Amdt.) Bill, and whilst all the others would have had a sway, I would just advise that you keep in line not to cast innuendoes against any particular person or party. Thank you.

**Sen. The Hon. M. Coudray:** Mr. Vice-President, I am guided, but this is my preamble still.

As I was saying, I make no apology because I am here. I have changed my script. I am here to defend my Government and my party this afternoon. [*Desk thumping*]

The Government has proposed the three measures in this amendment Bill. Firstly, a limit on the service of a Prime Minister; secondly, to provide for the recall of Members of the House of Representatives and, thirdly, to permit only candidates who have received 50 per cent and more votes in an election, 50 per cent of the votes cast in an election in their respective constituencies to be elected as Members of the House of Representatives. As we say, this Bill seeks to give power to the people. [*Desk thumping*]

My friend who came in this afternoon talked about this Government should not be talking about power to the people and about a term coined way back. I want to remind him, in case he does not know, that “power to the people” was a term coined by the people of Trinidad and Tobago against the very PNM Government back in 1970. [*Desk thumping*] That is where “power to the people” came from.

**Sen. G. Singh:** It is at least an NJAC phrase.

**Sen. The Hon. M. Coudray:** Remember “Perspectives for a New Society”? It is the people who rose up against the PNM, and what the PNM was doing to them—the Black Power revolution.

**Sen. Hinds:** That is not the truth.

**Sen. The Hon. M. Coudray:** It is, and I am not here to argue. You had your time. [*Crosstalk*] This Government says we are now restoring power in the hands of the people. [*Crosstalk*]

**Sen. Hinds:** You could not come in town.

**Sen. Hadeed:** In your mind; that is what you believe.

**Mr. Vice-President:** Senator, Senator, please. Please do not disturb the contribution of Minister Coudray. Please continue, Senator.

**Sen. The Hon. M. Coudray:** Mr. Vice-President, despite what they try to say, history is here and people can go and research. I take this opportunity to commend the hon. Kamla Persad-Bissessar, Prime Minister of Trinidad and Tobago, for the political will and courage to bring this piece of legislation. [*Desk thumping*]

**Sen. G. Singh:** Fortitude where those do not tread.

**Sen. The Hon. M. Coudray:** In piloting this Bill, the hon. Prime Minister as well as the earlier speakers on our side have articulated the many attempts at constitutional reform. Our friend on the opposite side tried to say how many times they have brought reform to this Senate, but I am saying that this is the one piece of reform that we are bringing, the one piece of amendment this Government is bringing that is putting power in the hands of the people. [*Desk thumping*]

All the other fundamental constitutional reforms that were brought, those proposals, they never saw the light of day. They are talking about proposals to reform the appointment of a police commissioner and other things. We are talking about reforms that can change the lives of people in this country.

They have the temerity to ask, and he says: why this move and why now? Why this move? I am asking: Why not? After 52 years of independence, this Government has brought this piece of legislation to the House and they are asking: well, why now?

**Sen. G. Singh:** Even Ralph Maraj supports it, and he was not active. [*Laughter and crosstalk*]

**Sen. The Hon. M. Coudray:** He was not active.

So if not now, when? This is what we are asking: If not now, when? And they are talking about the rush before the next election. Any time we attempt to bring any legislation, they always find some ulterior motive, and I think they are forgetting that the world has changed out there. Our young people—we have so many young people. We saw the Central Statistical Office report in terms of the amount of people. We are in the age of technology, everything is happening in real time, and we have to be stuck with a Constitution on voting patterns that really produce 28 per cent government. This is why the panic. They fear that after years of ruling with 28 and a 30 per cent government that this piece of legislation will bring about the fundamental changes in this country that will allow more people to participate in the process of governance. [*Desk thumping*]

Mr. Vice-President, there are many change theorists who have postulated that people resist change when they feel threatened by the solution they know can

address the problems that exist. This piece of legislation is an attempt to address those problems, for more people to participate in the governance.

**Sen. G. Singh:** Power to the people. [*Desk thumping*]

**5.45 p.m.**

**Sen. The Hon. M. Coudray:** And that is their problem because they can no longer sit by in glee, and the more parties that come on stream in this country, they love the splinter groups, because they think—and you know their thing, “We shall prevail”, but they can only prevail when there are only two parties. [*Desk thumping*] Our Prime Minister is determined to change that and ensure that a government, through MPs, is elected to office by the votes of over 50 per cent of the population.

Mr. Vice-President, Barack Obama, the President of the United States, has said, and I want to quote him here:

“Change will not come if we wait for some other person or if we wait for some other time. We are the ones we’ve been waiting for. We are the change that we seek.” And I end quote.

And I want to say, this Government is the change that country sought. [*Desk thumping and crosstalk*]

So, Mr. Vice-President, the fear and panic is as a result of the Opposition realizing that real change has been brought to Trinidad and Tobago with this piece of legislation, and the PNM would be routed from their comfort zone that they have enjoyed over the years. [*Crosstalk*] This is for the people of Trinidad and Tobago. As we say, power for the people, power for the people. [*Desk thumping*]

Mr. Vice-President, in terms of limitations to the terms of office of the Prime Minister—and we should ask the question: why should one person wish to lead a country as Prime Minister for more than 10 years? And we have proposed 10 years and six months in our legislation and in the proposal before this House. And Sen. Vieira in his contribution said that the UK has no term limits. But I want to put on the record this afternoon that not too long ago when Prime Minister Tony Blair announced his resignation as the Prime Minister of Britain, and this is what he said: He said that:

After 12 years I have become tired of being Prime Minister and if that is so, I could imagine how the people are tired of having me as Prime Minister.

And that is the reality of the world we live in. And we are saying that we want

to give—we talk, people talk about succession planning and the fact that we need to give others a chance to grow and to—this is how we build institutions. And, Mr. Vice-President, and many of the leading and successful democracies in the world have fixed terms for their leaders and for their Executives, with few exceptions. Leaders tend to become complacent, arrogant after prolonged terms in office. And we have seen it right here in Trinidad and Tobago.

**Sen. G. Singh:** “Manningitist.”

**Sen. The Hon. M. Coudray:** We saw the—and Sen. Vieira also mentioned in the abuse of power from being there too long, and we saw it most clearly in a recent Prime Minister who was so consumed with his own self-importance that he lost touch with reality and the needs of the people. [*Desk thumping*] Mr. Vice-President, he referred to himself in the third person, and he led this country—[*Interruption*]

**Sen. Al-Rawi:** Mr. Vice-President, 35(5). Member of the House; sitting Member.

**Sen. The Hon. M. Coudray:** I called no names. I said—[*Interruption*]

**Mr. Vice-President:** Please, I see no need for improprieties of imputing anything. Please, continue. [*Desk thumping*]

**Sen. G. Singh:** You are getting touchy in your new position.

**Sen. The Hon. M. Coudray:** You see we have people who brought in spiritual gurus as their special advisors and they want to talk criticize this Government in terms of some of the appointments we have been making. But, Mr. Vice-President, that is no longer the case. This country was rescued from that in 2010 by Kamla Persad-Bissessar and the People’s Partnership Government. [*Desk thumping*]

But, Mr. Vice-President, we do not have to go far. People ventured all out there. And I am saying that right here in the Caribbean we had Guyana who had a man called Burnham who had set himself up to be President for life for Guyana. Under Burnham, Guyana moved from being a most prosperous country in the region to one of the most impoverished countries. [*Desk thumping*] And the Jagans, both Cheddi and Janet Jagan, followed his policies, they succeeded him, and followed his policies and did little to improve the lot of the Guyanese people. And it took a young man, a young President, Bharrat Jagdeo to come into Guyana as the President, and on assumption of office he changed the Constitution to limit a president to two terms in office. [*Desk thumping*] And he set—he was still a

young man—the framework in place. Those two terms that he spent in Guyana he set the framework, and Guyana is now poised to become a most prosperous country once again. [*Desk thumping*]

Mr. Vice-President, similar examples could be found in Antigua, in Grenada. On an international scale we just have to look at Africa replete with long-standing chief executives who have led their countries. And we try, some of us here, to emulate them, I cannot call names, who have led their respective countries to ruins. Not on this side of course. So in our enlightened leader these proposals have now come to this House for the consideration of Members.

So, some said, and I know both Sen. Cudjoe and Sen. Roach yesterday and I think someone mentioned it this afternoon that we are coming to this House with piecemeal legislation, and that we should come with a comprehensive package of constitutional amendments. Mr. Vice-President, this country has been waiting years for some kind of change like this, and we have to start somewhere, and we have to start at some time, and I think that time is now. [*Desk thumping*] How comprehensive can we get? And who determines that? And how and when would we agree on these issues so that we can make a start? [*Desk thumping*]

And what they are saying, we are attempting to steal the elections, and I am saying, tell us how? We are not making proposals that would be followed by the UNC or any particular party. This is for the entire country. [*Desk thumping*] And we are asking you, if we say more power to the people, why would you think that would put the PNM at a disadvantage? [*Desk thumping*] And one speaker, yesterday, on the other side said, “This Bill will affect the entire population, not only the voting population since people are upset all over the country”. And I want to say that people are upset because of the incitement. You all are inciting people. [*Desk thumping*] Just as the people you brought outside here, and it was said on the first day, Sen. Al-Rawi said, “That the vote of one Independent Senator in 1989 caused a Bill...”—[*Interruption*]

**Mr. Vice-President:** Sen. Hinds.

**Sen. Hinds:** I am not thin-skinned. 35(1); she is alleging that the Opposition here is inciting, which is criminal. [*Crosstalk*] I just wanted to know that—35(5).

**Hon. Senator:** Check the law.

**Sen. G. Singh:** He is a bit rusty.

**Mr. Vice-President:** There is no empirical evidence to prove, whilst I myself was booed out there and I would have seen—[*Crosstalk*] Yeah. I was booed coming in and going out. [*Crosstalk*] No. No. I am simply—please listen. I said I myself, sitting in the Chair, was booed on my way in and my way out. But there is

no empirical evidence to prove that PNM brought them [*Desk thumping*] because we saw people in different colours. We could assume, and this House cannot operate on assumption. So please, continue.

**Sen. The Hon. M. Coudray:** Mr. Vice-President, I withdraw. [*Crosstalk*] No. Mr. Vice-President, while they were booing us, they were hugging up Sen. Al-Rawi. So, I could have only assumed that it was—[*Crosstalk*] That is what I saw.

**Mr. Vice-President:** Please. Please. I have ruled. Please, I have ruled. Minister Coudray, please continue. I have asked you to withdraw because there is no evidence to prove. Right. Please. Please, let us continue.

**Sen. The Hon. M. Coudray:** You know, Mr. Vice-President, they came and condoned, even this afternoon, Sen. Hinds said the people have all rights—[*Interruption*]

**Sen. Cudjoe:** 35(5)! [*Crosstalk*]

**Sen. The Hon. M. Coudray:** You stood up there and said, “They have all rights”. [*Crosstalk*]

**Sen. Al-Rawi:** 35(5). The Minister is consistently ignoring your ruling and is perpetuating a breach of privilege of this House! [*Desk thumping*]

**Mr. Vice-President:** Sen. Al-Rawi—

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

**Mr. Vice-President:**—I sat here and I heard the contribution made by Sen. Hinds, and therefore, I see no reason why she cannot make a comment based on what he said. So, please continue. [*Desk thumping*] Please, continue.

**Sen. Al-Rawi:** On a different point of privilege, Mr. Vice-President.

**Mr. Vice-President:** Please take your seat Sen. Al-Rawi. Thank you. Minister, please continue.

**Sen. The Hon. M. Coudray:** Mr. Vice-President, thank you. Mr. Vice-President, may I continue? I was quoting Sen. Al-Rawi who said that the vote of one Independent Senator in 1989 caused a Bill to be passed in Parliament that changed the course of history, and it was alluded—it was repeated, and someone asked whether they are blaming a Member of the Independent Bench at the time for causing the coup in 1990, and nobody took offence to that. Nobody took issue with that.

**Sen. Al-Rawi:** You are confusing apples with oranges, man.

**Mr. Vice-President:** Please allow the Senator to continue her contribution. I have protected each and every Senator during the period that they were making their contribution, and I am appealing to all and sundry to allow the Minister to make her contribution. [*Desk thumping*]

**Sen. The Hon. M. Coudray:** And I am saying, the reason for the upset and the furore all over this country is because of the propaganda being espoused by some, by our detractors. The inflammatory statements, the networking, the bullying and everything else because I know that anyone who dares to defy the PNM is doomed to face the wrath of the PNM full force, and I am a standing example of that. [*Desk thumping*]

Mr. Vice-President, I was a public servant for 30-something years, and I experienced [*Crosstalk*] different governments and I have been able—I saw people’s rights, as enshrined in the Constitution of Trinidad and Tobago, violated, brutally violated. [*Desk thumping*] And yesterday Sen. Robinson-Regis said, and I want to quote her:

“...democracy...only have true meaning...”—with—“...consultation. Deepening...is not what you say, but...what you do.”

And she referred to the Invader’s Bay, to the highway to Point Fortin. I wondered, and I sat here and I cringed. That highway was promised by the PNM since in the 1960s, [*Desk thumping*] and this Partnership Government started that highway in 2013. [*Desk thumping*] And she said people of Trinidad and Tobago lost confidence in this Government. They do not believe anything said. [*Desk thumping*] How many of us faced different types of abuse under the PNM government? How many rural communities that did not support the PNM faced abuse, rural neglect. And, you know, the thing is, she talked about the East-West Corridor, and we are starving them of financial resources. What is that intended to do? And this is not true. This is not the case. [*Desk thumping*] And they should be ashamed to come here and say that, when they neglected their own. And yesterday it came up. La Brea, Point Fortin, Laventille, Morvant, neglect. [*Desk thumping*] Could the people—and they talk about trust. Could the people of Trinidad and Tobago trust the leadership and trust the PNM?

Mr. Vice-President, they all sat and voted on legislation to extend the life of local government elections—and other speakers raised it—for three consecutive years. [*Crosstalk*] They brought the legislation to Parliament. And let me just tell you, other people mentioned it on my side. Let me tell you what that legislation

said. That councillors—they are talking about democracy and trust. You bring legislation to the Parliament that says councillors would be treated as though they were re-elected to office. Since when do we have elections by legislation in a democracy?

**Sen. G. Singh:** Not a man vote there!

**6.00 p.m.**

**Sen. The Hon. M. Coudray:** And this was after councillors had served a three-year term. Some of them wanted to move on, some were not performing. Instead of the end of term to be recalled, the PNM passed legislation and got them re-elected through this Parliament.

While I am on local government and trust and leadership, I want the leadership of the PNM to tell this country whether a candidate who is a deportee from North America was put up for the local government election, because they are talking about trust. They went to people's home all over that electoral district and asked to vote for this person. And my information is, this person was deported from the United States of America after serving a prison term. Did he tell the people of that electoral district of the candidate's past? That deportee is now a councillor representing people in that district. [*Desk thumping*] Do we have to put measures in our local government law now to deal with people as we have in the Constitution in terms of the means by which people must demit office? Do we have to do that for local government? What are you talking about trust? They have violated the trust of the people of that electoral district. [*Desk thumping*] So, when you have all this outside there, do not try to vilify this Government. We have been taking care of all the people of Trinidad and Tobago. [*Desk thumping*] And as I say Tobago, Tobago where we are allowed to.

Mr. Vice-President, this Bill seeks to fulfil a promise made to the people of Trinidad and Tobago in our manifesto which is now public policy. [*Desk thumping*] It is a good Bill and, as I said, the Bill is intended to take the power away from the politicians and put power in the hands of the people. [*Desk thumping*] And as the Prime Minister said in her presentation, in her laying of the Bill, these measures were contained in the PNM constitution, and they could try to argue away how much they want about consultation, but it is good for the PNM, but it is not good for the people of Trinidad and Tobago.

This Government held 21 consultations, and we know what consultations are in this country. People may spend a lot of money, but we have to do it. People do not come out. When the chairman of that committee came back to the

Government in terms of reporting on it, there was a draft—and he asked for funding to go back out and four additional consultations were held. It was widely published so everyone had the opportunity to have their voices heard. But people want to come after the fact and talk, and say, we were not consulted.

Additionally, Mr. Vice-President, in terms of the run-off system, people have said a lot and I just want to say it would not change people's rights and their voting system at general elections in any shape or in any form. Conceptually, the only electoral system that is worse than one capable of realizing minority representation, and hence minority rule, is one that does so. Where a run-off system circumvents minority rule, it in fact guarantees democracy as any just democracy. [*Desk thumping*]

In conclusion, Mr. Vice-President, I have a lot more to say, but I have been asked to give way so that one of my colleagues could—[*Interruption*] yes, we know about the two-women committees. In terms of the consultation, all the political consensus and all that we talked about, we know that in terms of the PNM, when they are in Government, the consultations, they were always a two-man committee, and Sen. Dr. Tewarie brought that out very clearly in terms of who were the two men. I think he said the Prime Minister and the late Sir Ellis Clarke. So, Mr. Vice-President, my time is up? [*Interruption*] He told me I have half an hour.

Yes, important, the right to protest, and an Opposition Senator, last evening, talked about the right to protest and people, and she was displaying newspapers with a protestor with the police officers, and the police officers were trying to maintain law and order and, you know what? She stood up in this Parliament and said it is not an offence to beat your drum on the road, or you lie across the road, and I hope Members here as well as members of the public understand what the PNM is about.

I am asking, in raising these newspapers, if they have such a short memory on that side that they forget bloody Tuesday or they forgot about Mr. David Abdullah being arrested. But the Tuesday they arrested George Weekes, arrested ANR Robinson, and I am asking if they have—and what about the protest outside the Queen's Park Oval, the cricketers, protesting apartheid? [*Desk thumping*]

**Hon. Persad-Bissessar SC:** What about Member of Parliament Manohar Ramsaran outside his house?

**Sen. The Hon. M. Coudray:** And MP Manohar Ramsaran, put him in the van. Dr. Hamza Rafeeq—so, their modus operandi is one law for them and their supporters and another law for the rest of the population. [*Desk thumping*]

**Sen. Hinds:** “And you lock up 8,000 in grap, 8,000 in a state of emergency, 455 under the gang law, just so, wap.”

**Sen. The Hon. M. Coudray:** Mr. Vice-President, last evening, again, Sen. Small, he always has a very balanced contribution, but he was saying this legislation he had difficulty because it was something new and it is something not tried.

I am saying to him that, what did it take for man to go on the moon?—and there are new things, and this is what Sen. Dr. Tewarie talks about, innovation and inventiveness and all that, and there are times—we are a small country and we are saying, why can we not lead as Trinidad and Tobago in [*Desk thumping*] terms of bringing legislation that will make a difference, that will make a change and that will make sense in our own culture and to our own society? So, we should not fear the newness of any measure. [*Interruption*]

Mr. Vice-President, as I am hearing an echo on that side, I just want to bring to the attention of this Senate—[*Interruption and desk thumping*] I want to quote from this document *Evolution of a Nation*. This article is by Reginald Dumas, and I just want to quote a small section of it, and he is talking about the constitutional development of Tobago and he is asking, what constitutional development?

“All that seemed to take a turn for the better when Eric Williams came to office in 1956. Several months after the election of the PNM, Williams would charge in the Legislative Council...”

and Mr. Dumas is quoting him:

“Tobago had exchanged the neglect of United Kingdom imperialism for the neglect of Trinidad imperialism.”

This is Mr. Dumas saying, “Alas, he was soon to forget those sentiments.” And every time you hear about this Government and what it promised and what it did not promise, and again he says here on page 18:

“In early 1992, the new Prime Minister of Trinidad and Tobago, Patrick Manning, addressed the THA and offered what he called, ‘constitutional guarantees in respect of the relationship between Trinidad and Tobago.’ Later that year the central government and the THA each appointed a technical team that would *inter alia* ‘review the constitutional situation of Tobago with the unitary state of Trinidad and Tobago.’”

This was 1992, and today they stand up here and try to blame this Government for the state of affairs between Trinidad and Tobago.

So, Mr. Vice-President, as I said, as we say, Rome was not built in a day, and we have inherited so many problems, so many issues that we are going through as a Government and, of course, we have to prioritize in terms of the funding, in terms of the human and other resources.

On the other side I just want to say that someone sent me a petition from Sangre Grande, “The Grassroots Foundation”, and I just want to put it on the record because all we seem to be hearing would be the negatives, all the persons who are not in support of this Government and of these measures that are taking place, and the Motion says:

*Whereas* this country was in the pursuit of constitutional reform since Independence—

and this is from ordinary grassroots people who we are trying to give power to them. [*Desk thumping*]

*Whereas* this country was in the pursuit of constitutional reform since Independence 1962;

*And whereas* a constitution reform commission was set up in 1977 headed by Sir Hugh Wooding;

*And whereas* Dr. Eric Williams rejected the commission’s report deeming it a dagger in the back of the PNM;

—what is familiar. And *whereas*—that is what this is, I am quoting. And this is how the ground people are seeing it.

*And whereas* after three decades the People’s Partnership saw it fit to bring to the Parliament its election promise in the form of the Constitution (Amendment) Bill;

*And whereas* the public is somewhat confused about the clause of a run-off that is just a mechanism for the right to recall;

*And whereas* as PNM and other political entities are narrowly seeing it as dangerous to their benefit and not looking at the national benefit;

*And whereas* if not passed we might never see constitutional reform ever again in our lifetime;

*Be it resolved* that we the patriotic citizens of this twin-island state do support the Government in both Houses of the Parliament and encourage the Prime Minister and her Government to make it law for the enhancement of our democracy.

Patriots of Trinidad and Tobago. [*Desk thumping*]

So, Mr. Vice-President, with those few words, I thank you, I thank this honourable Senate for giving me the opportunity to defend my Government in its quest to bring power to the people. I thank you.

**Mr. Vice-President:** Hon. Senators, I find it is in poor taste. The purpose of Parliament is for each individual or parliamentarian to be given the opportunity to speak. And I believe as parliamentarians we ought to show the example, as all of you had said before during your contribution. The nation is looking at us, and I would like us to behave in a particular way as exemplars of the entire nation. So, please when contributors, the various Senators make their contribution, please, if you do not want to listen you have the opportunity to walk and then come back. Right? So, thank you. [*Desk thumping*]

**The Minister of National Security (Sen. The Hon. Gary Griffith):** Thank you, Mr. Vice-President. Let me take the opportunity to publicly state how humbled and grateful I am to be given the opportunity to stand here today before this honourable Senate to contribute to a debate on a Bill that will prove to be such a significant and important milestone in the constitutional affairs of our country.

To date much has been said about the proposed amendment to the Constitution of Trinidad and Tobago. However, I would just like to focus on a few points, and I would be short. First I would like to speak about the recall of Members of Parliament.

Mr. Vice-President, clause 6 of the Bill proposes to insert a new section 49B into the body of the Constitution. The essence of section 49B is that it allows the people of any given constituency to initiate the process to recall a sitting Member of Parliament if that Member is not performing. I think it is really straightforward that there should really be no concern about this, and we can even look at the West Indies cricket team, where, after 19 years they actually changed the coach at least 11 times. The point being is, if you do not get it right you must never feel that you are in a position where something belongs to you because you were given that opportunity, and that is very important about non-performance. The recall instrument allows citizens to retain control over elected officials who are not representing the best interest of their constituents, who, actually, put that person there, and if they are unresponsive or prove to be incompetent.

**6.15 p.m.**

It is direct democracy. It is the purest sense, in that it extends the democratic procedure, which means that elected officials need to be continuously responsible

and responsive to public opinion. It also provides voters with the continued opportunity to make a democratic decision upon who governs them since they do not—they only have this opportunity once every five years, and now they are given that opportunity to represent that person based on measuring their performance.

Even in the military there is something called ROAD; R-O-A-D, which is Retired On Active Duty, and it is something that they use in the military—that if someone feels that they could just stay in one position and keep marking time you cannot expect to hold that position of authority. Mr. Vice-President, and this obviously would increase productivity.

If I turn to clause 9, which treats with term limits for the Office of the Prime Minister, clause 9—it amends section 76 of the Constitution, limiting terms of the Office of the Prime Minister. The importance of a Prime Minister in our system of Government, it cannot be overstated. It is our Prime Minister, Mr. Vice-President, who directs the work of the Government and oversees the preparation of the Government's business. With that in mind, by including term limits for the Office of the Prime Minister we are ensuring that fresh ideas and perspectives are breeding into the system every 10 years. And, Mr. Vice-President, I do not want to jump, but I think the only person in the country who would be affected by this would be the present Prime Minister of Trinidad and Tobago, [*Desk thumping*] and that shows leadership, it shows someone who is not selfish.

So you cannot be half pregnant, you cannot have a Prime Minister who is making a decision that can affect—she is the only one who would be affected. No one in the history of this country has had that fortitude, that political will to do what is right. [*Desk thumping*] And by doing that, Mr. Vice-President, what it shows is that she is doing this to this situation, about this two terms in office and she alone would be affected for the benefit of the country. And this is when I go into the recall, it would be along the same—not recall, the run-off, would be along the same manner.

Mr. Vice-President, the introduction of term limits, it only removes the person from holding office of a Prime Minister, and in no way does it mean that the individual cannot continue to be involved in politics, to continue to serve the people of the country, but in just another manner. There has been a lot of talk recently, we have been hearing about the word “process”, and it is important. I think there must be a process to ensure transparency and that everything is above board. But I have seen—we know it is important, there is process and there is productivity, and sometimes one will override the other. But I have seen first-

hand experience where process has taken priority over productivity and we cannot and should not use process as the critical important factor of a nation's development.

Even here in the Ministry of National Security, there are certain systems that we will need to put in place, but because of the process it will delay the system and it will affect the productivity. So, what we have seen now, we have a situation where we are trying to transform the dynamics of our country for the benefit of our country, and I know there have been concerns about the process, but let us look at the end result. The end result, I think that is what is important, the productivity is what is important. [*Desk thumping*] The unfortunate thing here is that, as I have said, the importance is getting the job done. But at times we—some people, they always think the.

I have heard statements pertaining to the concept of the run-off—we do not trust you; you will steal the elections. First, they started saying that the run-off is to steal the elections and then they flip the script and then say that it will cause the downfall. So how in one way you are trying to steal the election, but then the persons on the same side of the political fence who are accusing the Government of trying to steal the election, yet, they are stating that it is going to lead to a downfall. So the point being—you cannot flip-flop, and again it shows that what we need is putting the country first before personal gain.

So, in the same way that the hon. Prime Minister, she is sacrificing her third term as Prime Minister because of her unselfish approach—because after we win next year [*Desk thumping*] she would then have had the opportunity for a third term. But by putting the country first, it is not about the Prime Minister, it is not about Kamla Persad-Bissessar, it is not about her Government, it is about getting the job done, doing what is right for the benefit of the country. [*Desk thumping*]

Mr. Vice-President, too often—and again, I have to look at specific words that I have heard in this whole debate, and there is a catalyst towards it—fostering hatred and bitterness, deception, we cannot trust them, being dishonest. What can this do for this country other than divide it?—and that is what has happened. We may have political differences, but we should never turn that into hatred and bitterness or have it perceived as such. [*Desk thumping*] I most certainly take offence that when you state that we are going to steal the election you are also speaking about me. And I am involved, I would not be involved in any party as planning to steal an election. [*Desk thumping*] So when you make statements, Mr. Vice-President, I mean, you need to be very careful of what you are saying. I mean the road march we keep hearing, “we do not trust you, we do not trust you”,

and the importance of that is that the more you say it, the more you feel people would buy into it.

But looking at this whole concept of the recall, how can this help the UNC, the COP, the PNM, the ABC, the XYZ? How can it affect one and benefit the other? I ask, show me the data, show me the empirical evidence that shows that. I am willing to sit here right now and you can show me. You cannot, because it has never happened before. [*Desk thumping*] But the point being, it goes back, that if you say something a lot of people might believe you. But because in this run-off system any number could play, and I can give you an example, Mr. Vice-President, I have been hearing this thing about the third constituency, well I was in the third constituency. And in that third constituency people say that the two major parties would flourish and the third constituency would be destroyed. Well I just want to show an example here.

In 2007, the Congress of the People was that third constituency, the marginal voters, the floating voters, that 150,000 persons who analyzed a situation, and they are not fanatics—not “ah born a whatever, and I will die a whatever”. And 23—[*Interruption*]

#### PROCEDURAL MOTION

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you. Mr. Vice-President, I want to thank the hon. Senator for giving way.

Mr. Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continue with the business at hand until completion this evening.

*Question put and agreed to.*

#### CONSTITUTION (AMDT.) BILL, 2014

**Sen. The Hon. Gary Griffith:** Thank you, Mr. Vice-President. I was speaking about the situation whereby it is perceived that in a situation of a run-off the third constituency, those floating voters, those marginal voters, they would be the ones that would be thrown out because there is no room for bronze medallist in this concept of the run-off. But I just want to give an example: in 2007, the so-called third constituency, those so-called floating voters, those so-called 150,000, out of the 41 seats, 23 of them, the Congress of the People came second, they were the runners-up. In Arima, they were second; Arouca/Maloney, second; Caroni East—Minister Singh, that was you?

[*Sen. G. Singh nods*]

Second, poor fella. [*Laughter*] Chaguanas West, second; D'Abadie/O'Meara, second; Diego Martin Central; Diego Martin North/East; this is where we continue to give the perception that the third constituency will be thrown out, but they came second. So, had there been a run-off they might very well—and if this come into play, they might very well have moved up into much more. Port of Spain North/St. Ann's West, Sen. Solomon, second; Port of Spain South; San Fernando East; San Fernando West; St. Ann's East, where Gary Griffith actually lost, well, he came second. [*Laughter*] St. Augustine, the political leader of the Congress of the People, there would have been a run-off and he might very well have won. Tabaquite, Tunapuna—Tabaquite, I think it was the Attorney General; Naparima; Laventille West; Diego Martin West; Diego Martin North/East; Diego Martin Central. So this perception that is being fed into the country, that this is going to throw away and destroy the third constituency, it might very well be the catalyst towards that third constituency building. [*Desk thumping*]

Mr. Vice-President, again I ask about the concerns about the bitter and venomous aspects we have seen in an election system, about how we have operated in this manner. And again, there is a saying that you cannot be half pregnant, and we have a situation here, whereby, even their own political party, they use this in their internal election. So it is good enough for your own party, but it is not good enough for our nation. And again it is going right back to a military saying: do as I say but not as I do. And again that is not democracy, that is hypocrisy—[*Desk thumping*] you cannot in one way within your own, internally, you say to yourself this is good for us but not good for the country.

Mr. Vice-President, the problem is that too many politicians want—again I want to go right back to the hatred and the venom and the bitterness [*Crosstalk*] I am hearing a voice in the wilderness, Mr. Vice-President. I have missed you, I have missed you so much.

Mr. Vice-President, all I ask is for the individuals here, let us cool it, let us tone it down. We have a situation where many people in politics they speak a lot. I think many times politicians wish they were soldiers. I keep hearing a lot of words, politics is war and the air war and the ground war and we have to fight with the troops and we have to fight the battle, and we have to fight in the trenches, but let us get a reality check here, politics is not war. If you really want to be a soldier and you actually—if it is you actually won the—next to someone, and you see your best friend being shot in his back—I was there during the attempted coup.

If it is that with the fighting against the IRA and you have to go under a car every single night when you leave to make sure there is no bomb there, because

soldiers were being killed, I was there, that is war. If it is that you were there in a peace-keeping mission and you are seeing children suffering, starving, and you have to give them a chocolate through a fence because you are there trying to operate, that is fighting and that is battle. This is not what this is about. We are here to serve the people and we need to cool it down, [*Desk thumping*] because, Mr. Vice-President, exactly how we operate, we caused what happened outside there, and we need to understand how we operate. We have operated in such an environment where people—and the good thing about it though is that having persons in our society where they can go out, and it was their right to protest, it was their right to support their Government, it is their right to support the Bill or not support it, but it is not your right, I mean, to be involved in any act of violence.

When it is you have reached a point where you could hear people actually saying the worst things about Members of Parliament—we had Independent Senators last night being booed. [*Desk thumping*]. I was behind them and they were being booed, and let us not point fingers and speak—it was not the UNC supporters. That is a fact. And so when they were walking out, you know what, people all of a sudden, profiling starts, they see certain Independent Senators come out and they automatically start to boo.

But you know the interesting thing, Mr. Vice-President, and I think Sen. Small said it when he was speaking, many people, when you ask them out there or—“they thieving democracy, they have taken away my rights, they have taken away my freedom”, but when you ask the question, how? All of a sudden they start to moonwalk like Michael Jackson. [*Senator doing the moonwalk*] “They doh know how” [*Desk thumping and laughing*] And the importance for this, Mr. Vice-President, is perception. It is this perception that has affected us too often, the perception goes right back to the emailgate situation. And I am not being irrelevant with it, because the perception is what will foster into our supporters.

The emailgate, Mr. Vice-President—I ask, next time if we want to try to plaster something to try to discredit the Government, or whatever, let us be a little more imaginative. You take Watergate, something that was real and you take it and call it emailgate? I mean, let us get—something that was—an anonymous, imaginary person takes a letter, drops it in your mailbox, it is wrong font—[*Interruption*]

**Sen. Ramlogan SC:** “Dey keep it fuh six months.”

**Sen. The Hon. G. Griffith:** I still cannot get my phone back and the police checked my phone, absolutely nothing was seen. But what was very interesting is

that, in checking the email addresses—the emails that were allegedly sent by Gary Griffith—on one day, you know, when you have emails, Mr. Vice-President, it actually has the date, the time of when the email was sent. I was in Australia, I was in London and I was in Argentina in the space of two hours. [*Desk thumping*]

**Hon. Senator:** Star Trek.

**Sen. The Hon. G. Griffith:** So again—I am a Trekkie fan, “eh”. But unless Scotty from the Starship *Enterprise* beamed me up in three different places, right, and you know Scotty—“it’s a thing, Captain”—unless it is Scotty did that, it was impossible for me to be in three places in the world at the same time. [*Desk thumping*] But you know what, Mr. Vice-President, we keep—[*Interruption*]

**Sen. G. Singh:** Oh, what a leader you have.

**Sen. The Hon. G. Griffith:** We keep drilling it home, drilling it home. So I ask, let us get out of the mailbox politics. Let us get out of the perception, because when we do that, at the end of the day now everyone now is saying, well, you know, the political leader, he probably got set up and this and that, but it has affected the country internationally as well, because of hearsay.

**6.30 p.m.**

And what we have done, we have set a precedent that anyone now can just get up on a morning, open their mailbox and say, “Ha, look, I have an anonymous letter. Let me take it to the Integrity Commission. Let us take it to the police”, based on perception. We must not use perception to try to foster hatred among our supporters. [*Crosstalk*]

Mr. Vice-President, again, and going back to the aspect of law enforcement, there was a situation that took place—again, going right back to the concept of the concern we had with the protesters, there is something called a use-of-force policy. There is minimum use of force that is used for law enforcement units. Regarding the incident outside Parliament, let me state, firstly, that that was democracy at its finest. Many countries are not—[*Interruption*]

**Mr. Vice-President:** Senator, I am allowing him to make the point because it was raised by you during that period of your contribution. [*Desk thumping*]

**Sen. Ramlogan SC:** “Do so eh like so.”

**Sen. The Hon. G. Griffith:** Mr. Vice-President, you know, I was now about to tell him that. I am just trying to educate you, Sir, on law enforcement. [*Desk thumping*] That is all.

**Sen. Hadeed:** “Yuh come here for half an hour and yuh get beat like dat.”

**Sen. The Hon. G. Griffith:** Mr. Vice-President, many countries are not privileged to ever see hundreds of passionate supporters on either side of the political fence in one area, and there was not an incident between those groups, and that is democracy at its finest. [*Desk thumping*] What was interesting was that there was no bitterness between the citizens. However, it is your right to protest; it is your right to voice your overwhelming support; it is not your right to break the law. Again, this is where we speak about professionalism. You know, if my son is watching this, I tell my son—he is now going into the best school in Trinidad and Tobago, St. Mary’s College, of course—[*Interruption*]

**Hon. Senator:** Fatima, boy. [*Laughter*]

**Sen. The Hon. G. Griffith:**—And one thing I always try to explain to my son, “Listen, have a little bit of respect. If you are with your football team, listen to the coach. Do not disrespect him when he speaks. When people are speaking, you do not disrespect them”. Sen. Hinds, you should learn from that. [*Desk thumping*]

**Sen. Hadeed:** The youth officer too old to learn. [*Laughter*]

**Sen. Hinds:** Was there a point in time that I was disrespectful to him?

**Mr. Vice-President:** I did not get that. I do not think that is what he said. Please continue, Senator.

**Sen. The Hon. G. Griffith:** Thank you. Mr. Vice-President. No, what I was actually stating is that the importance of what we do here, our youths out there listen and they observe and they follow, and I can give you an example. You remember the Granny Keeler incident? The Granny Keeler incident did not just take place because a child decided to say the worst things about our Prime Minister. That is because of what she sees or heard from adults, from seniors, and that is what is very important. How we are professional here, having a little bit of manners when people speak, listen. When it is you babble, babble, youths hear it; people see it, and that is what is the problem. When we try to stay here and say the worst things about each other, what we do is we rile up our supporters outside, and that is not leadership.

As I go on, Mr. Vice-President, I have heard a lot of statements in an attempt to discredit or politicize the police. As a leader, I will stoutly defend those who I am responsible for in policy making, and I would not turn a blind eye if they do something wrong, but I want to clarify a point here. The Commissioner of Police

directs policing operations, no one else. He has the authority, based on the threat assessment, and he will send out the relevant troops to deal with a situation. The number of officers and the type of equipment used were based on the assessment to ensure that law and order was being maintained, and it worked.

But you know what I am very concerned about? Within the last year, every single major criminal activity in this country has been reduced by 20 to 80 per cent. [*Desk thumping*] And I know the first thing that Sen. Hinds will ask me is about murder, but I will talk about the murder.

**Sen. Hinds:** No, no, no. I was about to ask whether that includes white-collar crime.

**Sen. The Hon. G. Griffith:** And again, we could actually speak about it, because under the previous administration we were basically blacklisted because of the situation, and thanks to the work of the hon. Attorney General we have now moved and put ourselves in a position to get back to deal with white-collar crime. [*Desk thumping*]

So as I continue, the concern is that at all times we will try to see things in a negative manner, and it will go just the same way that the police did what was required to ensure law and order was maintained. [*Desk thumping*] But, you know, again, it goes back, when in contrast, during the “Drummit 2 Summit” in St. James Amphitheatre, where hundreds of police officers went after persons, we never heard a word about them. But that is the difference. What the police did there was something called crowd control. There is a difference between crowd control and riot control. In crowd control, there is a specific drill. They use the drill. The concept of the shield is not an offensive mechanism; it is used to defend yourself; likewise, the other aspects of the helmet is that those are protective mechanisms to ensure the protection of the law enforcement officers in crowd control.

Riot control, that is a difference. Riot control involves tear gas; it involves rubber bullets; and it involves instruments to ensure you could disperse and arrest persons. That was not the aim. [*Desk thumping*] But in the same light, we have to understand that when the law enforcement officers do their job and it works, we find ways to attack them. I can refer to the situation in Laventille, Mr. Vice-President. The first thing that you started hearing—and, again, from the goodly Sen. Hinds. He went on television and condemned the concept of the soldiers.

But you know what? I ask anyone here, when last you heard about a murder in Laventille? When last? All of a sudden, within the last six weeks, there have been

one or two murders in comparison. Laventille has been the safest now in the history of this country! [*Desk thumping*]

**Sen. Hinds:** Mr. Vice-President, like any other responsible citizen, I am proud of what he has just reported in respect of the reduction in the crime of murder in Laventille—very proud—and that is to be encouraged. [*Desk thumping*] Just for the record, I wanted to say I supported, and the people—the record is there—of Laventille welcomed the soldiers once they were operating lawfully and quite properly. That is all. That is what I said, my friend.

**Sen. G. Singh:** Thank the Member for giving way.

**Sen. Hinds:** That is what I said.

**Mr. Vice-President:** Sen. Griffith, it is good to hear about all what is happening, but I would like that we connect back to the Bill because it is a debate on that particular Bill. Please let us continue.

**Sen. The Hon. G. Griffith:** Yes, Mr. Vice-President. Well, again, this was just in relation to the statements being made about the law enforcement officials. I think it was very important because it was related.

Mr. Vice-President, again, if we recall process being an issue, but if it is we do not have the run-off—we cannot support the concept of the recall and not the run-off, because if you support the recall, basically you are allowing an individual to win with a minority of less than 50 per cent. So someone can get 35 per cent and win, and now be a prime candidate from day one to be recalled, because of the non-run-off situation. He starts on shaky ground from very early and it causes a problem for performance if that person is not confident that he does not have the majority of supporters. Because if people do not support him, it automatically provides that feeding ground, very early, that 70 per cent of the persons who did not vote for him can now start mobilizing for him to be removed.

Again, Mr. Vice-President, this is similar to the same thing we have argued about with the appointment of the Commissioner of Police, whereby we claim that he is acting. But you put a Member of Parliament with 35 per cent support, as a Member of Parliament he is practically acting if you have agreed to the recall but not the run-off. So it is very important that—you cannot be half pregnant here, Mr. Vice-President. You cannot agree and understand the recall but not have the run-off. [*Desk thumping*]

And, again, let us not use the red herring with this affecting the third constituency, the floating voters, the marginal voters. Three elections alone, in 1981, 91,000 of those marginal voters, nothing; 1991, over 100,000 under the

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NAR, nothing; 2007, 148,000, nothing. Three elections alone, Mr. Vice-President, you are speaking about over 350,000 votes of marginal voters and not a seat for them.

So obviously it is not working now, and the point being, that no Bill is perfect, no election is perfect, no voting pattern is perfect. But if it is that we weigh the pros and cons, would that mean that because of the fear of change that we would keep the status quo knowing it is wrong? [*Desk thumping*]

Mr. Vice-President, we must not fear change. I admit to myself, I had reservations at first, but what it entails is for us to understand, and many times people fear change because they do not understand the process. After understanding it, there is very little option for us to look at it. There is no sting in the tail. The recall and the term limit, it ensures accountability, it measures the person's performance by the real bosses, who are the citizens.

The present system, without the run-off, it is flawed. It is not working. Let us fix it. Let us get it right. Let us not fear change. Let us boldly go where the nation has never gone before. Let us give back the power to the people. [*Desk thumping*]

**Sen. Ramlogan SC:** Yeah, yeah.

**Sen. The Hon. G. Griffith:** Mr. Vice-President, we have looked at all the options, and as I said, there is no sting in the tail. As I close, again, what I would say is that we need to be understanding and to be aware. We need to cool it down. We need to tone it down. How we operate is how the rest of the individuals who, really and truly, are our bosses—those are the citizens—that is how they operate. I am telling you, Mr. Vice-President, that if at any time any supporter of the People's Partnership I see, or notice that they would be saying anything adverse or embarrassing to any Member of Parliament on the other side, I will be the first to get involved.

**Sen. Ramlogan SC:** Sure. Sure.

**Sen. The Hon. G. Griffith:** Did I see that on the other side? No. What I actually saw, Mr. Vice-President—what was amazing—[*Interruption*]

**Sen. Ramlogan SC:** They are defending it.

**Sen. The Hon. G. Griffith:** What I actually saw was that we had a number of people booing, challenging the police and it took someone—Kirk Waithe from Fixin' T&T to have to go there and to calm the situation, so you had a so-called neutral individual. But where is the leadership, then? That is what I ask. Show me

your leader. If it is you are aware that your troops are getting hostile, they are getting violent, they are disrespecting Independent Senators when they are leaving and booing them—[*Desk thumping*] what was done?

Let us act as real leaders. We have to serve to lead. We need to understand that if it is that those people are our bosses, we need to understand how to deal with a situation. Let us take away the hostility. Let us cool it down. This is one country. This is one nation. We all work together. I think we all have the same interest at heart. Let us do what is right for the people. Let us support this Bill.

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

**Mr. Vice-President:** Hon. Prime Minister.

**The Prime Minister and Minister of the People and Social Development (Hon. Kamla Persad-Bissessar SC):** Thank you very much, Mr. Vice-President. There are many people I would like to thank as we close this debate, those who have worked really hard for many hours to take us to this point with respect to constitutional change. So I take this opportunity to thank all those who served on the Constitution Reform Commission. [*Desk thumping*]

I want to thank, as well, all the staff in the Office of the Attorney General who laboured night and day to take the policy positions that were contained in that report and to convert that into the legislative documents which are before us today, [*Desk thumping*] in particular, the Chief Parliamentary Counsel, Mr. Macintyre—I want to thank him [*Desk thumping*] and his team and, indeed, the Attorney General himself [*Desk thumping*] who spent countless days and nights in the drafting to take us where we are. Indeed, there will be other areas which we will consider when we come to the committee stage. So, first, let us thank those who took us into the debate in the House and here in the Senate.

I want to thank all hon. Senators who have contributed in this debate, for your comments, your suggestions, your concerns with respect to the provisions in the Bill. I thank you all for taking the time. We have spent almost three days here in this debate, recognizing the importance of the debate. So can we thank all Senators for their contribution? [*Desk thumping*]

What I witnessed here in the Senate, Mr. Vice-President, as we congratulate many persons who have made their maiden speech in the Senate: Mr. Garvin Nicholas; Mr. Danny Solomon; I think Miss Le Gall—the various maiden contributions—for myself, this is my maiden contribution [*Desk thumping*] and it gave me an opportunity to witness, first-hand—of course, I would watch the Parliament Channel from time to time; I would speak to my Senators who are

here. But it gave me an opportunity to look at, first-hand, the dynamics of the Senate where you have three benches.

**6.45 p.m.**

In the House we have just my bench—the Government Bench—and the Opposition Bench. But in Senate we have the very unique bench, that of the Independent Senators, and I will come back to that as I note it has been our history and our tradition to honour and respect the Independent Bench, whether we agree with them or we do not agree with them [*Desk thumping*] and I still subscribe to that. I still subscribe to that view today, that there is a role. The Constitution framers gave a role to the Independent Senators and that role now involves where Independent Senators are voting on what will happen to elected Members of Parliament—whether as a run-off, whether as a recall election, term limits for a Prime Minister who comes also from the elected Members—where you have non-elected Members who have the opportunity to make a choice and to vote, whichever way, on matters right now that touch and concern elected Members of the Parliament. Now why would that happen, Mr. Vice-President?

The Constitution framers must have envisaged, in their wisdom, that there was this role that the Opposition and the Government would most times be at loggerheads. It is rare that you will find Opposition and Government *ad idem* on every issue. It is very very rare, but the check and balance against that kind of system has been, and will continue to be until that is changed—if it should be changed—lie in the hands of the Independent Senators. [*Desk thumping*]

I do not share the view, expressed by one hon. Senator, that the casting vote of the Presiding Officer must be cast against the Government. I respectfully do not share that view based on the legal advice we have received. Indeed, I believe at some point in time the then Presiding Officer—I think it was Dr. Linda Baboolal as Presiding Officer, I am told, voted with the Government and not against the Government. Sen. Drayton has confirmed. So that the point that the Presiding Officer does not have that casting vote, again, the Constitution framers provided likewise.

But you know, even though the Presiding Officer may have that casting vote, I think it is prudent and feasible for the Government Bench with the Opposition where possible, and certainly with the Independent Bench, to arrive at some consensus with respect to the way forward, and not, therefore, to railroad a vote that is Government 15, Opposition and Independent 15, and cast the vote. But I know if it comes to that it will happen. It has happened in this House through former Presiding Officer, then Senator, Dr. Linda Baboolal.

So I speak of the dynamics of the benches here and the way in which the debate has played out, and indeed as my colleagues here on the Senate Bench tell me, plays out every week, on a weekly basis when the Senate sits. The dance—you know, we talk in the House, we talk about we do the dance, and that is to say, we decide who would speak after whom. When we go to caucuses we will say, “Well, who will speak?” We say, “Okay, I will prepare, I will prepare”. But then who should speak for the second, third, fourth? We say we do the dance on the floor. What does it mean? It is depending on what comes from the floor, then you will decide whom would be best suited to respond.

In the Senate, however, on the first day we had to listen to two persons. Unlike the House, first the Opposition Member, then the Independent Member and then a Government Member will now have to respond to two persons at the same time. In the House the dance is one and one normally. Just one on each side, and the dynamics of that have been most interesting to me. Really, I said I came from the Senate before, but I really do not want to, in any way, upbraid what I saw and heard in this particular Senate of the Tenth Parliament, but there are few comments I would like to make as I thank you, Members of the Independent Bench. Because while it is the Opposition did not come up with a single idea, or proposition as to the way forward—indeed it was what Mr. Dumas said in his article, they did not propose any way forward, any suggestions apart from condemn, condemn, condemn, condemn. [*Desk thumping*] I was very happy that from the Independent Bench there were suggestions made. There were suggestions coming forward from several.

I think the comment made by the hon. Sen. Small when he said, “We are going into uncharted waters”, that is so totally true. It is so totally true. The very reasoned and balanced comment came from Sen. Vieira. I appreciate that the Senator took the time to research and gave us a very balanced reasonable approach [*Desk thumping*] which we can consider, and even gave in his own way suggestions.

Hon. Sen. Mahabir has come up with a very interesting suggestion which we certainly will give consideration to at the committee stage. Hon. Sen. Wheeler had his own concerns and spoken from a Tobago perspective and the perspective of his patients. He said he has been speaking with his patients and they told him make sure and do the right thing. Hon. Senator, as your conscience dictates, I am sure you will do the right thing and so I have nothing further to say with respect to your contributions. There are some points of it that I did not agree with, but you are entitled to your view. Sen. Balgobin also came up with a suggestion and, again, we thank you and we will consider it at the committee stage.

Sen. Drayton, you know, I am a great fan of Greek mythology, and therefore, when I heard of the Trojan Horse I was reminded of the face that launched a thousand ships, none other than Helen of Troy. [*Desk thumping*] I could not help but ask, like the hon. Attorney General, who are the Greeks contained in the belly of the horse. And if you remember the mythology, you remember that story, you will know that the war came because the Trojan prince stole the wife of the King's brother. [*Interruption*] Thank you very much, Sen. Faris. Stole the wife of the brother and so on, and they launched a thousand ships and went across to Troy, and for 10 years they waged war and they could not reach the walls. So what did they do? They left a gift, the Trojan Horse, that the hon. Member spoke of. That analogy in my respectful view is not real. It is a false analogy.

You know, when we talk about perspectives in logic, logic and arguments, with due respect, Madam, I do believe it is a false analogy because I cannot see who are the Greeks or who are the Trojans in this regard, and I am not seeing who has been stolen, whose wife was stolen or was not stolen, and I cannot see, above all, the face that launched the thousand ships. [*Desk thumping*] I cannot see it. So, war ensued and the Greeks hid in the horse and that was the way they were able to gain a victory. So, hon. Senator, you made some other comments which I will certainly take on board, but I could not resist the temptation because I really loved that story, Helen of Troy and the Greek guys who were there, Achilles, Hector and Paris and these guys. Really wonderful reading.

Sen. Abdul-Mohan, I thank you for your comments. I appreciate your honesty and your candidness, as that of Sen. Le Gall. [*Desk thumping*] Sen. Roach, I thank you for your very honest and very strong comments, but I do want to say, I have been in politics for 26 years and if my memory serves me correctly, in that 26 years I have never heard an Independent Senator say, "Call elections now". [*Desk thumping*] I have never, never heard an Independent Senator, and if I am wrong, I stand to be corrected.

**Sen. Hinds:** Is that an attack?

**Hon. K. Persad-Bissessar SC:** Oh, please! I am making my observation. I have never in those years—[*Interruption*]

**Sen. Hinds:** Is that an attack?

**Hon. K. Persad-Bissessar SC:** We will speak of attacks in a moment, hon. Senator. We will speak of real attacks. I have never heard, and therefore, the hon. Senator must have been very strong and passionate in his views, that he did not support these reforms and I respect the hon. Senator for that.

As I say, all Senators, I may not agree with most of the things you said, but that is the role you have been given and we respect those. [*Desk thumping*] So, I speak of the dynamics here, of the Independent Bench. I speak of the Opposition Bench, and once again there were no surprises. Absolutely no surprises coming from the Opposition Bench. The usual rhetoric, that of fear, that of self-righteous indignation and that of misinformation.

Some of my colleagues have already dealt with some aspects of this attack, this sustained attack, and therefore, we see the subliminal fear component—others have spoken—to link the vote of an Independent Senator with being the cause of the coup of 1990. Nothing, no reasonable, no fair-minded citizen can conceive of the vote of an Independent Senator causing the coup in Trinidad and Tobago. But you see, that was the subliminal message to paint fear, to create fear in the minds of the public. I doubt Independent Senators here will be so “jumbied” as we say, will be so fearful by such a comment, and we saw the intimidation.

Again, others have spoken on it, but, you know, today I really—I heard the Senators yesterday when they talked about being booed and so on, attempts to intimidate when they attended the Parliament, and it is with great disbelief that I sat in this Parliament today and heard the hon. Sen. Hinds condone that behaviour. [*Desk thumping*] Came to this Parliament to say it is all right to protest and so on.

Now there is nothing wrong in protest, but, you see, Mr. Vice-President, we can speak about when and where. Where is the rule of law? Where is the rule of law in this country when a Senator can come to this Senate and condone that behaviour outside the Parliament to intimidate and terrorize people coming into Parliament? [*Desk thumping*] And whilst our Standing Orders do not give the flesh onto all the bones, the framework is there. The Standing Orders provide for privilege Motions, Mr. Vice-President, and what are the privileges of this House? What are of the privileges of this Senate? And for any one of us carrying out our duties as we are entitled to do under the Constitution, we can go to the May’s for some of the flesh that is on the bones of the framework in the Standing Orders and I refer to the May’s *Parliamentary Practice* which is the 24th Edition, 2011. I go to pages 262, 263 which talk about “Molestation, reflections and intimidation”. It says:

“It is a contempt to molest a Member of either House while attending the House, or coming to or going from...”—the House.

I will repeat it.

“...a contempt”—it is a breach of parliamentary privilege—“to molest a Member while attending the House...coming to or going from it...”

It continues:

“To molest Members on account of their conduct in Parliament is also a contempt.”

So while some Members here may have expressed certain views, and on their departure—so you are coming and you are being intimidated, molested and booed and so on. And then because of your conduct, when you are walking out you may have said certain words, again you are molested, attempts to intimidate, and this is also a contempt. Very clear here, Mr. Vice-President.

So I take great umbrage to the hon. Member condoning that behaviour to say it is all right to protest. Minister Marlene Coudray and others spoke about—*[Interruption]*

**Sen. Hinds:** Mr. Vice-President, point of order, if I may, and I come under 35(5). I am being accused by the Prime Minister of condoning, which to my mind means accepting behaviour that is morally or legally wrong, and I did no such thing. And I want the Prime Minister to withdraw that, with great respect.

In fact, I was expressed in saying that I did not condone that and this could be checked in the *Hansard*, and until such time I am asking that the Prime Minister withdraw that serious allegation against this Member in this place. *[Desk thumping]*

**Mr. Vice-President:** Therefore, I did and in fact sit here and I heard you make your contribution, and you said it was the rights of those people out there to do what they are doing. *[Desk thumping]* You said that. Yes, you did.

Therefore, there is nothing to—*[Crosstalk]* Hello, would you please sit on your chair, please. We have sat here for three days and apparently today is the worst of the three days that we have. While we welcome you here, I am saying that there is nothing to withdraw. *[Crosstalk]*

**Sen. Hinds:** What is this here?

**Mr. Vice-President:** No, I am saying we welcome you here, but this is the first time that out of three days we have had so many problems. Prime Minister, please continue, there is nothing to withdraw. *[Desk thumping]*

**Hon. K. Persad-Bissesar SC:** I thank you very much, Mr. Vice-President. Here we are today, others would have spoken about in previous times when

persons protested outside the Parliament. There was talk of Mr. David Abdulah, a former Senator being arrested outside the Parliament when they protested outside the Red House. We have had several examples where we have seen people being shut up, arrested and charged. I have been told that from yesterday's proceedings and Monday, the protestors outside, that no one was charged for any such behaviour outside the Parliament. And so, that too, is an exercise in democracy.

### 7.00 p.m.

I got a text whilst we were here, and the hon. Senator was speaking, where someone asked me to please also speak for those UNC supporters who really came out in large numbers outside the Parliament, and who behaved very peacefully, held up their placards, booed no one, intimidated no one, harassed no one, kept together—and they asked me please, as their leader of the UNC, to say thank you to those supporters. [*Desk thumping*] I talked about the dynamics of this bench and so—[*Interruption*]

**Sen. Hinds:** When they put on red jersey and carrying around racist placards, that was all right. That was all right too.

**Hon. K. Persad-Bissessar SC:** I spoke of the dynamics of this bench of this Senate. [*Crosstalk*] You know, I will speak with you, Mr. Vice-President.

The dynamics of this House—Government, Opposition, Independent and I have spoken a bit of the Independents—let me speak of the Government Bench now. This is the first time, Mr. Vice-President, that you have a government which is seeking to advance from promise to concerted effort to the present moment where we are keeping promises to the people. These are promises we made.

In fact, it was the hon. Leader of the Opposition, you know, back in February 2012, there is an article in the—I believe it is the article in the *Guardian* of February 02. This is what the hon. Leader of the Opposition had to say, Dr. Keith Rowley:

“It has been more than 18 months since Government is in office yet there are no moves by Prime Minister Kamla Persad-Bissessar to fulfil election promises for constitutional reform, the right to recall, as well as procurement procedure modification.”

It continues and I am quoting:

“Rowley encouraged his supporters to be loyal and he also made time to ask students about their future goals. At the meeting, Rowley slammed Prime Minister Kamla Persad-Bissessar, saying she had promised a two-term maximum limit to public office, yet no attempt had been made to do that. ‘We

await their proposals on reform of the Constitution. They said once they get into office they will begin reform of the Constitution but this has not happened. Night and day she is campaigning to stay in office forever,' Rowley said."—Night and day she is campaigning to stay in office.

So here it is since 2012, the hon. Leader of the Opposition said where are the reforms you promised? Where are the reforms: the right of recall and the term limits? And when we brought them, the hon. Leader of the Opposition, I do not know if he paid for the broadcast, but in a broadcast to the nation condemned the both measures and the run-off. [*Desk thumping*] Condemn the fact that—he was saying there was no need to have term limits. After all, the father of the nation—well, he did not use those words—but the hon. Dr. Eric Williams, of course he stayed there for 25 years, nothing is wrong with that, and there he says I am campaigning to stay here forever.

I want to share with you, and the AG and the CPC department will tell you, when they drafted this Bill for the term limits, they drafted it in a way where time will count prospectively, that is, as the law forever speaking in the future. In other words, term limits for me will not accrue until the law became law—this became law. So the time that I would have served in the past would not be counted. That was the first point. Secondly, the commission had recommended that any Prime Minister, term limited, could be term limited but could return after a break of one term. I instructed the Attorney General and the CPC to remove it and to say that the time for term limits for me will count from since I came into office in 2010. [*Desk thumping*] If you look at the drafting, you will see the clause is very specific—there are two clauses in it—that time will begin to count from when I started to serve.

Do you know why? When we campaigned in 2010, there were many promises we made and one promise was the term limit for the Prime Minister, the other was the right of recall, and we went on platform after platform, and we got what?—over 400,000 votes. How can I break that promise today because there may be some of us who think it is the wrong thing to do, who think we could keep a Prime Minister for 25 years or a THA person for 16 years? That is okay. Maybe the THA reform process may look at whether you want to have a THA leader for 16 years, but we promised and that promise having been made, we were intent to keep those promises to the people. [*Desk thumping*]

I have already said that in 2015, the very electorate, the very people, they will have the right to decide, whether they want these provisions, whether they want to put us back in office or whether they want to put another party in office. Sen.

Camille Robinson-Regis, she is not here today, but she said yesterday that should the PNM go back into office, they will repeal all these amendments if they become law, and then it will be for the electorate to decide. Will the electorate then say we do not want the right to recall MPs, we do not want term limits for the Prime Minister and the run-off?—which I shall come to which is a little more problematic. That will be the issue when we go into 2015, because they have signalled clearly that they will repeal any such amendments for recall.

If you walk out in the ground, the people and the voice of the people, you said the people are against it, the people are against it, the people are against it, 400,000 people voted when we promised recall, [*Desk thumping*] when we promised term limits, they voted. So yes people are entitled, there are different views out there, some are saying yes, some are saying no, and you tell me they are the people, yes, they are some of the people, but we made a promise on which we got over 400,000 votes, we will keep that promise.

I want to quote something from Barack Obama which is instructive for us in terms of what is happening now. He said:

“Democracy in a nation of 300 million can be noisy and messy and complicated. We have our own opinions. Each of us has deeply held beliefs. And when we go through tough times, when we make big decisions as a country, it necessarily stirs passions,”—and it—“...stirs up controversy.”

True or not true? Is that not what is happening now?

**Hon. Senator:** Yeah, true.

**Sen. Ramlogan SC:** Of course.

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

“That won’t change after tonight”—

He continues:

“—and it shouldn’t. These arguments we have are a mark of our liberty...”

[*Desk thumping*] So we have the different views, we have passions stirred up and so on, and that is why they mock me when I say vox populi vox dei, but the vox populi vox dei I am speaking of is the collective vote and voice of the electorate. [*Desk thumping*] It is not the voices of some who gather outside here, it is not the voices of some who gather on this side of the Parliament, those are but some of the voices. That voice, I am saying, will come back into play in 2015.

And when I said, listen, I will go into the political battlefield and I am prepared to face political hara-kiri, political suicide. I am prepared to do that because I promised, I will deliver on that promise. I am prepared to do that

because, you know why? I trust the people of Trinidad and Tobago. [*Desk thumping*] If it is they do not want me or this Government, that is their right.

**Sen. Hinds:** They do not.

**Hon. K. Persad-Bissessar SC:** That is their right. And one lone voice crying like a wolf in the wilderness is not the voice of the people. [*Desk thumping*] So I trust the people. The people are more mature than some of us give them credit for. And they talk about, oh, in the 15 days between the first poll and the second poll, wow, all kinds of mayhem will take place, fire and brimstone will rain down from heaven. All these things will happen in the 15 days.

Remember you have a first poll, eh, the date is announced five weeks in advance. Many of the arguments being used against the second poll can also be used about a first poll that you will try to utilize the resources—a lot of things—about offences, people trying to bribe people and influence. All those offences are there for the first poll, Sen. Vieira. They are there for the first poll and the second poll, and so what would happen in these 15 days? And they say, well, St. Joseph and Chaguanas West and so on, what happened? You think the people were stupid? The people voted in spite of all of that.

So when you said the Government tried to influence the election in a certain way, the people said, “No thank you very much, I will take your road and your bridge but thank you very much, I do not want you” and they voted against the candidate in both, so the people are not stupid. Our electorate has advanced so far now. And when you talk about some of you—I think some Senator said there will be a low voter turnout if we have a second poll. The AG has shown that there have been statistics in other places which show otherwise.

But, you know, I think our electorate is politically charged, they are so politically charged, we have one of the most sophisticated electorates. We have people anywhere you go—tell me if it is not true. You go in a carnival fete, they talking politics, you go to church, they talking politics—anywhere—in the maxi taxi, on the bus, rum shop—anywhere you go—in the snackette, in the roti shop, in the bake and shark store, you know, it is politics. Sometimes I just stay home, lock my door and say I am not speaking to anybody. I am not answering the phone to just anyone, only in emergencies. As an elected representative and as—you are served, you mentioned it. You said “you go in yuh barbershop, they asking yuh.” I think, Sen. Balgobin, wherever you went. You told me, Dr. Wheeler, your patients, imagine they are sick, [*Laughter*] but they coming to see you as a doctor and they say, “Boy, do the right thing”. We are so politically

motivated and charged that you see they get a second chance out there, they are going out there to vote. There is no lower turnout in my respectful view.

And so we have some of the other comments with respect to the run-off. If I were to group the concerns rather than cherry-pick one at a time, there are three areas of concerns that have come forward here and indeed in the other place and from the public comment in the newspapers—the commentators and so on. Those three areas are the legal concerns, the process concerns and the content concerns, and we could consider each of these in seriatim at this point in time as fast as I can.

The legal matters, by and large, had been dealt with by the hon. Attorney General and others, and in fact, Sen. Vieira today stood up and said look, his respectful view is that it does not require a special majority but indeed a simple majority. But the hon. Senator went on to something else which is also very fundamental when he said that yes that may be the letter of the law—if I may summarize—and therefore we have to look at the fundamentals around it and the philosophy underpinning it. And, yes, you were talking about the spirit of the law and the letter of the law but in terms of that majority—the special majority versus the simple, I think it is clear from former Chief Justice de la Bastide, from the Chairman of the EBC, Mr. Masson, Senior Counsel Martin Daly, Ken Lalla and several others including your Queen’s Counsel, and of course, the distinguished attorney-at-law, Sen. Vieira, has also said simple majority.

But, you know, I understand this concept of the letter and the spirit of the law. Our Constitution allows us that should a Senator not be able to attend the Parliament—and they have only two reasons: one being that you are out of the jurisdiction or you are ill—then a temporary Senator would be appointed. Yes, that is the letter of the law. Today, we have seen a reinforcement brought in with the troops, either it was the Greek or the Trojan troops [*Laughter*] but in the form of a—Sen. Fitzgerald Hinds has come in as a temporary Senator replacing Sen. Robinson-Regis who spoke last night and has contributed too. Yes, the Constitution permits it, but let us speak of the letter of the law and the spirit of the law.

You know, we have 15 Government Senators. You know what we could have done? Start with every single one, and would that be in the spirit or the letter of the law? The law allows it, but would it not be an abuse for I to decide, listen, Garvin, you have to go to Barbados tomorrow, you have to go last night, when you finish, go first thing this morning, you have to go. I am sorry, Attorney General, you are working too hard, you have fallen ill, and therefore, we could take it ad nauseam.

**Mr. Vice-President:** Madam Prime Minister, for the purpose of the record when I came in this morning, I was informed this evening, and therefore I found out from the Clerk on what basis, and therefore it was explained to me of which Sen. Hinds of himself, after he spoke, he came right here, and he told me that he got an email here and some attorney is questioning him why did he speak when six of them had already spoken.

So, I told him that based on the advice that I received, he is a Member of Parliament, and in light of that, he has the right to speak. Whilst the Constitution provides that there will be six opposing Senators, it does not speak in terms of who have the right to speak when you are a Member, it does not say six have to speak. And you were quite satisfied and I was also. Therefore, I thought I should put that on the record.

**Sen. Hinds:** It has happened many times before.

**Hon. K. Persad-Bissessar SC:** Thank you, hon. Vice-President. I am saying that I agree that that is the letter of the law, but even the letter of the law can be stretched where we could have had people—[*Interruption*]

**Sen. Ramlogan SC:** We could play musical chairs.

**Hon. K. Persad-Bissessar SC:** “Yeah, it is ah kinda musical chairs.” But I am not disputing that the Constitution allows the hon. Member to speak as well as to vote in this debate. I am pointing that—well, I do not want to keep using our good friend as the benchmark.

**7.15 p.m.**

You can take the letter of the law and stretch it ad nauseam into absurdum, until it becomes reductio—what is it?

**Hon. Senators:** Reductio ad absurdum.

**Hon. K. Persad-Bissessar SC:** Legal then, legal issues—the time goes so fast when you are hearing yourself speak. I am not so sure it goes so fast when the others are listening. There was some confusion—this simple special majority—on the part of hon. Senator, I think it was Sen. Al-Rawi, who mixed up the issue of a three-fifths majority for the enactment of certain legislation, inconsistent with sections 4 and 5. Now, we know if you have breaches of sections 4 and 5 you have to go and get within that—I think it is 13 or 14 talks about having a three-fifths majority.

**Hon. Senator:** Section 13.

**Hon. K. Persad-Bissessar SC:** Section 13, having a three-fifths majority. Okay? But what is happening here—as the AG would have explained and we again could share with you—is that you do not have a breach of any section 4 and 5 right. And, therefore, the three-fifths quota majority is not called into play. What we have is changing of the Constitution, amending the Constitution. We are amending the Constitution, and that is allowed, as Sen. Vieira pointed out, in section 54 and tells you which specific ones you need the two-thirds, you need the 75 per cent and so on.

How, I ask the question, is giving people an additional vote to choose a candidate an infringement of any section 4 and section 5 rights? No, it is not any such breach and neither giving somebody another vote for the recall is a breach of sections 4 and 5. You know, in fact what you are doing is giving people additional votes. You have a vote, one, at the first poll, which you have right now, but we are expanding your rights. You are getting more votes. [*Desk thumping*] I heard several persons in this debate say: “you know what is happening, you are taking away my right to vote for the person of my choice and so you are taking away my rights.” We are giving you two more votes. If you wish, you are not forced to vote like in some countries where it is a compulsory vote. So no right to vote is being taken away, but instead we are expanding or adding to your right to vote as you vote in the first past the post, with this refinement down the road.

And on the same legal matters I think also there was a misunderstanding between the proroguing of the Parliament and the dissolution of the Parliament. Again, hon. Sen. Faris Al-Rawi on what is to prorogue and what is to dissolve: anytime a Parliament is dissolved, a caretaker government is put in place; if a Parliament is prorogued, the Government continues. We prorogued just recently and we came back for the next session. So, hon. Senator, I think there was a little confusion in your contribution with proroguing and dissolving. So once we dissolve a Parliament, what happens?—the caretaker kicks in until a new Prime Minister is appointed.

In our Bill, we are proposing that should there be a clear majority winner and the President gets a clear leader of that 21-plus, appoint a Prime Minister. Do not wait for the run-off. In the event that you have some disturbances, you wait for the run-off. And we saw that in the 18/18. Mr. Robinson waited for 14 or 15 days, did not bring any Gaza Strip and Palestine and Congo and all these other places that we are speaking of. It did not happen. So, those are some of the legal issues that were raised.

The second issue had to do with process, and this is the one, I think, that created a lot of concern from our Senators here. First of all, let us appreciate that

the commission that was established was a ministerial commission. I think that is important to establish, because concerns are being raised about a Minister chairing the CRC and, therefore, impugning, now, the integrity of the process. Others have already spoken where it was that, I think the former Prime Minister was, in fact a de facto chair of that particular set of discussions. I think Dr. Tewarie pointed out for the '76 Constitution, again, where Dr. Williams was the person. So, first of all, there is precedent.

Now you may say all those things took place but never came here and was never adopted into law, for all these others where these people chaired. But, you see, giving a Minister responsibility is one way to make sure it gets done. So after all the talk, it comes back to the Cabinet, the Minister has a duty and responsibility. That is the responsibility of the individual Minister, to bring it back to the Cabinet, let the Cabinet look at it and then we decide as we go, and that is what happened.

So the persons on the commission are advisory to the Minister. It is a ministerial commission. That is the first point I want to make and that we accepted those recommendations coming before the Cabinet. We did not decide to do these three. I am hearing people say bring one omnibus Bill, one comprehensive Bill. Do you know what would happen? Nothing. [*Crosstalk*] Yes, persons did say it, you probably did not—bring an omnibus Bill, and so on. Look, I would not go into the *Hansard* records, but there are persons sitting in this Chamber right now, when the two constitutional Motions were brought before. There were persons sitting here now, I have it here somewhere, the *Hansard*, they said: “look, you do not have to bring all of it, but we know that we need some now, let us bring it.” And that is what the commission said. They said: “look, bring these three pieces now, which need a simple majority and which, really the drafting was complicated, it is not as complicated—if we have to do proportional representation.

You know, when I saw how long we took, days and nights, just to draft this, and I am not a draftsman but I was very involved in the drafting, can you imagine how proportional representation—so we got that report, yes we are working on it, yes we will bring referendum. And one Senator asked me, he said: “why do you not have a referendum before you do this? Well, to have a referendum we would have to have a referendum first, because the Constitution does not provide for referendum. We will have to come here, get the special majority to get a referendum to go back out there. Do you know what you are talking about? “I dead by then.” Fifty years would have gone. When I say “I”, we, many of us would not be here. Bring all of this in one Bill.

Now, what we have is all these suggestions in a policy document. That policy document has to be reduced into the legislative document and it is going to take us time. Referendum is there as recommended. Proportional representation is there, recommended; strengthening the office of the DPP, the Judiciary, they are all in there. We got that report December and then July. And, therefore—*[Interruption]*

**Sen. Ramlogan SC:** And you use the results of the first poll for PR.

**Hon. K. Persad-Bissessar SC:** Yes the PR is being recommended using the first poll, so there is no conflict with what we are doing now. The first poll to be used for the proportional representation for Senators to be appointed. That is the recommendation in the CRC report. So, these will come, but they will take us time.

Now, do I then wait for us to draft all of these? I am saying we may not be here. You may not be here, some of us. Because 50 years we are trying to do that, Wooding, Hyatali and all the others. So let us take these, go with it. I think Dr. Tewarie used very wonderful words, “the art of the possible”. *[Desk thumping]*

On the process now, more consultations, more consultations. Yeah? You know, let us look at our neighbours right here in the Caribbean in Caricom, St. Vincent and the Grenadines. For six years they held consultations. After the consultations they drafted a reform Bill, based on the six years of consultations. And then, when they brought the Bill, the Opposition said—before they even read the Bill after the six consultations— vote no against the Bill, vote no. Now their Constitution permitted the referendum and they said okay, let us have the referendum, vote no. The consultation idea was being used as a political tool to delay and to prevent any reform from taking place.

So the idea of more consultations, I want us to note, amongst those calling for more consultations, many of those persons, whilst asking for more consultations and the delay, at the same time—simultaneously—they are arguing a case to reject the proposal. So give us more time and at the same time they are saying: “no, we do not agree but give us more time. We do not agree.” So, I see it is like a yellow light waiting for a red light to stop you. The delay is like a yellow light, hold on, hold on, and you are stopped at the red light and nothing, nothing gets done, no process gets done, nothing is done. *[Desk Thumping]* Fifty years, seven commissions later this is where we go. Process yes.

There are some concerns about the attendees—yes I am seeing the time. Senators raised issues about whether it is the same people who went five times or 10 times and how many went and did not go, and so on. Well, first of all, it is not

true that only the Government supporters attended. I know that for a fact, even with the pictures. If you did not see the report, you will see the pictures, and there is some kind of register, and so on.

But anyway, that is one point. But I see something very strange happening, Mr. Vice-President, in this country. They are saying that it is only Government supporters went. I have heard people referring to Government supporters as if suddenly after the election and these people voted for the Government that there is a bank of people in our country who have now become disenfranchised [*Desk thumping*] that they must not say anything, they must not do anything. “Because yuh know why? Doh worry with them, they are Government supporters.” It is like you are saying to these 400,000 people who voted: “you are not entitled to sit anywhere, you are not entitled to sit on a board, you are not entitled to get a contract, you are not entitled to speak, and look now, doh go tuh no consultation because they say is only Government supporters.” I am just reducing it to the ludicrous, to show this principle and this concept that Government supporters are now like—what is the word—*persona non grata*, pariah, do not come around. So, I think we want to be a little careful about that. As you say, after all, they are folks too, just as the Opposition persons are folks too, and so we must represent all of the people of Trinidad and Tobago. Let us give respect to process eh. [*Desk thumping*]

Run-off elections, constituency funds, those are some of the areas raised, and we could talk a little more about that. We have here, with run-off, the commission said we are seeking a fairer method of refining this first past the post, a fairer method.

I have dealt with the issue of the right to vote. That is not true. Your right is not being taken away. It is being added to. It is being expanded.

Lower turnout, I have dealt with that. The issue of stability. And again, we talked. One Senator spoke about unsettled democracies and, therefore this run-off is an unsettled democracy—I need the list—and mentioned the Congo and the Middle East. But what about the other well-known, mature democracies which, these countries, the Attorney General listed where you have run-off elections? France, I know a Senator spoke—[*Interruption*]

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

*Motion made:* That the hon. Minister’s speaking time be extended by 15 minutes. [*Sen. The Hon. G. Singh*]

*Question put and agreed to.*

**Hon. K. Persad-Bissessar SC:** Thank you, Mr. Vice-President. On the issue of stability and the fact that unsettled democracies—but I think whilst we do that we want to remember that there are very many settled democracies which also have the run-off position. So let us not get carried away, it is only the Congo and Belize, and so on, dealing with this run-off and, therefore, we should not have it.

At the same time, look at the contra argument. There are many unsettled democracies which also have the first-past-the-post system. So should we abandon first past the post because it may be found in unsettled democracies? With the greatest of respect, without being disrespectful, the argument does not stand up. It does not hold. So you have unsettled democracies where they are using run-off, you have unsettled democracies where they are using first past the post. Therefore, abandon all and do what? ProportionAL representation. But we have Guyana right now with proportional representation in trouble, standing to be blacklisted because the Opposition and all passed the law that Minister Gary Griffith mentioned for the FIU and FATEF, and so on. So, as you said, there is no perfect system. We just have to go forward.

On this issue of unsettled democracy, I will never, never class Trinidad and Tobago as an unsettled democracy. [*Desk thumping*] We have a very, very peaceful regime change. We have had several elections and we have not seen the kind of violence erupting, even in the 18/18, which was a time that could have been really disruptive, if there ever was a time, even then. So we have a history of very peaceful regime change, and we have a lot of other good things going for us.

I think—again Sen. Vieira your name is calling a lot. Maybe you spoke today. But you talked about Trinidad could be a paradise. I am saying Trinidad is indeed a paradise. It is. [*Desk thumping*] And when we say it is a divided country, I do not agree. What I would say is we are a diverse society, but we are not divided. [*Desk thumping*] That is why the mosque can stand next to the temple and next to the church. And that is why whether it is Divali, Eid, Christmas or Easter, we go into each other's homes. We share together in the festivities and the joy. So I will not agree with the view that we are a very divided country, and I do not agree with the view that we may be an unsettled democracy. Those two, with the greatest of respect, I would say that we are a diverse society and we are very unique and very proud that we are so diverse. Are we not?

**Hon. Senators:** Yes. [*Desk thumping*]

**Hon. K. Persad-Bissessar SC:** We are proud of that.

**7.30 p.m.**

You know, when I held the national conversations with some young students about the Nurses' Academy and other places, and I asked, what are some of the things you are proud about Trinidad and Tobago? That was one of the things that they said, that we are so unique in having that diversity of people whilst, at the same time, tolerance and unity of purpose, and I hope we can continue in that regard. So that takes care of the issue with unsettled democracy, I think.

The 15-day period, I have dealt with that. The issue of third parties, I think Sen. Griffith did a very good job with respect to third parties. And you know, what is the reason for being a third party? A third party when it comes into being, why do they come into being? I made the point and I want to repeat it. They do not come in, to come in third, they enter into the fray to come in first, and I think again, I think you mentioned about the medals. There is no bronze medal in this race, there is no bronze medal, but there is a gold and there is a silver. The gold medal is that of the Government, the silver medal is that of the Opposition, that is the present first-past-the-post system. Sen. Balgobin said, "if yuh see yuh doh get through on dat first past the post", what did he say? "Suck salt, yuh suck salt. Dai's de end of you", that is the end of it. But now there is a chance which may be a glimmer of bronze, where the third parties are being given this opportunity to get a second chance with the run-off. [*Desk thumping*]

Should we consider the amendment moved by the hon. Sen. Mahabir, perhaps we would be giving third parties a greater opportunity, and a chance to earn the bronze or earn the silver or indeed earn the gold medal. So those are the areas within the run-off and the third parties—I have talked—all the countries that have them and so on, there are enough of them.

I dealt with the issue of the—[*Interruption*—yeah, I would not bother. I think that point is well made and has been done by the AG. Many of the speakers before me have dealt with several of the issues.

I want to talk about the issue of calling elections now. I want to give you the assurance, elections are coming, they will come. Elections will come when they are constitutionally due, [*Desk thumping*] and these elections, as you know, are predicated also on a promise we made, another promise we made, and that was for fixed election dates. So there will not be the angst that we do not know when an election will take place, that I am telling you, the Bill for fixed election dates is presently before the Cabinet for consideration, [*Desk thumping*] another promise we made, we will attempt to honour that promise. In the meantime, I will operate within the parameters of the Constitution with which we have at present until or unless those are amended.

I also repeat further that the Minister, the hon. Member for—the hon. Senator—has already said that the PNM will win regardless of which system will be used for the next election. And, therefore, there is no way we can steal an election. [*Crosstalk*] Also, that you will repeal these amendments when you come into power. So there is nothing to fear. The people will decide in the next round, whether they want to repeal or whether they want to keep fixed terms, whether they want to keep recall of Members of Parliament.

The constituency development fund—43-34, nine minutes—the constituency development fund, I think one Senator became very upset about this constituency development fund—

**Sen. Hadeed:** Bombshell!

**Hon. K. Persad-Bissessar SC:** Bombshell, oh yeah, that was the bomb. [*Laughter*]

**Sen. Hadeed:** Undefined bomb.

**Hon. K. Persad-Bissessar SC:** Undefined bomb, yes. Constituency development fund, this is not a new idea. You know it is used in Jamaica? Jamaica has a constituency development—and we have been looking at this idea, I said since—in fact, since we were in Government the last time, the idea had come up, we went out of office and that was it. When we came back in, we had the research being done.

I want to thank, you know, the hon. Attorney General is to draft the legislation, but there are people who are behind putting forward the proposals. One of them was the former Member of Parliament, Mr. Justice Volney. He also helped us with the research, [*Desk thumping*] and Dr. Bhoendradatt Tewarie from the Ministry of Planning and Sustainable Development. [*Desk thumping*] So that has been there, and this is given more urgency now because of the recall issue. The MP will have some say; they will not spend the money, but they will have some say in where the moneys are allocated for expenditure within a constituency. What a far cry!

You know, when I was in Opposition just a few years ago, not a single road was repaired in my constituency. Not a single bridge was built in my constituency. Not a single project URP, CEPEP—what you call all, YTEPP, ETEP all the—what are they? CCC and TEST and all these acronyms, not one. Not me alone, no other MPs here [*Crosstalk*]—the Member for Chaguanas East is here—they will tell you; none.

So today, when I see and hear Senators on the other side talking about we are only fixing south of the Caroni, we are discriminating; nothing is further from the truth. [*Desk thumping*]

Sen. Al-Rawi talked about—first of all his numbers were wrong and I have all the budgets here, but again I will just hold them up, which I will share with him, [*Hon. Persad-Bissessar SC displays a folder*—all our budget statements. The number you gave—you spent how many billions, Larry? Three? [*Crosstalk*]

**Sen. Al-Rawi:** \$375.6 billion.

**Hon. K. Persad-Bissessar SC:** Three hundred and sixty billion. Oh, he told us three seventy-five. Well, look, I have done the total out of these, and I am willing for you to show me, outside of these budget statements, where you got your figures. We will talk about them.

**Sen. Al-Rawi:** No problem.

**Hon. K. Persad-Bissessar SC:** From this, it is \$223 billion, and you asked me, where did we spend it? We have done nothing. Where are my schools list? Schools, we have built over 71 school, preschools about—[*Desk thumping*] bridges, roads, drains, and it is not only south of the Caroni, Sen. Hinds. The highway building from San Fernando, from Golconda down to Point Fortin, goes through La Brea, goes through Point Fortin, those are not UNC constituencies. [*Desk thumping*] The highway we expanded to Diego Martin does not pass through one single UNC constituency. [*Desk thumping*]

The Valencia Bypass Road that is being constructed now, soon to be opened, the Nurses' Academy opened in El Dorado. Dr. Tewarie, something you did on Basilon Street a couple days ago and so on.

**Sen. Dr. Tewarie:** Forty-five projects there.

**Hon. K. Persad-Bissessar SC:** Forty-five projects for south-east Port of Spain; the primary school in Paramin.

**Sen. Ramlogan SC:** Laptops for children.

**Hon. K. Persad-Bissessar SC:** The laptops—I think—where is it, the hospital in Couva, I will like you just to drive along the highway. Yes, it is south of the Caroni,—[*Desk thumping*—but it is easy—you feel it is just—

Yesterday I was coming up from home, coming up from south, coming up here, and someone in my car, one of the officers, he said, you know, Prime Minister, people are saying, they said they are just seeing this building, the Couva

hospital and the aquatic centre is just growing off the ground, but they said they are not seeing a single worker, they are not seeing any workers, but the building is just rising and rising. The Couva hospital, the San Fernando Teaching Hospital, the aquatic centre—[*Desk thumping*] these are some of the projects. In Arima, we will start construction of the Arima hospital—

**Sen. Hadeed:** The police station.

**Hon. K. Persad-Bissessar SC:**—the police stations in Malabar, Piarco Airport, look, please. I will do that when we do the budget. I will go through these achievements. [*Laughter*]

So the PNM spent, you know, you said we spent how much? I can tell you where we spent it—\$213 billion in your five years, and what did we get? What do we have to show for it? We have to show a failed health sector. We show runaway crime. We show pothole-riddled roads, water shortage, massive flooding, recessive economy, out of control inflation, withered agriculture sector, World GTL, \$25 billion Clico crisis, \$1.5 billion owed to contractors and the Scarborough Hospital. We completed the Scarborough Hospital. [*Desk thumping*] So much more that we can say after the \$213 billion. So be careful how you ask for a report about the budget and how much money was spent, because we can give an account.

So, hon. Mr. Vice-President, as I come to the close of my presentation, there is just one other item, very quickly, I will like to raise, and this is section 34. You see, there are some, even in this House, this Senate, who said that this is like section 34, this could be a section 34. Look, let us face the facts eh, there are Senators sitting right now in this Senate—what was the genesis of section 34? Where did it come from? It came perhaps from the Minister who came to this Senate, but it was born in the Senate and passed by every Senator sitting in the Senate. [*Desk thumping*]

When it came down to the House, as is the practice when Senate amendments come to the House, maybe we have learned from that now. We usually accept Senate amendments because we have the greatest respect for the Senators sitting here, and they were accepted in the House without question, but as soon as it was brought to our attention, of the potential consequences, we moved immediately to repeal it. [*Desk thumping*]

And that is how, Mr. Vice-President, I can say today that not one single person has escaped from the law because of that section 34, not one. [*Desk thumping*] In the High Court and in the Court of Appeal, the Government won the

case and the section 34 [*Desk thumping*] was a valid repeal. So not a single person has escaped the long arm of the law. I heard a Senator here talking about people gone free in the courts and so on, not a single person. We moved with alacrity once it was brought to our attention and we repealed that infamous section 34, so we must be careful. Out there in the public domain, this is another section 34, this is another emailgate, this is the same, repeat, repeat, recurring decimals all the time.

I have not spoken much on the 34. I felt it important to tell you this could never be a section 34, this is to give power to the people, in the hands of the people—[*Desk thumping*] And that this is another emailgate, well, I think Minister Griffith and the AG and so on, and all of us have our lawyers ready and waiting to deal with those matters relating to emailgate, fabricated, total fabrication, Mr. Vice-President. [*Desk thumping*]

Finally, with respect to Tobago. We have been the only Government that has brought amendments to the Constitution to give internal self-Government to Tobago. [*Desk thumping*] So it is not true. The THA Act, who brought it? It was brought by the last UNC Government, [*Desk thumping*] and it was only last year or the year before. We brought the constitutional amendment to give Tobago internal self-government, what happened? The Opposition, in all its 50 years or 40 years of Government, never brought a single thing, they were the ones who shut it down in the House, let us remember that, [*Desk thumping*] whilst we cry.

I heard people mention Mr. Orville London came for consultation and so on. Mr. Orville London, with the greatest respect, came for those consultations because in the report from the constitution commission, they lamented the fact that the THA had no position on internal self-government, no fixed or given position. So they hurried up to come to hold the consultation. So, Mr. Vice-President, we remain committed to internal self-government for Tobago, we remain committed to that. We attempted so to do, was shut down by the Opposition in the House, but it will not deter us.

Mr. Vice-President, as I close, I once again want to thank all those who have contributed. I want to say I remain committed, and may I, if I could just quote Mr. Ralph Maraj, if I could find it, where he talks about—he talks about in today's newspaper, he talks about the staleness and taking the staleness out of—Thursday, August 28, just one moment, *Daily Express*, page 38:

“At the time of writing the Constitution (Amendment) Bill 2014 has not been passed but seems likely to succeed. If it does, the sun will not stop shining.”

[*Desk thumping*]

“Indeed it could remove the staleness from the politics of Trinidad and Tobago.”

*[Desk thumping]*

With those few words, Mr. Vice-President—Sen. Small, we go into uncharted waters, yes, we do, but I say, let us go together to carve a more glorious future for all of the people of Trinidad and Tobago, as we put power in the hands of people.

I thank you. *[Continuous desk thumping]*

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

**7.45 p.m.**

*Senate in committee.*

**Mr. Chairman:** Senators are you ready?

*Clauses 1 to 3.*

*Question proposed:* That clauses 1 to 3 stand part of the Bill.

**Sen. Al-Rawi:** Mr. Chairman, may I firstly enquire, as we enter into committee, I have seen something passed around here, being proposed amendments to this Bill, tabled in the name of the hon. Prime Minister. I am told that there are also amendments to be circulated by several of the Independent Senators. May I ask you to note, I have received, just a second ago, this piece of paper of amendments from the hon. Prime Minister? I only have this. I do not have anything from the Independent Senators. May I also enquire whether there is a track change version of the Bill itself to reflect the amendments that are being proposed now?

**Sen. Ramlogan SC:** Chair, if I may. These are the amendments that are proposed by the Government. We remain receptive to amendments during the course of the hearing at the committee stage and if anyone wishes to make any proposals, we are happy to receive them and treat with them.

**Mr. Chairman:** In furtherance of that, we have received an amendment from Sen. Dhanayshar Mahabir putting a position.

**Sen. Al-Rawi:** Is that the one from yesterday, Mr. Chairman?

**Mr. Chairman:** That is the one from yesterday.

**Sen. Al-Rawi:** Thank you, Mr. Chairman.

**Sen. Ramlogan SC:** May I have a copy, please?

**Mr. Chairman:** Do we have a copy of that to pass?

**Sen. Ramlogan SC:** The staff is coming.

**Sen. Al-Rawi:** May I enquire, Mr. Chairman, with respect to clause 2 of the Bill, which is the proclamation clause, does the Government have an indication as to when this will be proclaimed?

**Sen. Ramlogan SC:** The date for proclamation is a matter for the Cabinet and when a decision is taken by the Cabinet, that will no doubt be, in accordance with law, published and gazetted. So, that is the answer there.

**Sen. Al-Rawi:** So, there is no estimated time, hon. Attorney General. I am asking this because the hon. Prime Minister raised, a moment ago, the issue of the unanimous passage of section 34, as opposed to its proclamation. So proclamation is a very sensitive point for us in the Opposition because we certainly did not proclaim section 34. So the proclamation issue and when the Government intends to operationalize this law, if it is passed, is of concern to us.

**Mrs. Persad-Bissessar SC:** Certainly, we will do so as soon as we can. We do not even know if it will be passed here. We will find that out soon. Having accomplished or not accomplished that task, we will then decide what we do at the Cabinet level. So, it will be premature for us now to indicate a proclamation date on something that we are not even sure is going to be passed in this Senate, given, of course, your own contributions against it.

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

**Mr. Chairman:** The question is that clauses 1 to 3 now stand part of the Bill. Those in favour say “aye”. Those against, say “nay”.

**Sen. Al-Rawi:** I am sorry, Mr. Chairman, forgive me, eh. I know we want a breadth of decisions. With respect to clause 3, which is the section of the Constitution which requires the statement “as an Act altering the Constitution”, hon. Attorney General, is it at all your contemplation that this thing should receive a three-fifths majority, at barest minimum?

**Sen. Ramlogan SC:** No.

**Sen. Al-Rawi:** Thank you, Mr. Chairman.

*Question put and agreed to.*

*Clauses 1 to 3 ordered to stand part of the Bill.*

*Clause 4 ordered to stand part of the Bill.*

*Clause 5.*

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

**Sen. Drayton:** I am not too sure whether I am under clause 5 or clause 6 here, but this is the stage, probably, where I can speak with respect to the recall or is it too early? Does 5 deal with recall?

**Sen. Ramlogan SC:** No, on 6.

**Sen. Drayton:** So we are on 6?

**Sen. Ramlogan SC:** Yes, 6.

*Question put.*

**Sen. Al-Rawi:** Division.

*The Senate divided:* Ayes 19      Noes 10

AYES

Singh, G.

Coudray, Ms. M.

Ramlogan SC, A.

Howai, L.

Griffith, G.

Hadeed, G.

George, E.

Karim, F.

Tewarie, Dr. B.

Moheni, E.

Ahmed, Mrs. R.

Ramnarine, K.

Smith, Miss K.

Nicholas, G.

Balgobin, Dr. R.

Mahabir, Dr. D.

Small, D.

Abdul-Mohan, Rev. J.

Solomon, D.

NOES

Al-Rawi, F.

Henry, Dr. L.

Baldeo-Chadeesingh, Mrs. D.

Cudjoe, Miss S.

Singh, A.

Hinds, F.

Drayton, Mrs. H.

Wheeler, Dr. V.

Vieira, A.

Roach, HRI

*Dr. Sharon Le Gall abstained.*

*Question agreed to.*

*Clause 5 ordered to stand part of the Bill.*

*Clause 6.*

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

**Sen. Drayton:** Chair, I want to make a couple of suggestions here. In my contribution, I indicated that I felt strongly that a Member of Parliament ought to have some hearing or some form of due process, given the keenness of political activity, particularly in marginal constituencies. So, I wanted to suggest three matters for consideration and the first one is that when the two petitioners first approach the Elections and Boundaries Commission, that the Elections and Boundaries Commission immediately notifies the Speaker, but also the MP, who the complaint is made against because I think the subject of recall, that MP has every right to know that a complaint has been lodged.

The second suggestion I had here was that to avoid a situation where, in the gathering of 10,000 votes, it is dragged out over a very long period of time, creating possible situations of disruption in the persons going around to collect the votes, that a restriction be put for a period of eight weeks for which these votes must be obtained and that, at that stage, when it has been sent to the Elections and Boundaries Commission for validation, this is where it would trigger a notification to the Speaker and the purpose of that is that the Speaker can have a period of 21 days, giving the MP an opportunity to state his case.

I just need to back up here a bit. When the petition is laid, the petitioner ought to say what are the grounds of the complaints. In other words, you have laid a petition, well, to state specifically what is the case you have against this MP, so that it allows the Parliament, through the Privileges Committee, to give this MP an opportunity for a hearing, if the MP wishes to have that hearing.

**8.00 p.m.**

I think the Privileges Committee can then—based on the case that has been made out, based on what they have heard from the MP and the fact that they would have had a period of time to look at the matter since they would have been notified—at least the Speaker would have been notified from the date of the application—The Privileges Committee will then make a decision as to whether this is really a frivolous matter or, you know, whether the process should continue for the gathering of two-thirds of the registered voters.

This is just a mechanism to ensure that there is no mischievous activity on the part of two petitioners, and also to avoid a situation where you are taking a whole year or six months to gather petitions. During that process it becomes a situation where the MP's name is now being brought into disrepute and it might very well be a malicious complaint. So, basically, this is my recommendation. I had attempted to draft an amendment in that regard, but it is a complex matter.

**Mrs. Persad-Bissessar SC:** Hon. Senator, I thank you for the suggestions and if I may, I identified three of those that you are making: one is with respect to a timeline being set.

**Sen. Drayton:** Yes. That is for the first 10,000 votes, and that is a period of about eight weeks. I mean, if after eight weeks you cannot gather the votes, you do not want a situation where somebody's name is being dragged out for an entire year.

The first one actually is that the Speaker be immediately notified once the Elections and Boundaries has approved the petition, and the MP is also advised so that the MP is aware that a petition has been lodged.

**Mrs. Persad-Bissessar SC:** Certainly.

**Sen. Drayton:** And this is only for the course of natural justice principle to allow the MP to know the specific charge against him. In addition to that, when the petition is being launched, the petitioners must give specific reasons relating to misconduct or the non-performance, non-representation, because the MP's job is to represent. I do not think an MP could do much more than that.

The Constitution already provides for disqualification of an MP, so it has to be reasons other than what is in the Constitution. In the Constitution there are things like bankruptcy and so on. So that it is at the stage of 10 per cent of the signatures that the Speaker will then take the matter to the Privileges Committee, so that the MP has an opportunity for a hearing and also the Privileges Committee would have had sufficient time to look into the matter in order to see whether this is justified or whether it is a frivolous situation.

**Mr. Chairman:** Prime Minister, could you hold the answer while I await? Sen. Vieira.

**Mrs. Persad-Bissessar SC:** Sure.

**Sen. Vieira:** Thank you, Chair and thank you, Prime Minister. I just wanted to endorse Sen. Drayton's observations. I have not worked out the language but, certainly, I think that the petitioners should give some sort of reasons for their petition. I was going to suggest using the English model—"has engaged in serious misconduct"—in addition to what she had said, but there should be some proposed criteria to protect against mischief and frivolous petitions.

**Mrs. Persad-Bissessar SC:** Anybody else?

**Mr. Chairman:** Sen. Small.

**Sen. Small:** Thank you, Mr. Chairman. I would like to put something on the table for the consideration of the Government, and this has to do with one of my major concerns with the Bill about having the recall and the run-off together. In my mind, we need to have a protection here for the maintenance of a reasonable gap between the 51 per cent threshold, or the 50 plus 1 per cent threshold, in the run-off as compared to the initial requirement to trigger a recall. Too big a gap, as we have here, leaves an elected candidate at the mercy of a relatively small group of the electorate. Too small a gap entrenches a candidate and effectively makes him untouchable.

So, what I would like to propose, in the Trinidad and Tobago scenario, Mr. Chairman, with the relatively small size of the constituencies, I am proposing that

the threshold be increased to 20 per cent, because this means that you are talking about—*[Interruption]*

**Mrs. Persad-Bissessar SC:** This is the first threshold?

**Sen. Small:** This is the first threshold.

**Mrs. Persad-Bissessar SC:** After you have applied for a petition and you have to get 20 per cent?

**Sen. Small:** Yes, Prime Minister, because what this would mean in numbers, you are talking about 5,000 to 6,000 depending on the size of the constituency. I think it is median number that militates against mischief, but also it is not such a high hurdle as to stymie a genuine recall action. I am putting this for the consideration of the Government. I think that was one of my biggest concerns, because the issue—I have had some discussions with my UK colleagues, and they said you need to have a gap that is not too wide, but also not too narrow. Too narrow a gap means that you have challenges either way, and I think this is a median number for your consideration hon. Prime Minister.

**Mrs. Persad-Bissessar SC:** Hon. Sen. Small, if I may let you know, you are pushing a very open door. We had discussions amongst ourselves in our caucus and so on as to what threshold we should put at each stage of the play. Some were of the view if we put the threshold too high, then there would be those who would say we are making sure that nobody ever gets to be recalled. But we have no difficulty with the 20 per cent. Some of my Members would be very happy with the 20 per cent. So should we find consent, I think we will be happy to agree for that first threshold. That is the only point there with respect to the threshold?

**Sen. Small:** Yes, Prime Minister. I just want to, if you will permit me, I think that in my discussions, internationally, the trend is the median is between 10 to 15 per cent, but there tends to be nothing higher than 25 per cent. But in the discussions that I have had, they said because of the small size of the constituencies in Trinidad and Tobago, 25,000, 30,000, that 20 per cent is a more reasonable number that allows you to maintain a reasonable gap. I would be very happy if the Government would take my recommendation.

**Mrs. Persad-Bissessar SC:** Hon. Senator, we thank you very much, and we certainly will take your suggestion on board. This is where it acts as a filter to prevent busybodies—in the law we talk about busybodies to give you the locus standi to bring the further petitions. So I think we should be—*[Interruption]*

**Sen. Dr. Balgobin:** Mr. Chairman, may I just—*[Interruption]*

**Mr. Chairman:** Senator.

**Sen. Dr. Mahabir:** I will defer to Sen. Balgobin and then you can come to me, Mr. Chair.

**Mr. Chairman:** Sorry, I did not notice. Sen. Balgobin.

**Sen. Dr. Balgobin:** Attorney General, for the avoidance of doubt, what we are saying is that in clause 6 of the Bill, we are seeking an amendment which changes the inserted 49(B)(3)(a) on numbered page 3 of the Bill; 49(B)(3)(a), what we would like to see there is a shift from 10 per cent to 20 per cent, and what I am looking for is clarity from you on whether you are prepared to concede on this point.

**Sen. Ramlogan SC:** Well, it is a matter that we are giving consideration to. You know, as the Prime Minister indicated, there has been a sharp divergence of opinion on the matter because there are views either way. Some say you should make it as easy and practical as possible for people to initiate the recall process. There are others who feel, like Sen. Small did, that there should be some degree of protection by virtue of the minimum threshold that is set, so that you would discourage frivolous and vexatious applications because it can be a costly administrative process, and you do not want to waste resources and time and also to make the MP be distracted from performing his duties. Sen. Vieira, I did not hear you on this point. Do you mind sharing your views with me on this point?

**Mrs. Persad-Bissessar SC:** No, he did not speak on this point. He spoke on something else.

**Sen. Vieira:** I agree with Sen. Small. I think the challenge is to really just get it, as they say when you are going on the Tube, mind the gaps; get it just right.

**Sen. Ramlogan SC:** “Mind the gap”. Well, those of us who studied in London will remember that phrase, yes.

**Sen. Dr. Balgobin :** But we want 20 per cent. We feel that 20 per cent is better than 10.

**Sen. Ramlogan SC:** Why?

**Sen. Dr. Balgobin:** Because it avoids frivolous and overly politicized interference with a sitting Member of Parliament. I thought that Sen. Small was pellucidly clear when he spoke to the matter, you know. So, we are not feeling that we want to stay with 10 per cent. I certainly would have great difficulty. Mr. Chairman, 20 per cent gives you a reasonable threshold, having due regard to the

small populations in several constituencies; 10 per cent is 5,000 people, you know.

**Mrs. Persad-Bissessar SC:** Sen. Mahabir.

**Sen. Dr. Mahabir:** Thank you very much, Madam Prime Minister. I see the potential for mischief in this recall process. In the interest of stability, especially when Governments operate with very slender majorities, it is my view that the recall of an MP is something that requires a certain threshold, so that it will require some effort in order to initiate, and it should be initiated not for political reasons, but really because the constituents themselves hold the view that their MPs ought to be recalled. I raise this because of the potential for instability in a situation of 21/20 which is quite likely in Trinidad and Tobago. It is in this context—I am just getting in here to support my colleagues, Sen. Small and Sen. Balgobin, but I think there is merit when Sen. Ramlogan asked for the justification for the 20 per cent.

I think in the public interest—and this is where I will be focusing my contribution on the amendments—what I consider to be in the public interest, it ought to be that the recall process is not a simple process; not so simple as it can be taken over by interests which may be inimical to the public's interest. And, therefore, I want to support my colleagues that the 20 per cent threshold, which seems more in keeping with the international norm is something that we on this side would be very happy with. Thank you.

**Sen. Al-Rawi:** May I ask the hon. Attorney General what the EBC's point of view is in relation to this 10 per cent? What is their point of view in relation to this 20 per cent? And what the factual matrix and statistical information, which informs this policy position, is; and if you can identify it for us, please?

**Mrs. Persad-Bissessar SC:** Hon. Senator, whilst we await the guidance administratively from the EBC, it is with the greatest of respect that the policy decision will come from the Executive and, therefore, if you are suggesting what is the directive of the EBC, if I heard you correctly—

**Sen. Al-Rawi:** That is not what I said. I asked: what is the statistical information from the EBC with respect to—*[Interruption]*

**Mrs. Persad-Bissessar SC:** Prior to this you asked another question. With due respect, can I refresh please?

**Sen. Al-Rawi:** Sure. May I perhaps put it in this way then? We are concerned in the Opposition about plucking a number from the ether, if I could put it that

way. I do not mean to be pejorative in the expression. We are concerned, as a Senate, sitting here this afternoon, coming up with numbers being 31 people, and what we are asking is what is the underpinning authority to produce these numbers today, and what does the consultation behind this legislation tell us? Is there any of your sourced material or documentation relative to the consultation which the Government has said is extensive, that tells us what this threshold is, where it came from and why another threshold should be accepted tonight?

**Mrs. Persad-Bissessar SC:** I think Sen. Small proposed it, so perhaps he can.

**Sen. Small:** If you will permit me, Madam Prime Minister, Mr. Chairman. Let me, perhaps, provide a little background. I did not pluck the number 20 per cent out of the air. Subsequent to my contribution to the Senate last night, I received feedback from a person called Dr. Prof. Matt Qvortrup, who is a renowned international expert in recall and other constitutional matters, and he and I had more than one conversation today before I got here.

I indicated to him some of the concerns I had, and when he looked at the electoral map and tried to understand the size of the constituencies, he indicated that he is a supporter of recall, and in his experience, which is quite significant, around the world where they use recall, it is around 10 to 15 per cent, but when you look at the size of the constituencies you have here in Trinidad, 10 per cent could be 1,800 or 2,000 people. It is very small. And then what he said, globally, the highest it is, is 25 per cent. So I said listen—he said he thinks, based on his understanding of the set-up here in Trinidad and Tobago, that 20 per cent would mean 5,000 or 6,000.

#### 8.15 p.m.

It is a safer number, in particular, because we are taking it for the first time. His position is that in the event that we are starting something here, you want to make sure that you do not start something that becomes disruptive immediately and that you allow for—and what is critical, as I mentioned earlier, forgive me, he said it is important to maintain the gap. You need to have a gap that is not too wide but also a gap that is not too small. So I think that the number did not come out of thin air, it was the basis of a consultation. I am sure if I asked Dr. Qvortrup—he was the head of research of Cranfield University in the UK—he would verify what I am saying here today and tonight, and it is on the basis of that consultation is how I came up with this number that I have put on the table here tonight.

**Sen. Al-Rawi:** Thank you, hon. Senator. If I may just by way of clarification, as I said, it was not intended to be pejorative, the point that I would like you—if

you could please clarify a little further—[*Interruption*] Sen. Small, if I could just invite, through you, Mr. Chairman, if I could just ask for your clarification. The point that I am raising is, we have no doubt that the information provided to you is intended for good measure, but was it done by way of reference to the particular demographics insofar as Trinidad has different constituency balances? So I am asking a few questions by way of clarification, please. [*Crosstalk*]

**Mr. Chairman:** Please allow Sen. Al-Rawi to ask the question through me to Sen. Small.

**Sen. Al-Rawi:** And, insofar as my question is whether the review was that, I mean, it would be very useful in making such a far-reaching piece of legislation for the rest of us to also see that information. So is it at all available for circulation?

**Sen. Small:** It was the basis of a telephone conversation. I shared with him the electoral information—

**Sen. Al-Rawi:** I see, thank you.

**Sen. Small:**—about the sizes of the constituencies [*Crosstalk*] and he made a—[*Interruption*]

**Mr. Chairman:** Hon. Senators, as we did at the last committee stage, I would like that the question be posted to the Chair. I do not want everybody to just jump up and ask and so forth; through the Chair, then you will be given the opportunity. I now ask Sen. Balgobin, please. You okay? Government?

**Mrs. Persad-Bissessar SC:** No, I think Sen. Balgobin—

**Mr. Chairman:** No, he said he is okay.

**Sen. Dr. Balgobin:** Okay, Chairman, I would just say, in support of my colleague, Sen. Small, I was not party to his conversation, but I did examine, mathematically, what it would require for each constituency to initiate a recall, and in some cases 10 per cent as an absolute number does appear to be quite low, and, therefore, these are not constituencies where populations are far-flung because the constituency is massive, covering a huge geographic area. So for some constituencies the bar appears to be unnaturally low and, therefore, as a safeguard to ensure that this is not abused, but at the same time not rendered invalid, I think Sen. Small's suggestion is entirely with merit, and I support it fully, 20 per cent.

**Mr. Chairman:** The Government also circulated an amendment on clause 6. Was that circulated?

**Mrs. Persad-Bissessar SC:** Mr. Chairman, with the submissions made by our colleagues on the Independent Bench, with those, we have no difficulty in having section 49—clause 8, is it?

**Mr. Chairman:** Clause 6.

**Mrs. Persad-Bissessar SC:** Clause 6, where we have 10 per cent, to be deleted and insert, thereof, 20 per cent.

**Sen. Ramlogan SC:** Chair, there would be three subsections that would require amendments and perhaps I can just dictate them. As the hon. Prime Minister indicated, it is section 49B, we would—

**Mrs. Persad-Bissessar SC:** No, it is clause 6.

**Sen. Ramlogan SC:** Yes, clause 6. Clause 6 in the proposed section 49B, we would, in the renumbered subsection (5) in paragraph (a), we would delete the words “ten per cent” and substitute the words “twenty per cent”. We will then, in subsection (7), delete the words “ten per cent” and substitute the words “twenty per cent”. Then in the proposed Fourth Schedule, in the proposed Form No. 1, delete the words “ten per cent” and substitute the words “twenty per cent”. Those would be the amendments to give effect to that proposal, and since the Prime Minister has indicated her willingness to accommodate this particular proposed amendment from Sen. Small, and having regard to the apparent widespread support it has received on the Independent Bench, those would be the amendments, and we will propose those amendments.

**Sen. Dr. Mahabir:** Mr. Chair, can I intervene at this time?

**Mr. Chairman:** Please.

**Sen. Dr. Mahabir:** Yes. Thank you. I really had a position on clause 6, 49B(2), where the Government is proposing that the application under subsection (1) shall not be made before the expiration of three years, and I had indicated that given the fact that we are, in a sense, looking at the United States jurisdiction, whether we should not be looking where the recall there via elections, of course, at the congressional level is on a two-year cycle, whether the Government—and this is not hard and fast on my position, but it is my preferred position that during the midterm, at the expiration out of three years, but that the expiration of two and a half years, that the application can then be made, so that an MP—and the reason for this, Mr. Chairman, is that if we are moving towards a system of regularity where there will be fixed election dates sometime in the future, I think this is a very good place to start where at the midterm of a candidate’s tenure in office, at

the end of two and a half years, there is a midterm review, and at that point in time, at the midterm review, there should be, I think, then the trigger for a recall at that point.

I think if that is done there would be some regularity in the system and we would be in some way closer to the American system, and, in that sense, what I think is going to be fair is that a non-performing MP can be removed after two and a half years and a new and incoming MP will then have two and a half years of his own to prove his own merit before it is time to consider him as a candidate for a forthcoming election. That is my only reason for that particular proposed amendment; two and a half years, 30 months, instead of three years.

**Sen. Dr. Balgobin:** Mr. Chairman, through you to the Attorney General, I share my colleague Sen. Mahabir's concern. I was actually going to ask for two years, both from a pragmatic and a managerial point of view. From the management perspective, I should not need more than two years to decide if you are a waste of time. *[Laughter]* So after two years, I should be able to make my mind up on that particular point. I do not want to be saddled with you going into a third year because of the pragmatic issue which arises, and that is if I wait for a two and a half year trigger, by the time this process is finished, really, the fella has had three years. So I am all for Sen. Mahabir's proposal, but I wish to ratchet it up a little bit and say I want two years. Can you give me two years, Sir?

**Sen. Ramlogan SC:** I am tempted to reply and tell you—

**Mrs. Persad-Bissessar SC:** Sen. Small.

**Sen. Small:** Mr. Chairman—

**Mr. Chairman:** Yes.

**Sen. Small:** Thank you very much, Mr. Chairman, I want to support the proposal from Dr. Mahabir but I have a different rationale, given my experience in the system, when a Minister comes into office, the Minister needs about six months to really come up to speed. It takes a Minister six months, really and truly, to be able to be au courant and be completely comfortable with his Ministry. The first six months is really, especially if it is a brand-new Minister, never been in government office before, I think a Minister needs time. I think that I am agreeing with Rolph about two years, but two years in addition to the six months, because I believe that has been my experience over my short time.

I have seen many Ministers come and go, and in the first few months the Ministers are still in catch-up mode, especially where you are dealing sometimes

in a very technical Ministry, let us say like energy. It takes time for a Minister to come up to speed. So I think that two years for objective performance review, but the first six months is, effectively in my mind, a probationary period where the Minister is really just trying to catch up to be able to perform effectively. If after two and a half years the Minister is really, really not up to scratch, it should be known by that time. So I agree, but I slightly differ.

**Sen. Dr. Balgobin:** But remember that we are not recalling a Minister, we are recalling a Member of Parliament, right?—who may or may not be a Minister. So it is his constituents who are calling him, not the interest he serves as a Minister, so we have to keep that in mind. I am all for—I do not mind deferring, but my starting point is two years.

**Sen. Dr. Mahabir:** I just wanted to come in because I think we do need in the country, regularity; we are changing supreme law. I would like, in the future, for there to be a date at which the budget is presented. Is it the first Monday in September—and the country then gets used to that. If we are going to have fixed elections at local government and at general elections with the opportunity for the Prime Minister to change before, but certainly fixed, and we can know for that well in advance, and I think it would make sense at this time to start the regularity process, the ordered process, so that there would be some predictability in the system.

An MP, all MPs, in fact, all MPs in my mind should know that at the end of two years either the Leader of the Opposition or the Prime Minister will undertake a review of the MPs and to, at that time, make a determination as to which one is non-performing, which one is performing, who may be the subject of a recall, and so the recall provisions would then, at the end of two and a half years, perhaps be triggered. So for regularity, for fairness, and also to give the incumbent, I am also concerned about a replacement MP should have enough time also to prove himself as an electable individual.

In that way, I think that if we go to the three years the process takes a bit more than three years and an incoming MP, or a replacement MP, may not have had enough time to actually demonstrate to the political leadership that he is worthy of being renominated for his party's election. I think if we go to the midterm, at the very midterm, we have regularity and a sense of equity. As I said, this is not my major point, my major point is coming up in another clause but, in the interest of predictability and regularity, I would urge the Government to find a compromise between my position, Sen. Balgobin's position and the position here of three years. So Rolph has two, the Government has three and I am coming in at two and a half. *[Laughter]*

**Sen. Dr. Balgobin:** Attorney General, I find Sen. Mahabir's logic, and Sen. Small's, almost unassailable—almost, and therefore before I lose the argument, I am prepared to concede to two and a half years but no more. So that three years we have there, it has to change, it is too long. I accept Sen. Mahabir's logic but I want two and a half years. If you feel that you are prepared to concede, as I have just done, okay, fine; if not, well, we will fight—your decision.

**Mrs. Persad-Bissessar SC:** The hon. Attorney General is advising me that I must not collude with you, because he says if I—

**Sen. Ramlogan SC:** No, I like three years.

**Mrs. Persad-Bissessar SC:**—give in too quickly, I may appear to be colluding with you. Again, this was a matter we had discussions on. It is not like we have been taken, you know, by surprise with the suggestion. It is something within our own drafting that we looked at, whether two, two and a half, three, and the arguments for not going too soon are very clear, that you need a man, as Sen. Small is saying, a man or woman to settle in, you know, and to get a chance to prove yourself. So two and a half and three—

**Sen. Dr. Balgobin:** Two and a half—no three.

**Mrs. Persad-Bissessar SC:** Sen. Balgobin is conceding the two and a half.

**Sen. Dr. Balgobin:** Two and a half, two and a half—we shall sing that like a chorus if the Attorney General prefers it, but two and a half. Three is too long. Attorney General, three gives somebody too long a run; by the time you have finished this process it is three and a half. The constituents have been badly served for a long time.

**8.30 p.m.**

**Mrs. Persad Bissessar SC:** Sen. Balgobin, you are pleading with the wrong person.

**Sen. Dr. Balgobin:** Okay then, I will plead with you, but he is the man with all the drafters there.

**Sen. Ramlogan SC:** The Prime Minister and I were having an intense discussion about it, because the reason I selected three years is because I really felt that it takes a little while for an elected Member of Parliament to establish a relationship with his or her constituents. Sometimes you may have a sprawling constituency with about 25,000 people, it might be a large area and you have to take some time to form bonds by visiting “wedding, wake, funeral”, et cetera.

**Sen. Dr. Balgobin:** But you not too recently got them to vote for you. You just got them to vote for you.

**Sen. Dr. Mahabir:** Chair, could I come in here, and let me derail the hon. AG's position when he talks about the size of constituencies. In the United States, congressional districts are the size of Trinidad and Tobago for one individual, and he has to prove himself in two years.

**Sen. Ramlogan SC:** You see, the problem is that in the United States of America, the citizens do not expect to see their MP at "wedding, wake and funeral", our people do. But I hear you all; I hear you.

**Sen. Dr. Mahabir:** We have midterm elections.

**Mrs. Persad Bissessar SC:** Midterm, so be it. Can you make those amendments, AG, two years and six months?

**Sen. Ramlogan SC:** Yes. I am directed by the Prime Minister to accede to this amendment, so I will reluctantly take instructions. If we have to change that, we will then in the proposed section 49B—in clause 6, Mr. Chairman—in clause 6 in the proposed 49B in subsection (2)(a) we will have to delete the words "three years" and substitute the words "two years and six months", that is the first place.

Then also in subsection (c) in the renumbered subsection (6), remember we had renumbered a subsection (5) before—so in the renumbered subsection (6), we will have to delete the words "three years" and substitute the words "two years and six months" again.

**Sen. Dr. Mahabir:** Hon. Attorney General, subsection (4) as well:

"A person who is registered to vote, and who resides in the constituency..."

**Sen. Ramlogan SC:** 6 is the existing 4, because of the renumbering, the consequential. Those will be it.

**Sen. Dr. Mahabir:** Yes.

**Sen. Ramlogan SC:** But I still say, for the record, the three years was a good landmark. *[Laughter]*

**Sen. Dr. Mahabir:** For the record, two and half years is better.

**Sen. Ramlogan SC:** All right, fair enough.

**Mrs. Persad Bissessar SC:** And further for the record, we would have been here two hours longer arguing this point.

**Sen. Ramlogan SC:** Two and a half hours longer.

Before we go off, whilst we are on that, Mr. Chairman, the Government's original amendments I beg to table and move that clause 6 be amended as circulated in respect of the Government's amendments.

**Mr. Chairman:** Sen. Dr. Mahabir, I see your mike on?

**Sen. Dr. Mahabir:** No.

**Mr. Chairman:** Hon. Senators, the question is that clause 6 be amended as circulated and be further amended by 49A "before the expiration of three years". In the proposed section 49B(2)(a) you are deleting "three" and have "two years and six months"—that is correct?—and then renumbered subsection (5). In the renumbered subsection (5) delete "ten per cent" and replace it with "twenty per cent". In renumbered section 6(4)(a) delete "three years" and replace it with "two years and six months". In (7) paragraph (b), you delete "ten per cent" and insert "twenty per cent".

**Sen. Small:** I am not necessarily recommending a further change, but if you will permit me. I will like to just put something on the table, at least for the record. When, during the contribution of Sen. Vieira, he had indicated that he was concerned about the process for verification of the signatures and the petition, in thinking about it, I have something that I will put on the table for the Government to consider, probably not today.

What I was thinking is that the petition should reside with the EBC, and that the two persons who are starting the petition come to the EBC, but the actual petition resides with the EBC, and they would guide everybody who is going to be signing, come to the EBC with your ID card, it allows for easy verification of the signatures that then go on the petition, so that it deals with that issue of verifying who is actually supporting the petition, because the EBC would have the records. I am just putting that out there.

**Sen. Ramlogan SC:** Senator, if I may. The hon. Prime Minister, after that point was made, I think by Sen. Vieira and one other Senator, did, in fact, instruct me yesterday to draft an amendment. In the circulated amendment you would see, pursuant to those instructions, we have, in fact, changed it so that the process will now be the same as the recall petition, and that will be that the Elections and Boundaries Commission will be in control. That would take care of the concern expressed by Sen. Drayton as well, with respect to the challenge that will be faced with respect to the authentication of the signatures by the EBC.

So that when you want to sign the application to reach the 20 per cent, you will go into the EBC office or the designated office that they will have this. You will sign it, you reach your 10 or 20 per cent—well 20 per cent now threshold, and the recall petition will subsequently be issued.

**Sen. Small:** Thank you very much.

**Mr. Chairman:** So, hon. Senators, the question is that clause 6, as amended, now stand part of the Bill.

**Sen. Dr. Balgobin:** No, no, no, wait, I just have one more thing that I would like to raise, please, Chairman. On clause 6, the new clause 49B(6), which deals with Form II in the Fourth Schedule, requiring a declaration that you register to vote, reside in the constituency and signatures are voluntarily given, not obtained by harassment, intimidation or threat, I would like to include “financial inducement or bribery”.

**Sen. Ramlogan SC:** Yes.

**Mrs. Persad Bissessar SC:** We can look at putting it here. If I recall, we have included in the schedule the offences that would amount to—election offences if people want to call it, which were first poll offences and now for the supplementary poll. But we did put in those offences which include bribery, intimidation and so on. AG, can you look at that for me?

**Sen. Ramlogan SC:** If I may, Prime Minister—Sen. Balgobin, that form is no longer in use. In fact, sections 5 and 6 are now deleted, and the form was contained in that section.

**Sen. Dr. Balgobin:** It is gone?

**Sen. Ramlogan SC:** Yes, so that there is no need to amend it there. But I hear you on that and we do have the election offences which will include all of that.

**Sen. Dr. Balgobin:** So that is covered in the election offences in the schedule here?

**Sen. Ramlogan SC:** Yes.

**Sen. Dr. Balgobin:** Could you just draw my attention to it?

**Sen. Ramlogan SC:** Yes, I can read it for you.

**Mrs. Persad Bissessar SC:** Tell him which page.

**Sen. Emmanuel:** Pages 20 and 21. [Crosstalk]

**Sen. Ramlogan SC:** Nineteen, 20 and 21.

**Sen. Dr. Balgobin:** Good, so it is 6(b)?

**Sen. Ramlogan SC:** Yes, that is correct. So that is covered.

**Sen. Dr. Balgobin:** So you do not feel you need to include it in the—

**Sen. Ramlogan SC:** No.

**Mrs. Persad Bissessar SC:** The substantive, no. It is not in the Constitution, but this also takes up the concern raised by Sen. Vieira of persons who may use undue influence, try to bribe people, et cetera, et cetera, and I pointed out that the same problems that could arise in our first-past-the-post poll, as would arise in a run-off poll, so these offences are therefore both polls.

**Sen. Dr. Balgobin:** I have one last question, and that relates to Sen. Drayton's point. Are we putting anywhere on this recall application a justification or a reason for recall?

**Sen. Ramlogan SC:** As a matter of policy we had looked at this. Many jurisdictions have opted not to have a statement of reasons. In other jurisdictions they have opted to have grounds and in others they have opted to have a space where you fill out the justification, and so on.

But the problem is, when I looked at those jurisdictions, it led to a lot of litigation that suffocated the petition in its infancy, before it could actually be born. The reason is that people apply for judicial review at that stage, on procedural grounds, on grounds of irrationality and so on. It is stuck in the court, and what they do is the MP, who is the subject of the petition, ties it up in court until he reaches the finish line of the general election, so that he defeats it and it becomes academic. That is the position. I thought that the Government would be accused of bringing a right of recall that is not meaningful or practical, having regard to the delays we know exist in our own court system already, and that it would be better to leave it open.

The relationship is one between the constituents who elect their Member of Parliament and the Member of Parliament. If they wish to recall their Member of Parliament, the policy change here in the Constitution, to answer Sen. Drayton's earlier point, is one that we are shifting the power from the Parliament and the political party, and giving it to the people.

The law as it currently stands, the axis of power is located via the Constitution in the political party and the Parliament. The Member of Parliament's status is

controlled by the Parliament and his political party. We saw that, for example, with the former Member of Parliament for St. Joseph. The political party makes a decision and there is a consequence of that, Parliament declares the seat vacant.

Now, we have ideologically and philosophically shifted the axis of power away from the political party and the Parliament, and we have uprooted from there and placed it squarely and firmly back in the hands of the people where it belongs, so that the power will reside with the people that put them in the Parliament.

**Mrs. Persad Bissessar SC:** If I may join in this conversation, as the AG has said, there are various models for recall. We have selected this based on the research we did. There are those where you put reasons or the grounds for the recall. In some of those jurisdictions where you put the grounds, they have another party who will look at those grounds. In some cases you have to go to court, and the court then declares, “Okay, your grounds are sufficient or valid enough to proceed to the next step”.

In other jurisdictions, you do not have that step. I think Sen. Vieira mentioned in Vancouver they have a step where the EBC looks at the rationale or the grounds and then says, “Okay, go forward”. But there are those where you have no grounds, and that is why one of the reasons the threshold that you have to cross is so high. It is 66 per cent.

Now tell me, if two-thirds of the people in your constituency do not want you there for whatever reason, that is a very high amount of persons, then you had better go. To say well I am sending you because of misconduct or you “tief” or you are corrupt, if you have such a large percentage saying, “I do not want you”, then you do not need to specify it is because I have a white phone, but you have a red. I have a black phone and you do not have a black phone. The sufficient number of the persons is enough to say, “You are no longer wanted”, that is one, so we took that model.

The other thing about sending it to the Privileges Committee, I think the AG has explained it, but I will put it down in layman’s terms, it is this: should we do that, we will be taking the power out of the hands of the people who could now do a recall and say, “Go to the Privileges Committee of the Parliament and you are going back to elitist politics”. That we will sit here, the Senators on the Privileges Committee or the MPs in the House will then decide on one of their colleagues, whether he should go or not go. It seems to me that will not fill the objective of letting the people say, “Two-thirds of us say you are no longer required here and you are not functioning”.

So, hon. Senator, the idea of sending it to a parliamentary committee, with the greatest of respect, will defeat the very purpose or objective that we are seeking to fulfil.

**8.45 p.m.**

**Mr. Chairman:** Sen. Wheeler.

**Sen. Dr. Wheeler:** Yes. This per cent, this figure of two-thirds registered voters, is that really attainable? Because when you look at national elections, even if you have a 70-75 per cent voter turnout, they would not all vote for the same person, and then in by-elections where you are just focusing one constituency the turnout is much smaller. So, I mean, is it really possible to get two-thirds of all the registered voters to say they do not want an MP?

**Sen. Ramlogan SC:** Well I can tell you there were many Members of Parliament who felt that it should be even higher because you reach “banga” season in mid-term, you know, it is more than two-thirds of the people in the constituency who do not want to see you sometimes. So that practically the answer is, the right of recall is not meant to have a destabilizing impact on democracy.

If you look at it in other countries—in the US, I think, some of the Senators cited the examples from the United States of America, the success rate of it depends on the willingness of the people to exercise it and the performance of the Member of Parliament. But bear in mind the recall provision has a very strong psychological value and benefit to it. If an errant Member of Parliament has the recall petition issued, and it is like a snowball gathering force against him, whether it succeeds or not becomes irrelevant, you know. He will start to pull up on his socks and he will become a better Member of Parliament because of the embarrassment value as well. But having said that, the answer is, yes, two-thirds is very attainable, and it is meant to deal with situations where the Member of Parliament is really rejected, and not wanted by two-thirds of those who are registered and living in that constituency. And, yes, it will be attainable, trust me.

**Sen. Dr. Wheeler:** Well, I mean, with all respect, they will have to leave where they are, go to the EBC—[*Interruption*]

**Sen. Ramlogan SC:** No. No. Yes. Sorry.

**Sen. Dr. Wheeler:**—take time. Yeah. That is the process. And it is very easy for people to say, we do not want you, but to actually have them go through—it is the same as voting. I mean, I actually do not see that as attainable at all.

**Sen. Ramlogan SC:** Well, we may have to agree to disagree on that and leave it, and give the power to the people, and leave it up to them to exercise it. Many times we give people power and we make the mistake to assume that the people will not exercise that power in their best interest. And what we are doing here is that we are doing what we can do, and that is to give the people the power, and leave it in their hands, and it is a matter for them to exercise it in accordance with their judgment and their best interest as they see fit. But it is not for us to pontificate or speculate on how they will exercise the power that they do not have, did not have, but will now have as a result of this law, and we should simply give it and let us see what they do with it. People get the kind of representatives and the kind of people, public officials, that they deserve and want.

**Mrs. Persad-Bissessar SC:** It is also, hon. Senator, balancing. It is a balancing of what, I think, Sen. Vieira, Sen. Mahabir and Sen. Small—I think, even Sen. Balgobin—that if you put that threshold too low, you make room for influencers, influence peddling, people with money buying out people. So that the threshold is very high, and given our society, our small society where we can be so easily influenced or in other ways influenced financially, theoretically and otherwise, I think Sen. Vieira hit the nail on the head with respect to the influence. And so that threshold, in my respectful view, has to be high to prevent the busybody, to prevent the influencers from overtaking a process and destabilizing, not just the MP, but destabilizing a government.

**Sen. Dr. Wheeler:** But remember you have the MP, if it is an Opposition MP will have his supporters who are not going to vote against him, and obviously if it is a Government MP that is not going to happen at all. I mean, it just looks to me as if this is just—the percentage is put so high. You say you are giving it, but you are not really giving it because it would not be attainable.

**Sen. Ramlogan SC:** But Senator, let me just—

**Sen. Dr. Wheeler:** That is just my—

**Sen. Ramlogan SC:**—sure, but just let me respond to you, “nah”. You see, you are assuming that the right of recall is one that will be exercised within the present adversarial system and political culture that we have. May I posit for your thinking, another theory, and it is this. This frees us from the shackles of the existing political culture that may be party based and now brings in and ushers in the dawn of a new era in our political culture, and it is this: If, for example, at the elections people vote according to party, there are people who say, “Well look, I do not like this candidate, you know, but I want my party to be in Government”. So they vote for the party, but subsequently the fella, their expectations are realized because the fella really was a nonsense and a non-performer. The people

who voted for him now have the opportunity, notwithstanding the fact that they supported the party being in Government, they can recall their own party's candidate.

So the very people from that party that had to vote to put him there—but they did not vote for him, they vote party—now those very people will exercise control over their own political party. So that the candidate's selection becomes a critical matter for political parties. Because I as a constituent, I now have control over the choice of my political party as to who they give me as my Member of Parliament. Because they know if they give me the wrong fella, I could join hands, and we could have him recalled. So that it is not only a matter of saying that because the MP will have his own political support, that that automatically translates into an ineffectual recall petition at all. So that is one way that it can be.

With respect to the other point, when we consulted some of the other countries and so on, we were cautioned about putting the bar too low. You have the Allen Stanford Antigua experiment gone bad. I mean, you know, you can have one employer who is a contractor in a constituency and a big employer in a constituency controls, by virtue of the domino effect, his employees multiply by five for each family, he controls a ready base. So that we are very comfortable with a two-thirds and it is our considered view that that is a threshold that is comfortable, not unrealistic, but not unduly low.

**Sen. Dr. Wheeler:** I think we will agree to disagree.

**Sen. Ramlogan SC:** Sure. No problem. Okay, Chair.

*Question put and agreed to.*

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

*Clause 7 ordered to stand part of the Bill.*

*Clause 8.*

*Question proposed:* That clause 8 stand part of the Bill.

8 A. In proposed subsection (4), delete all the words appearing after the word “votes”; and insert the word “.”

B. Insert the following new subsection after proposed subsection (4):

“(5) Any other candidate who polls at least 20% of the votes cast, is also eligible to contest this supplementary poll. Where more than two candidates contest this poll, the candidate who polls the highest number of votes will be declared the winner. This

supplementary poll shall be held—

- (a) on the fifteenth day following the date of the first poll; or
- (b) if the fifteenth day under paragraph (a) falls on a Saturday, Sunday or public holiday, on the first following day that is not a Saturday, Sunday or public holiday, and the list of electors for the purposes of the supplementary poll shall be the same list which was used for the purposes of the first poll.”.

**Sen. Dr. Mahabir:** Clause 8, Chairman. Mr. Chairman, hon. AG and hon. Prime Minister, yes, I would like to speak to the amendment proposed in relation to clause 8.

**Mr. Chairman:** Hon. Senator, the amendment was circulated since yesterday by Dr. Mahabir.

**Sen. Dr. Mahabir:** Yes. If I may, Mr. Chair, retract a little bit and go back to the actual Bill before us and read clause 8(4) the last line there. It says:

“...a supplementary poll between those candidates who earned the highest and second highest number of votes shall be held—”

And one understands the intent of the proposal and that is, with two candidates in a supplementary poll, the candidate who has polled the highest number and the second candidate, the winner is guaranteed a 50.1 per cent of the overall vote thus ensuring that he comes to the Parliament as a representative with a majority.

But the problem is that how this particular phrase is written is that it does not make any distinction whatever between the individual candidate who has earned the highest number and the amount of votes or the percentage of the votes garnered by the second candidate. So one can understand, Mr. Chair, the fact that a candidate who does not earn 50 per cent of the votes, but who secures say 45 per cent, can find himself as the first place winner, and the second place winner can then secure some 28 per cent of the votes.

So there is a relatively huge gap between the first place winner, 48 per cent, and someone in the second place who has earned 28. But at the same time you can find a third place performer who has secured some 25 per cent of the votes. So it is a very close election, a very close contest between number 2 and number 3. What the current proposal from the Government is, is that we eliminate the third candidate who may just be one percentage point away from candidate number

two. And therefore, my own position is that—I came up with this proposal, I think it was intimated by the good Sen. Hinds.

I do not know if he was referring to my proposal as to from where it came, but it came from looking at the numbers and the proposal came, Mr. Chairman, from the fact that one would like to introduce a measure of equity in the system based on the following. The first poll, in principle, is meant to ensure that the candidate is electable. It is for this reason that we ask for a deposit so that we eliminate the candidates who know they cannot win, but who simply would like to pose some kind of burdens on the EBC or to use the poll for some reason other than winning. And hence we ask for a deposit. And this particular deposit is secured if this candidate earns 12½ per cent of the votes cast. The reason for the deposit is to ensure electability. We are going to screen out those particular candidates who really do not have adequate support.

But the second poll does not really refer to electability. It refers to winnability now. It is that we have seen certain candidates who have performed in the first poll, and we need to ask ourselves: suppose we have a first place candidate with 45 per cent, a second place candidate with 28 per cent, and a third place candidate with 26 per cent, is it that these three candidate now are not all equally winnable because the combined votes of two and three exceed the combined, the total number in one? And if we are to ensure that the candidate who has the best chance of winning be given an opportunity to contest, then I am proposing that we consider the third place finisher. And in this context I am not making reference to any third party.

The third place finisher could be the UNC candidate in Mayaro. He could be the PNM candidate in Chaguanas. He could be the ILP candidate in St. Joseph. It is independent of party. It is where he has performed third, and where he has performed a strong third; a strong third which then perhaps if it is better than how he thought he was going to perform, it gives him or her an indication as to his winnability or electability.

And what my amendment is then proposing is that we simply give this particular candidate, who is very close to the second candidate, an opportunity—if he so wishes and if he thinks he has a chance to win, to contest the poll. And hence I have looked at the French experience. And in France, which is a different culture, of course, from us, a longer tradition, they give the opportunity to any candidate who secures 12½ per cent of the vote or who has saved his deposit. If this candidate is of the view that he can win, he is not denied an opportunity to

contest. Usually it is only the candidates who feel that they can really win who form what is known as the triangulaire.

The triangulaires are very interesting elections because in a triangulaire you are not guaranteed on the second round for the winning candidate to get 50 per cent of the votes. And hence in the French legislation the population, the voting, the constituents know that in a triangulaire they have the opportunity to send a candidate to the assembly who secures 50 per cent. So they will switch their votes or they have the opportunity to maintain the status quo, and then they must take the consequences because in that context the individual who secures the highest—having given the people the choice to send to the Parliament a majority MP—and if they decide, well, they are going to maintain their voting patterns without switching, the candidate, according to the rules, who secures the most amount will be deemed to be the winner.

And hence I am proposing, in the context of Trinidad and Tobago, that the 12½ per cent seems to be unduly low, and I am proposing that any candidate who polls at least 20 per cent of the votes cast is also eligible to contest, not that he has to contest, but he is eligible.

**9.00 p.m.**

Let me justify my figure of 20 per cent which individuals may say I simply plucked out of the ether. In the interest of consistency, when I looked at the Government's proposal last year on the Municipal Corporations (Amdt.) Bill, the proposal of the Government was for four aldermen per corporation which indicated that the Government's thinking was that, once you secure 25 per cent of the votes then you are an individual who is entitled to a seat, or a party that has secured 25 per cent is entitled to at least a representative, because in the Government's view the individual party, the party that has secured 25 per cent, is entitled to send a representative in the corporation as an alderman.

So, it is in that context I looked at what occurred. It is my view—I do not know if it is shared by the Government—that at sometime to prevent the deadlock that we saw in Chaguanas, that the Government may have to consider amending that law to include 20 per cent. That is, each corporation or at least some corporations will have to have five aldermen if, in fact, a regional corporation has an even number of seats, to ensure that you do not have a hung corporation. So, in the case, say of the Chaguanas Borough Corporation, if there are eight seats under contest, you have five aldermen there, according to the same here system of the formula that you have proposed, this would ensure that there is a governing council at the end of each election and not uncertainty.

So, in this context I am saying that a 20 per cent threshold secured by a third candidate is a threshold which seems to be fair because it appears that this particular third candidate is electable, and therefore, any candidate who has secured 20 per cent is entitled to contest if he or she so wishes. And in this regard in the interest of equity and in the interest of ensuring that we are trying to get the most electable people in the Parliament, we do not screen out or remove a very strong third place finisher and we include the concept of the triangulaire in our run-off system very much established in France.

**Sen. Small:** Thank you, Mr. Vice-President, I wish to join in, in supporting Sen. Dr. Mahabir's proposed amendment and I would probably like to share with the Senate. I had an interesting experience last night after I left here and was on my way home—minutes to midnight—and I was stopped at a police stop on the highway, and when I rolled down my window I said “goodnight officers”. The officer said, “you was in the Senate, you could tell me what this thing, what this run-off thing means? Suppose I want to—why I cannot vote for my candidate?”

I had to pull to the side of the highway at midnight last night and try to explain it. So, I think it is an issue that is out there. At midnight last night I am stopped at the side of the highway explaining to two police officers, listen, this is how this thing is intended to work and if the amendments go—people are concerned about preserving that right. If I want to vote for party X, I would like to have—even if I know they are going to lose, that is my party and I want to vote for them. And I am saying that is a very real concern. There is a lot of concern expressed about, if in the run-off my candidate came third. If your candidate came third with 10 votes and then the winner gets 10,000 votes, well, clearly—so, you must have a threshold. You do not want to have a nonsense happening. So, I am supporting that it should happen, but also it should have a reasonable threshold that it is a third candidate of substance, provided, of course, they are willing to continue in the election.

So, I think that is a major concern out there in the public domain, and I think that it would be very, very good if you can have that in there so that people do not feel that they are being forced to vote for a candidate who, for whatever reason, they do not think that they want to vote for. If they feel that this is their candidate, their candidate is X and they want to vote for him, even if they have a view that he might lose, they still want to feel that they have that right. They do not want to feel that they do not have that right. And if the Government is of such mind, I think it would be something that would add a positive dimension to this legislation, with the greatest of respect, hon. Prime Minister and Mr. Chairman. Thank you very much.

**Mr. Chairman:** Be advised that at 12 in the night, before you stop on the highway, make sure they are police, eh. [*Laughter*] Sen. Al-Rawi, and then I will come to you Sen. Balgobin.

**Sen. Al-Rawi:** Perhaps I should give way to Sen. Balgobin first?

**Mr. Chairman:** No, I had indicated to Sen. Balgobin. You go ahead.

**Sen. Al-Rawi:** Okay, thank you, Mr. Chairman. If I may put it just for the record and very succinctly, it is this run-off clause that the Opposition has the most fundamental objection to. This is the one that causes us the greatest concern. For the record, we just wish to say that we do not accept that the process of consultation was had on this clause at all. We say that there was no consultation, and we are very concerned that this was contrary to submissions given this afternoon. This was not contained in the 2010 Manifesto of the People's Partnership. It has come out of the blue. We are deeply concerned that it is rooted in a non-Commonwealth experience, which is a proportional representation executive presidency position, and we humbly request the Government, by way of first request, to please withdraw this clause and this Bill, because it requires consultation.

After our humble request, we ask most strenuously by way of second request, that they simply withdraw it. In other words then, I am repeating myself. We are asking the Government of Trinidad and Tobago, in the most strenuous way possible, to remove these conditions, to remove this Bill, to obtain the consultation from a proper process, where the people can speak. I just wanted to put that on the record, Mr. Chairman, and thank you very much.

**Mr. Chairman:** Sen. Balgobin. That was said in the debate. Sen. Balgobin.

**Sen. Dr. Balgobin:** Could I defer to Sen. Le Gall, because I do not think she got—

**Mr. Chairman:** Oh, sorry, I did not see you down there. Sen. Le Gall, please.

**Sen. Le Gall:** Thank you, Mr. Chairman. Through you I wish to raise a point of consistency in section 73(1) which concerns the first-past-the-post system, which, my understanding is a plurality system, and the proposed amendment which is contained in clause 8 of the Constitution (Amdt.) Bill, section 73, new subsection (3), deals with a majority system. So, I am wondering if the two can coexist if we leave section 73(1) unamended. I am wondering if there will be concerns about conflicting interpretation. One deals with a plurality system, that is 73(1), and the proposed 73(3) deals with a majority system.

**Mr. Chairman:** Sen. Drayton.

**Sen. Drayton:** I just want to make an observation with respect to that amendment and it is just an observation; and that is, the whole basis of this Bill and the Government's argument is that, one, the 50 per cent or over 50 per cent is linked to the recall. That is one. And two, the 50 per cent is required in order to refine the current first-past-the-post system so that constituencies could be comfortable that their MPs receive more than 50 per cent of the electorate vote. So, that has been the basis and the entire argument with respect to the need and the wisdom of this Bill. So that to propose that a third party now be introduced and a 20 per cent threshold or any threshold, I would therefore—let me see if I could put it this way—re-question then the legitimacy of the run-off based on the reasons for why it was proposed in the first place.

**Sen. Dr. Balgobin:** Mr. Chairman, I had a slightly different point of view, which, I think, tries to reconcile Sen. Drayton's perspective with the original amendment posed by Dr. Mahabir, and that is, to my mind, you know, a recall is a forced choice. That is the point. I think that sometimes when we do the run-off, when we look at this, the idea is that normally in an election you have had your run, you have cast your ballot, this is a second vote, a second bite of the cherry, and it is intended to force a choice between the two main political candidates in an effort to find one of them that can garner more than 50 per cent of the votes cast in that constituency.

And therefore, I share Sen. Drayton's concern and support fully Sen. Mahabir's proposed amendment. But Sen. Drayton's concern also influenced my mind and so I actually wanted to see the bar lifted, so that if you are not going to a force choice between the top two candidates, that the hurdle be lifted to the realm of 30 per cent which really then suggests that this things has split three ways for all practical purposes, as opposed to having a force choice with the first and second—or the winner and the runner-up, if you will, and having a close third excluded from the process. Which is what I think Sen. Dr. Mahabir's amendment—that is the mischief he is trying to repair. So, I think this is worthy of consideration, but I wanted to suggest a slightly higher bar, with a view to ensuring that if you are expanding it beyond a force choice to give you 50 per cent plus, that that third candidate really has a very strong showing in the first poll. So, that is my—

**Mr. Chairman:** Sen. Vieira, we will come back to you Senator.

**Sen. Vieira:** Thank you, Chair. I wanted to support Sen. Mahabir's position. In France where you have all these multiple parties, the run-off serves as a funnel, so you bring down to where the race really comes down, but here we would

typically have on average, three parties running. So, when you use the system without the triangulaire, as proposed, what you are really doing is you are making it that two-horse race, and it will have a different effect. Now, the triangulaire is where you will now have the opportunity for the horse trading, to do the advantages that we spoke of earlier, where you can now combine and you can protect, and not allow those third parties, those smaller political parties to be put aside. So, I really want to support the Senator's suggestion. And, of course, I say this only with the intention of trying to improve the law in the event the Bill passes, but I reserve my right to object to the whole.

**Mr. Chairman:** Sen. Drayton. I will come back to you as the mover of the thing after. Sen. Drayton.

**Sen. Drayton:** And let me, at least endorse the last statement that Sen. Vieira said, and that is to reserve my final judgment on the Bill. As I said earlier on, it certainly would make a mockery of the entire foundation and the entire purpose of the Bill in the first place, because the Bill came here and it was sold and it was argued that 50 per cent more was needed so that the electorate could be comfortable that indeed they are putting in the majority. And the other aspect of it was that you needed more than 50 per cent of it in the context of the recall.

Now, let me deal with the higher bar in contemplation of this debate, Sen. Mahabir having circulated his amendments. If we put it at 30 per cent—let us assume we want this triangulaire thing—we would in fact be ending up exactly as we were before, in that if you analyze the elections going back from 1991 up to 2007, which is before you had the Partnership, no third party to any degree pulled anything more than 15 per cent of the votes.

**9.15 p.m.**

But in 2007, the COP had pulled between 20 and 25 per cent of the vote in 11 constituencies, and if we go back to 1991 where the ONR had contested the election, they had some significant numbers. However, none had crossed that bar of 30/35 per cent. So based on the analysis of the statistics, if we were to raise that bar at all, we would in fact, be still back to square one.

And I would just like to add that, with respect to my contribution and the Trojan horse I need to come back to that, just to make the point—*[Interruption]*

**Mr. Chairman:** Senator, I have said—

**Sen. Drayton:** No, no, I just want to make the point—*[Crosstalk]*

**Mr. Chairman:** Just a minute, please. Hello! Please! There is one Chairperson here. *[Laughter]* Thank you. Senator, I was just advising, is it necessary that you would want to reply on this Trojan horse?

**Sen. Drayton:** Oh no, I will not reply, I will not reply, I am not replying. Because it came up in my contribution and I think it is necessary to put it in the context based on what Sen. Vieira said, with the respect to the horse trading, and this is what happens in the second round, in terms of horse trading, in terms of the promises, and this is where you have that type of, if you want to say the “Greeks bearing gifts” coming into play. And this is how it was described by a parliamentarian in Canada in an article that I was reading.

So this is the context. It is not a question of a response, it is putting it in the context of the horse trading, the trade-offs and the kinds of promises that are made in the second round in order to get the people to move in a certain direction. So that, just to rephrase, the 30 or any bar higher than 20 per cent—I think, if anything it should be 15 per cent—will be indeed too high given our history of elections and the success of third party in terms of the percentage votes they would normally pull. Thank you.

**Mr. Chairman:** Thank you. Sen. Dr. Mahabir, while you are next, therefore I would want to take the opportunity to allow somebody who has not said anything as yet, Sen. Mohan. And then I would come back to you.

**Sen. Rev. Abdul-Mohan:** Yes, thank you very much, Mr. Chairman. I did have my hand up quite a bit. As I mentioned in my contribution in the debate, and I tend to agree with some of the colleagues, as a matter of principle—because the run-off election system did not go through the consultative process and ventilated enough—I am recommending that it be completely removed from the Bill. That is my honest opinion. *[Desk thumping]* We are ventilating a lot here.

**Mr. Chairman:** Sen. Mahabir.

**Sen. Dr. Mahabir:** Okay, thank you very much, Mr. Chairman. Like all Senators on this side of the Senate, I too share the view that there was not adequate public consultation. I think the Government understands my position. But in the public interest, I think I need to indicate why I created this amendment. In the public interest, when I looked at the changing political landscape, and I am coming back to exactly my justification for the numbers that I have proposed, when I looked at the changing political landscape—it is true I am not an elected MP, but I think my place here is one which indicates that I have reasonably good judgment and a sense of equity, sense of fairness. And in that sense of fairness I

understood the spirit of what the Government was intending to do.

I think, like the Edsel car it was not sold and advertised and marketed very well. But really, I understood the spirit, because when one looked at the political landscape one sees the growth in what is known as the marginal constituency—and it is for this reason I crafted the amendment—estimated at now some 13 constituencies with Chaguanas West being, perhaps, the last of them.

And since there seems to be some tangible benefits for constituents to send to the Parliament an MP—I have heard certain MPs who come with 16,000 and 17,000 votes actually indicate that they do have some particular clout in the Parliament and elsewhere, because they have come with a huge mandate. And there are some constituencies where candidates will be returned with huge and significant majorities. I think in the interest of fairness to both candidate and electorate, in the marginal constituency, that they too be given the opportunity to send to the Parliament a candidate with a significant majority. They should be given the opportunity. It is in this context I saw merit in the proposal.

So that, for me, it had very little to do with the run-off, though, that there is some link there, run-off is linked more to performance, but I think it has more to do with the ability of the candidate, him or herself to be able to have a major amount of influence in dealing with the executive arm of the State, and in giving the constituents an opportunity to have an MP with whom they can rally, because almost 60/70 per cent of them who voted would have sent him into the Parliament. And that was my justification for it.

The second justification, and I am coming exactly to speak to the amendment, Mr. Chair, I know you are looking at me a little cut-eye, but you know [*Laughter*] I hardly stray—when I do say something, even in a roundabout way, I am hoping to tie it back to the issue. In looking at the examples, both in the election of political leaders at party conventions, and also in looking at the elections in France in 2012, I noted a number of very close races in the conventions that I have actually witnessed first-hand. I have seen a third place candidate—that was 1976—a third place candidate actually “come and win”.

In our—I know this is a party election which is different from the MPs that we are electing, but the fact is in these supplementary polls, if we do eliminate a strong third finisher, we really may be eliminating quite early a third place candidate who could win at the polls. In 1976, for example, Joe Clark—and we are talking about a serious candidate now, he was third in the polls in the first poll, in the conservative party. If they only had two rounds there and a cut-off, the Prime Minister of Canada would then have been Jean-Claude Wagner. No one

knows about Wagner because he was eliminated on the fourth ballot when Joe Clark coming from third was able to have the traction and the gravitas to become the political leader of his party and then his country. But what we are talking about is not that. I am emphasizing that a third place candidate can in fact be the compromise candidate and it was shown in the party convention.

But in the French system, the third place candidate is a candidate who, once he is very close to the second place, is a candidate who is not easily ruled out, because in that society there is a tremendous amount of fluidity and movement of the voter. What is the definition of a marginal constituency is not that there is equal ethnic balance, but the presumption is that in the marginal constituency the voters are more fluid and liquid than in another constituency.

So in a marginal constituency it is more likely that the voter mobility is higher than in what is known as a safe constituency. I do not know if there are any safe constituencies anymore in the Republic of Trinidad and Tobago. But certainly, in a marginal constituency we expect a greater level of movement and traction amongst voters. And if in fact, the third place candidate is a strong finisher, strong behind the second place candidate, then all I am proposing is that we give the candidate and his supporters an option to look at him on the second occasion and to make a decision whether he should run again—not that he is mandated to run—whether he should run. Or, should he withdraw voluntarily, then I think there will not be a lot of disenchanted voters who may very much like the candidate, but if he no longer is in the race voluntarily, then he can indicate to them, that well, vote with your conscience or I endorse party number A or party number B.

It is in this fluid situation we have a situation, Mr. Chair, where a third place candidate becomes very important, and I can see him actually winning and I would not like to rule him out. For example, voters who cannot compromise between A and B may actually see the third place candidate as a choice and they may move to him as the compromise candidate that is marketable to all of them.

And so, I have heard my colleague, Sen. Drayton, speak about the 15 per cent, I have placed on the table 20 per cent and I have heard Sen. Balgobin talk about 30 per cent. This leaves me in a quandary. I was rather hoping that there would have been some kind of consensus, but okay, I had a reason for my 20 per cent.

Hon. Attorney General, I have looked at the existing municipal corporations law and I have seen that you currently have four aldermen, that is 25 per cent. Given that there is no unanimity on the bench here with respect to the cut-off point, I would like to propose that—and I am going absolutely no higher, under no condition, none whatsoever—that a third place candidate who has secured 25

per cent of the votes, at least as a minimum, and who finishes very close to the second candidate be given the opportunity to contest the polls.

**Hon. Senator:** What does very close mean?

**Sen. Dr. Mahabir:** What does very close mean?

**Mr. Chairman:** Are you finished Senator?

**Sen. Dr. Mahabir:** Well, I was asked what “very close” means?

**Mr. Chairman:** “Uh huh,” somebody asked a question.

**Sen. Dr. Mahabir:** Well, “very close” in my mind means that he is very close. I would say, no more than 5 per cent—that he should be short of the second place candidate by no more than 5 per cent of a difference of votes cast. No more than 5 per cent of the votes of the second candidate.

Okay, very close, let me define again since I must be precise, it is an amendment I am proposing. Look, “very close” to me means that it is not identical, but the difference between the second and third should be no more than 5 per cent of the votes of candidate number two. And I think, AG, that is fair, it is just, it is reasonable. I think there is a compromise, I cannot accept 30 per cent. I am sorry, 30 per cent is out of the question.

**Mr. Chairman:** Sen. Balgobin.

**Sen. Dr. Balgobin:** Let me just make a point here, having heard Sen. Dr. Mahabir and Sen. Drayton. I did not hear Sen. Vieira, but I just want to sort of reset our understanding of what this is.

A run-off, Mr. Chairman, is a forced choice. It is a forced choice. Now, you are looking for to force a choice in places where votes are split. So, it would normally be a forced choice between two because you are looking for somebody to get more than 50 per cent. In places where there is a marginal positioning, I am of the view that you want to include a third party. And so, if I look at the results of the 2007 and 2010 elections, a threshold of 25 per cent, and 5 per cent coming within 5 per cent of the second place party, I would not object to that. I would wish to say this—make two quick observations here.

One is that we have heard a lot about the 2007 elections and then some magical thing happened with some partnership. Well, we have always had partnerships in this country, since going back by the NAR and so on. So I do not understand that 2007 was some seminal example of an election and after that things suddenly change. Things can change again.

The other thing is this, we have to be careful not to set the bar too low for a run-off with a third party because that perpetuates exactly the problems that we are trying to avoid now, which is the total disenfranchisement of the third party. So you want to have a bar that is set sufficiently low, that allows the third party to participate in a run-off, but not too low; it must be sufficiently high that someone who has not come—[Crosstalk]

**9.30 p.m.**

**Mr. Chairman:** Please, please. We are hearing some echoing while the Senator—

**Sen. Dr. Balgobin:** “I eh know what happen tuh dem. They have no amendments to propose but dey talking.”

**Mr. Chairman:** Because you see—just a minute, Senator.

**Sen. Dr. Balgobin:** Sure.

**Mr. Chairman:** When one is making a point and you are hearing this loud echoing coming from who is not saying anything pertaining to the discussion, the point remains, it throws you off track. So, please, even though you want to whisper—very low, please and allow the contributor to make his point. Thank you. Sen. Balgobin.

**Sen. Dr. Balgobin:** So if you put the bar in too low—I was lobbying upstairs even today for 12½ per cent—it does not make sense because you are going to put a third party in, they are going to lose and they are going to be completely disenfranchised. You want a bar that is of sufficient height that if you cannot get in, you force the broadening of the agenda with the other parties in the race, and somewhere along the line we have to accept that is one of the benefits of this, that either you run in as a strong third, in which case you get another go at the polls, and if you are not a strong third, someone has to broaden their agenda to include you.

So I do not have a difficulty with Sen. Mahabir’s compromise position and I would support it, of 25 per cent and within 5 per cent—his amendment to his amendment.

**Mr. Chairman:** Somebody is making a point? Sen. Cudjoe?

**Sen. Cudjoe:** Thank you, Mr. Chairman. My question is, I am hearing all these different proposals: 25 per cent, 20 per cent, 30 per cent, and Members are basically saying, “I feel this should happen” or “that should happen”. My question is, it seems like the—

**Mr. Chairman:** Hold on, hold on, Senator. Is it not the right of the Senators, with their proposals that they are making, to have a compromise based on what is circulated? So I am saying, in essence, what you are hearing is democratic.

**Sen. Cudjoe:** Can I ask the question? I have not finished asking the question, please.

**Mr. Chairman:** Well, go ahead and ask the question. I thought you were saying you are confused with what they were saying.

**Sen. Cudjoe:** My question is, if we are making a decision here based on the report, what does the report that the Government has accepted from the commission, or the addendum, or whatever document they have received that has not been laid here, what does it say about the run-off? What did the public say about the run-off? Because we are throwing in figures here as they relate to percentage, and they say they spoke about run-off in the consultations. So what did the public say they want to see as it relates to this whole run-off thing? *[Interruption]*

**Sen. Dr. Mahabir:** Mr. Chair, could I come in here? Could I just come in?

**Mr. Chairman:** Hold on, hold on. Please, please. I think that we have passed that part of the discussions of what did the public say. We are doing amendments. We are at committee stage where an amendment was circulated by Dr. Mahabir. The Government also has amendments here, and other Members proposed several things and, therefore, that is what we are debating now. I do not believe that we should go back, based on what consultation you had with the public, because the Government has amendments pertaining to clause 8. *[Interruption]* Just a minute, please. Dr. Mahabir has also circulated. So have you concluded with what you are saying, or there is further information that you need, or you want to make a suggestion on what is going on in clause 8? I am not clear. You have me confused.

**Sen. Cudjoe:** Okay. My question was really to the Government as to what directive, or what are we using to come up with this figure? They recommended 50 per cent—

**Sen. Ramlogan SC:** Perhaps I could respond to that.

**Sen. Cudjoe:** Right, please.

**Sen. Ramlogan SC:** We are in the committee stage and we are simply, at this stage, listening to a proposed amendment, and the Government is listening because we remain, as we indicated from day one, receptive and open to suasion.

So insofar as we are listening to the proposal being fleshed out and respectfully listening to the views and suggestions of each and every Senator, the Government has not yet spoken to the amendment. So all we are doing at this stage is simply listening to them, and as we are entitled to we will consider each and every amendment that is put to the Government and we will consider them and make a judgment call on it. So as to where it emanates from, it emanates from the Independent Bench. That is how I look at it.

**Sen. Dr. Mahabir:** If I could get in here, Mr. Chair, just to indicate that it did not come from any commission, but I saw an open door in the law and I think it is my duty to try to close it.

**Mr. Chairman:** Thank you, Dr. Mahabir. Sen. Al-Rawi?

**Sen. Al-Rawi:** Mr. Chairman, you made a very important intervention in guiding this process. I will be very succinct in saying this. I think that it is also equally the opportunity and obligation of the Opposition to put forward, on the *Hansard*, our position in relation to these positions, in equal measure as the Government is entitled to, and the Independents—[*Interruption*]

**Mr. Chairman:** You are correct.

**Sen. Al-Rawi:**—so that we are saying for the *Hansard*, Mr. Chairman, our position on this. And there is one further point that we would wish to put on this, that this run-off position, apart from the lack of consultation, and now the exercise of proposing to amend something upon which there has been no consultation, we are also saying that this run-off mechanism is in contradiction, is in opposition to the first-past-the-post system because it requires two passes and the first-past-the-post is one pass. Thank you for that opportunity.

**Mr. Chairman:** Thank you, Senator. Anyone else, before the Government replies? AG?

**Sen. Ramlogan SC:** Chairman, thank you very much. This is a very novel and innovative proposal. We understand the concerns and the sentiments. It was, in fact, a common thread through the contributions of all Independent Senators that there is an abiding sense of grievance about the shutting of the door in the face of the third party, or any party. I would not use the term, “third party” here, because I think it is any party, to use Dr. Mahabir’s term, “the winnability factor”. So that any substantial prospect ought not to be pre-emptively and prematurely eliminated from the political equation that leads to consequential disenfranchisement, as it were.

We take the view that, look, our position when we came here is—and it is in the Bill—that we are not depriving anyone of a right to vote; we are not forcing anyone to vote. What we are doing is expanding your right to vote by taking what we have now, which is once every five years, an X and a dip in the ink, and giving you a further say, whereby you can have an opportunity to influence the outcome of the election in your constituency, to have a say in the choice of your Member of Parliament, notwithstanding the fact that your candidate might have been eliminated in the first round or was not successful, to use Dr. Balgobin's quite colourful terminology, so that you would not have to “suck salt” for the next five years and be sour, and be amputated and divorced from the political process.

Now, I did listen very carefully to the contribution of Dr. Mahabir yesterday. I mean, I would have liked to consider it at a higher bar. I heard Sen. Drayton at the opposite end of the spectrum. We do have some—Sen. Le Gall made the very important point about the fact that the two systems are there. I think, the first-past-the-post system is a bit of a hybrid. It embraces elements of both the pluralism and the majoritarian principles, and I think there is room for accommodation of both principles under the umbrella of the first-past-the-post system.

So that I do not see that the novel proposition that is on the table as one that cannot be accommodated on that constitutional bed.

**Sen. Le Gall:** Chair, if I may. Attorney General, I was just thinking that section 73(1) could not remain unamended if you wish to accommodate a run-off system.

**Sen. Ramlogan SC:** What do you propose?

**Sen. Le Gall:** I have not thought about it, to be quite honest.

**Sen. Ramlogan SC:** Yes, sure. But your concern is that the first-past-the-post system really has to do with the one winner in the race of plurality, and that the system that is being proposed is one that is at odds with that. What I am saying, I think the first-past-the-post system—what we are proposing is one election with two polls, and the advice I have received on this matter—because it is a permutation that I did consider—is that falls within the refinement or adjustment of the first past the post, but it remains under that constitutional umbrella in a comfortable way.

So that I was comforted by that advice but I think it is a very valid point and I am happy you have raised it, so that we can, at least, have it on the record that it was considered. So I am grateful to you for raising it, ma'am. But to get back to

the bone of contention with respect to the third parties and the elimination of the third parties—

**Mr. Chairman:** AG, before you go on to give your details, Sen. Hinds wants to say something.

**Sen. Hinds:** I wanted, again—clearly going to be taking objection to this Bill, but I wanted, for the benefit of the public record, you know, you did say a moment ago that the first past the post embraces the concept of plurality as well. Yeah. But what do we mean by first past the post? Because with the run-off, it will also be first past the post.

**Sen. Ramlogan SC:** Yes, exactly.

**Sen. Hinds:** Except that you will not have a plurality.

**Sen. Ramlogan SC:** Yes.

**Sen. Hinds:** Because you have, according to your proposal, two contenders. One of necessity will come with over 50 per cent.

**Sen. Ramlogan SC:** Yeah, yeah.

**Sen. Hinds:** First past the post, to my mind, simply means in the result the person with the highest number of votes from those cast. Plurality is quite different. The result may be described as a plural result, but first past the post means the person with the highest number of votes, whether it is over 50 per cent or under 50 per cent and, therefore, the Senator's suggestion is quite apposite and remains, in my view, intellectually unchallenged.

**Sen. Ramlogan SC:** Sure.

**Sen. Hinds:** And while I am at it, Sen. Drayton raised the point that the Government's argument—core argument—for this is that when the Member of Parliament is elected with less than 50 per cent of the vote, he is vulnerable to a recall because he is only under 50 per cent. By implication you are saying, once he is over 50 per cent, he is not vulnerable to a recall, but this law is not saying so. This law is saying, whether you came in with 50 per cent or 70 per cent, you can still be the subject of a recall.

And while I am on that—and I understand Sen. Small's position—today we doubled the threshold from 10 per cent to 20 per cent, thinking that we have done particularly well, but Sen. Vieira had made the point about verification of the authenticity of these signatories.

**Sen. Ramlogan SC:** Yes, well, we dealt with that already.

**Sen. Hinds:** Just a moment. Just a moment. I know you dealt with it, but I am dealing with it now. I am saying—

**Sen. Ramlogan SC:** But it is a clause-by-clause analysis.

**Sen. Hinds:** I know that, but it links—you told us it is all tied in.

**Hon. Senator:** He said run-off is—*[Interruption]*

**Sen. Hinds:** Yes, you told us that. So I am tying it in. The point is that with this 5,000—in Tobago, where the size of the constituency is substantially smaller, 20 per cent in Tobago is not far removed from the problems that we identified when we move it from 10 to 20 per cent. You follow me?

**Sen. Ramlogan SC:** Sure.

**Sen. Hinds:** And I want to say, finally, for the benefit of the listeners out there, on general election day when you go into the local EBC office, for example in the Barataria area—you are operating in Laventille East/Morvant, Laventille West, San Juan, Aranguez—you go into the Barataria EBC, they send you, depending on what is your issue, to the folks with the binders and so on, down at the head office. This is a typical experience people have had, which suggests to me that the EBC may not be equipped to deal with those kinds of issues at those small local offices. I am just telling you, because you see—

**Sen. Ramlogan SC:** Yeah, well I am grateful for the point—

**Sen. Hinds:** Just now, just now, do not be grateful yet, I am just finishing.

**Sen. Ramlogan SC:** Well, you cannot finish ad infinitum. Come on.

**Sen. Al-Rawi:** Why? Everybody else got to speak freely, man.

**Sen. Ramlogan SC:** No, no, but on the clause. Mr. Chairman, I must object at this stage.

**Mr. Chairman:** Hello, hello, hello. Please direct the question to the Chair. I would really—*[Interruption]*—I heard you. I heard you. I am saying that I am giving you an opportunity to complete what you are saying. Please allow him to.

**Sen. Hinds:** The Attorney General seems anxious to answer, so I will give way to him.

**Mr. Chairman:** AG?

**Sen. Ramlogan SC:** Chair, thank you very much. I think that the submission that merits a response is that of Sen. Le Gall's with respect to the need for amendment to section 73.

**9.45 p.m.**

I am grateful the hon. Prime Minister is sitting next to me because I have obtained the benefit of the wisdom of her counsel, and we both see merit in your point. As I indicated, it is a valid point and we will, in fact, amend section 73(1) which is—we will, in fact, accept that concern and we think that it is justified and it will merit a response in terms of an amendment to that section. So, we are working on that and we will amend that section, accordingly.

But with respect to the other matter, which is the proposal before us, the first-past-the-post system, the question is how do you arrive—it is not one post. The first-past-the-post system does not mean that there is one post. The accent is not on the word “post”. The accent is on the word “first”, and what we are saying here now is that there is one election with two polls, and the first person, the person who places first, is in fact the winner. That is consistent with the ideology, the jurisprudence and the philosophy of the first-past-the-post system. The spotlight or the accent is on he who passes first—the first.

Now, the winner here, in this system that we are proposing, remains the person who is the winner with the most votes. It is just the process that you use to get there will now entail two polls in the one election, and that is something that we are very clear in our minds about and we are very comfortable about, and it is a matter that we have had the benefit of advice on.

**Sen. Roach:** Mr. Attorney General, I am confused a bit, eh, and this is just for clarity. It almost sounds as though the person who passes the post first becomes disqualified in a sense because he has to go through another process.

**Sen. Ramlogan SC:** If he was disqualified, how could he go through another process?

**Sen. Roach:** No, because if he passes the post first under, as it exists in the Constitution now, 73, he is declared the winner, but you are now putting a condition precedent now to secure that by having to go against the person who came in second again. So to me, it contradicts the section—*[Interruption]*

**Sen. Dr. Tewarie:** No, no.

**Mr. Chairman:** Please, please! Sen. Roach, based on the Bill that is before us, therefore, the only way that this person will be reverted to a second post, on my understanding, is if he or she did not get the 50-plus votes that is needed. So it is on that basis as far as I understand. So it is not a matter of—*[Interruption]*

**Sen. Roach:** So, Chair, what it is saying—The Constitution does not state that. As it is, it does not state a percentage. It just says, who passes the post first;

first past the post. This new section, what it is saying is that you have to have 50 per cent.

**Mr. Chairman:** But that is the amendment. That is the amendment. First past the post is the one that is substantive, but therefore there is a provision relative to if you did not receive the required amount of that, then you will revert to the second poll.

**Sen. Roach:** I guess it will clarify for me when the Attorney General probably comes up with the amendment that Dr. Le Gall has just suggested. Once that is probably brought forth, probably I will be able understand it better because it contradicts to me as it exists, how will it coexist at this point in time. And let me just say while I have the benefit of your attention, I understood the Attorney General yesterday and the Prime Minister this afternoon to be a bit distressed by the fact that it was the first time she ever heard in her 40 years—*[Interruption]* *[Crosstalk]*

**Mr. Chairman:** No, no, no! Hold on! Hold on. I am not going to that debate pertaining to the response coming from the Prime Minister relative to what you said yesterday. Please, if it is something pertaining to the amendment of the clause that we are dealing with, fine. But we cannot continue to go backward and forward based on what this one said or what was not said.

**Sen. Roach:** Okay, I am guided. I am guided.

**Mr. Chairman:** I will not accept that. So therefore, AG, could you please continue?

**Sen. Ramlogan SC:** Thank you very much, Mr. Chairman. So I just want to make sure I understand the proposal that is before us. So, Sen. Mahabir, you are proposing in the triangulaire that you have proposed, you are suggesting that the third party—*[Interruption]*

**Sen. Dr. Mahabir:** The third place finisher.

**Sen. Ramlogan SC:** The third place finisher whomsoever that might be—it could be an independent person without a party.

**Sen. Dr. Mahabir:** Exactly.

**Sen. Ramlogan SC:** Right! So the third place finisher, if they finish within a margin of 5 per cent of the second place, and that amounts to—and it crosses a 25 per cent threshold—*[Interruption]*

**Sen. Dr. Mahabir:** And that the third place finisher gets 25 per cent at least of the votes polled.

**Sen. Ramlogan SC:** That person ought not to be eliminated, but go through to the second round.

**Sen. Dr. Mahabir:** No, he ought to be given the option.

**Sen. Ramlogan SC:** The option. Well, the option is not relevant because everybody has the option to drop out if they want.

**Sen. Dr. Mahabir:** So he has an option to stay in or out, but I want the law to give him the option. It is his choice to exercise or not.

**Sen. Ramlogan SC:** Yes, I see what you mean.

**Sen. Hinds:** Question! Just thinking. If the first place winner got 49 per cent and the third place winner is expected to get 25 per cent, the second place winner is expected to be at least—*[Interruption]*

**Sen. Dr. Mahabir:** 26 per cent.

**Sen. Hinds:** 26 per cent?

**Sen. Dr. Mahabir:** Yeah. So it is a 26, 25 and 49.

**Sen. Hinds:** So it means that if the second place winner got 27 per cent, then there will be no opportunity for the triangulaire?

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

**Sen. Hinds:** Well, what happens to the third party now, that strong “winnable” party with 25 per cent?

**Sen. Ramlogan SC:** That is why I am seeking to understand the proposal. As I understand it, the proposal is to accommodate a party that is a viable prospect in the political equation, such that you do not eliminate them unfairly. So the party must prove itself to be a viable prospect in the political equation, such that you do not remove it prematurely.

**Sen. Hinds:** But we just agreed that 25 is very viable.

**Sen. Ramlogan SC:** Yes, I am listening to you.

**Sen. Hinds:** So the third party gets 25.

**Sen. Dr. Mahabir:** Okay, could I come in here as—*[Interruption]*

**Sen. Ramlogan SC:** No, we did not say third. We said any party.

**Sen. Hinds:** Well, the party with the third highest number of votes.

**Sen. Dr. Mahabir:** In the field of numbers, one has to get numbers that one

can justify, and my number of 25, as I said, there are justifications for 20 and 25, but I have no justification for 30. The justification for 25 is what the Government brought before us last year in the Municipal Corporations (Amdt.) Bill as the Government's view with respect to the capability of a political party having secured 25 per cent at least of the vote to be entitled to be an alderman, and that is where the 25 per cent came from. My initial proposal of 20—I cannot get everything I want, but I am going for my second best.

You see, what I wanted was proportional representation. I cannot get it, but I am trying to go for my second best, which is—well, it is not perfect, but I am trying to make it as perfect as possible, and hence the reason for the 25 to make it consistent with the law which exists in the area of the Municipal Corporations Act. So that there is a consistency with respect to 25 per cent to secure one seat as an alderman or with 25 per cent of the vote to secure a chance to contest the triangulaire, and that, of course, is my reason.

And, of course, if someone were to ask me where does the 12 ½ per cent come from for an individual to be qualified to secure his deposit, I will say I do not know. It just came there and I have accepted it as part of the tradition of voting.

**Mrs. Persad-Bissessar SC:** May I ask, Mr. Chairman, perhaps we may want to take a short break? Let us consider this and we come back, and then if it is that—we would have to do the drafting as well because it will bring consequential amendments to the one that you have brought to other areas of it. So may I respectfully ask that—it is already 10.00 p.m. We have been here since 5.00 p.m. or 6.00 p.m., a short break. [*Crosstalk*]

**Mr. Chairman:** So what are you suggesting?

**Sen. Ramlogan SC:** Take a break until 10.15 p.m.

**Mrs. Persad-Bissessar SC:** Some people are hungry, I think.

**Mr. Chairman:** Now it is 9.54 p.m., could we come back at 10.15 p.m.?

**Hon. Senator:** What?

**Mrs. Persad-Bissessar SC:** Quarter past 10.

**Mr. Chairman:** So the committee stage is suspended until 10.15 p.m.

**9.54 p.m.:** *Committee suspended.*

**10.15 p.m.:** *Committee resumed.*

**Sen. Dr. Mahabir:** AG, I have written my new proposal in case you would like to see it.

**Sen. Ramlogan SC:** We have been drafting and I am awaiting the draftsmen. They should be on their way, but in the meantime if anybody else wishes to, we can flush out anything further.

**Mr. Chairman:** Could we have a deferral on this and continue until they come back.

**Sen. Ramlogan SC:** Yes, sure we can do that.

**Mr. Chairman:** I think that might be—*[Interruption]*

**Sen. Ramlogan SC:** Yes, that might be useful, Chair.

*Clause 8 deferred.*

**Mr. Chairman:** So we can go to clause 9.

**Sen. Ramlogan SC:** Yeah, we can go to clause 9 then.

*Clause 9 ordered to stand part of the Bill.*

*Clause 10.*

*Question proposed:* That clause 10, as circulated, stand part of the Bill.

**Sen. Ramlogan SC:** Mr. Chairman, I beg to move that the amendment as circulated be considered, please:

In the proposed Fourth Schedule:

- (a) Delete the words “[Sections 49B(1), (6), (8)(b) and (11) and 49C(7)]” and substitute the words “[Sections 49B(1), (8)(b) and (11) and 49C(7)]”;
- (b) In the proposed Form No. 1, delete the words “ten per cent” and substitute the words “twenty per cent”; and
- (c) Delete the proposed Form No. 2 and renumber Form No. 3 and Form No. 4 as Form No. 2 and Form No. 3, respectively.

*Question put and agreed to.*

*Clause 10, as amended, ordered to stand part of the Bill.*

*Clause 11.*

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

**Sen. Ramlogan SC:** Mr. Chairman, I beg to move that clause 11 be amended, as circulated:

- A. In the Schedule, in paragraph (b)(ii), in the proposed section 33(3)(b)(i)(B), delete the words “of the first poll” and substitute the words “on which the results of the first poll are declared in writing by the Returning Officer”.
- B. In the proposed amendment to rule 101 of the Election Rules—
  - (a) Delete subrule (1)(b)(ii) and substitute the following:
    - “(ii) that a supplementary poll shall be held within fifteen days—
      - (A) between those candidates who earned the highest and second highest number of votes;
      - (B) where there is an equality of votes between two candidates obtaining the highest number of votes, between those two candidates; or
      - (C) among the candidates referred to in sub-subparagraphs (A) or (B) and any other candidate who earned at least twenty-five per cent of the votes and whose votes fall within a marginal of five per cent of the votes earned by the candidate obtaining the second highest number of votes or the candidates referred to in sub-subparagraph (B),”
  - (b) in subrule (17), delete the words “or(c)”;
  - (c) delete subrule (18) and insert the following:
    - “(18) Where a recount—
      - (a) under subrule (16)(b) results in an equality of votes among three or more candidates; or
      - (b) under subrule (16)(c) does not result in—
        - (i) one candidate obtaining the most votes and one other candidate obtaining the second most votes; and
        - (ii) one candidate obtaining more than fifty percent of the votes,

the Returning Officer who shall declare the poll void and a new poll shall, as soon as possible, be held in accordance with these Rules.”.

- C. In the proposed amendments to the Election Rules, renumber paragraphs (r) to (t) as paragraphs (s) to (u) and insert after paragraph (q), the following paragraph:

(r) renumber rule 105 as rule 105(1) and insert thereafter the following subrule:

- (2) Notwithstanding subrule (1), where a supplementary poll is to take place following the first poll of a general election, the Returning Officer shall maintain custody of the unit registers of electors together with the keys of the binders, the register of special electors and the relevant files of answers to questions after the first poll and shall, within seven days after the supplementary poll, return them to the Registration Officers from whom he received the same; and the Registration Officers shall give to the Returning Officer a receipt for the same.”.

*Question put and agreed to.*

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

**Mr. Chairman:** So we still now await the revisitation of clause 8.

**Sen. Dr. Mahabir:** Hon. AG, could I take the opportunity to read what I have?

**Sen. Ramlogan SC:** Yes, please, Sir.

**Sen. Dr. Mahabir:** Okay. I do not know what you have instructed the draftspeople to draft, but really what I would like see drafted—*[Interruption]*

**Mr. Chairman:** Just a minute, Senator, and just a little clarification. Is it then, that the amendment you have circulated, you now have a further amendment?

**Sen. Dr. Mahabir:** Yes. Because of the discussions we have had in the bench, Mr. Chairman, I have made some changes, and how I would like it to read and what I would like to hear from the draftspeople when they return is the following, under (5):

Any other candidate who polls at least twenty-five per cent of the votes cast, and such poll is no less than five per cent of the votes of the second place candidate—*[Interruption]*

**Mr. Chairman:** Please! For the purpose of the recorder, could you go a little slower, please?

**Sen. Dr. Mahabir:** Oh, thank you. My apologies, Mr. Chair.

How I would, as I said, like to see the further amendment now read, Mr. Chair, is as follows:

Any other candidate who polls at least twenty-five per cent of the votes cast and such poll is no less than five per cent of the votes of the second place candidate, is also eligible to contest this supplementary poll.

**10.20 p.m.**

And I continue:

Where more than two candidates contest this poll, the—

**Mr. Chairman:** Yeah, we are still—you continue. I know your profession would have you kind of reading fast. Would you, please—you have to go slower.

**Sen. Dr. Mahabir:** Where more—

**Mr. Chairman:** Any other candidate who polls at least 25 per cent of the votes cast and such poll—

**Sen. Dr. Mahabir:**—and such poll is no less than five per cent of the votes of the second place candidate is also eligible to contest the supplementary poll. And I continue with the rest of my amendment unamended.

**Sen. Moheni:** Dr. Mahabir, through the Chair, I think that should be no less than five percentage points lower than the second place.

**Sen. Dr. Mahabir:** Okay, five percentage points. Right? I would like to hear what the draftspeople have to say.

**Sen. Ramlogan SC:** We have a proposed draft amendment. Sen. Mahabir, whilst we wait for photocopies, I am giving you an advance to review in the interest of time.

**Sen. Dr. Mahabir:** Thank you very much, AG.

**Sen. Ramlogan SC:** Perhaps in the meantime, Chair, I could just read what the proposed amendments would read like. In section 73 to deal with Sen. Le Gall's point, section 73 will now read as follows:

Subject to subsections (3), (4), (5), (6), and (7), the election of Members of the House of Representatives shall be by secret ballot and in accordance with the

first-past-the-post system by inserting the words subject to subsections (3), (4), (5), (6) and (7).

That, Senator, will take care of the very valid point that you made so it makes it subject to those provisions which follow.

With respect to Sen. Mahabir's proposal—do we have the copies? We are about to circulate the copies so perhaps I will pause. So, Chair, now that everyone has it, section 73(1) will read as indicated before, the subsection (4) will read:

Subject to subsections (5), (6) and (7), where a poll is held and no candidate is elected in accordance with subsections (1) and (3), as the Member of House of Representatives for a constituency, a supplementary poll between the candidate who earned the highest and the candidate who earned the second highest number of votes shall be held.

We then go directly into the meat of Sen. Mahabir's proposal as refined by his colleagues, and it will read:

A candidate, other than a candidate referred to in subsection (4) -  
—which will be the one with the—if you got through in the first time.

(a) who earns at least twenty-five per cent of the votes cast in a first poll;

**Sen. Dr. Mahabir:** Could I just interrupt here? Should it not be “candidates”?

A candidate, other than the candidates referred to in subsection (4)-

**Sen. Ramlogan SC:** One second.

**Sen. Dr. Mahabir:** Yeah, under (5).

**Sen. Ramlogan SC:** Yeah, under (5). A candidate—sorry, yes.

**Sen. Dr. Mahabir:** Other than the candidates referred to subsection (4).

**Sen. Ramlogan SC:** Right, yes. You want to know what subsection (4) says?

**Sen. Dr. Mahabir:** Well, I just want to know whether the candidate other than the candidates—the plural as opposed to singular.

**Sen. Ramlogan SC:** Oh, I see. No, they are saying it should be singular.

**Sen. Dr. Tewarie:** Because this is your third candidate.

**Sen. Ramlogan SC:** It is fine as it is. “Other than a candidate” meaning either of the two.

**Sen. Dr. Mahabir:** All right, okay, fine. Either of the two.

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

**Sen. Dr. Mahabir:** Very well, thank you very much.

**Sen. Ramlogan SC:** So that:

A candidate, other than a candidate referred to in subsection (4)-

—that being the one who gets the 51 per cent as it were and onwards.

(a) who earns at least twenty-five per cent of the votes cast in a first poll; and

(b) whose votes fall within a margin of five per cent of the votes earned by

(i) the candidate obtaining the second highest number of votes; or

(ii) the two candidates who earned the highest number of votes, in the event of an equality of votes between those two candidates, may contest the supplementary poll.

I had to put in that because one of the changes we have made is that in using the terminology “first” and “second highest number of votes”, that did not cater for if there was an equality. So if two candidates got an equal number of votes, then there was no need to really have a fresh election and press the restart button. The idea is that the two candidates who got the highest number of votes will go to the run-off. So now I have to say that this person would be in addition to those two: “may contest the supplementary poll.”

**Sen. Moheni:** Mr. Chairman, if we should say 5 per cent of the second place—5 per cent of 30, for instance, is 1.5. Are we saying that the second place and the third place, the candidate who gains the third number of votes must get at least 28.5? We need to say five percentage points.

**Sen. Ramlogan SC:** Five percentage points. No, I think it is fine as it is.

“...fall within a margin of five per cent of the votes earned...”

Yeah, that is fine. I would like to thank my colleague, Sen. Moheni, for that intervention, but I think it is fine as it is, Senator. It is okay. I relied more on the mathematicians for this one.

**Sen. Dr. Mahabir:** Okay, that is very clear.

**Sen. Ramlogan SC:** Yeah, and the next clause would be:

(6) Notwithstanding subsection (3), where a supplementary poll is held among three or more candidates, the candidate who obtains the highest number of votes shall be declared the candidate having the highest number of votes to be elected under subsection (1).

And (7):

For the avoidance of doubt, where there is an equality of votes between two candidates obtaining the highest number of votes and no other candidates earns twenty-five per cent or more of the votes, the supplementary poll shall be held between those candidates”.”

Yes, we will have to say:

Where a candidate earns twenty-five per cent of the vote and fell within a margin of five per cent—

Okay, it is fine, we will leave it as it is.

**Sen. Dr. Mahabir:** Just to be absolutely crystal clear, AG, it means that if the second place candidate earns 1,050 votes and the third place candidate earns 1,001 votes, he is within the 5 per cent margin that I have in mind, and therefore he is eligible.

**Sen. Ramlogan SC:** Okay, sure.

**Sen. Dr. Mahabir:** But if he earns 999 votes and the second place candidate earns 1,050, then he is outside the 5 per cent margin that I am contemplating.

**Sen. Ramlogan SC:** The other amendment is with respect to clause 11 and that has to do with the election rules and they are really consequential amendments which flow from that.

**Sen. Al-Rawi:** Thank you, hon. AG. May I ask a question, through you, Mr. Chairman, to the hon. Attorney General, Senators Mahabir, Balgobin, who are the authors of the document or the thought of the document that has been circulated? If we look on the second page of the amendment circulated, paragraph six in particular, notwithstanding subsection (3):

...where a supplementary poll is held among three or more candidates, the candidate who obtains the highest number of votes shall be declared the candidate having the highest number of votes to be elected under subsection (1).

So, assuming we are in a position where the run-off involves three candidates—  
[Interruption]

**Sen. Hinds:** Where are you reading from?

**Sen. Al-Rawi:** This is page 2 of the circulated amendments that have just been put on the table, paragraph six which is in the middle of the page. I will just wait for the AG.

**Sen. Ramlogan SC:** Yeah, sorry.

**Sen. Al-Rawi:** Yeah, so I am on paragraph six, second page, middle of the page. You have three candidates in a race.

**Sen. Hinds:** Sen. Al-Rawi, before you go on—*[Interruption]*

**Mr. Chairman:** Please, please, direct your question to the Chair.

**Sen. Hinds:** Mr. Chairman, my colleague, my brother and friend, Sen. Al-Rawi, is making reference to a document about amendments moved by Senators Mahabir and Balgobin.

**Sen. Al-Rawi:** No, I am saying that the idea for this amendment comes from them.

**Sen. Hinds:** Because I am seeing—the list that I am reading from is amendments moved by the hon. Prime Minister.

**Sen. Al-Rawi:** Yes, so taking in account, as I understand it, that the thoughts that were just discussed on the back bench, we took the break and this was drafted by the team.

**Sen. Hinds:** Yes, all right, good, good.

**Sen. Al-Rawi:** So just discussing—*[Interruption]*

**Sen. Ramlogan SC:** We should have changed that and we—

**Sen. Al-Rawi:** No, no, it is okay. I just want to get to—

**Sen. Ramlogan SC:** That was a typo, I apologize. Sen. Hinds is correct and can I just amend the document?

**Sen. Hinds:** No, no, it may very well be their ideas through the mouth of the Prime Minister in mind.

**Sen. Ramlogan SC:** All right, Chair, with your leave, may I just seek leave to amend that document to say—

**Sen. Dr. Mahabir:** I take exception to that comment. No, no, Chair, I take exception that “it is their idea through the mouth of the Prime Minister”. I take exception.

**Sen. Ramlogan SC:** “Hinds, yuh shouldn’ say dat, man.”

**Sen. Hinds:** No, but it could be that they were influenced—*[Inaudible]*

**Sen. Dr. Mahabir:** No, I take exception. Chair, there must be a point of order here.

**Mr. Chairman:** Please, Senators, please. Sen. Hinds, the comment that you made there, the Senator is taking umbrage to the comment.

**Sen. Hinds:** Senator, I meant absolutely—

**Mr. Chairman:** Hello, please, please!

**Sen. Al-Rawi:** Let him say what he meant.

**Mr. Chairman:** Please, Senators, please. Sen. Hinds, please, with all due respect, could you please just rehash what you have just now—clarify what you are—yeah please.

**Sen. Hinds:** Mr. Chairman, yes, indeed.

**Mrs. Persad-Bissessar SC:** Withdraw the statement.

**Sen. Dr. Mahabir:** Withdraw the statement. He must withdraw the statement.

**Sen. Al-Rawi:** But it is nothing injurious; let him explain himself.

**10.35 p.m.**

**Sen. Hinds:** I simply meant, I simply meant—[*Interruption*]

**Mr. Chairman:** Give him the clarification and then if we are not satisfied we would ask him to withdraw.

**Sen. Hinds:**—and I was not even finished. I simply meant that the ideas can have come from my colleagues and it was sufficient to influence the Government.

**Sen. Al-Rawi:** The drafters, the drafters who put this forward for consideration. Mr. Chairman, insofar as—[*Interruption*]

**Mr. Chairman:** Please, please, please. Sen. Mahabir, you are the one made the objection in the first instance, so are you satisfied with the clarification?

**Sen. Dr. Mahabir:** No, I am not, Mr. Chairman. In fact, the insinuation that was clear to me, and I am reasonably intelligent, was that I am actually taking instructions from the Government and hence the reason for this particular amendment.

**Sen. Hinds:** Absolutely not.

**Sen. Dr. Mahabir:** And I take strong strenuous objection because it is casting to me imputing improper motives.

**Mr. Chairman:** It is recorded in *Hansard* and could you please withdraw that statement?

**Sen. Hinds:** I meant no offence and I did not ascribe that. That is not what I meant. That is not what I meant.

**Mr. Chairman:** But if that is not what you meant but that is what was heard.

**Sen. Hinds:** And I explained what I meant. What I meant was what I said. I did not say that, you know.

**Sen. Dr. Mahabir:** Could we get the *Hansard* report, please?

**Sen. Al-Rawi:** Mr. Chairman—[*Interruption*]

**Sen. Hinds:** And I meant no offence.

**Mr. Chairman:** Please, let us get this out of the way before we go further. Because as far as I am concerned, what Sen. Mahabir has said, that is what I heard also.

**Sen. Hinds:** So, is he ascribing ill will to me?

**Mr. Chairman:** No, that is what I heard.

**Sen. Hinds:** Well, is he ascribing ill will to me?

**Mr. Chairman:** And, therefore you are—please. Senator, that is the reason why I asked you to clarify what you have said.

**Sen. Hinds:** I did.

**Mr. Chairman:** And, therefore, you came with something different to what was first said.

**Sen. Hinds:** And, therefore, to withdraw it suggests to me as though I said something with ill will, which I did not.

**Mr. Chairman:** But you did in fact say it. You did and in fact said it. It is only when I asked you to clarify what you have said, you came with something different to what you said, hence the reason why Sen. Mahabir rightly took objection to what you said in the first instance. So, it is simple, we understand what—[*Interruption*]

**Sen. Hinds:** Okay, okay, okay, Mr. Chairman.

**Mr. Chairman:** Thank you for your cooperation.

**Sen. Hinds:** Since my friend, my dear friend—

**Mr. Chairman:** Intellectual friend.

**Sen. Hinds:**—my respected and dear friend, Sen. Mahabir, feels offended, I

withdraw the statement so that he would not feel offended. But, let me say I did not mean any offence.

**Mr. Chairman:** Oh, thank you. That is accepted. [*Desk thumping*]

**Mrs. Persad-Bissessar SC:** Mr. Chair, before we move forward, I want to move that we amend this list of amendments with respect to clause 8 and reflect where they came from, which is from the hon. Sen. Dhanayshar Mahabir and that would solve the problem.

**Mr. Chairman:** So there is an amendment—I know. [*Interruption*] Certainly, I am just saying that it came from Sen. Dr. Mahabir.

**Sen. Al-Rawi:** Well, you would have to tear off the bottom of the page to do that because clause 11 comes from the Government. So can we just deal with the issue?

**Mrs. Persad-Bissessar SC:** No, no. I need to correct this, Sir, please.

**Sen. Al-Rawi:** Sure, well then we could recirculate it then. The reprinted version can come. We understand 8 comes, this amendment from Dr. Mahabir, sure, and clause 11 comes from the Government.

**Sen. Ramlogan SC:** No, 11 is consequential.

**Sen. Al-Rawi:** Okay.

**Mrs. Persad-Bissessar SC:** They both came from the proposals.

**Sen. Al-Rawi:** Okay, perhaps I could suggest that we tidy it up so we cause no offence to anyone and that we could deal with the issue, if it is okay?

**Sen. Ramlogan SC:** No, no, we are fine.

**Sen. Al-Rawi:** Okay, thank you.

**Mrs. Persad-Bissessar SC:** Okay, so the amendments to clause 8 are the amendments as proposed by the hon. Sen. Dhanayshar Mahabir.

**Sen. Al-Rawi:** Thank you, hon. Prime Minister.

**Mr. Chairman:** And have been accepted by Sen. Mahabir.

**Sen. Dr. Mahabir:** And I also commend the draftspeople for excellent legal drafting.

**Mr. Chairman:** Please, please, I have Sen. Al-Rawi.

**Sen. Al-Rawi:** Thank you, Mr. Chairman. I would just like—perhaps then my question is, to the hon. Senators behind me, so forgive me for not being able to look at them but if I may—[*Interruption*]

**Mr. Chairman:** There are name tags there that are very clear. Is there any specific Senator that you want to refer to?

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

**Mr. Chairman:** Or is it the entire bench of Senators?

**Sen. Al-Rawi:** I would explain.

**Mr. Chairman:** You said behind you and I am having a little problem with that.

**Sen. Dr. Mahabir:** Mr. Chairman, I am accustomed to explaining myself well.

**Mr. Chairman:** You are very good at that, hence the reason I want to be clear myself.

**Sen. Al-Rawi:** Thank you, Sir. I would quicken my steps. So, this is Sen. Mahabir's document, not Sen. Balgobin's, I understand now?

**Sen. Dr. Mahabir:** It is mine, yes.

**Sen. Al-Rawi:** Okay, so Sen. Mahabir is the author of this intention. May I please enquire, through you, Mr. Chairman, I am somewhat confused and I would be grateful if I can understand this, if the hon. Senator could assist me. Subsection (6), as is proposed here, which proposes the triage, the three candidates running, the Government's stated intention, as I understand it, saying that this run-off provision comes from the recall, first of all, saying that the intention of the run-off is that you are to get a majority position demonstrated for the candidate, that you go over 50 per cent, 50.1 per cent, anything over 50 per cent. How does the logic behind subsection (6) work in a situation where you have three candidates running and those three candidates may, for instance, have, by way of percentages, a result which turns out to be 49 per cent, 27 per cent and 24 per cent?

In that circumstance there, which is in aggregate 100 per cent, which may be a realistic result between the three candidates on the second poll, if you have a situation where they return a vote 49 per cent of the votes cast, 27 per cent of the votes cast, 24 per cent of the votes cast, particularly where that turnout may have been lower than the first poll, as a permutation, how does that help us to achieve the Government's stated intention, upon which there was no consultation, of achieving an over 50 per cent vote? [*Desk thumping*] I want to say that the logic behind this, in that circumstance, is entirely contradictory. Unless my learned friend, Sen. Mahabir explains it to me because maybe I had missed the point.

The purpose of the amendment to the Constitution to section 73 is to get a majority view of a candidate. The candidate must achieve over 50 per cent on the second poll to be elected, and you can have a circumstance where 100 people went out to vote, of those 100 people, 27 per cent came in for candidate A, 24 per cent for candidate B, and 49 per cent for candidate C. Those three add up to 100 per cent. Let us assume on the first poll that 150 people came out, 50 people stayed home, 100 people voted on the second poll. How are we achieving, on a first-past-the-post system, as amending section 73, the Government's stated objective of getting over 50 per cent, how?

**Mr. Chairman:** Okay, well you posed the question—and Sen. Mahabir?

**Sen. Dr. Mahabir:** Mr. Chairman, I had explained that point and I was pellucidly clear. Mr. Chairman, I am known as an excellent lecturer in economics and I have been able to explain very complex things at the University of the West Indies, so that students would be able to understand things which are of extreme difficulty. I thought I was very clear on my rationale and for the amendments that I had proposed. The rationale was as follows, and I will repeat ad nauseam. Whenever there are two candidates contesting by definition, the winner must always secure over 50 per cent in order to win. That is a definitional issue. There is no question there.

What the proposal and the amendment, which I am happy that the Government has accepted, is doing—and I am repeating this perhaps, for the 10th time in this Parliament but I am a good lecturer and, therefore, I will take my time and I will do it. Yes. [Crosstalk]

**Mr. Chairman:** Allow the Senator to give the answer that he has been asked to give.

**Sen. Dr. Mahabir:** Please, I am explaining. I was asked to explain. So please allow me to explain.

**Mr. Chairman:** Yes, do so, do so.

**Sen. Dr. Mahabir:** Right.

**Mr. Chairman:** You did not pose the question, Sen. Hinds, it is your comrade here that asked the question.

**Sen. Al-Rawi:** Please, go ahead.

**Sen. Ramlogan SC:** Take your time man.

**Sen. Dr. Mahabir:** In the situation where there is Government's policy, which, I as an independent Senator, accept as good public policy, so I accept the

Government's policy, whatever their rationale that it makes very good sense for a representative to be elected to a Parliament with a majority, which means that he has in excess of 50 per cent of the votes cast. And that occurs for the first poll and it also will occur in a second poll, if there is this two-round system. And in the second poll, with two candidates, by definition, you will get the 50 per cent. That, I cannot, unfortunately, make clearer.

But, what I have proposed is that in a very close contest, where three people are now contesting, with the third person having the option to contest, as now the law gives him, and there are now only two rounds in this election, a winner will now have to be selected. It is possible that the winner will now be elected with, in excess of 50 per cent, it is possible. But in a three race, in that triangle, in that triangulaire, it is also possible that an individual who has secured the highest number of votes will not cross the 50 per cent threshold; he will score 48 per cent. What we have done is, in the second round, we have given the electorate an opportunity to select a candidate who did not secure 50 per cent on the first round. We have given them the option. In the second round, we are now giving the first, second and close third-place finisher, the option of contesting or withdrawing however they see fit.

In my contribution yesterday, I mentioned the classic case of the Seine's 11 district where there was that triangle. And in that situation, the second place winner voluntarily withdrew, as he has a right in Trinidad and Tobago to do. No one can compel him if he does not wish to run. And in that case, the first place contesting with the third place was able to secure a sizeable victory to get into the French Parliament.

And so, in order for practicality one says that we understand that in this triangular race it is quite possible on the second round, having given the citizens the option to elect a majority candidate, but they could not agree because the third place candidate thought he had a better choice than he actually had. He had no gravitas. People did not come to him. We, as a matter of public policy, would say: "we gave you an option, you decided to vote for the candidate and to return a minority candidate, it is now the rule. On the next occasion, you will get the opportunity and, therefore, you would understand your constituency. You would understand that you have to move. But what we have done is given choice. In my business, Mr. Chairman, whenever we give people an expanded range of choices we have increased their rights. I do not know if it is the same in law but certainly in the field of economics, which is a theory of choice. Whenever people have greater choice, there it is an increase in their welfare, and so in this context, it is quite possible that the winning candidate may not get the 50 per cent, but what we

have done is that we have given the constituency and the constituents an option to elect the majority candidate.

Whether that is consistent with the Government's run-off provision or not is not of interest to me. What is of interest to me is that we have given the third place so that there is a measure of equity in the system and that the third place finisher, if he has a winnability quota, is able to exercise his option. On that, Mr. Chairman, I can say no more.

**Sen. Al-Rawi:** Thank you, Mr. Chairman. I wish to thank my hon. colleague. Please, Sen. Mahabir, I mean nothing pejoratively when I say it. I am trying to understand the logic and I thank you for taking the time and energy to explain it again. It is an important issue. So I am sorry that it has caused a little heat under the collar. I do not, certainly, mean to cause you any upset.

May I ask this then: so, if I take away from that explanation firstly, that on the second round, you may have a candidate under 50 per cent being the victor, because that is what I take away, that I would wish to understand, in the context of the Bill itself, where clause 8 of the Bill—and it may be that I have got this not as up-to-date as it can be because we have so many amendments coming at us.

Clause 8 of the Bill on page 9 starts as follows:

“Section 73 of the Constitution is amended by inserting after subsection (2), the following subsections:”

and the first one says this:

“(3) A candidate shall not be elected in accordance with subsection (1) as the member of the House of Representatives for a constituency, unless he obtains more than fifty per cent of the votes cast in the constituency.”

**10.50 p.m.**

Now, taking exactly what I got from my learned colleague, Sen. Mahabir, I have just got a statement that a candidate on the second round of the poll can very well be the victor of that poll at a sum under 50 per cent. My submission to this honourable Senate, apart from what I consider to be a most spectacular exercise of amending something upon which there has been no consultation—[*Interruption*] I am entitled to put my view forward—apart from that, my concern is that the answer that I have just been given, in long form, by my learned colleague is that you are now starkly in contradiction with clause 8, new subclause (3) and that just is not only an inconsistency in law, but it is an inconsistency in language. May I hear some more on this?

**Mrs. Persad-Bissessar SC:** Hon. Senator—

**Mr. Chairman:** Is it then you are posing the very said question to Sen. Mahabir to further—

**Sen. Al-Rawi:** Perhaps somebody has the answer, perhaps I have got it wrong. Mr. Chairman, I do not mean to—should I put the question?

**Mr. Chairman:** Just a minute, please Senator. When Sen. Mahabir explained—gave you the explanation, I got the feeling that you understood what he said, and then you went on to ask a further question relating to that. So, therefore, you did not clearly understand all that he had explained?

**Sen. Al-Rawi:** Or it could be that I have a second question, Sir. Perhaps I understand everything he said and I just have a second question.

**Mr. Chairman:** Well, that is what I am asking you. The second question then is what needs to be answered?

**Sen. Al-Rawi:** Yes, Sir. And my second question is, in light of page 9 of the Bill which says:

No candidate can be elected to the House of Representatives unless he is over 50 per cent.

Then the explanation in the context of the amendment proposed, where you can have the successful candidate at under 50 per cent, is to cause an inconsistency of law, logic and process, and I want to know how the two can coexist?

**Mr. Chairman:** Well, is there an answer? Sen. Al-Rawi is seeking an answer.

**Sen. Dr. Mahabir:** Yes, well, could I just say I thought it was clear that no candidate in the first round could be elected with less than 50 per cent. No candidate in the first round—

**Sen. Al-Rawi:** Just read section 3:

“A candidate shall not be elected in accordance with subsection (1) as the member of the House of Representatives...unless he obtains more than fifty per cent...”

**Sen. Dr. Mahabir:**—in the first round.

**Sen. Al-Rawi:** Okay, and if I—that makes sense, Sen. Mahabir, so thank you. But the question now comes, in the first round where you have had multi-parties or multi-candidates participating, the mischief there—for which this Bill proposes

a solution—is that it was not good enough, you fell under the 50 per cent margin and, therefore, you have to have a second round. But the result to be procured by the application of your amendment is that the answer could happen such that, the victor is again under 50 per cent. So why not just stick with the first poll?

**Sen. Dr. Mahabir:** Hon. Chairman, I am saying no more on the matter. I have explained this ad nauseam, and unfortunately I cannot explain it further.

**Mr. Chairman:** I do not intend to go on and on with a repetition of the same thing, on the same clause. So, therefore, I am giving the Government—

**Sen. Al-Rawi:** So what is the Government's policy?

**Mr. Chairman:**—the opportunity to—

**Sen. Hinds:** Mr. Chair.

**Mr. Chairman:** Just a minute please. I said I am giving the opportunity to the Government to reply to the question at least that has been asked.

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

**Mrs. Persad-Bissessar SC:** I will give way to the hon. Senator.

**Sen. Hinds:** No, I will follow the Chairman's ruling.

**Mrs. Persad-Bissessar SC:** I will give way to you, Sir.

**Sen. Ramlogan SC:** The Government has the last say on this matter, “buh leh we hear yuh”.

**Sen. Hinds:** Yes, you would have had it anyway. Mr. Chairman, I understand totally that which was explained by Sen. Mahabir. I think we all do, my learned friend, Sen. Al-Rawi, must. I heard in his submission, in his response, he said, notwithstanding the Government's view, my view is so and so, my rationale is so and so. What I want to know now is whether the Government is accepting that explanation for the provision as suggested to be amended? And if so, where does that leave the Government rationale for their provision in the first place? Are you with me, Mr. Chairman?

**Mr. Chairman:** Yeah, I am trying to follow.

**Sen. Hinds:** Yes, well, let me help you again.

**Mr. Chairman:** My understanding—

**Sen. Hinds:** Let me help you again, we—

**Mr. Chairman:** Hold on, hold on, hold on, my understanding of it is that the Government has accepted the amendment put forward by—

**Sen. Hinds:** The amendment, yes.

**Mr. Chairman:**—Dr. Mahabir—

**Sen. Hinds:** But the explanation given by Sen. Mahabir—

**Mr. Chairman:**—the explanation now, the Government would have an opportunity to say exactly what you are asking about.

**Sen. Hinds:** That is what I want to know, whether they are accepting Sen. Mahabir's explanation.

**Mr. Chairman:** So, therefore, I am giving the Government the opportunity to answer. Okay.

**Mrs. Persad-Bissessar SC:** Thank you very much—

**Mr. Chairman:** Thank you.

**Mrs. Persad-Bissessar SC:**—Mr. Chair, Vice-President. You know, politics is about—policy making and politics is about seeing the points of view from others. The Government came with some philosophical underpinnings to the amendments that we propose to the Constitution and to the ROP and so on. What we are saying is that we have said there will be two polls, the first poll and the second poll.

Sen. Mahabir is proposing, at the second poll, that we now give a third place candidate an opportunity to participate in that poll. I would have thought that this would have been acceptable by so many persons in this Senate who had real problems with the run-off, and were saying we were denying these people a place and a right to vote. So I can see—we are prepared to accept it on that basis, that you are allowing somebody who came so close to the second person, I mean it could be one point. I think Sen. Drayton had even spoken about it, you get 49.1 and 49.2 or whatever the case may be. So candidates who come so close, that they are not locked out of the system and, therefore, they are given an opportunity in this triangular formulation.

Again, as the Senator said and others have said, it may not be 100 per cent the best possible thing, but at this point, the Government is prepared to accept the recommendation of the hon. Senator given the rider that the person must fall within a 5 per cent of the margin, and we are prepared to accept that without going further. I agree with you on the first poll, we are saying you go for the majoritarian rather than the plurality.

I agree with you that when we—Sen. Le Gall, in fact, I thought made a very good point, that by the time we go to the second poll with this proposed amendment, we are now moving into a hybrid of plurality and majoritarian. However, it does satisfy the concerns raised by some of the hon. Senators here on the run-off and the deprivation of third parties, and the forcing of a vote or taking away of a vote. And in that regard, we always say we listen, we learn and we lead, [*Desk thumping*] and so we accept the recommendations from the hon. Senator. [*Desk thumping*]

**Mr. Chairman:** The Chairman intends to use a discretion on this thing. I do not intend to spend whole night here over and over with a repetition of the same thing. Therefore, it would end in a vote of which we have the right to so do, and which I have the right as the Chairman to use a discretion based on that purpose. I will give you another opportunity again, Sen. Al-Rawi.

**Sen. Al-Rawi:** Okay, Sir. Thank you, hon. Prime Minister.

**Mrs. Persad-Bissessar SC:** Here really nice, strange as it is.

**Mr. Chairman:** I am trying to satisfy, yes.

**Sen. Al-Rawi:** Thank you, Mr. Chairman. Thank hon. Prime Minister for your explanation. Hon. Prime Minister, just one simple question, and I will take it as a statement of your policy. I am genuinely concerned to understand the Government's policy position in relation to its statement that you should have a majority vote over 50 per cent. And I am concerned—I understand what you have said in terms of trying to find a mix, et cetera. But I am concerned to understand how this particular—[*Interruption*] if I could just finish before you give me the prefixed answer that is being suggested—but I am just asking. I am concerned that there is an illogic here that we are on the second poll, in danger of certainly not meeting the very standard which you have set, which is that you must be a majority over 50 per cent. And just for the record to correct this, the plurality system is, in fact, the first-past-the-post system, the majoritarian principle is the other way around. So we have got the terminology a little bit mixed up. It is easy to confuse. Thank you, Madam.

**Mrs. Persad-Bissessar SC:** Can I? I understand what you are saying, and in some respects I share the view by your good self, by Sen. Le Gall. I think someone else had raised that—Sen. Drayton, you know, this idea we are going majoritarian on the first poll, but on the second poll, we are going back to plurality; that is the first past the post.

So what we are saying, the 50 per cent applies to the first round, the first poll. It does not apply to the second poll. The second round, the second poll will permit

a plurality outcome, if a majority outcome is not possible on the second ballot. If it is not possible on the second ballot, then—because we will be going forever into seeking—[*Desk thumping*] and I think that best answers your concern. So whilst the best would have been proportional representation, the best may have been as Sen. Abdul-Mohan said, take out run-off completely. We do believe this allows on the first poll for the majoritarian system in effect. On the second poll where that is not possible, you go back on the plurality.

Thank you very much.

**Mr. Chairman:** All right hon. Senators, I intend to put the question now.

*Question again proposed:* That clause 8, as circulated, stand part of the Bill.

**Hon. Senators:** Division!

*The Committee divided:* Ayes 18 Noes 12

AYES

Singh, G.

Coudray, Ms. M.

Ramlogan SC, A.

Howai, L.

Griffith, G.

Hadeed, G.

George, E.

Karim, F.

Tewarie, Dr. B.

Moheni, E.

Ahmed, Mrs. R.

Ramnarine, K.

Solomon, D.

Smith, Miss K.

Nicholas, G.

Balgobin, Dr. R.

Mahabir, Dr. D.

Small, D.

NOES

Al-Rawi, F.

Henry, Dr. L.

Baldeo-Chadeesingh, Mrs. D.

Cudjoe, Miss S.

Singh, A.

Hinds, F.

Drayton, Mrs. H.

Wheeler, Dr. V.

Vieira, A.

Abdul-Mohan, Rev. J.

Roach, HRI

Le Gall, Dr. S.

*Clause 8, as amended, ordered to stand part of the Bill.*

*Clause 11 recommitted.*

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

**Mr. Chairman:** AG, you said you had something on clause 11, which was already passed and recommitted.

**Sen. Ramlogan SC:** Yes, it is just below clause 11. Chair, may I? I beg to move that clause 11 as amended and circulated—clause 11 is a consequential amendment to the election rules. [*Crosstalk*]

In the proposed amendment to rule 101 of the Election Rules, delete subrule (1)(b)(ii) and substitute the following:

“(ii) that a supplementary poll shall be held within fifteen days-

(A) between those candidates who earned the highest and second highest number of votes;

(B) where there is an equality of votes between two candidates

obtaining the highest number of votes, between those two candidates; or

- (C) among the candidates referred to in sub-subparagraphs (A) or (B) and any other candidate – who earned at least twenty-five percent of votes and whose votes fall within a margin of five per cent of the votes earned by the candidate obtaining the second highest number of votes or the candidates referred to in sub-subparagraph (B),”

*Question put and agreed to.*

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

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

**11.05 p.m.**

*Senate resumed.*

*Bill reported, with amendment.*

*Question put:* That the Bill be now read a third time.

**Sen. Baldeo-Chadeesingh:** No. Division.

*The Senate divided:* Ayes 18 Noes 12

AYES

Singh, Hon. G.

Coudray, Hon. M.

Ramlogan SC, Hon. A.

Howai, Hon. L.

Griffith, Hon. G.

Hadeed, Hon. G.

George, Hon. E.

Karim, Hon. F.

Tewarie, Hon. Dr. B.

Moheni, Hon. E.

Ahmed, Hon. R.

Ramnarine, Hon. K.

Solomon, D.

Smith, Miss K.

Nicholas, G.

Balgobin, Dr. R.

Mahabir, Dr. D.

Small, D.

NOES

Al-Rawi, F.

Henry, Dr. L.

Baldeo-Chadeesingh, Mrs. D.

Cudjoe, Miss S.

Singh, A.

Drayton, Mrs. H.

Hinds, F.

Wheeler, Dr. V.

Vieira, A.

Abdul-Mohan, Rev. J.

Roach, HRI

Le Gall, Dr. S.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

### **Independence Greetings**

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. Vice-President, it has been three days in the Senate. It is almost as if we have started the budget debate here. Before I move the adjournment of the Senate, the 52nd anniversary of independence is before us this weekend, so that it is necessary that Members of the various benches bring greetings on behalf of the various benches.

On behalf of the Government Bench of the Senate of the Republic of Trinidad and Tobago, I take this opportunity to bring greetings to the population on the momentous occasion of independence 2014.

This year marks 52 years that Trinidad and Tobago has been a nation. As we celebrate our success as a multidimensional society, we must not forget the persons who founded this nation and our Constitution of Trinidad and Tobago. In so doing, I would like to pay tribute to the hon. Dr. Eric Williams, our country's first Prime Minister; Dr. Rudranath Capildeo, the first leader of the Opposition of Trinidad and Tobago.

As a nation, independence means that we have been responsible for the governing of our own internal affairs. We have ownership and responsibility for our society, our economy, our Judiciary, central government and every other aspect. Our nation can proudly boast that, for 52 years, we have been able to seriously manage our affairs in a democratic, fair and tolerant society.

Our achievements are multitudinous. The fertile soil of our nation has given life and nurtured sons and daughters who place this country of ours, Trinidad and Tobago on the worldwide map, contributing their innate talents in the fields of science, arts, culture, sport and technology.

One must recall the patriotism seen and felt when our Soca Warriors qualified for the World Cup in 2006; when Trinidad and Tobago won Miss Universe pageant in 1977 and in 1998; when Brian Lara broke the cricket world record in 1994; when Hasely Crawford and Keshorn Walcott won Olympic Gold, and the list goes on. [*Desk thumping*]

Those were moments in Trinidad and Tobago's history when our people came together as one; when the patriotism ran high and our colours, the red, white and black, pulsed as a beacon showing the world that we are here.

Over the 52 years of self-governance, we have accomplished a great deal, which has placed Trinidad and Tobago in the international arena. We have much to be proud of and much to celebrate but, as always, there is room for improvement.

As we celebrate these 52 years, we must now lay the foundation for the next 100 years and beyond. We must prepare Trinidad and Tobago for the future. We must have confidence in ourselves as a people to embrace the unknown, unify our passion, our strength and our focus on the positive aspects—change that will identify us worldwide as visionaries of our future, constantly evolving, ensuring that we are toe to toe with a world that is moving at warp speed.

I urge you to seek a keen interest in the continuous development of our nation. It is up to us as a people to drive the process of advancement; therefore, it is up to us, the people, to make the decisions today which will impact the future. It is up to us to chart the way forward and this should be done with careful thought and conscious reasoning.

We must think not only of our future, but the future of our children and our grandchildren and our great grandchildren, leaving this country in a better place than when we received it.

Mr. Vice-President, as we prepare to celebrate our 52nd anniversary of independence on Sunday, August 31, this Constitution (Amdt.) Bill, 2014, which was passed only moments ago, represents a new paradigm in elections as an instrument of democracy. It is the dawn of a new era in electoral politics. It is power to the people.

Happy 52nd independence to each and every one of you. May God continue to bless our citizens and may God continue to bless and enrich this great nation.

Mr. Vice-President, I thank you.

**Sen. Fitzgerald Hinds:** Thank you very much, Mr. Vice-President. I speak with more than usual pleasure on behalf of the Front Bench on this side of the House, the Opposition Bench and on behalf of the People's National Movement.

This is our 52nd independence anniversary and one would recall that when we began this journey in 1956, leading to our independence in 1962, we were a nation with hope, with aspirations and, in some cases, with fears about the future. We were leaving the certainty, with even its disadvantages, of a colonial experience, and we were charting new course as an independent nation state.

Today, Mr. Vice-President, 52 years or so later, I can stand here with confidence to say, on behalf of all of the people of Trinidad and Tobago, that we have fared more than reasonably well. We have managed a free democratic process over that period. We have maintained, after its establishment, an independent Judiciary. We have had some success with the management of our economy. We have an admirable and expansive education system that has served our people and other peoples of the region particularly well. We were able, over those years, like other countries of the world, to conquer some of the major diseases that afflict mankind and, of course, we maintained social cohesion among the different strains that came together in this wonderful space, in this beautiful land that we share as Trinidad and Tobago.

Mr. Vice-President, it is my prayer that we would continue; but it would only be a prayer if each and every one of us, each and every organization, civil, political and otherwise, if we would exert best efforts; observe the watchwords that were given to us by the founding father, Dr. Eric Eustace Williams and the team of bright and hard-working people that would have been around him at that time: discipline, production and, of course, tolerance.

It goes without saying, and it is now well-known, rehearsed often, that the price of this freedom and the price of the well-being that we now share must be eternal vigilance. We have to guard our democracy very closely. As has been said, and I concur, and I am sure you, too, would concur, Mr. Vice-President, we cannot take our democratic arrangement for granted. We have to watch it jealously and we have to act to procure it on a continuous basis.

Today, we passed another measure that amends the fundamental document, the Constitution of Trinidad and Tobago, that has kept us whole over those 52 years. It is one in a series of amendments that have taken place over that period.

Today was a fundamental change. It did not enjoy the support of all present in this House, but in true democratic spirit, we would abide by it. We would live by it and others would live and presumably die by it.

I take this opportunity again as I close, on behalf of our team in this place and on behalf of those who cannot have the opportunity to stand here, to wish all of Trinidad and Tobago continued growth, prosperity and success on this our 52nd anniversary of independence.

May God bless us all and may God bless our nation. I thank you.

**11.20 p.m.**

**Sen. Dr. Rolph Balgobin:** Thank you, Mr. Vice-President. How lovely to hear again from former colleague, Sen. Hinds, [*Desk thumping*] always wonderful. When he came here today, I told him the place felt whole again. I do miss his contributions.

I rise to pay respects to wish the country the very best on Independence Day which is coming up. Independence, of course, 52 years ago, really started our journey, our walk along this road of self-determination, of self-reliance and so it is caught so beautifully in our National Anthem when we say: "Forged from the love of liberty", and people take for granted the mash of cultures of ethnicities that we have in Trinidad and Tobago.

We have gone from typical watchwords such as: discipline, production and, particularly, tolerance; from tolerance alone, Mr. Vice-President to appreciation,

where we engage each other so positively, and we appreciate most, if not everything about each other. I believe, therefore, that we are well and truly on the way. Trinidad and Tobago has the potential to be and will be a great nation. This is why we are here, and this is the project to which we commit ourselves and our life's work.

And so, I join with my colleagues and with the expressions by both the Opposition and the Government Benches, in wishing Trinidad and Tobago the very best for Independence Day. May we have another 520 more. I thank you, Mr. Vice-President. [*Desk thumping*]

**Mr. Vice-President:** Hon. Senators, I wish to join with Members of the Senate in offering Independence Day greetings as we mark our country's 52nd anniversary as an independent state on Sunday, August 31, 2014. Independence is defined as freedom from the control, influence, support, aid or the like, of others. Therefore, on Independence Day, we celebrate the achievement of self-governance.

On this day also we celebrate our ancestors, in particular, the pioneers of justice, equality and human rights who helped to shape the democracy we enjoy today. Therefore, hon. Senators, let us remember our duty as Members of this Parliament to continue to guide this nation of Trinidad and Tobago along the path of efficient self-governance and sustainable democracy.

On behalf of the Office of the Parliament, I wish all hon. Senators and the people of the Republic of Trinidad and Tobago, a happy 52nd Independence Day. [*Desk thumping*]

**The Prime Minister and Minister of the People and Social Development (Hon. Kamla Persad-Bissessar SC):** May I crave your indulgence, please? [*Desk thumping*] Thank you very much, for a moment. I just want to, again, thank all of you, all the Senators, for your contributions in supporting this Bill, and to say as we celebrate this 52nd anniversary of our independence, I feel very proud that we have been part of, for the first time, effecting electoral reform in Trinidad and Tobago. I thank you.

#### ADJOURNMENT

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. Vice-President, thank you and I want to take this opportunity to thank you for the manner in which you have conducted the debate [*Desk thumping*] for the past three days, and to thank the staff, Nataki Atiba, and her team [*Desk thumping*] and the AG and his drafting team [*Desk thumping*] and administrative team. [*Crosstalk*] Well, the AG wants me to call from cook to

captain—[*Crosstalk*]—and the officers who have been here with us and who have protected our Senators and the Marshal and his team.

Mr. Vice-President, having regard to the effort made by all the parties over the last three days, I take the opportunity to adjourn this honourable Senate to a date to be fixed.

**Hon. Senators:** Yeah! [*Desk thumping*]

**Mr. Vice-President:** Hon. Senators, on my own behalf, I sincerely want to thank the Marshal and the entire staff of the Senate, all Senators that are present: Opposition, Independent and the Government, for the support they have given to me as the temporary Chairperson, Vice-President of the Senate. [*Desk thumping*] I sincerely want to thank everybody for the tolerance that they endured with me during that period. I thank you very much. I would now put the question.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 11.26 p.m.*