

HOUSE OF REPRESENTATIVES

Friday, May 29, 2020

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

Madam Speaker: Hon. Members, I have received communication from Mrs. Cherrie-Ann Crichlow-Cockburn MP, Member for Lopinot/Bon Air West; Dr. Bhoendradatt Tewarie MP, Member for Caroni Central; Mr. Prakash Ramadhar MP, Member St. Augustine, who have requested leave of absence from today's sitting, and from Mr. Barry Padarath MP, Member for Princes Town, who has asked for leave of absence for the period May 29, 2020, to June 30, 2020. The leave which the Members seek is granted.

PAPERS LAID

1. Ministerial Response of the Ministry of Education to the Thirteenth Report of the Joint Select Committee on State Enterprises on an Inquiry into the Operations of the MIC-Institute of Technology with specific reference to the high drop-out and failure rate of its trainees. [*The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis)*]
2. Ministerial Response of the Ministry of Education to the Twenty-First Report of the Public Administration and Appropriations Committee on an Inquiry into the Oversight of State Agencies under the purview of the Ministry of Education and funding to Private Secondary School Institutions. [*Hon. C. Robinson-Regis*]
3. Ministerial Response of the Ministry of Education to the Thirteenth Report of the Joint Select Committee on Social Services and Public Administration

on an Inquiry into the prevalence of Teenage Pregnancy and the State's Capacity to Minimise the Occurrence of Teenage Pregnancy and provide services and assistance to teenage parents. [*Hon. C. Robinson-Regis*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Miscellaneous Provisions (Local Government Reform) Bill, 2019

Mr. Esmond Forde (*Tunapuna*): Madam Speaker, I wish to present the following report:

Fourth Interim Report of the Joint Select Committee appointed to consider and report on the Miscellaneous Provisions (Local Government Reform) Bill, 2019 in the Fifth Session, Eleventh Parliament.

Constitution (Amdt.) (Tobago Self-Government) Bill, 2018

The Minister of Minister of Social Development and Family Services (Hon. Camille Robinson-Regis): Madam Speaker, I have the honour to present the following report:

Second Interim Report of the Joint Select Committee appointed to consider and report on the Constitution (Amdt.) (Tobago Self-Government) Bill, 2018 in the Fifth Session, Eleventh Parliament.

URGENT QUESTIONS

CAPE/CSEC Examinations

(Safety Protocols for Students)

Mr. Rudranath Indarsingh (*Couva South*): Thank you very much, Madam Speaker. To the Minister of Education: Given that students will be required to write the Caribbean Advanced Proficiency Examinations (CAPE) and the Caribbean Secondary Education Certificate (CSEC) examinations in July 2020, could the Minister inform this House whether health and safety protocols for

Urgent Questions (cont'd)

2020.05.29

students, teachers, examiners, invigilators, supervisors and other employees involved in the examination machinery have been finalized?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. I am pleased to state that the very simple answer to this question is yes. These safety protocols for students, teachers, examiners, invigilators, supervisors and other employees involved in this examination, these protocols have been finalized with the Ministry of Health. Thank you.

Madam Speaker: Supplemental, Member for Couva South.

Mr. Indarsingh: Thank you very much, Madam Speaker. Minister, could you inform this House in relation to the questions both being in the affirmative whether the safety protocols have had the agreement of stakeholders such as the Trinidad and Tobago Unified Teachers' Association, the Principals Secondary Schools Association and also the National Parent/Teachers Association?

Hon. A. Garcia: Thank you once again, Madam Speaker. Yes, we have been in constant dialogue with all our stakeholders, and in fact if I had with me I would have shown you a paper that we got from the Association of Principals of Public Secondary Schools in which these protocols were written to ensure that all our teachers, our students, all our stakeholders are fully aware of the necessity to abide by these protocols. So, again, my answer to the Member for Couva South is yes we have had dialogue and consultation with all our stakeholders. Thank you.

Madam Speaker: Supplemental, Member for Couva South.

Mr. Indarsingh: Thank you very much, Madam Speaker. Minister, could you further assure all stakeholders, and especially parents and teachers, that thermal scanners and signage as it relates to social distancing and so on will all be in place in relation to the commencement of the examinations?

Hon. A. Garcia: Madam Speaker, the Ministry of Education is also working

Urgent Questions (cont'd)

2020.05.29

closely with the Ministry of Health to acquire thermal scanners for students, teachers to ensure they do not have a temperature before entering the schools to write exams. So again, I want to give the Member for Couva South the assurance that all these things will be put in place. Thank you very much.

UWI St. Augustine

(Relaxation of Matriculation Requirements)

Mr. Fazal Karim (*Chaguanas East*): Thank you very much, Madam Speaker. To the Minister of Education: In light of the recent publication by UWI's Registrar that the university will relax its matriculation requirements, could the Minister state whether the Ministry and the Accreditation Council of Trinidad and Tobago were consulted on the relaxation of matriculation requirements at the St. Augustine Campus for the academic year 2020/2021?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. I have been in contact, almost on a daily basis, with Prof. Brian Copeland, Principal of the St. Augustine campus of the University of the West Indies on this matter and I have been assured that all these decisions would have been taken, were taken by other arms of the University of the West Indies, not only the St. Augustine campus. In addition, I have been told that there was a meeting of Heads of Governments where these things were discussed.

Now the second part of the question with respect to the Accreditation Council of Trinidad and Tobago, again Prof. Copeland has indicated to me that he has had discussions with Dr. Eduardo Ali, the newly appointed CEO of the ACTT, and he has assured him that discussions have been held and everything has been approved. So that there is no problem with respect to the change in matriculation. Thank you very much.

Madam Speaker: Supplemental, Member for Chaguanas East.

Urgent Questions (cont'd)

2020.05.29

Mr. Karim: Thank you very much, Madam Speaker. As the line Minister responsible for UWI, could you state whether this relaxation of matriculation requirements, specifically at the St. Augustine campus, would affect the quality of education delivered at the campus?

Hon. A. Garcia: Madam Speaker, there are two parts of this question again. The first part is where he specified the University of the West Indies, St. Augustine campus. In my response a little while ago I made it clear that the change in matriculation requirements does not pertain only to the St. Augustine campus of the University of the West Indies. The University of the West Indies now has four landed campus and one open campus, and therefore it will affect all four campuses and in the open campus.

In addition, let me state that the quality of education will not be compromised. Again, in discussing with the Principal of the St. Augustine campus of the University of the West Indies, I have been assured that every effort will be made to ensure that our students receive the high quality education that this university has been accustomed to delivering. So there is absolutely no question of the quality of education being compromised. Thank you.

Madam Speaker: Supplemental, Member for Chaguanas East.

Mr. Karim: Thank you very much, Madam Speaker. Hon. Minister, with respect again to this matter of the lowering of matriculation requirements, do you foresee that students would be required to take more remedial education to address any knowledge gaps?

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

UWI University Grants Committee
(Budget Cuts)

Mr. Fazal Karim (*Chaguanas East*): Thank you very much, Madam Speaker. To

UNREVISED

Urgent Questions (cont'd)

2020.05.29

the Minister of Finance: Could the Minister state whether the Government has given a directive/recommendation to the University of the West Indies University Grants Committee for campuses to cut their respective budgets by 10 per cent or any other specified amount over the fiscal periods 2020/2021 and 2021/2022?

The Minister of Finance (Hon. Colm Imbert): Thank you very much, Madam Speaker. No.

Madam Speaker: Supplemental, Member for Chaguanas East.

Mr. Karim: Thank you very much, Madam Speaker. In view of the response from the hon. Minister of Finance, Minister of Finance could you say whether in terms of the budget cuts that are expected, do you foresee any impact? Let me come straight to the question. One of the reasons we have been told about the situation that we are experiencing, the financial difficulty, is the amount of receivables. Can you state, if you can tell us, how much money is owed to the University of the West Indies, St. Augustine campus, for GATE contributions.

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

ORAL ANSWERS TO QUESTIONS

The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis): Thank you, Madam Speaker. There are two questions for oral answer and we will be answering both.

Government Rentals

(Details of)

45. Dr. Fuad Khan (Barataria/San Juan) asked the hon. Minister of Public Administration:

Could the Minister indicate:

- A. the number of government rentals that did not have:
 - i. fire certificate approval; or

UNREVISED

- ii. OSHA approval; or
- iii. town and country approval for the period 2005 to February 29, 2020;

B. the duration of those rentals in part (a) and a list of these properties?

The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis): On behalf of the Minister of Public Administration, Madam Speaker, I first need to advise the House that my responses to these questions are constrained or influenced by the following:

The Government of the Republic of Trinidad and Tobago currently rents or leases approximately 350 properties throughout Trinidad and Tobago for the purpose of accommodating various state agencies. The records for these properties have traditionally been kept as hard copy files in the Ministry's offices, making retrieval of data and effective management of the properties difficult.

In 2016 the Ministry of Public Administration commenced the development of a computer-based property records management programme, known as the "Property and Management Information System". This system contains files or records for the following categories of properties:

- Privately owned properties offered for lease;
- Private properties that have been offered for rental or lease;
- Leased rentals which are private properties that have been approved for rent or lease; and
- State-owned properties.

Since the launch of this system in 2018, the Property and Real Estate Services Division of the Ministry of Public Administration has been digitizing its records, that is, scanning and uploading a digital copy of each document contained in the several files for each property under its purview, both state-owned, approximately

1,200 properties, and privately owned properties offered for lease and leased, approximately 1,696 properties. To date, that division has digitized 544 of the 1,696 properties offered for lease and leased properties on file.

Regrettably because of the difficulty in retrieving the requested information from the files that have not yet been digitized, especially having regard to the constraints brought about as a result of the COVID-19 pandemic, the responses to the questions raised are restricted to the digitized records.

Based on available information or records at the division, the number of Government rentals that did not have the undermentioned approvals for the period 2005 to February 29, 2020, are as follows: Prior certificate approval, 126 properties; OSH approvals, 35 properties; Town and Country approvals, zero. It is important to note that the approval of the Town and Country Planning Division is required prior to the rental of all private properties. As such, there are no instances of rentals without the Town and Country Planning Division's approval.

Regarding the fire certificate and the OSH approval, these are always requested and obtained for all first time lease rentals, leases or rentals and renewals. The duration of these arrangements is generally three years. Where rentals are continued or rolled over without a lease, that is, on a month to month basis immediately following the end of an approved lease or rent arrangement, and pending a decision and action to renew, the fire service and OSH approvals would not be immediately acquired, therefore accounting for the numbers provided.

Currently, the division is reviewing all Government rentals with a view to ensuring that all leases are brought up-to-date and all statutory requirements are met. Given the number of properties for which approvals are not available, I am unable to provide an oral response to part B, and as such, I request the permission of the House to submit a written listing which I have on me.

Thank you, Madam Speaker.

Vide end of sitting for written part of the answer.

Trinidad and Tobago Deaths
(January to March 2018/2019/2020)

68. Mr. Rodney Charles (*Naparima*) asked the hon. Minister of Health:

Could the Minister provide the total number of deaths recorded in Trinidad and Tobago for the period January to March for the years 2018, 2019 and 2020?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker, and I am grateful for this question. Information received from the Central Statistical Office indicated that the total number of deaths recorded for the period January to March 2018 was 3,002—3-0-0-2.

For the periods January to March 2019 and 2020, unedited data received by the Registrar General's Office which collects that data, pending verification by the Central Statistical Office, were for 2019, 3,107 and for 2020, 3052. Thank you very much, Madam Speaker.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Could the Minister indicate whether he has information for the month of April for these years?

Hon. T. Deyalsingh: Madam Speaker, the question posed was for January to March 2018, 2019 and 2020. I answered the question as posed. What I could say, contrary to what was said in this Parliament last week where the Member of Parliament for Caroni Central, I believe, the hon. Dr. Tim Gopeesingh said, and I quote:

“The Minister and the Ministry of Health and the Government have to answer for the loss of lives of those people who did not receive...treatment.”

These figures clearly show that the numbers, 3,002 for the period 2018, 3,107 for the period 2019, and 3,052 for 2020, the figure for 2020 actually went down. The number of deaths actually went down. So the untruth being put into the system last week that people are dying because of COVID is totally debunked by official figures.

The official figure for January, March 2018, let me repeat, 3,002. In 2019 it went down by 105. January to March 2020, 3,052. It went down again, total number of deaths. But the UNC is putting out a narrative there that people are dying by the hundreds due to COVID, and the official figures absolutely, absolutely put that conspiracy theory to rest. Thank you very much.

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

Dr. Khan: Minister, based on your death rates, 3,000 for the '18, 3,000 for '19 and 3,052, do you think it was necessary then to lock down a whole country and economic problems for eight deaths from COVID?

Hon. T. Deyalsingh: Because if we—

Madam Speaker: It is not allowed, Minister. I will not allow that as a supplemental.

Hon. T. Deyalsingh: Thank you very much, Madam Speaker. [*Interruption*]

JOINT SELECT COMMITTEES

(Extension of Time)

Miscellaneous Provisions (Local Government Reform) Bill, 2019

The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis): Thank you very much, Madam Speaker. Having regard to the Fourth Interim Report of the Joint Select Committee appointed to consider and report on the Miscellaneous Provisions (Local Government Reform) Bill, 2019, I beg to move that the committee be allowed an extension of one month in order to

complete its work and submit a final report by June 30, 2020.

Question put and agreed to.

Constitution (Amdt.) (Tobago Self-Government) Bill, 2018

The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis): Madam Speaker, having regard to the Second Interim Report of the Joint Select Committee appointed to consider and report on the Constitution (Amdt.) (Tobago Self-Government) Bill, 2018, I beg to move that the committee be allowed an extension of three months in order to complete its work and submit a final report by August 31, 2020.

Question put and agreed to.

INTERCEPTION OF COMMUNICATIONS (AMDT.) BILL, 2020

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. I beg to move:

That a Bill to amend the Interception of Communications Act, Chap. 15:08, be now read a second time.

Madam Speaker, may I be reminded of the time in this House?

Madam Speaker: You have 30 minutes.

Hon. F. Al-Rawi: Much obliged, Madam Speaker.

We come together in this Parliament on a matter of deep and important public interest and concern. Whilst we fight the fight to save lives in a COVID pandemic, criminal activity still is intent on being a part of our society. Crime has gripped our country for decades, and many a government have come to the wheel of governance, the helm of that ship, and have not offered a comprehensive and connected methodology to crush crime. This Government has been the exception to that rule. The exception to that rule has largely been premised upon a

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

reformation of the criminal justice system in a most profound fashion.

The reformation has involved treating with plant and machinery, people, processes and law all at once. It makes no sense to have a law if you do not have a court to have it operational in, or to have a judge to hear it, or a prosecutor to prosecute, or a defence attorney. And whilst that record is one which we will treat with a little bit later, it is directly related to the Bill before us.

On the 3rd of March, 2020, in the Senate we had the third reading of this Bill as amended in the Senate. In that debate we had the support of the Independent Bench. There were no votes against the Bill on the Independent Bench. There were only six voices against this legislation sitting on the Opposition Bench.

This law before us now is intended to amend the Interception of Communications Act, Chap. 15:08. That is an Act of Parliament that came to us in the early part of the UNC's tenure in 2010. On the 3rd of December, 2010, it was passed. On the 17th of December, 2010, it was assented to or proclaimed. On the 20th of December, 2010, it was amended.

2.00 p.m.

That law brought into form and fashion, on the back of some scurrilous allegations no doubt, a law which is designed to treat with the interception of communication over a telecommunications network. That is important to bear in mind, because whilst the parent Act defines what “communication” is, and “communication” is quite properly defined to be all forms of communication in various iterations, the interception of communication is what is now an offence at law and that interception of communication must be over a telecommunications network. That is to be found at section 3 of the Act where we deal—section 4 of the Act, sorry, section 5 of the Act, where we have the amendments contemplating

the interpretation section, all holding on to what communication is.

Madam Speaker, this Bill has a legitimate aim. The legitimate aim is to be found in very short measure across the following heads: Number one, we seek by these amendments to introduce the formal capture of a broader category of communication, that is, not only communication which is voice, et cetera, over a telecoms network, but we treat with stored communication, and we treat with stored data. In doing that, we also move to another legitimate purpose, which is to introduce the concept of evidence being obtained from communications inside of a prison, and in the prison environment also associated to that is the prison vehicles and prisoner depots.

The third part of legitimate aim is in fixing the unconstitutionality of the 2010 law. The 2010 law, even though it was passed with a three-fifths majority, is an ouster of the court's discretion. It breaches the separation of powers principle, because the admissibility of evidence, particularly in sections 17 and 19 of the Act is deemed to be "shall" admitted. Evidence shall be admitted with no discretion to the court. The legitimate aim flows further in adding the modern use of technology alongside the modern aspect of criminality. Where criminality uses technology, the balance of rights of the individual, whether those rights are in due process of law, section 4(1)(a) of the Constitution; whether it is in protection of the law, 4(1)(b); whether it is in the right to private and family life, 4(1)(c); or the right to fair trial in 4(1)(b) those individual rights fall against the public right that is enshrined in our Constitution as well, in particular the first right, enshrined, and that is to life and liberty of the general citizens.

When we look at the balance of technology as it is used by criminality, when we look to the data in Trinidad and Tobago to see that there is a rampant cell phone

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

usage in our prisons and in places of detention, where literally murders are being called for on communication devices from in the prisons, whilst the existing law in section 6(2) allows for the interception of communications for national security purposes, et cetera, the evidence of communication cannot find its way into court unless it is by way of warrant. Put quite simply, you may have golden evidence which you cannot capture again, where a killer calls for a shot from a prison. You miss that opportunity and you cannot convict the person because the evidence is not there. Whilst the common law allows for, in the case of *R v Strange*, in particular, for a disregard of the manner in which you capture evidence, i.e., it is not in the face of an absence of statutory prescription, it is not something which a court looks at as to how you got evidence, the fact is that the common law allows for evidence to be admitted even though it was admitted in unlawful conditions where there was no statutory provision.

The other aspect of what we treat to in this legitimate aim is in providing the courts' discretion. And in adding the courts' discretion for all matters that come up of evidence, be they evidence under a warrant in section 8, a warrant in section 11, the admissibility of evidence in section 17, the admissibility of evidence in section 19, we have to cure a serious illegality, a serious unconstitutionality in the existing law by making all evidence, even if is sensitive evidence that can reveal the identity of a person, the manner in which the intercept was done, we have to allow the court to consider that. And therefore, one of the high principles in proportionality in this law is that we now allow the court and only the court to be the arbiter as to the admissibility of evidence.

The measures proposed in the Bill to treat with it are rationally connected to the legitimate aim. The measures are the least intrusive measures as a matter of

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

law, because they comply with what we know in the common law already. Those least intrusive measures include the fact that a judge supervises the admissibility of evidence. Those least intrusive measures also include the fact that there are specific safeguards built into the legislation proposed in this Bill, where we include what is referred to as the Bailey Principles, so that you have interception or you have what we call bugging. You are recording conversations in a prison that they must be proportionate in the manner in which the bugging is done. So if it is always to be determined it must be determined under the lens of the interest of justice. That means it is the least intrusive. In looking at the further proportionality we are also looking at the proportionate effect. Does it help to balance the country's interest in a society such as Trinidad and Tobago that we actually take these measures into effect?

So, Madam Speaker, permit me now to dive into the Bill. Because, the constitutionality of the Bill is a very important point. It is definitely the case that this law is constitutional whether we use a majority support for it or not, but we have brought it nonetheless with a special majority consideration, and we have, as I have said in the Senate already, we have many options available in considering how we refine the law, how we consider the law, and how we pass this law, because the society is crying for justice as we speak. Madam Speaker, let us jump to clause 5. Clause 5 adds definitions. We looked at the definition of an address. An address includes a telephone number, electronic location or physical location. Why? Because part of this law is to also allow what we call “triangulation”. It is to allow traffic data to be captured so that when the police are looking for somebody at a location in a live intercept, the traffic data can pinpoint you by way of cell tower triangulation. We see it in the movies. If it is good enough for the

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

United States movie audience, or the Bollywood movie audience, then it surely is good enough for Trinidad and Tobago.

When we get to the definition of “communication data” here is the critical point: traffic data, information. These aspects of communication data coupled with the new definition we propose to introduce to stored data, this allows for the Interception of Communications Act, to allow for the Act to be used by way of production of material as opposed to what exists lawfully right now, on which this Bill preserves, which is where you go for warrants for stored data or communication data under the provisions of section 5 of the preliminary enquiries legislation, or if you go for that data pursuant to production orders under sections 32 and 33 of the Proceeds of Crime Act. So, the law allows that in two subsidiaries pieces, in two other pieces of law, which is the preliminary enquiries legislation effectively, section 5, and the Proceeds of Crime Act, sections 32 and 33. But what we have to do here is to incorporate that into this legislation.

Now, Madam Speaker, very importantly, we include a definition of a prison, and we have borrowed from the Miscellaneous Provisions (Law Enforcement Officers) Bill a wide definition of “prison” to include rehabilitation centres, prison detention centres, et cetera, and therefore you would see a definition of prison there. Madam Speaker, it is important to note that we have defined “traffic data”. And traffic data again allows us this pinpointing opportunity to triangulate where you were when the crime was committed if the evidence was intercepted. Madam Speaker, it is very important to note that we propose a specific inclusion in section 4A of what the Act applies to. Under the existing law the Act applies to criminal proceedings. You will see, Madam Speaker, in the Bill before us, that we have proposed the inclusion of a clause 4A—section 4A—and section 4A now broadens

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

this application of the law, firstly to criminal proceedings, obviously. But secondly, to the provisions of the Anti-Terrorism Act, the civil asset forfeiture and explain your wealth suite of legislation, and very importantly, the Mutual Assistance in Criminal Matters Act for extradition matters. In other words then, criminal and quasi-criminal law must be contemplated as interception of communication ought to be confined to those circumstances.

Madam Speaker, we then look specifically to the improvements that we see in clause 6. In clause 6 we have split it into an either way offence, moving from more than just summary conviction into indictable, because we would like to move away from the limitation of a six-month period of limitation for summary matters. Madam Speaker, the amendments that we see coming into the further provisions of the law, and if we get specifically to what we are looking at in clause 6 and clause 7 combined, we can see that we are allowing in clause 6 the amendment of law which is the amendment to the heart and soul of interception. We are allowing in clause 6 that communications intercepted may be subject to section 17(2)(b) and (2)(c), admissible in evidence. Where you have interception under the Interception of Communications Act, you can have it under warrant, you can have it without warrant, but the old law, the law we propose to amend, says you cannot use that evidence that is non-warranted. We are now saying that you can be allowed to use non-warranted evidence subject to the safeguards built in in new section 17(2)(b) and (2)(c), only for proceedings which are defined in clause 4 as the broader than criminal proceedings, quasi-criminal proceedings, anti-terrorism, mutual assistance, and extradition, obviously, Madam Speaker.

Madam Speaker, we are allowing in clause 7 for the Commissioner of Prisons to provide the proportionate balance to the intrusion of prisoners' rights.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

Now prisoners' rights are modified rights. It is clear in law that prisoners do not enjoy the full panoply of rights that normal citizens do, because they are under conditions of detention when sent to a prison. We are requiring in new 6A by clause 7, that the Commissioner of Prisons must give notice that the prisons are effectively a listening place in all places except the areas set aside for legal professional privilege. The legal professional privilege must be carefully preserved, and that is done by clause 7. Madam Speaker, clause 7 also adds in the new section 6B, and section 6B allows us to intercept prison vehicles. Now, it is important to remember that these interceptions are not over a telecommunications network. They are in fact recordings of communication, and therefore the Interception of Communications Act is now going to more than just interception on a telecoms network, and into bugging or recording of only prisons or prisons vehicles. We note the Opposition has been on the outside saying that this allows everybody to be intercepted by way of recording. That is not the case.

Madam Speaker, we have sought in clause 9 to amend section 8 of the Act, specifically so that you can have a warrant for interception for more than just the communication on the telecoms network. Here is where we add the stored communication or stored data, and therefore we broaden the Proceeds of Crime Act and the preliminary enquiries route by allowing for data to be produced at the High Court—information at the High Court, not only via the magisterial production order under Proceeds of Crime Act, or warrant under the preliminary enquiries route, section 5.

Madam Speaker, we have also added in the provisions of the mutual assistance in legal matters, and you would see that where we amend subsection (2)(a) by adding in a (iii) to that to include mutual assistance in matters. Very

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

importantly, Madam Speaker, you will note that we are treating with the concept of sensitive information, and we have specifically in the sensitive information sought when we get to the amendments to section 17 and to section 19, to treat with that in a very different way.

Clause 10, Madam Speaker, is an important provision. Here is where we asked the telecommunications providers, who are under license, to bear the cost of assisting in interception of communications. The current position right now is that they ask for exorbitant fees for the technology to be brought up to their level when instead they can provide the access using their own technology. Madam Speaker, clause 11 treats with the amendments to urgent applications. Again, we have broadened to include stored communication and stored data. Clause 12 is an amplification of what we did at clause 11, sorry, at clause 10, where again we put the cost upon the telecommunications provider in adding the assistance. Madam Speaker, it is very important to note that clause 12A is where we seek to improve the Act by making sure we extend the confidentiality provisions that are provided in clauses 14 and 15, sorry, in clause 14, to all of the routes, not only stored communication—not only intercepted communications under telecommunications network, but also stored communication and stored data.

Madam Speaker, in clause 13 we again treat with the acknowledgement that you can have interception and production of information via the Proceeds of Crime Act and the preliminary enquiries legislation. Clause 14 introduces further safeguards in respect of keys which are used for management of access to telecommunications network or secured communications.

Let us get to clause 15 quickly. Clause 15 is where we treat with the ouster of the court. This is the unconstitutional part of the 2010 law. In section 17 we

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

had the unfortunate position where the court was not permitted to consider the admissibility of evidence. And I would like to warn, it is at this point that I must caution that the Director of Public Prosecutions specifically informed the Attorney General's Office that there was a need to treat with this amendment. The wide stakeholder consultation that we had also underwrote this, and therefore this law is critical to making sure that prosecutions under the Interception of Communications Act have a chance at success.

Madam Speaker, we have specifically introduced into this that—what is in fact the sensitive information. We have included the bracket of the warrant because for the evidence to be made admissible you need to know who made it, in what circumstances and how. And we have to protect the law enforcement agencies by making sure the identity of those persons in national security remain a national security issue as it is all over the world. We put in very critical safeguards to ensure that the interception of communication for prisons, et cetera, are matters that must be subjected to new clause—subsection (2C), and here is where we put in the Bailey principles as they referred to from the common law. That is, that nothing was done to induce or trick the accused or defendant, the integrity of the recording or interception is sound, the use of the recording of interception device is proportionate to the gravity of the alleged or suspected offence, the use of the method was appropriate, no recording or interception of any legal professional privilege took place. These are critical safeguards in balancing what we do here.

And, Madam Speaker, we ensure that there is a satisfaction of relevance. The court must consider granting leave, but the court must consider granting leave in the circumstances set out in the new subsection (b). It shall not grant leave in relation to evidence or questions referred to unless it is satisfied that there is a

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

validity and lawfulness of the warrant, the accuracy of the integrity of the intercepted communication, the accuracy and interception of the communication data. And, Madam Speaker, when we look to the provisions a little bit further, we also deal with the usual aspects. The preservation of the rights under the Evidence Act, section 14A and section 14B.

Madam Speaker, we have introduced a critically important provision via clause 16. Clause 16 introduces a special measure. If you want access to the sensitive information, if you want to find out the identity of the person who did the interception and put them at risk, you must go through a special measure, and that special measure has to be underwritten by a court and only a court giving you leave. That special measure introduces a special advocate. That special advocate preserves the right of the defendant under the principles of legal professional privilege for the defendant to be represented by an independent person on a narrow scope only, and that is the admissibility of the sensitive personal information or privileged information.

This has been accepted in the Commonwealth around the world, the United Kingdom, Canada, New Zealand. In those jurisdictions they do it administratively not judicially. We seek in this Bill to give judicial discretion therefore bringing to life the due process aspect of the law and giving constitutionality. Whether that proportionality is underwritten by a narrow proportionality, or an extended proportionality, within the meaning of “narrow” in the Barry Francis aspect of the case in our own Court of Appeal, or in the Lady Hale aspect of the Suratt case, or in the extended proportionality of *R v Oakes* and *De Freitas*, et cetera, which latter part does not necessarily apply to us. We have underwritten due process into this matrix in a very careful way in clause 16. We obviously prefer and keep the

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

interest of justice and the legal professional privilege caveats into position.

Madam Speaker, in clause 17A we propose the preservation of the Proceeds of Crime Act and interception via the preliminary enquiries route. But those laws were not subjected to the safeguards in the Interception of Communications Act. So we have put in the specific springboard, and you see it in the consequential amendments to the Proceeds of Crime Act, and also to the preliminary enquiries route, where we lift the provisions of section 13 and section 14 of this Act to make sure that confidentiality is preserved, to make sure that tipping off does not happen so that the police are in a very careful circumstance of preserving intercepted communication, whether it is under the Interception of Communications Act, the Proceeds of Crime Act, or the preliminary enquiries legislation, Madam Speaker, and I am using that term in the short sense of the word—of the phrase that we apply that law to.

Madam Speaker, clause 18 treats with the admissibility of stored communication and stored data. We have replicated the provisions for leave, we have replicated the safeguards, we have managed that in a careful way. Clause 19 is where we make sure that there is a destruction of records, and we have gone further to make sure by improvements that we preserve a critical concept here. Right now there is no saving of intercepted communication. There is a requirement for it to be destroyed immediately if it is not going to be used in proceedings, and if that information discloses criminal activity in relation to another matter it is destroyed. We have preserved in the new subsection (8) the concept of public interest immunity, and public interest immunity is underwritten well. Actually, the cases are from the Privy Council, from the European courts, from the rest of the Commonwealth. The public interest immunity is a very careful

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

issue that preserves evidence, and we keep that specifically in place under the new subsections (8) and (9) of section 20.

Clause 20 treats with amendments for general provisions, the protection of authorised officers. Clause 21 treats with offences. We are making sure that we add on what exists under any other written law, and by that obviously we mean, for now the Proceeds of Crime Act and preliminary enquiries route. Clause 22 introduces the new section 23A, and that is tipping off offence. This is critical where criminality exists in tipping off, where politicians seem to have evidence in their pocket, or on a public platform, as we saw announced quite spectacularly by past Attorney General Ramlogan, for example, these things must be stamped out.

Madam Speaker, we then turn to the amendments via clause 23. Clause 23 we introduced the concept of regulations, and we have raised the offences to take care of section 63 of the Interpretation Act. We have elevated a breach of regulation to a fine of \$250,000 or imprisonment for two years, and we have specifically introduced the rules making capacity of the Judiciary under section 25A, where we allow the Supreme Court of Judicature Act to go into operation to make rules. Clause 25 treats with the application of warrants amendments, adding in stored communication and stored data. Clause 26 deals with the same addition to Schedule 2. The first one was Schedule 1, that is, clause 25 was Schedule 1. Clause 26 treats with the addition of stored communication and stored data.

Madam Speaker, the rest of the provisions deal with the amendments that we had to make to the Proceeds of Crime Act and the preliminary enquiries route, to make sure that information which was produced under the production orders in section 32 and section 33 of the Proceeds of Crime Act, or via section 5 of the preliminary enquiries route, that those are subjected to the same degree of

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

confidentiality and caution that we have. In a nutshell, Madam Speaker, it is time to make a prison a prison. It is time to make sure that criminality does not prosper because we are afraid to use technology. It is time to bring Trinidad and Tobago in line with the rest of the Commonwealth and the common law. This law is proportionate in every sense of the word. This law has been brought with full Independent support, not a single no coming from the Independent Bench. This law stands as a crime-fighting tool to return Trinidad and Tobago to a sense of normalcy. This law articulates with all of the deep reforms that we have engaged in as a Government into the criminal justice system, be it at its core or be it at its periphery, reduction of caseload, opening of more courts, et cetera. This law is before us for debate. I look forward to contributions, and I beg to move. [*Desk thumping*]

Question proposed.

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much, Madam Speaker, for the opportunity to speak on this extremely important measure before us today. Madam Speaker, let me say from the beginning I intend to take all 30 minutes of my time, and to divide that time, after some introductory remarks, into an assessment of the parent legislation so far, and of course some critical thoughts on the amendment Bill before us. My colleagues after, attorneys-at-law, would speak in greater detail on some of the issues raised by the Attorney General as they relate to specific amendments to the operationalization of the measures, and of course to the introduction of new concepts and new legal personalities into the structure of our justice system.

Madam Speaker, just a few thoughts first on the presentation made a few moments ago. And, I believe and I say so without any reservation that the

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

Attorney General means well and would diligently do his research, and as well-intentioned as he is, he will not go beyond a certain boundary, and will of course share a deep concern with the issues of democracy, of fairness, and of justice. Madam Speaker, this Bill must be placed in the context of where we are today as a country, where we are today in the electoral cycle, and where we are today in the fight against crime. The fight against crime and criminal elements did not begin this morning. Madam Speaker, that has been a battle facing this country for over 25/30 years, particularly in the aftermath of the 1990 events, where I believe the offspring of one of the key protagonists is in the news again.

Madam Speaker, the issue here is that this is the tail end, the eleventh hour of an administration in its fifth year, and one wonders whether the administration itself has the moral authority to bring this piece of legislation. [*Desk thumping*] Because this legislation is rooted in public trust. Governments are extremely wary of deal and advancing this type of legislation because it requires public trust. And if we ask ourselves the question, does this Government enjoy the public trust of the national community today to give them the moral authority to ask for this type of power to government agencies, some of which are not completely independent of the political Executive? And the question is: Do you have that trust? We believe you do not. Because we are mere weeks away from the dissolution of the Parliament and the calling of a general election, and it is unwise to say the least that a government can now claim from the people—can now ask for this right.

2.30 p.m.

Madam Speaker, the issue of trust is there; I will come back to that. But we have in our possession reports on the performance of the parent legislation and the Attorney General was right. This legislation came into being with the People's

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

Partnership in December 2010. Because of a series of events which was scandalous, to say the least, and involved the illegal wiretapping, illegal eavesdropping, and to use a language that people know, the “macoing” of public officials at the highest level, Madam Speaker, right through the Government, the private sector, trade unions, members of the political Opposition and so on, and that history is there. The former Prime Minister, the Member for Siparia came to this very Chamber and spoke on this matter and showed the files. And therefore we moved to put in this interception of communication legislation to really create the legal framework for intelligence gathering according to the law and to help law enforcement.

Madam Speaker, we have in our possession the reports and the reports— Interception of Communications Act, Chap. 15:08, annual report. And I do not want to go through all in the limited time I have, but to just share a particular view and raise a particular concern. Now, the Government is in possession of not only information, but, Madam Speaker, the Government is in a position where they can clarify, where they can get their technical expertise to help us out with understanding technical terms and understanding technical reports.

But, Madam Speaker, I just want to relay some information quickly and I will use 2014, the annual report for 2014. In 2014 we are told by the annual report that the Commissioner of Police through the SSA, the nature and number of interceptions made pursuant to the warrants granted, 479,915 for speech; data, 208,000 done though the SSA. Madam Speaker, the Director of Strategic Services Agency, number of interceptions made pursuant to the warrants granted, same year, Madam Speaker, so we are in 2014, 479,915; data 208,000.

Madam Speaker, it is very instructive that from day one while the Chief of

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

Defence Staff is an authorized officer under the legislation to undertake interceptions, in this report in the column to suggest number of warrants applied for, number of warrants granted, number of warrants applied pursuant to this legislation, number of interceptions, everything is nil, nil, nil. So the Chief of Defence Force from 2014, and it could be before, but I am just using 2014, it was the last full year of an administration, the Chief of Defence Force apparently is not involved too much in this business.

But, Madam Speaker, I quoted just now the number of interceptions and so on. Let us go to 2016. Madam Speaker, 2016, number of warrants granted to the Commissioner of Police, 36; number of warrants applied for and granted under the interception of communication legislation, nil; number of applications made for renewal, nil; the number and nature of interceptions made pursuant to warrants granted, this is instructive, Madam Speaker, for the Commissioner of Police in the 2016 period, 145,000 more or less. In 2016 the Director of Strategic Services Agency, number and nature of interceptions made pursuant to the warrants granted and so on, 283,418 for speech; 70,000 for data, more or less.

Madam Speaker, when you read through the record, and it is public record, the number of persons arrested whose identity became known as a result of interception, nil; number of criminal proceedings commenced by the State in which private communications obtained through interception were used in evidence, nil; number of criminal investigations in which information obtained as a result of interception, nil; number of prosecutions commenced under sections of the Act, nil, 2016.

Madam Speaker, I go to 2017. I believe this is now the latest report we have. Let us go again. This is now increasing, the number of interceptions

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

increasing. So through the SSA we have had, Madam Speaker, we have had 551,466 through the SSA. For the Commissioner of Police another 500. So, Madam Speaker, what we are doing here, and it is not clear at all in the way it is reported, but I can tell you, in 2017 we have had 972,000 interceptions between speech and data. Almost one million interceptions for speech and data. Madam Speaker, the number of people arrested, five; number of criminal proceedings commenced in which interception material could be used, nil.

Madam Speaker, that is a million interceptions; one million points of “macoing” for this spy Bill for which no one has been convicted and for which five persons have been arrested, Madam Speaker, and the areas in which it is done is generally murder, shooting, wounding with intent, dangerous drugs and so on.

So that is the first point that startles you, that we have interceptions of a million points of interception but you are not reflecting that anywhere in terms of arrest; in terms of ongoing criminal proceedings, in terms of convictions. And you come today to make the most diabolical change to this legislation, the most diabolical of all to effectively now indicate to this country that you want the right to use interceptions that are not warranted, that you get by—without a warrant you want to put that into evidence against persons.

Madam Speaker, let me say from the outstart this is not the Interception of Communications (Amdt.) Bill. It is not. This Government has now has a knack for misleading, for wilfully doing things in a way that is not 100 per cent online. And, Madam Speaker, why does the Government not be honest with us and call this the interception of communications and stored data Bill. Because this is about stored data. It is not interception of communication alone.

Madam Speaker, in the world of international criminality which we follow

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

some of us on TV, movies, but some of us by reading journals and so on, we well know that terrorist elements and major crime elements, what they do they store data and they have methods of exchanging information on stored data that are never transmitted. So we all know law enforcement has a challenge, not a new challenge incidentally where, for example, and I will give a quick example on this, someone could have an email and they write in an email instructions on manufacturing or producing explosives but they never send that email. They store it in their computer, in a draft box. But the person who needs to read that is in another jurisdiction, another part of the world so to speak. And that person never receives an email but he has the encryption codes and the password for an email address. He goes with that he digs up inside there, he goes into the draft box and he gets his instructions. But that was never transmitted, it was never transmitted, so it cannot be intercepted. And that is a challenge. So you want now this ability to go and get stored data. But the Government should be honest with us and call the Bill the interception of communications and stored data Act, so we will understand what they want. They want this ability to make evidence out of intelligence that they get from listening in.

In another place the Minister of National Security told us that—and, Madam Speaker, I will now stretch myself to get proper language because I do not want to run afoul of the Standing Orders. The Minister of National Security, we have his contribution here in another place, and the Minister of National Security, on several occasions, with monotonous frequency, tells us about confidential information received from the police, tells us that he receives report, intelligence reports and tells us about information received from the police and so on, and what they are doing and what they are not doing. And later in the proceedings he may

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

tell us more. And on one hand told us in the other place that I cannot tell you more because they only tell me the nature of the issue and number and code, they do not call names, but then went and called names of Members of the Opposition as a result of interception.

Madam Speaker, I am a victim of that. I am a victim of the abuse of officials of this Government using intercepted—purporting to use intercepted communications. This is why citizens are not free in this country, because you could manufacture anything you want and say that is intercepted; take it out of context. Neither myself nor any Member of the Opposition, I can tell you for the last five years has ever been called, reached out, contacted by the police concerning any matter related to criminality, gang warfare and criminals and so on, but our names are called. It is by officials that have gone rogue and they expect you now to trust them with this material, with materials that are not under warrant to put that into evidence. That is a danger that this country faced.

Madam Speaker, I want to get to the Bill there is a particular section, section 6—

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

Dr. R. Moonilal: That deals—section 6 of the Bill—oh, sorry.

Madam Speaker: Member, there was an objection under Standing Order 48(6). I uphold the objection.

Dr. R. Moonilal: Okay. Thank you. I will move on now.

Madam Speaker: No, so if you could just withdraw that part of the statement.

Dr. R. Moonilal: Okay, sure withdrawn. Whatever it was. Madam Speaker, section 6. In section 6 we have an interesting area here, it is 7 but really it is the amendment to 6A and 6B, in which we are saying that this is related as well to

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

communications in prisons and so on, staff of the prisons and so on. My colleague, Member for Oropouche West and others will speak about that issue of legal professional privilege and the implications of the Bill and so on. I do not want to spend too much time on that. But the Commissioner of Prisons will indicate to prisoners, a prison staff and so on, that the prison is now a site of listening, so anything you say and do of course can be heard and can be used and so on.

Madam Speaker, if the Government is concerned with a particular problem and I understand the problem, the problem is that you are saying you have intelligence to suggest that persons when they are in prison they put out a hit on persons outside and you have picked it up by way of intelligence and interception of communications. Okay. That deals with murder, that deals with shooting with intent, that deals with firearm. Why you do not redo the Bill that deals only with that?—that deals with shooting, murder, firearm possession, threats to kill from prison and bring a part of the Bill that deals with that and maybe we can consider whether intelligence gathered in those specific circumstances should be used as evidence in the court without a warrant.

But they come with this entire carte blanche Bill to say this is about prisoners and later after me somebody will stand up here and say, why should a prison be not a prison and a prison should be a prison and prisoners should not have contraband phones. They should not have contraband phones in the first place. We passed a law here, the Opposition supported it, Miscellaneous Provisions (Law Enforcement Officers) Bill, in which we made illegal having a cell phone by a prisoner. So the Government comes today and says listen we know it is illegal but we cannot do nothing about that. Five years now we have jammers—and what is the next word?

UNREVISED

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

Hon. Member: Grabbers.

Dr. R. Moonilal: Jammers and grabbers technology to put in the prison to prevent people from even making a call. We cannot implement that, jammers and grabbers legislation on policy. So we just give up on that, we just give up. We say look, prisoners will have phone, they will have phone. Let us intercept now. And you come today to get the right to intercept and use that as evidence, but not only for prison, for every single person and with serious implications for the protection of lawyer/client privilege, serious implications.

Madam Speaker, this has a danger to it. You see prisoners as well, there are many cases and the Minister of National Security told another place that he received a voice note from what he believed to be a prisoner telling him we have to talk. Now, could you imagine a case—that is a real issue, the Minister of National Security actually said that. The record is there and he cannot deny it. Could you imagine a prisoner sends a voice note to a journalist and say, I am innocent, they set me up. I have information on Government Ministers, on businessmen, whoever.

Mrs. Robinson-Regis: Madam Speaker—

Dr. R. Moonilal: They take that stored information and use in a court as evidence.

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

Madam Speaker: Overruled. I will give you some latitude, continue.

Dr. R. Moonilal: I can proceed?

[Madam Speaker nods]

Dr. R. Moonilal: Thank you. Thank you. So stored information in the form of a voice note, that is stored information, goes to a reporter, the journalist now faced, herself or himself, with serious legal consequences having that, because that

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

information is not just intelligence as it was before, it is evidence. And, Madam Speaker, today there is a blatant and obscene attack on the media houses, on journalists. [*Desk thumping*] It is jail for journalist with this piece of legislation. Because section 6 speaks to—

Madam Speaker: Member, I will ask you, you see that last part there which is not factual but a sort of assumption you are making, to me that is imputing improper motives. I will ask you to reject that please.

Dr. R. Moonilal: Okay, sure. Thank you. So, Madam Speaker—

Madam Speaker: So you would retract that.

Dr. R. Moonilal: Yes, Madam Speaker.

Madam Speaker: Yes, please.

Dr. R. Moonilal: Madam Speaker, professionals in this country, whether they are journalists or anybody else, I do not want to focus only on journalists, Madam Speaker, it could be attorneys-at-law, it could be trade union leaders, it could be religious leaders receiving a voice mail from a prisoner is now trapped in this legislation that that could go to court as evidence and they could be charged with conspiracy to murder or to commit a serious criminal offence. And that is a danger that this Bill will put to us.

Madam Speaker, the next issue and I want to move quickly because you know, we know, as, yeah. I want to look at section 8, an amendment to section 8, and the Attorney General spoke I think in some depth with this issue of Mutual Assistance in Criminal Matters Act and giving effect to the provisions of any international mutual assistance agreement. Madam Speaker, so that the information gathered here, the evidence as it will be, if this is ever passed, can be used in mutual assistance matters as well where it can go to a foreign jurisdiction

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

and be used in their courts of law to pronounce on someone whether they are innocent or guilty.

Madam Speaker, we have also as politicians received information. Politicians receive information all the time on what citizens consider to be suspicious activity. That is the nature of politics in this country. When we receive that information we are not always in the Chamber, we do not get a letter in the Chamber and we speak in the Chamber and we get the immunity in the Chamber. We are in our offices, in our homes, in our place of work and Opposition politicians it will be, whoever is in Opposition, will face a risk with this matter as well. So, Madam Speaker, hypothetically I can tell you if we receive information that this Government acted unlawfully on April 23rd by filing a reservation to the organization of American States to reserve their position on decisions taken in December last year on the Rio Treaty, is that an interception that we could go to jail for?

Madam Speaker, the Government went, the Minister of Foreign and Caricom Affairs on April 23rd this year to file a reservation to undo, Madam Speaker, their breaking of an international treaty under this area. They breached an international treaty. When they got caught, they filed a reservation—

Mr. Deyalsingh: Standing Order 48(1) please.

Dr. R. Moonilal: —after the fact. That could be—oh, sorry.

Mr. Deyalsingh: Standing Order 48(1), please.

Madam Speaker: Please continue, Member.

Dr. R. Moonilal: Thank you very much, Madam Speaker. Madam Speaker, information reaching any member of the society, forget politicians for a minute then, because if that affects you. Madam Speaker, information reaching any

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

member of the society on this matter, once you get it in interception form it becomes evidence. So I do not want at any time to put myself and make myself the centre of this although I said before I am a victim in that sense. But if I am to say today that I have received word that the United States administration has already written a letter to the Ministry of Foreign and Caricom Affairs warning this country of sanctions, to personal sanctions to government officials and their spouses. And if we have learnt this today, as a matter that is now developing, could you therefore come now with interception of communications, look at my device, find out where I got this from, who sent it to me, because it is stored data and stored data does not mean that you have data on your phone, eh. You could delete it, it is still stored. Stored data—so people who think they could go on their phone and just delete, delete, delete, think again.

So if I have information like that and the Government wants to prosecute now, it is no longer intelligence, it is evidence. You can use that in the courthouse, Madam Speaker, and that is the danger we face.

Then they tell us, what we called this special advocate, and my colleague will deal with that. This is called secret justice in the United Kingdom, special advocates. It is called secret justice. And we will deal with it later. They tell us that this is following the British tradition and the British have it. This country under this Government cannot follow any tradition except Venezuela. They cannot follow tradition of England at all. Because, Madam Speaker, in England that is creating a problem. We have critical papers now on the use of this special advocate that is not paid by a client, is not representing the client. The client may not like him or her. A special advocate could be anybody. They are throwing out people left, right and centre. The Member of San Fernando East is a lawyer, he

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

could be the special advocate next two months. So that special advocate comes in now in a context where this Government says that is from England.

Madam Speaker, in England just the other day would you believe a British Minister resigned because his personal assistant violated the lockdown rules. In this country a Minister do not want to resign when he was found lying to an American ambassador.

Mrs. Robinson-Regis: Madam Speaker—

Mr. Deyalsingh: Madam Speaker—

Dr. R. Moonilal: Madam Speaker, I withdraw that, I withdraw that. I should say it in a more circular way.

Mrs. Robinson-Regis: And apologize—

Hon. Member: And apologize.

Madam Speaker: Member, I will ask you to withdraw it and apologize and press on.

Dr. R. Moonilal: Okay, I withdraw and apologize.

Madam Speaker: You started off well, you said you do not want a foul.

Dr. R. Moonilal: Yeah. Madam Speaker, I withdraw and apologize but I would like to say it in another way without offending anyone.

Madam Speaker: So you withdraw and apologize—

Dr. R. Moonilal: Sure.

Madam Speaker:—and you could proceed once you keep within that—

Dr. R. Moonilal: Yeah, sure. I will say it within the Standing Orders, in the United Kingdom a personal assistant resigned, a Minister resigned because his personal assistant break the lockdown order. In this country no Minister will resign even if they are found lying.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

Madam Speaker, I call no names and I point out to no names. [*Desk thumping*]

Madam Speaker: Okay. And the point about it is this, of course you know there are certain things that we consider unparliamentary and I think with your experience and your breadth of language you can find another way to say that—

Dr. R. Moonilal: Sure.

Madam Speaker: Please. So withdraw it and I am sure—

Dr. R. Moonilal: I will withdraw that as well. Let me say if there is anybody at all who is allergic to the truth—you like that?— if anyone is allergic to the truth they will not resign even when caught, Madam Speaker, and I move on one time, I do not want to dwell on that.

Madam Speaker, the other major issue here and I think a colleague may even deal with it as well after, is this issue of all proceedings. When we introduced this legislation it was to deal specifically with criminal matters. Today the Government is coming with a Bill and says all proceedings, civil matters as well, as criminal matters. I am not sure how that works in practice. I read it, I am not sure how you work that out in practice because civil matters are matters where there are two private parties as well. You can have a Government—Madam Speaker, CEPEP sued me, the EMBDC sued me, they wanted HDC to sue me. I mean, everybody.

So the Government is taking civil action, they always do that, many governments, but civil matters involves private parties as well. So what happens here? A private party can somehow bring intercepted material. A private party cannot bring intercepted material because it would be in violation of the law. Remember according to the law, the parent Act as well, that is not changing, you cannot be involved in intercepting communication. So it is only the Government

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

will have intercepted communication. So when they decide that they do not have evidence for criminal proceedings, nobody break the criminal law, but “ah ha” we do not need DPP, we can sue everybody in civil action, they now come with intercepted and stored data against citizens of Trinidad and Tobago who will not have that advantage to get intercepted communication. And if they get intercepted communication they could be breaking the law as well because if you have documents and materials on you that suggest that this is intercepted material from the police or the defence force, you are breaking the law, Madam Speaker.

So this Bill is completely unfair, it is unfair, it is unjust and they are coming today to use prisoners as a cover, as a cover. Today they are using prisoners as a veil for a deeper diabolical measure of tyranny to create a dictatorship here, a la Maduro.

Mr. Deyalsingh: Madam Speaker, Standing Order 48—

Dr. R. Moonilal: Madam Speaker—

Mr. Deyalsingh: Madam Speaker, Standing Order 48(6), please.

Dr. R. Moonilal: What is that now?

Madam Speaker: Member, it is in respect to a particular word—

Dr. R. Moonilal: Sure.

Madam Speaker:—that you have used and do not repeat the word but it is in respect to the word “tyranny” and so. So I would ask you to just withdraw.

Dr. R. Moonilal: Okay, Madam Speaker. Madam Speaker, I have no difficulty.

So, Madam Speaker, the Bill pose a danger on several fronts. This special advocate matter, this civil and criminal proceeding, this across the board attempt to convert one million pieces of “macoing” into evidence without a warrant. You see, how it worked and how it is supposed to work is that if you have cause to intercept

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Dr. Moonilal (cont'd)

2020.05.29

and so on, you can intercept, if you believe someone is involved. For example, Madam Speaker, I only give an example, it is not real and so on. If you believe someone is selling fuel to Venezuela and in breach of international law you may want to intercept communications to pick up the intelligence. When you pick up the intelligence you go before a judge and say, Mr. Judge, or Madam Justice this is what we have picked up we would now like a warrant for 90 days to intercept communications from this particular person because we believe criminal offences have been or are about to be committed. And you can get it, take your 90 days, gather your evidence and then come to your court with a charge. No, no, no, the Government is not interested in that, they are not interested in that. They are interested from the time they pick up some thing. So two people in the Beetham talking, they called the name of one Member of Parliament, you say “ah ha” we have him. That is not warrant, so let us make that non-warranted evidence, we have him. This is how they are, Madam Speaker, this is how they will approach it and it is a danger, a clear and present danger to Trinidad and Tobago.

Madam Speaker: Member—

Dr. R. Moonilal: That is it? Thank you very much, Madam Speaker.

The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, I apologize for the delay with these new arrangements. It takes one a while to set yourself up.

Madam Speaker, in my abbreviated in time contribution I would like to get us back on track. I would like to get the House squarely back on track in dealing with what the amendments before us are here today. I would get to the Standing Order with respect to conflicts of interest and when Members are making certain

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

declarations and debating with respect to legislation that there is a Standing Order that they should declare their conflict of interest up front and in particular the potential breaches by the Member for Oropouche East a short while ago.

So, Madam Speaker, this Bill, for those who are listening, the members of public who are attentively listening and for those who are interested in the truth, is about amending the Interception of Communication Act in very, very specific circumstances. And this Bill really is seeking to allow for interception of communications from prisons and vehicles used to transport prisoners and for these communications to be recorded and in some instances to be used for evidence.

Madam Speaker, the importance of interception is known. It is always a balancing exercise. In national security you are constantly balancing the protection of the State and its citizens and their safety and security versus the protection of individual privacy. It is well recognized the world over that intercept is a necessary component in the fight against crime and criminality. With today's use of technology by everyone, intercept has become even more prevalent, more relevant. And what I would like to start off by very quickly assuring the public of Trinidad and Tobago about is the Interception of Communication Act, the parent legislation, in its current form, already has all of the necessary safeguards to protect our privacy rights.

3.00 p.m.

So to dive straight into the heart of what we are looking at here today, we are dealing with the prison system, and I would like any law-abiding citizen, any civic-minded citizen, to listen very carefully to the arguments that may be put forward here today because there can be absolutely no sensible legitimate or legal position taken that a prisoner should have the right to talk on a contraband cell phone, or

UNREVISED

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

use a contraband tablet, an illegal cell phone and an illegal tablet, to talk to anyone on the outside of prison walls. [*Desk thumping*] So let the population look on, let them listen very carefully, as to who is going to put forward a proposition that an illegal cell phone—because they are not legal. It is contraband to have a cell phone and a tablet, and any such type instrument as a prisoner in a prison to communicate with anyone outside, and I would like to assure the public of Trinidad and Tobago that there are already circumstances set up in our prison system to permit prisoners to legitimately and legally speak to their lawyers.

There are landlines there set up in prison. These landlines even have a system where family members can pay for you to get credits to use those landlines to speak to persons on the outside. Every prisoner has the right to use those landlines that are there. Your lawyers, your family members are provided with rights of audience. They can come in, they can meet with you, they can talk with you. So there is no breach whatsoever of a prisoner's ability to converse legally with anyone he so chooses to, either via landlines or a physical meeting. What this legislation is aiming to do is deal with a worldwide and a global phenomenon, and I was waiting to hear it being suggested and it was. As usual, the Member for Oropouche East talking about grabbers and jammers, and how it cannot be utilized and work.

I would like to start off very quickly, Madam Speaker, by just two jurisdictions because these are the two jurisdictions that are very often used as sophisticated First World jurisdictions, that is the United Kingdom and the United States that the Member for Oropouche East all of a sudden seems to have a love for, the United States. So, I would like to first of all, Madam Speaker, through you, to refer to a report commissioned by Her Majesty's Prison and Probation

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

Service, “The demand for and use of illicit phones in prison”, “Ministry of Justice Analytical Series 2018”. So this is a report commissioned by the prison services in the United Kingdom with respect to the illegal and illicit use of phones in their prison system and I would just like to briefly take us to a few paragraphs so we understand the context, and this is not something that Trinidad and Tobago alone is facing. Key findings at paragraph 1.3:

“The scale and type of mobile phone use:

- Heads of Security in the surveyed establishments”—meaning the prison systems in United Kingdom—“identified the trafficking of illicit mobile phones as one of the major risks they faced in maintaining prison discipline and providing a decent and secure environment.
- The perceived scale of illicit mobile phone usage varied widely between these establishments and prison types.
- Heads of Security reported that mobile phones had become a feature of prison life across the estate, with the exception of women’s prisons and those housing juveniles. Mobile phones were seen by both the security function and prisoners as a major component of the illicit prison economy, with mobile phones acting as a key facilitator of drug dealing and use within establishments.”

This is United Kingdom talking about what is taking place in the United Kingdom. They go on at page 5:

- Heads of Security identified that illicit mobile phones could enter prisons through a number of ways. Over-the-wall packages and offenders entering prison were most commonly highlighted by them

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

as routes of entry.”

“1.4 Conclusions”— in the executive summary:

“Mobile phones were viewed as a feature of prison life”—as a feature of prison life—“across the custodial estate, although rarer in both women’s prisons and among the youngest prisoners. They were seen by Heads of Security to be creating significant problems within prisons and for prisoner management. Significant criminal drivers for the trafficking and use of mobile phones within prisons were reported, with mobile phones being linked to criminal activity both within and outside the walls.”

This is the United Kingdom. It is happening right there with all of the technology, all of the money in the world, and the report goes on to make a number of findings and a number of recommendations. The point being, Madam Speaker, this is not limited to Trinidad and Tobago alone but this Government and this administration will not allow the promotion of criminal activity, and that is what this legislation is about. [*Desk thumping*]

So all of the fearmongering that we heard from Oropouche East—not surprising and I will come to that in a short while. Another article that I would like to refer to dated April 19, 2020, “Will Cell Phones Be The Downfall Of Prisons?” This is from *Forbes* magazine. The author is Walter Pavlo.

“The Federal Bureau of Prisons has tried to address the growing problem of cell phones in the hands of incarcerated inmates. In the event you do not know, cell phones and iPads (Microsoft Surface) are illegal in federal prisons. However, they are everywhere in prisons across the country.”

This is in April of this year in the United States.

“Congress passed the Contraband Cell Phone Act that prohibits the

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

possession of cell phones in prisons by unauthorized persons, like inmates.”

And the article continues talking about the challenges:

“The cell phone contraband problem in prisons was listed as one of the top challenges for the...”—Bureau of Prisons—“in a...”—United States—
“Department of Justice Office of Inspector General report last October. The report cited an incident where cell phones were used to coordinate a deadly attack on a...”—Bureau of Prisons—“corrections officer in Puerto Rico.”

I pause there. In the United States they are identifying the use of contraband and illegal cell phones as a problem they are facing, and talking about incarcerated prisoners using these cell phones to call a hit on a prison officer outside. That is what we have faced live and direct here in Trinidad. So this amendment that has been brought here to this House today, the population looking on, is to allow us, when we intercept those types of phone calls, to utilize the evidence against the perpetrators. [*Desk thumping*] What can be wrong with that? But instead we come here to hear about all sorts of distractions.

This legislation is to allow law enforcement in Trinidad and Tobago, when they intercept phone calls by prisoners, incarcerated criminals on the inside, engaging in criminal activity on the outside all the way up to calling hits on persons for that to be used as evidence, what could be wrong about that? And the attempt to misconstrue it and to tie it into the politics, and to be talking about it being used, maybe my friend for Oropouche East believes he will be in prison. I do not know. This is to deal with the life of those who are in prison communicating with those on the outside. So this legislation affects persons who know they are engaging in criminal activity with prisoners on the inside, using illegal phones to speak to them on the outside and maybe that is the sense of

UNREVISED

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

nervousness. I do not know.

Another article, “Contraband cellphones in prisons quickly becoming a national crisis”. This is not Trinidad and Tobago. This is an article, Sinclair Broadcast Group by Anne Emerson, Tuesday, December 11, 2018, in Washington, the capital of the United States, and it says:

“Cellphones are just about everywhere these days, including, it turns out, our nation’s prisons.

They’re dropped in by drones, thrown over jail walls, and even smuggled in by Corrections Officers.

And it’s all illegal.

This week’s ‘Spotlight On America’ investigation found that lock-ups nationwide are flooded with contraband phones. They’re being used to plot escapes, run criminal networks outside prison walls, and call in hits.”

Washington DC in the United States—United Kingdom.

So, Madam Speaker, what we are dealing with here is a global phenomenon. What we are dealing with here is we are looking to pass legislation to allow law enforcement when they intercept these types of phone calls to prosecute people to use the evidence. I heard all of the reference to the stored data. It was quite interesting that the Member for Oropouche East—and he tries to blame it on television programmes—was giving us chapter and verse how it can be done, do an e-mail, keep it in a draft box, let somebody else read it. That was news to me. Stored data here allows the law enforcement authorities, with all of the protections of the Act and all of the protections of the criminal law, when they get someone’s cell phone, an illegal contraband phone in prison or in a prison van, to take that phone and forensically lift from the phone all of the types of activity and

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

conversations taking place and to use that as evidence now. What can be wrong with that? What is the breach of a person's right to have an illegal cell phone? And any conversation that this is a breach of legal professional privilege also is taking the country down a rabbit hole—because it is not.

Every self-respecting, law-abiding attorney-at-law would meet with their client, who is an incarcerated prisoner, at the prison in the room so assigned. Is it that they are advocating for lawyers to have illegal conversations with clients who are incarcerated? Is that what we are hearing from the Opposition? It certainly cannot be that, but I have heard it. I have heard the Leader of the Opposition herself say that this will lead to a breach of the right for lawyers to talk to their clients who are incarcerated. Your client is incarcerated, meaning in jail, and your client is using a contraband cell phone, meaning an illegal cell phone, and that is what the Opposition wants to protect, that level of criminality? They want to continue to allow prisoners to have cell phones and to talk freely without knowing that if their conversation is intercepted, engaging in criminal activity, they can be prosecuted and that conversation can be used for evidence? Is that what we are hearing here today?

Madam Speaker, this Act provides all of the necessary safeguards governing lawfully intercept. All, and the suggestion by the Member for Oropouche East, another rabbit hole chase, to only put it for murder, or shooting and wounding. I could not believe that proposition. So in other words, what it is, it is again an acceptance by the Opposition that certain types of criminal activity are okay. For this PNM Government, no type of criminal activity is okay [*Desk thumping*] and we condone all criminal activity, and we condone the use of any cell phone, tablet, device, et cetera, by any person who is incarcerated to call any shots, to call any

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

criminal conduct and criminal activity to continue their criminal empires on the outside regardless of what it is. We condone all of it. So to hear the shocking proposition that, “Well, look, try and only use it as evidence if they are going to kill you, or if they are going to shoot at you, as opposed to continuing to conduct their criminal empire, be it extortion, be it engage in narcotics”. [*Desk thumping*] That is what the Opposition is saying to the population.

Madam Speaker, we must always protect both the individuals and our national security interest, and these amendments achieve that balance, allowing authorized officers to do their jobs via intercepting but also, protecting the rights of law-abiding citizens. I heard some conversation about who are the authorized officers. Yes, under the Interception of Communications Act—IOCA—the Commissioner of Police, the Chief of Defence Staff, and the Director of the SSA, are the only three officers in law who can call for intercept, and the Chief of Defence Staff does not do it for the obvious reasons. The defence force is not involved in law enforcement. The Commissioner of Police, including our current Commissioner of Police—and he is doing a great job—asks the Director of SSA to conduct intercept of two types, evidential and other types, and the Director of SSA does it as well. And this how it has been from time immemorial. There is no breach taking place.

The suggestion by the Member for Oropouche East to be suggesting that he is the victim of intercept—and it is quite interesting. I do not know where that came from. I think what he was referring to is persons saw him in the Hyatt paying the bill for criminal elements. [*Desk thumping*] That is not intercept. That is a first-hand visual. Then to be crying victim about intercept and—there has been no order that I am aware of asking for any intercept there. So these continuous

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

fearmongering tactics are rejected by us.

Just to touch on a few other issues. Why there are so many intercepts? Let the public understand that intercepts are only allowed for specific periods of time, usually under 30 days. So if you are running a criminal investigation on someone, it takes time to build the evidence, it takes time to pick up what you need to pick up on intercept. So it continues to rotate. And every time a new warrant is issued or every time you go for a new intercept after 30 days, that is an additional. It does not mean that millions or hundreds of thousands of people are being listened to. That is impossible in the current climate.

I dealt with the stored data, stored communication. This is to allow when phones are picked up and these smartphones devices that we have now, you can forensically lift for evidential purposes what is on it, and I knew—and this is where the conflict comes in because there is a suggestion and then also, the reference to civil litigation.

The Member for Oropouche East should have declared a conflict in this debate because you see there is civil litigation grounded in corruption where he is as defendant, and in that litigation, grounded in corruption, the Member for Oropouche East is accused of an exchange of telephone text. That was not via intercept. That was via forensic.

Mrs. Gayadeen-Gopeesingh: Madam Speaker—[*Inaudible*]

Hon. S. Young: What? I am stating pure fact.

Mrs. Gayadeen-Gopeesingh: I stand on 48(6), Madam Speaker.

Madam Speaker: Overruled.

Hon. S. Young: Thank you. I understand the nervousness—

Madam Speaker: One minute, please. While we are masked, Standing Order 53

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. S. Young (cont'd)

2020.05.29

still applies in terms for Members who are not speaking.

Hon. S. Young: Thank you very much, Madam Speaker. It is a record. It is a court record. There are court proceedings going on grounded in corruption, cartel behaviour is the accusation. The Member for Oropouche East is a defendant in those matters. [*Desk thumping*]

Mrs. Gayadeen-Gopeesingh: Madam Speaker, I stand on Standing Order 49(1), sub judice.

Madam Speaker: Member—

Hon. S. Young: I will say no more. I will say no more on it.

Madam Speaker: I was just about to stand and warn you.

Hon. S. Young: Thank you very much, Madam Speaker.

Mr. Hinds: Truth, truth.

Hon. S. Young: I know the truth hurts. This is not conjecture. This is not throwing this out there hoping for this and hoping for that result. It is all fact.

So, of course, Madam Speaker, of course the fearmongering continues, of course the obfuscation continues. That is the United National Congress way. But in the short time that I have and in wrapping it up, what I would like to say is this legislation is necessary. This is an important tool for law enforcement to continue the fight against criminality, persons with illegal cell phones, illegal devices, contraband cell phones, contraband devices within the prison system, and it is interesting to hear the arguments that this should not be permitted. This is to take the fight against the gangs, the persons who are in prison using the phones. This is to allow us the opportunities. Families and lawyers will still have the legal opportunity to speak with persons incarcerated. Thank you very much, Madam Speaker. [*Desk thumping*]

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)

2020.05.29

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker, for this opportunity to join in this debate, the Interception of Communications (Amdt.) Bill, 2020. Madam Speaker, before I proceed to deal with the substantive issues in this Bill, which are many, I would like to congratulate the Member for Oropouche East [*Desk thumping*] for giving such a scorching contribution here this afternoon. It was par excellence. Madam Speaker, when we listened to both the hon. Attorney General and the Minister of National Security, you think that this Bill is really the panacea to fight crime and criminality, you think this Bill is really for intercepting calls made in prison by prisoners “to call shots outside” as the Minister of National Security said. But what is the real intent of this Bill?

If prisoners know that their calls are being intercepted, would they say what they want to say, Madam Speaker? If they know their calls are being intercepted would they not be on a frolic of their own and allow the State to go on a fishing expedition? Because they will send them out and it means that you are gathering wrong intelligence. So this Bill really is not about prisoner and prisoners, and what happens in an Amalgamated van. There is another intent in this Bill.

I listened to the hon. Attorney General and he spoke about triangulation. Triangulation, the hon. Member said, is that it is traffic data and you could store that data, you could pinpoint where that person made that call from, whose phone, the duration of the call, whether a sim card was changed and so, and there is a GPS locator where you would find that person who had made that call and to whom. I want to ask the hon. Attorney General that he also said triangulation was used in Gulf View when 3.30 a.m. in the morning you had police officers jumping from roof to roof, six houses in Gulf View, tormenting and terrorizing law-abiding

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mrs. Gayadeen-Gopeesingh (cont'd)

2020.05.29

citizens, is that triangulation you have used? And what was the justification? The police officers were in hot pursuit of someone who had a commission of an offence.

Madam Speaker, we are talking about 3.30 a.m. in the morning, dog, rat, horse, everybody asleep, but these police officers, they are jumping from roof to roof looking for an invisible man because it was alleged that somebody was harbouring a kidnapper. Madam Speaker, some of those persons are my neighbours. There was a sick woman, asthmatic attack, you had to have an ambulance to take this woman to the hospital. You had some children studying for exams tormented. What about the triangulation you used in El Socorro, in a Muslim family, broke down doors? I have some photos where you said the nose of the person who was living there, bleeding. Was that triangulation? What this Bill is actually doing is that they are trying to make this sovereign State, this democratic State, a police State and we would not allow it. That is what this Bill is about, a sovereign, democratic State that allows police to abuse their powers and we would not have it.

Madam Speaker, in another place, the hon. Attorney General spoke about *Pepper v Hart*. This *Pepper v Hart* Bill, the legislation, is not applicable in this law. *Pepper v Hart* is when the legislation—the words on the legislation are so ambiguous that you cannot interpret the legislation, then the court will try to interpret the statutory—have the statutory interpretation of it. Madam Speaker, when you read through this Bill clause by clause, you would see the gradual infringement upon the constitutional rights of people in this country. Whether it is section 4, the rights to privacy, the right to a fair hearing and if this law were to passed here today, it would be struck down as being unconstitutional, [*Desk*

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mrs. Gayadeen-Gopeesingh (cont'd)

2020.05.29

thumping] whether it will be struck down by section 13 which shows whether it is justiciable, or whether it will be struck down by section 1 showing it is a sovereign democratic State. It will be struck down.

Madam Speaker, we are speaking about stored data but there is an issue about chain of custody with stored data because we have had many instances. When you go before the court, especially the criminal court, and when the judge asks for the exhibits, what do you have? Sometimes you have—take for example, a murder. You may have a bullet that is presented and when you check the grooves and the striations in that ejected bullet from a particular gun, it does not match up to the bullet that was presented as the exhibit in the court. Madam Speaker, I am asking this chain of custody, who will ensure that the data, the communication, is not manipulated? We have had instances where blood samples were removed from refrigerators so the DNA analysis could not be conducted. We have had a case where the shirt from the person who shot or ejected the bullet, when they did the microscopy, the gun powder in the clothes did not match the shirt that was presented as exhibit. So I need to know who is watching over this data and this communication?

Madam Speaker, when we look at the real intent of this Bill—and as I said before, if a prisoner knows that his cell is being manipulated or intercepted, and if you know it is contraband, and if the Commissioner of Prisons knows that phones ought not to be in the prison, why does the Commissioner of Prisons together with prison officers—he will instruct his prison officers to sweep the prison and retrieve those cells? But this is not happening. This Bill encourages the prisoner, use your cell phone, I will intercept your call and I will help build intelligence.

Madam Speaker, we in the Fourth Industrial Revolution in the world where

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mrs. Gayadeen-Gopeesingh (cont'd)

2020.05.29

ICCs, where you have robotics, you have quantum mechanics, you have vertical farming, and you are allowing prisoners to help you build intelligence. This is dolly house intelligence. This cannot be intelligence to fight crime. And as I keep reading this Bill, I am seeing more and more erosion of the constitutional rights of people in this country. Madam Speaker, I was once a zoology lecturer and there is a group of organism called protozoa. One of the unicellular organism, Madam Speaker, is called an amoeba. When it is going to enclose its prey, it forms false legs around it, secretes enzymes and dissolves it. As I read more and more in this Bill I am seeing, Madam Speaker, the tentacles of the State grabbing and retrieving the constitutional rights of the people of this country.

Madam Speaker, my friend from Oropouche East spoke about warrants, I would just want to clarify and amplify, with respect to warrants is that in the parent Act—when we look at clause 6 of the Bill, the parent Act, if data was intercepted and it was intercepted without a warrant, it meant that that data could not be used as evidence in a court proceeding. And if it could not be used as evidence, it could not be a public record, but that evidence could have been used to procure a warrant. In this Bill here and—in fact, Madam Speaker, that data in the parent Act explicitly prohibited the use of intercepted material without the use of a warrant.

What we have here in the amended Bill, Madam Speaker, and the amendment, is really deceptively dangerous and this cannot be supported because this evidence, the so-called evidence now, you could now use it in court proceedings, and you could use it even though it was not intercepted using a warrant. So it means that almost anybody—the person who is intercepting, you could intercept anybody's data and communication without a warrant and it could be used in court and be used as a public record. This is a very dangerous

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mrs. Gayadeen-Gopeesingh (cont'd)

2020.05.29

amendment here, Madam Speaker.

3.30 p.m.

In fact, I heard the hon. Attorney General saying that you could use it if it is in the interest of a justice test. But we have the Kuruma case, Madam Speaker, where the court in criminal proceedings, the judge always had the discretion to disallow the evidence if the strict rules of admissibility would operate unfairly to the defendant. He already has that. The judge already has a discretion. So I am not sure where the hon. Attorney General is going with the interest of justice test. What is important is that we have, at common law, we already had that existing, where the judge had the discretionary powers to admit evidence based on how it was procured.

Madam Speaker, when we look at proposed 17A, it said, and I will quote:

“Where the Court considers it appropriate to determine whether sensitive information has been disclosed, the Court shall issue a special measure direction that closed proceedings be utilised.”

Closed proceedings. Madam Speaker, what is the definition of “closed proceedings”? I have been going through the Bill and I did not see what is the definition of “closed proceedings”, and what is, with respect also, “full disclosure”. Because in normal criminal matters, you may have full disclosure going and taking three to five years. We are not sure here what is the rule or regulation with respect to full disclosure.

When we were talking about full disclosure, Madam Speaker, sometimes you may have the prosecution in making application to adduce fresh evidence, once this proceeding is closed, the retained counsel and the accused, they are outside of the precincts of the court. So this accused does not know what is going

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mrs. Gayadeen-Gopeesingh (cont'd)

2020.05.29

on. This accused does not know what case he has to answer, and how this could ever be in the interest of a fair trial? How this could be fair trial, Madam Speaker?

In fact, under the Criminal Procedure Rules, right now a witness or an accused has no right to silence. He has to provide witness statement. In these closed proceedings you have the accused outside. He does not even know what is transpiring inside the court. In fact, Madam Speaker, when you have closed proceedings, the accused needs to know what is being submitted, the submission against him. He needs to understand. Well, in fact he has to be sitting in court, and as the evidence unfolds and unveils in court, he has to give further instructions to his retained counsel; but not in this Bill. The retained counsel and the accused, they are outside. How can this be right?

Madam Speaker, when you are in court and you have your retained counsel, he could see exactly the body language of the witness. Recently I was reading an article that—they said body language, close to 80 per cent of your conversation is done via body language. So you would know, when you are listening and you are cross-examining, because when you are in open court you would have the cross-examination taking place. You have your client there. You have the attorney there, and you will have to cross-examine on some issues. Because some issues now will unfold in court. You do not have this opportunity with this closed proceedings. All adversarial trials, Madam Speaker, must have cross-examination. This, you do not have in closed proceedings.

In fact, the accused may not even have a remedy to bring judicial review. He may not even have a remedy to decide how is it that you got this warrant, the conditions under which you got this warrant. Those are excluded. He cannot even get that opportunity. He is deprived of bringing malicious prosecution for the

Interception of Communications (Amdt.)
 Bill, 2020 (cont'd)
 Mrs. Gayadeen-Gopeesingh (cont'd)

2020.05.29

procurement of a warrant. So this is really tilted towards the State and not the citizen. This Bill is really gradually eroding the rights of citizens of this country, and it cannot happen, Madam Speaker. Because when you are doing open court, there is an open, what you call, open justice, Madam Speaker. Open hearing is open justice, not closed proceedings.

Then they are assigning a special advocate. What is a special advocate? Who is this person? Is this special advocate being paid by the State? And if he is being paid by the State, well he has a long time to wait, because I am still waiting 12 years to be paid by the State for some legal services, Madam Speaker.

In closed proceedings, Madam Speaker, we have a case here called *Al Rawi and others v The Security Service*. I am not sure if Port of Spain/St. Ann's, Port of Spain North East, the Minister of National Security he is reacting so I am not sure if he is suffering from "Delcy Syndrome". Madam Speaker, we have a case, *Al Rawi and others v The Security Service and others*. Madam Speaker, this case, it has nothing to do with the hon. Attorney General, Madam Speaker. In this case, if I could seek your leave, Madam Speaker, to just read a few lines. In this case it says:

"...a closed material procedure involves a departure from...the..."—principles of open and—"natural justice..."—which are essential features of a common law trial.

The judge went on and he cited the case of *R v Davis*, 2008, Appeal Case 1128. And the House of Lords, in *Davis*, said:

"...the right to be confronted by one's accusers is such a fundamental element of the common law right to a fair trial that the court cannot abrogate it in the exercise of its inherent power."

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mrs. Gayadeen-Gopeesingh (cont'd)

2020.05.29

This prevents him from being able to see and challenge the evidence and submissions made in the closed hearing. He may never know why his case was decided the way it was.

But what we are having here, Madam Speaker? In this amendment, in this Bill which erodes the rights of citizens, you have closed hearing. And then you are signing a special advocate, a special advocate whom you have not retained. You have not retained him. You have not given him proper instructions. If inside, during the court's hearing, Madam Speaker, if evidence unfolds, and fresh evidence is adduced—

Madam Speaker: Member, your time is now spent.

Mrs. V. Gayadeen-Gopeesingh: Thank you, Madam Speaker.

The Minister of Public Utilities and Minister in the Office of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very much, Madam Speaker. [*Desk thumping*] Madam Speaker, I rise to make a very brief intervention into the deliberations before us here today. Let me begin immediately by addressing a few points made by the Member for Oropouche East, and I can do so confidently, because the Attorney General, as he set out the measures in this amendment to the Interception of Communications Act, Chap. 15:08, did a wonderful job in indicating the reason, the observation of the constitutional requirements, because the original Bill needed a special majority and, of course, this one for obvious reasons. It is quite clear that it touches and affects the normal constitutional rights enshrined in our Constitution for the protection of those who are subjected, the citizens of this country. He did an excellent job in identifying all of those things. All was going well until the Member for Oropouche East got up and he had a few things to say. And I think, Madam Speaker, you would permit

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Hinds (cont'd)

2020.05.29

me to set the public's record straight on some of these issues.

Madam Speaker, first of all, the Member identified that he was a personal victim of some of this, meaning interception of communication and police attention. Let me stress police. It touches some of what the Member for Oropouche West has just said. Nothing in this Bill, or in the parent Act for that matter, gives any power or authority to the Prime Minister, any Minister of Government, the Cabinet. The measures here give power to the institutions of this State, the police, the SSA, and other intelligence-gathering operators who are duty-bound, under law in some cases, to protect the innocent and the law-abiding citizens from the behaviour of criminals. It is the police and those agencies who stand between us and the criminals who want to have their way at our expense.

So nothing in these measures, Madam Speaker, gives any additional authority or power to the Prime Minister or the Government. So when you hear them saying they, they want more power, they want more power, what we are doing here as legislators is presenting the law for the consideration of our friends on the other side. And this law, we did not pull out of a hat. We would have gotten advice, information, requests from the police and from the SSA and from the Office of the DPP, that institution of the DPP, independent and astute, who, by virtue of practising in the criminal law and dealing with criminality in this country, would have seen and experienced weaknesses in the system, weaknesses in the law, some that we did not contemplate on its original passage, and would have asked the Office of the Attorney General to address some of these measures in order to protect us. And the Minister of National Security asked on diverse occasions during the short 20-minute contribution: What is wrong with that? What is wrong with this law? What is wrong with a law which tries to find out what

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Hinds (cont'd)

2020.05.29

criminals, sometimes even in jail, are up to, to carry out their criminal conduct from inside the jail using technology?

There was a time when the police in the UK did not walk around with guns. Today they walk around with automatic weapons because they have to respond to the behaviour of criminals. There was a time when we had no Interception of Communications Act because criminals used talk to each other. Today they use the most modern technologies you can find to communicate. In many jurisdictions in the world there are specialist police officers and intelligence operators who would learn all the colloquial terms for guns, for drugs, for everything, in order to decipher the messages shared between—

[Electronic device goes off]

Madam Speaker: Would the person with the offending—

Hon. F. Hinds: That is an example of interception of communication, Madam Speaker. Well done. Madam Speaker, so that the authorities, the law enforcement agencies, have to stay up to speed with the criminals. The question of stored data arose in these deliberations. When the police stop criminals, find them with guns in their car or about to commit a crime, and they seize guns, and money, and their vehicle, and they seize cell phones too, common sense tells us that those phones are, of course, useful, because they are used to communicate and therefore the authorities want to know what they were up to. It may be to stop them from coming here to place an explosive device.

The Minister of National Security, understanding what he has to deal with, understanding with the issues raised by the police and law enforcement on a daily basis asked again, rhetorically for me: “Wat is wrong wit dat?” But for my friends on the other side everything is wrong about it.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Hinds (cont'd)

2020.05.29

And you will find in some countries—I saw in a documentary only two nights ago, at my home, Madam Speaker, the CIA has a system in place where, if in your communication, whether email, text, WhatsApp, telephone, if you only mention a slight threat against the President of the United States, “dey” coming to find you to determine whether it is real, whether you are just a mad man, whether it is just a prank, or whether they have to pay special attention to you. That is where we are. “Wat is wrong wit dat?” Except, the only people who have a problem with that, in my submission, are those who have committed crime and “doh” want it to be detected, those who are committing crime and “doh” want it to be detected, or those who have a criminal bent, criminogenic tendencies, and are afraid that law enforcement will pick up “wit dem”.

The Member for Oropouche East became very personal. But I recall, as chairman of a certain joint select committee, the Commissioner of Police told us something about that Member. Yes. That is a fact on the parliamentary record. And without saying much more on it, Madam Speaker, when the Commissioner spoke he told us there was a planned meeting between well-known criminals.

Madam Speaker: Has there been a report?

Hon. F. Hinds: No, this is the proceedings of a—[*Interruption*] Eh, Madam Speaker?

Madam Speaker: Has the report on that been laid as yet?

Hon. F. Hinds: Madam Speaker, I should proceed.

Madam Speaker: Please.

Hon. F. Hinds: The report was laid. So let me proceed. Thank you very much, Madam Speaker. And when the police put up their intelligence apparatus to go and pay attention to the meeting between the Member for Oropouche East and the

Interception of Communications (Amdt.)
 Bill, 2020 (cont'd)
 Hon. F. Hinds (cont'd)

2020.05.29

criminals from all over this country, the Commissioner told us that the Member for Oropouche East appeared to have found out.

Mr. Lee: The Member is imputing improper motive that—*[Interruption]*

Hon. F. Hinds: Motive?

Mr. Lee:—the Member for Oropouche East is dealing with criminals. *[Crosstalk]*

Madam Speaker: Member for Naparima, we proceed in a particular way. Member for Pointe-a-Pierre, that is why I asked if the report was laid. If the report has been laid, he can proceed.

Hon. F. Hinds: This report was laid, and if I am wrong, let him take me to the Privileges Committee. Right? The meeting was called off. So apparently, according to the police, the Member for—well persons involved in the plan found out that they were being put under police observation and aborted the meeting. In other countries they would have seized "all ah them and dey cell phone" and they would have been able to access the stored data to see what was afoot.

And if there is a problem with this law—and he went into the report of the SSA. I, sometimes, as a Minister of Government and sometimes act as Minister of National Security, I would say if we have a problem, it is because our law enforcement agencies do not fight it and give enough. Because, there is a lot that needs to be found out in this country. "And if dey ain prosecute nobody" as the Member for Oropouche East said, it is to our detriment. And I would like to see them step up their game. They might catch some big, big fish. And that is not necessarily a criticism. I am just saying we should—I do not know what their problem or their situation might be.

Madam Speaker, let me continue. He also said, that for the last five years, no police has come to him and asked, the Member for Oropouche East, any

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Hinds (cont'd)

2020.05.29

question about any crime. Well, the former Attorney General and another one "cyah say dat". What I want to say is that one of the corruption cases we have from the previous five years, we rely today on the evidence of a Queen's Counsel coming out of England. That is all I want to say. "None ah dem" and no other Trinidadian might be willing to come forward and to do what that individual has done. But that is another matter that will be addressed in due time.

And, Madam Speaker, in closing on him, the Member for Oropouche East, he told us it might be that the United States have some plan to impose sanctions; spreading false talk and false rumour, which is what they wanted to see. They wrote letters and they try to impose that on Trinidad and Tobago, but God is a great God.

Went further to talk about the Minister of National Security told some lie. I do not know what that is.

Madam Speaker: Again, I will ask you—

Hon. F. Hinds: Thank you very much, Madam Speaker.

Madam Speaker: No, just one minute. I ask you to just withdraw that.

Hon. F. Hinds: I withdraw that.

Madam Speaker: It was withdrawn, yes.

Hon. F. Hinds: He withdrew it, Madam Speaker. Okay, thank you very much, because that itself was an untruth. Madam Speaker, he spoke about the question of the special advocate. The idea of the special advocate, Madam Speaker, is a concept that exists in England and in many other countries. It has come to Trinidad and Tobago, because we have some bottlenecks in the criminal justice system, where criminal cases were piling up and people were not getting their day, even in the Criminal Court.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Hinds (cont'd)

2020.05.29

And part of the reason for that was because when their matter is called before the judge and jury, the defendant or the accused would say: “My lawyer is not here. He is next door. He is in the First Criminal Court dealing with a murder or another matter at this time.” And the Constitution allows you to have an attorney-at-law of your choice. So if he chooses that attorney then the court was in a predicament. That has contributed to tremendous delay in the criminal justice system. And that is why the idea of the special advocate came in, highly trained, specialized in those matters, who would go to the police stations and who would go to court on behalf of the accused if the lawyer he wanted, the advocate he wanted, is for those reasons unavailable; a noble and clean idea. What is wrong with that?

And talking about intercepting communications between them. That is for sensitive information as the law defines, one, and two, the truth is, some lawyers are criminals. I know two in Trinidad and Tobago today without calling a name, who are before the Criminal Court for criminal conduct and one was known to be involved in matters, "I ain calling no name", involving a dead prisoner on the one hand, and a cut and paste operation in Trinidad and Tobago. If “yuh coulda intercept dat, it would help”. And these measures are designed to give the police and the SSA and law enforcement the power to get behind the tricks and the curbs and the schemes and the plots of those who want to hurt us in Trinidad and Tobago for money sake or for political power sake. What is wrong with that?

This amendment Bill, in clause 4, treating with the admissibility of evidence in the parent Act in sections 6, 8, 11, 17 and 19, Madam Speaker, those provisions in the parent Act deals with criminal proceedings, admissibility of evidence in criminal proceedings, allowing the court to determine whether it would accept such evidence or not.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Hinds (cont'd)

2020.05.29

Section 4A, which we are now putting in, in the amendment, a new section 4A, treats with criminal proceedings more generally, proceedings under the Proceeds of Crime Act, because if you get involved in a criminal conspiracy with prisoners to steal money from the State with false civil claims, and this Act will empower the police to use intercepted evidence, nothing is wrong with that. It says as well in (c):

“proceedings under the Extradition Commonwealth and Foreign Territories Act” And most of all in (d) and (e):

“proceedings under the Anti-terrorism Act; and
proceedings under the Civil Asset Recovery and Management and
Unexplained Wealth;”

—a piece of legislation that we passed here a few months ago. Those two, while admittedly having a significant civil component, do have pseudo criminal elements in there for the seizure of property and the proceeds of crime.

So the Member for Oropouche East, wet behind the ear, if I may be permitted that metaphor, insofar as the law is concerned, missed that very salient point. And, therefore this amendment allows the material that is garnered in the conduct of the police’s investigation to be used in those ways. “Wat is wrong wit dat?”

And we are so strictured here, every time we come to pass legislation, the Opposition makes it a point to demand the most strict interpretations, the most restrictive provisions, almost to tie up the hands of the police, when we should be, I am not saying we should allow here for police to go unchecked because we have laws and they have to operate in accordance with the laws, and those who do not will be prosecuted in accordance with those laws, but more and more we should be

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Hinds (cont'd)

2020.05.29

trying to assist the police in dealing with crime, especially my friends on the other side, who take every opportunity to complain about crime, hypocritically.

Madam Speaker, traffic data in this law talks about:

“in relation to a communication means any data—

- (a) identifying, or purporting to identify, any person, apparatus or location...”

The Attorney General explained that well. Let me give you an example. A major crime occurred in the north of this country, a major crime in which I think two or three people were murdered, and the criminals flee from the scene. And the authorities, because the way the structure is set up, we are able to trace their movements, and rightly so, until they went under the radar, and we know why. They explained that when they briefed the public.

Madam Speaker, I do not want to get into some details, but these technologies and these laws are very, very important, because the criminals are no fools. And in some cases they are properly well advised by some criminal lawyers, describing the practice, and sometimes describing the individuals. Say so without apology. And I have already shared with you, Madam Speaker, evidence of at least two. And if my friend, the Member for Pointe-a-Pierre provokes me this afternoon "ah call dey name". So, Madam Speaker—I know you all want me to call the name. [*Interruption*] I know.

Madam Speaker, based on the experience of law enforcement, section 7 is amended. We introduced a new 6A. Well 6A(1) says:

“The Commissioner of Prisons shall cause all prisoners and members of staff of the prison to be informed that any communication transmitted to or from any device, which is in the prison or in a vehicle used to transport

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Hinds (cont'd)

2020.05.29

prisoners may be intercepted...”

And this is real. Phones get into the prison. Money gets into the prison and gets out too. They have prisoners today using technology in the prison and coming out of jail as, not millionaires, but with plenty money, extorting people on the outside. "Have dey poor mother and dey poor aunt putting 200, 300 on phone card and it is sold for the use of the phone inside de jail. Fellas coming out rich, with property." This is real. Carrying on their criminal enterprise from in the jail. But here we have a provision where the Commissioner is obliged, under this law, to notify all prisoners and to notify the public that this is an area that we use, that if you communicate, and it is intercepted, we will be able to use it in evidence. Under the current law, you have two types of information to get, one that is warranted and the other that is not. Section 8 warranted, section 7 not. Okay?

Madam Speaker, and how the thing works, if someone is up, as they call it, in the law enforcement, if the law, the interception of communications law, permits the Commissioner of Police or the Director of the SSA, or the Chief of Defence Staff to put you up, in other words, to have you on observation under law, and in all cases a judge, nothing in these amendments allows anything to happen without the court being involved. Those are some of the strictures we have.

Madam Speaker: Member for Laventille West.

Hon. F. Hinds: Yes.

Madam Speaker: Your time is up.

Hon. F. Hinds: It is a pity, Madam Speaker, but I thank you. [*Desk thumping*]

4.00 p.m.

Mr. Rodney Charles (*Naparima*): Thank you very much, Madam Speaker. Today we are here to discuss the Interception of Communications (Amdt.) Bill, 2020, and

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Charles (cont'd)

2020.05.29

I would like to congratulate my two colleagues [*Desk thumping*] for raising the concerns in the courts of law and in the constitutional infringements by a Government that is bent on becoming a creeping dictatorship. Madam Speaker, I speak—

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

Madam Speaker: Sustained. Member for Naparima, can you please retract and—

Mr. R. Charles: I retract, I retract.

Madam Speaker: Thank you, Member.

Mr. R. Charles: Madam Speaker, I am concerned about democracy because in 2015, an e-mail which I sent to colleagues on my campaign was read out on a PNM platform by no less a person than the MP for Arouca/Maloney. Madam Speaker, that is a fact. Madam Speaker, I am concerned because my name has been called by Cambridge Analytica falsely claimed, falsely linked with Cambridge Analytica. I had to go to the media and say, “I know nothing about any pink-haired individual.”

Mr. Al-Rawi: Madam Speaker, I rise on Standing Order 48(1).

Mr. Young: He went to the media and said—

Madam President: I will give you a little liberty.

Mr. R. Charles: Yes.

Madam Speaker: Please, quickly because remember you have a little time.

Mr. R. Charles: Yes, I will do it quickly, Madam Speaker.

Madam Speaker: Right.

Mr. R. Charles: Because Cambridge Analytica deals with the interception of information, and that was based on a Netflix video which the reputed *The Economist* magazine said is a misinformed video about misinformation. And I am

Interception of Communications (Amdt.)
 Bill, 2020 (cont'd)
 Mr. Charles (cont'd)

2020.05.29

only making that point to state that the depths to which my colleagues opposite will go to paint a negative picture based on false information, it is difficult to comprehend.

Madam Speaker, we heard from the Minister of National Security the fact that basically this Bill deals with the interception of communication between prisoners and persons outside. We are told that hits are called from prisons. Well, Madam Speaker, if you want to solve that problem, stop the phones going in to prison, simple, or jam the signals coming out from phones.

Let me point them, my friends opposite, to an article published by Mike Hynes and Nick Jordan and it says: “How to Cure Prisons’ Contraband Mobile Phone Epidemic”, dated 16 July, 2019, and he says that:

“Prison officials”— the world over—“know that better than anyone that...”— prisoners—“will go to any lengths to obtain contraband...”— cell phones.

And they speak about the solution. They say:

“The Solution...”— must be a—“Multilayered Approach to Security”.

Nowhere do they mention anything about passing any legislation to solve basically the problem with phones in our prison services. They talk about:

“Tactics...walk-through metal detectors and X-ray...”—units— “at”— all—
 “ points of entry....”

They talk about:

“...portable detection equipment...drone detectors;...shakedowns and more.”

Tactical approaches to solving a problem, not a legislative approach to solving it.

They talk about:

Interception of Communications (Amdt.)
 Bill, 2020 (cont'd)
 Mr. Charles (cont'd)

2020.05.29

“Technologies...”—they say these—“should be deployed at all entry points...”

They suggest what they call:

“...a portable ferromagnetic detection system (FDMS), which uses passive sensors that detect a magnetic signature, down to a millionth of the earth’s magnetic field.”

They say:

“Staff can use FDMS alongside X-rays equipment at entry points to screen people, then pick up the unit and use it throughout the facility to conduct full-body searches...”

And hear it— and this is why we are always behind, and I suspect they do not read, they do not research, and they do not see what other countries are doing. [*Desk thumping*] Madam Speaker, they say:

“This technology has been deployed in 46 countries across the globe, including in all New Zealand and United Kingdom prisons...”

All, all, all, all, including state prisons.

“...all 54 state prisons in New York all; 24 state prisons in Maryland...and”— it is also used— “in California and Indonesia.”

So you are bringing us here in Parliament to solve a problem which could be solved by the existing technology and it is used all over the world. [*Desk thumping*].

Madam Speaker, this Bill was introduced in the Senate on February 4th and passed in the other place with amendments on the 3rd of March, just one month. And the questions need to be asked: Why did Government rush to push this piece of legislation, which in our view has serious shortcomings and avenues for

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Charles (cont'd)

2020.05.29

potential misuse by officials? Madam Speaker, when you read the Senate *Hansard* from March the 3rd, during the committee stage, Madam Speaker, the Attorney General stated on page 173, and I quote:

“In the rush”—in terms of the circulated amendments—“In the rush to prepare this, Mr. Chairman, I want to apologize. We really should have put all the new clauses at the end. So I am a bit buried and I apologize for that, but I only got the chance to look at this on the floor.”

The AG himself admitted that he did not have enough time to look at the circulated amendments before that sitting. So here are we, one month, two months, or three months before the end of that Government and the election of a United National Congress Government, we have rushed, ill-conceived, not well-thought-out legislation. Madam Speaker, it will be left to us to implement this legislation. And we are saying today, well it would not pass, it would not pass, because we are committed, our leader has told us that we will not be party, we will not be co-opted to poorly drafted legislation. That is a fact and we say that without fear and we will not be coerced by anyone to do what in our conscience and what in our best frame of mind tells us is not in the interest of the people of Trinidad and Tobago, and we make no apologies for that.

In the fight against crime, we cannot ignore the realities of persons intercepting communications and information under the guise of looking for illegal activities. Madam Speaker, given an impending general election, I must say that the timing of this is—

Mr. Al-Rawi: Standing Order 48(10), please.

Madam Speaker: Okay, so, Member for Naparima, I have noticed your heavy reliance on your notes. I think by now— you have just spoken about the four-plus

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Charles (cont'd)

2020.05.29

years, by now I think you can be less wedded to your notes, it is a debate.

Mr. R. Charles: Yes, Madam.

Madam Speaker: Thank you.

Mr. R. Charles: Yes, Madam Speaker. The question is: Why are we here today? Will this Bill reduce crime? And I do not have to look in notes to tell you that the murder rate today is at 193, and we are heading for the third consecutive year of 500 murders. Will this Bill help us reduce the murder rate? Will it deal with the underlying—I do not have to read—will it deal with the underlying social issues that are the main contributors to the crime in this country, poverty, lack of jobs, a governance that does not deliver good governance and safety to the people of Trinidad and Tobago?

Mr. Al-Rawi: Madam Speaker, I rise on Standing Order 48(1).

Madam President: Okay, so Member I will allow you to continue, but please remember what we are debating here.

Mr. R. Charles: Yes.

Madam Speaker: Yes.

Mr. R. Charles: We are discussing the Bill. Yes, Madam Speaker. Are there less costly alternatives that come in to this Parliament with this Bill? Can this Bill be operationalized?

Madam Speaker: I am now lost. I am now lost, in terms of relevance.

Mr. R. Charles: In terms of why am I here?

Madam Speaker: Irrelevance.

Mr. R. Charles: Okay.

Madam Speaker: Okay, so please.

Mr. R. Charles: Okay. Going back, what is this legislation really about? It is

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Charles (cont'd)

2020.05.29

really about electronic surveillance and data capture. I am going back to my question on whether existing legislation can be used instead of introducing new amendments in the law—

Mr. Al-Rawi: I rise on Standing Order 48(10), again please, Madam Speaker.

Mr. R. Charles: Madam Speaker—

Madam Speaker: Please proceed. You have reminded me that you do not need your notes so please proceed. I will be mindful.

Mr. R. Charles: Yes, Madam Speaker, but I am looking at you, yes—

Madam Speaker: Please proceed.

Mr. R. Charles: I will proceed. The Attorney General stated in the Senate on March the 3rd, and I have to quote now, so I will be reading now:

“Mr. Chairman, at clause 15, the amendments as circulated as intended for us to capture the fact that there may be interception permitted in other laws. So for instance, at present, we have the Administration of Justice (Indictable Proceedings) Act; at present we have the Indictable Offenses (Preliminary Enquiry); at present we have the Proceeds of Crime Act, those are three known laws at this point.”

And the question I am asking: If these laws are not effective at this stage, how are we—what assurance we have that in the short time frame we have that, we will be able to operationalize this law in time for it to have a measurable impact on the reduction of crime?

We have issues, Madam Speaker, with this, one of which fundamentally is parliamentary oversight. Section 24 of the parent Act clearly states that, and I quote:

“24(1) The Minister shall, within three months, after the end of each year, in

Interception of Communications (Amdt.)
 Bill, 2020 (cont'd)
 Mr. Charles (cont'd)

2020.05.29

relation to the operation of the Act in the immediately preceding year,
 prepare a report...”

The section further details of what information must exist in the report, and:

“(2) ...a copy...”—must be—“laid before both Houses ...”—promptly—
 “after its completion.”

Mr. Al-Rawi: Madam Speaker, I rise on Standing Order 48(1). The Member is referring to a clause that is not in the Bill. There is no clause to that effect in the Bill. [*Crosstalk*]

Madam Speaker: So, Member for Naparima, please proceed with relevance to this Bill.

Mr. R. Charles: Madam Speaker—

Madam Speaker: Please proceed with relevance to the Bill.

Mr. R. Charles: Yes, Madam Speaker, I am speaking about the Bill and what the Bill calls for in section 24 of the parent Act. It calls for Bill to be laid in Parliament, and I am stating—

Madam Speaker: We are not debating the parent Act—

Mr. R. Charles: Yes, Madam Speaker—

Madam Speaker: So if there is an amendment to that particular section, it may be that you may be raising that particular section to show how the amendment affects it, but if not, you cannot go back to the parent Act.

Mr. R. Charles: Madam Speaker, I am saying—

Madam Speaker: I have ruled—

Mr. R. Charles: You have ruled, but this Bill has to be laid in Parliament three months after the year in which it operates.

Mr. Al-Rawi: Madam Speaker, I rise on Standing Order 48(1). There is nothing

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

like that in the Bill, Madam Speaker, respectfully, absolutely nothing. The Member—

Mr. R. Charles: Madam Speaker, this was raised in the Senate.

Madam Speaker: Well, that is precisely the point it was not raised here.

Mr. R. Charles: Yes.

Madam Speaker: It was not raised here.

Mr. R. Charles: Yes.

Madam Speaker: And again, I say to you, if it is not a clause that is impacted by this amendment, I am not going to allow you.

Mr. R. Charles: Okay.

Madam Speaker: So, please continue within that context of the guidance I have given you or else I will ask you to take your seat.

Mr. R. Charles: Okay, I will go on, Madam Speaker.

Madam Speaker: Thank you.

Mr. R. Charles: The other question we have is given that this Bill and this Act on a whole affects the rights of an individual and there are significant privacy concerns, we are saying, why as was said in the Senate, why could there not be consideration given to a sunset clause in this Bill? The Minister of National Security indicated that because the Act was operational since 2010 without a sunset clause, then it does not need one now. He is on record as saying so. And the question we ask, Madam Speaker, is if there was not a sunset clause we are in the business of improving legislation, and if we feel that parliamentary oversight will be better developed by a sunset clause so that we could come at the end of a period, analyze whether the thing—whether the Act has worked, whether it has reduced crime, whether there are shortcomings, we feel that it would be better

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Charles (cont'd)

2020.05.29

served if there is a sunset clause.

Madam Speaker, the “authorized officers”, under this Act are the Director of the SSA, the Chief of Defence Staff and the Commissioner of Police. However, Madam Speaker, they report to the Minister of National Security, and the Minister, as stated in *Hansard* February 11, 2020, at page 76, the Minister said so. I quote:

“There are three authorized officers, the Commissioner of Police, the Chief of Defence Staff, and the Director of the SSA. There is nobody else, pursuant to the legislation of Trinidad and Tobago, that can legally intercept. Those are the people that we have entrusted to carry out their job and their duty, and there is only one person”—and this is the Minister talking—“there is only one person that they report to, the Minister of National Security...”

He goes on to say:

“So every single time, whether it is a warranted intercept, or whether it is an intercept for intelligence, the Minister of National Security, within a number of hours”—and then he says—“days at maximum, is provided with a report that an intercept has been started.”

And the Minister further stated that if he finds something that is supposedly wrong with the intercept, he calls in, he says and I quote:

“...if I find something strange...”

Madam Speaker: Member, remember this is a debate.

Mr. R. Charles: Yes, Madam.

Madam Speaker: While it might be relevant, I cannot allow you to read long extracts without tying it in to a debate. So, right now all I am hearing are those long extracts from the Minister of National Security in the other place, but you have not tied it in, please, please. I think you should take your seat. Next.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)

2020.05.29

Mr. R. Charles: All right.

Madam Speaker: Member for San Fernando East. [*Desk thumping*]

The Minister of Tourism (Hon. Randall Mitchell): Madam Speaker, thank you for the opportunity, Madam Speaker, to contribute on this Bill and to place some brief comments on the record, this Interception of Communications (Amdt.) Bill, 2020. Madam Speaker, let me just start with something the Member for Naparima said just a short while ago. The Member for Naparima wrongly alluded to a situation where the Minister shall be informed by those seeking to intercept and record communications but, Madam Speaker, let me just correct that on the record.

[*Member for Naparima stands*]

Madam Speaker: Member for Naparima. Member for Naparima, please have a seat, I am speaking.

Mr. Charles: I will have a seat.

[*Member for Naparima continues to stand*]

Madam Speaker: Member for Naparima, please have a seat.

Mr. R. Charles: I will have a seat!

Mr. Hinds: What!

Madam Speaker: Member for Naparima, I ask you to leave the Chamber for the rest of today. [*Desk thumping and crosstalk*]

Madam Speaker: Member for Naparima—[*Crosstalk*]—and quietly.

[*Member for Naparima exits Chamber*]

Madam Speaker: Please continue, Member for San Fernando East. [*Desk thumping*]

Hon. R. Mitchell: Thank you, Madam Speaker. And, Madam Speaker, even though it ought not to be said, I take great umbrage to the behaviour for the

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. R. Mitchell (cont'd)

2020.05.29

Member for Naparima. Madam Speaker, it is unparliamentary. Madam Speaker, contrary to what the Member for Naparima said, that the Minister shall be informed and creating the impression that once you do interception, or once you do recording of communications that somehow the Minister is informed of this. Madam Speaker, may I please correct that on the record and direct you to section 22 of the parent Act where it says:

“22. The Minister shall be informed—

- (a) of an interception under section 6(2)(b) within ninety-six hours of the commencement of the interception;
- (b) of an application under section 8 by the authorised officer who has made the application as soon as is practicable after the making of the application;
- (c) of an application under section 11 by the authorised officer who has made the application within forty-eight hours...”

But, Madam Speaker, the Minister of National Security is not given information as to who is the person and the nature of the interception and the recording at all whatsoever. [*Desk thumping*] That is a matter for law enforcement officers.

Madam Speaker, the Member for Naparima when he started, indicated that somehow his communication was intercepted when an email was revealed just before the general election. Madam Speaker, that does not mean that his communication was intercepted by anyone on this side, it just means that some of his colleagues just did not like him and wanted to embarrass him and revealed his communications in the open. [*Desk thumping*] Madam Speaker, the Member for Naparima was spinning a wheel in the middle of Port of Spain. It was just further embarrassment to the Member for Naparima. And, Madam Speaker, I cannot

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. R. Mitchell (cont'd)

2020.05.29

believe that the Member for Naparima was trying to suggest in this House that somehow the People's National Movement had anything to do with the making of the Netflix documentary, *The Great Hack*. I cannot believe that the Member for Naparima was suggesting that, that we created the Netflix and we had something to do with the creators of *The Great Hack* suggesting that Members of the UNC was involved—

Mrs. Gayadeen-Gopeesingh: Madam Speaker, I stand on 48(1). I am totally confused now. [*Crosstalk*]

Madam Speaker: Please proceed.

Hon. R. Mitchell: Madam Speaker, I am just responding to what Naparima said. I am sorry that you are confused.

Madam Speaker: Member for San Fernando East, please proceed.

Hon. R. Mitchell: Thank you very much, Madam Speaker. Madam Speaker, it was suggested in that documentary that Cambridge Analytica participated with the UNC to manipulate the citizens of Trinidad and Tobago. [*Desk thumping*]

Madam Speaker, the Member for Naparima also spoke about technology used all across the world and suggested a lot of alternatives of technology that can be used to arrest criminals and criminality. But, Madam Speaker, what is wrong with this particular technology and mechanisms that are used all over the world? That is what the Attorney General, that is what this Government is suggesting, that that be used. He suggested, Madam Speaker, that it would not pass, it would not pass, but could not say what was wrong with this Bill in principle, what was wrong. Madam Speaker, he could not indicate during his contribution what he would do differently to arrest criminals and criminality that is the scourge of Trinidad and Tobago today. There is no denying, Madam Speaker, that this is a

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. R. Mitchell (cont'd)

2020.05.29

tool, this interception of communication is a tool, an incredibly important tool that is used across the world in arresting criminality and we are using it here in Trinidad and Tobago.

I listened to the MP for Oropouche East, the Member for Oropouche East and, Madam Speaker, he may or may not have a conflict, but the Member did not use his time during his contribution speak to the merits or the demerits of the Bill before us. He used this time to throw “picong” and to advance his own personal political interest. And Madam Speaker, the Member for Oropouche West, I heard the Member speak and the Member tried to distract us with technicality “protozoa” and “amoeba”. Madam Speaker, it has nothing to do with that. They are trying to distract us with technicalities and things that have nothing to do with the objects of this piece of legislation.

So, Madam Speaker, let us get back to the Bill and the object of this piece of legislation. It is axiomatic, Madam Speaker, it is well accepted that communication is done freely from behind the prison walls, everybody in Trinidad and Tobago knows this. You see them, you see prisoners on social media, they use Facebook, Madam Speaker, and some Members in this very same House may have received communication from prisoners behind the prison walls. We know it, it happens, we understand it. Members in this House, some of us, we have some very challenged communities and we know some of the main operators in the criminal world. We know how they operate because people come to our constituency offices and they speak of fear, they speak of fear for reprisals. Some of them live in the “plannings”, the multistory HDC communities and they speak of it. And what you commonly hear is the fear of this so-called “long hand” from behind the prison walls.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. R. Mitchell (cont'd)

2020.05.29

Madam Speaker, witnesses are fearful for their lives in coming forward to give evidence to arrest this thing we call criminality, for fear of someone calling a shot from behind the prison walls. But, Madam Speaker, this is not just about murder. We talk about murder, we talk about where certain prisoners, some of them on remand, desperate as they are to escape—well, to be released from prison, try to interfere with witnesses, try to eliminate the evidence against them in the courts. But Madam Speaker, some prisoners as the Member for Laventille West alluded to actually conduct their criminal enterprises from behind the prison walls. And in that regard, Madam Speaker, I stand here to fully support the proposed sections 6A and 6B, which speak to the warning by the Commissioner of Prisons that prisoners and member of staff, that they will be informed that their communications may be intercepted. And in section 6B communications in a prison or prison vehicle, they will be warned as well that they may be recorded.

Madam Speaker, I am in full support of that and I am in full support of that because of an experience I had at the Ministry of Housing and Urban Development, and with your permission, Madam Speaker, I just share that experience because it is not just about murder. Madam Speaker, at the Ministry of Housing and Urban Development, there is a programme called the Squatter Regularization Programme, it is a PSIP programme, and this problem as I said, it is not just about murder, firearms and violent—well, violent crime. This problem also affects the State's ability to conduct its business. While there, Madam Speaker, the Squatter Regularization Programme, it is about going into squatter communities—

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

Madam Speaker: Please proceed, Member for San Fernando East.

Hon. R. Mitchell: Thank you very much, Madam Speaker, the Squatter Regularization Programme is about going to squatting communities and doing infrastructural upgrades to ensure that these land developments are brought up to a certain standard.

Madam Speaker, while there, there was a project in La Paille, Caroni and a tender was done awarded, a tender was awarded, a company mobilized on site to conduct some drainage works, some water works. So the contractor mobilized, put their equipment on site, their backhoe, their excavator, et cetera. And one night they got a call the backhoe was on fire, backhoe was completely burnt down. And the very next day, Madam Speaker, the contractor received a call from a notorious gang leader from behind the prison walls, a notorious gang leader. And, Madam Speaker, that gang leader knew the contractor's name, family's name, the contractor's address, obviously the contractor's phone number, and they knew every aspect of that contract. And the contractor knew that there was a security component in the contract and the contractor demanded the payment of that security component to his associates on the outside.

These amendments, Madam Speaker, would help in that situation. The gang leader also started to call senior members of the Land Settlement Agency as well, demanding further information. Now, reports were made to the police. The police, in that situation, threw their hands up in the air. They could not do anything at that point in time, they simply could not. The contractor, Madam Speaker, sadly ended up paying the money to the criminal enterprise.

The senior officials at the company, they had an extremely strong suspicion about a particular clerk of works and his contract was not renewed, and all such calls stopped and interference with contractors on these types of jobs stopped.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. R. Mitchell (cont'd)

2020.05.29

Madam Speaker, there was considerable property damage and considerable fear, the job was slowed down considerable and it seriously interfered and impacted the State's ability to conduct its Public Sector Investment Programme and seriously impacted that community's ability to finally get proper drainage and proper water works in their community.

So, Madam Speaker, I have heard the Attorney General and I have heard the Minister of National Security, and I too understand the safeguards and I am comfortable with the safeguards that are placed in this Bill. But, Madam Speaker, it definitely is a scourge, the ability of prisoners to communicate with the outside world, to interfere with justice, interfere with witnesses and, Madam Speaker, interfere with the State's ability to conduct its affairs. So, Madam Speaker, I fully support this on behalf of the people of San Fernando East, I fully support the measures in this amendment Bill and I thank you for the opportunity to contribute. Thank you. [*Desk thumping*]

Madam Speaker: Hon. Members, it is 4.31. I believe there has been agreement that there will be tea and still comply with the COVID time restrictions, so that we will break now. We will return at 5.00 p.m.

4.32 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Madam Speaker: Member for Couva North.

Ms. Ramona Ramdial (*Couva North*): Thank you. Thank you very much Madam Speaker, for the opportunity to contribute on this Bill. Madam Speaker, just before we broke for tea, the outgoing Member of Parliament for San Fernando East was contributing and giving his support for this amendment Bill. But I also like him have a story to tell, and I want to refer to what he was talking about and he was

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

speaking about the criminal element and how it works, and what was happening with respect to the communication coming out of our prison system. He was not able to identify which prison he was speaking about, but the prison system in general, and talking about criminals communicating with persons outside to do crime. And we all have a story that we can tell with respect to that. And I want to also tell my little story with respect to that.

Now Madam Speaker, what do we do in a situation where we have those in authority charged with the responsibility of ensuring investigations are done in a proper and timely manner, and that criminals are brought to justice? What do we do when there is a failure by such officers who hold such powerful positions? What do we do about a situation like that? And I want to say to the Attorney General this afternoon, as much as this legislation, in his point of view, which he has been touting for a very long time, can assist with respect to dealing with the criminal element and what goes on in the prison, what is happening with prison reform? What is the status? Is there an update with respect to prison reform? And some of the measures that we would have debated here right on the floor of this Parliament over the years before my time, before his time, what is happening to prison reform? And is it that prison reform is not a measure to deal with situations like this? And the Member for Oropouche East made reference to the jammers and the grabbers that are supposed to be utilized by the prison system. What is really going on with that? That is also another measure that can be utilized to capture and to trap the communication going out of the prison to other members of gangs and otherwise to do crime. So let me go back to the Member, the outgoing Member, for San Fernando East.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

Madam Speaker, three years ago there was an issue that hit the media of \$10 million missing from the THA that was meant for Virgin Atlantic. Madam Speaker—yes.

Madam Speaker: Member, remember this is not a debate on crime.

Ms. R. Ramdial: Yes, Madam Speaker,

Madam Speaker: And it is a very specific piece of legislation.

Ms. R. Ramdial: “Mm-hmm.”

Madam Speaker: So unless in a half a minute, you could convince me of the relevance of what you are embarking on, I will ask you to leave that and go on to something that relates to this.

Ms. R. Ramdial: Madam Speaker, I am making reference to this particular issue because, as I mentioned earlier, those persons charged with the authority of bringing the perpetrators to crime, and the Member for Laventille West also made reference to those officers who do not perform their job according to what is required of them. So I am responding to that, Madam Speaker.

Madam Speaker: If I recollect well, I do not recollect the contribution by the Member of Laventille West to have been a broad brush contribution with respect to people being somewhat wanting in the discharge of their duties. So, again, I say once I rule that it is not in response to that as far as I am concerned, and secondly, unless in half a minute flat you can tie that to what is before us, I will ask you to leave it and move on.

Ms. R. Ramdial: Half a minute Madam Speaker, I will tie it. I just want to say to the House that the information with respect to this particular issue that I mentioned earlier, is there for all, it is being investigated by the FIU, the information is there,

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

but nothing is happening with respect to the investigation and an update needs to be given by the Minister of National Security.

Madam Speaker: Move on to another point that relates to this debate.

Ms. R. Ramdial: Sure, Madam Speaker. Now, Madam Speaker, in addition to that, in another place reference was made to somewhat of a code of practice in terms of making the amendments to this Bill solid. And I want to draw reference to that of the UK because the Minister of National Security referred to a study in the UK and what was happening in the UK and so did some of my other colleagues before. But in the UK there is a code of practice where the entire operations of how the interception of communications legislation is to be implemented, is codified in this document, and I just want to make reference to some of the headings under which this code of practice encompasses at the end of the day.

So Madam Speaker, warrants. Warrants are classified under this code of practice. And I make reference to this code of practice because I want to suggest to the Attorney General that this code of practice, or developing a code of practice to implement this legislation might be very useful. So in this code of practice we have, for example, and information that can be given to the Attorney General that would be quite instructive in assisting him. Warranted interception, types of warrants, Madam Speaker, and where these warrants are, again, classified as subject matter of the targeted warrants, the targeted thematic warrants, specificity of the warrants, authorization of the warrants, modification, renewal, format of warrant application, targeted interception warrants, targeted examination warrants, mutual assistance warrants, format of targeted warrants, targeted interception warrants and targeted examination warrants. For civil breaches, mutual assistance

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

warrants and authorization of a targeted warrant. And this is included in their code of practice with respect to implementing this legislation.

Madam Speaker, also with respect to bulk information, there is a specific warrant that can be issued, and it is called “bulk interception warrants” and the format of that warrant application is explicitly given under that code of practice. The authorization of bulk interception warrants is also included in that code of practice, the duration under which that warrant would be valid is also given under that code of practice and, the modifications and cancellation is also given under that code of practice for that particular type of warrant.

Madam Speaker, another type of warrant is the implementation and communications of the service provider compliance and it is a provision of reasonable assistance to give effect to a warrant. In addition to that, Madam Speaker, the maintenance of technical capability, the consultation with service providers, they are all matters to be considered by the Attorney General's Office or even under the Ministry of National Security.

The integrity of interception and the delivered product is also something that is very important and is included in this particular code of practice. The principles of data security, integrity and disposal of systems. And I understand the Attorney General made reference earlier on about destroying so called evidence if it is not to be put into use. And this is also under that particular code of practice that can be included to help the implementation of this legislation.

There is of course the legal and regulatory compliance, the information security policy and risk management, personnel security, the maintenance of the physical security or the capability of implementing the interceptions, access

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

controls, management of incidents, and additional requirements relating to the disposal of those systems if not in use.

Madam Speaker, what is also very instructive are the safeguards, the safeguards which include privileged or confidential information. And exclusion of intercept from legal proceedings, there is a duty not to make unauthorized disclosure and accepted disclosures. There is the reviewing of the warrants, the dissemination of intercepted content and secondary data, copying, storage and the destruction. So there is a special area under this code of practice where you have safeguards for those individuals being intercepted and of course also guidelines by those persons who are or who will be intercepting the information.

Madam Speaker, reporting to the commissioner and dissemination that is also under the code of practice and that is also explained, as there is a certain process in which it has to be followed in terms of reporting to the commissioner. Record keeping and error reporting, targeted warrants and bulk interception warrants. There are proper records and error reporting in terms of serious errors. Disclosure to fairness in proceedings, exclusion of matters from legal proceedings, disclosure to a prosecutor, disclosure to a judge, disclosure to ensure thorough investigations in inquests and inquiries and disclosure in other civil proceedings.

So here again in this code of practice, to make the implementation of this legislation seamless, there are also guidelines to follow in terms of proceedings and how you go about putting this evidence before the courts. And the code of practice will also include other lawful authority to undertake interception, interception with the consent of one or both parties, interception by providers of postal or telecommunication services, interception by businesses for monitoring and record

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

keeping purposes, and interception in accordance with overseas request and stored communications.

So this aspect of stored communication which my colleague from Oropouche East flagged with respect to the main intent and purpose of the amendments to this Bill, it is also found under this particular code of practice, again, making implementation of the legislation seamless and effective. And therefore, Madam Speaker, I raise the question to the Attorney General, where is the code of practice for here, for us here in Trinidad and Tobago, for this piece of legislation to be implemented effectively? Is it that the Attorney General is rushing? And I want to believe that he is rushing these particular amendments for whatever he claims may be the object at the end—or the subject at the end of the day. But without a code of practice to implement the legislation effectively, we have only his word to rely on, and the word of the Minister of National Security, and as we all know, their credibility has been shot to pieces over the past couple of months, and therefore there is no trust in what they say to the people of Trinidad and Tobago.

So, Madam Speaker, I want to urge the Attorney General quite strongly to see how best possible before they decide to get this Bill going and to agree to the amendments to these Bills by a simple majority, which I want to assume may come when we do not support this, that the code of practice must be implemented also, and it must accompany the legislation, and it must be laid in Parliament for Parliament to go over and to see how best both sides of the House can help and assist, and fix the legislation, and fix the amendments to the legislation, and take away all of the negativity and all of the questions that we would have on our minds

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

on this side as an Opposition so that we can really see justice be brought to the perpetrators and to the criminal element.

Madam Speaker, I also want to again, go back and ask the Attorney General about prison reform. What is happening with prison reform? What is happening with all of the other strategies?

Madam Speaker: Member, I am not going to allow you to talk about prison reform. This is not about prison reform. If there is an aspect that relates to this, I will let you speak to that.

5.15 p.m.

Ms. R. Ramdial: Sure. But, Madam Speaker, the Attorney General, in his presentation said that the amendments in this Bill were specifically to target what was happening at our prisons with respect to not being able to control communication between the criminal element in the prison with their friends or targets out in the public and, therefore, prison reform, certain elements in the prison reform agenda would have helped him with respect to this aspect or this problem with communication of prisoners in prison with those out.

Madam Speaker, I also want to say that this Bill targets, according to the Attorney General, targets the prison and the prisoners, and I want to remind the citizens of Trinidad and Tobago that this is not so. It includes every law-abiding citizen, and for us here on the Opposition side it is an infringement of constitutional rights. And we do agree that prisoners are disentitled to certain rights upon incarceration, but that is not our argument. Our position has little to do with the rights of prisoners except insofar as the legal professional privilege is concerned, and much to do with the unsavoury way in which this Bill provides for interception of communication amongst citizens who are not prisoners in the name

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

of national security and without the necessary safeguards. Again, a code of practice, AG.

Madam Speaker, let me also say that the Bill, at the end of the day, there are many amendments to these Bills, and the deficiencies in the Bill in clause 6 with respect to the warrants, clause 6 of the Bill creates an offence for the intentional inception of communication, and it stands to create reasonable exceptions which are firstly designed to prevent unlawful or improper interception of communication and, secondly, guard against the punishment of persons who may have intercepted communication for a legitimate reason. So, for example, Madam Speaker, it says you do not commit an offence if you are acting pursuant to a warrant duly obtained, and acting in the interest of national security, intercept communication as a part of your employment in the telecommunication services.

So the Act has, therefore, gone on to create categories of persons who would not be prosecuted for intercepting communications which, very importantly, included persons who may have intercepted communications without obtaining a warrant, without the protection of law, judicial oversight and/or due process. However, the Act in itself seeks to achieve a measure of proportionality and reasonability by stipulating that any evidence collected by these excepted categories could only be used to support an application for an interception warrant pursuant to section 8 and 11 of the Act. So, Madam Speaker, I just wanted to flag that particular aspect with respect to the warrants. Again, something that a code of practice will solve for the Attorney General.

Fairness of procedure, Madam Speaker, I just wanted to touch on that and that was proposed in section 17A:

“Where the Court considers it appropriate to determine whether sensitive

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Ms. Ramdial (cont'd)

2020.05.29

information should be disclosed, the Court shall issue a special measure direction that closed proceedings be utilised.”

So that is what the Bill proposes.

Now, the new section 17A presents a host of issues regarding the fairness procedure, for example, ejection from proceedings that concern his interest. Closed proceedings are not defined. This insertion of closed materials, Madam Speaker, is a radical modification of the general framework relating to the trial in open court. The term “closed proceedings” as set out in section 17A(2) of the Bill is not defined. There is, for example, no restriction on communication, modification of the rules of disclosure and it simply speaks to private hearings.

Then we move on to the closed proceedings that infringe open justice. Madam Speaker, the proposed amendment impacts upon the fundamental principles of open justice and the right of an individual to a fair trial. Now, I know the Attorney General would have spoken and explained that aspect of the closed proceedings infringing on open justice, but none of these elements that are fundamental features that present a fair trial is present in this Bill. Open justice, the ability to confront and interrogate evidence—

Madam Speaker: Your speaking time is now spent.

Ms. R. Ramdial: Thank you, Madam Speaker.

Madam Speaker: Member for Chaguanas West. [*Desk thumping*].

Mr. Ganga Singh (*Chaguanas West*): Thank you. Thank you, Madam Speaker. Madam Speaker, it was not my intention to speak on this Bill, because I felt that my colleagues would have exhausted the area, but like a good boy scout, Madam Speaker, I am always prepared and I was prompted to enter the debate by the contribution of the hon. Member for Laventille West, the vacuousness, the vapid

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Singh (cont'd)

2020.05.29

and the arrant nonsense [*Desk thumping*] that he spoke about in his contribution, and I will go on to show how what I am saying is supported by the emptiness of what he said.

One of the things that prompted me to come into the debate was the fact that the hon. Member for Laventille West said the Constitution allows for you to have an attorney of choice. The special advocate highly trained will go to the police, will go to the court. Where in the legislation is that, Madam Speaker? There is absolutely no way that the special advocate in a closed court hearing can go to the police. But you have an hon. Minister who sits in the Office of the Attorney General, in addition to being the Minister of Public Utilities, carrying a series of portfolios, and that therefore says this kind of arrant nonsense. And then he goes on to—so that is the first—and he says, what is wrong with that? What is wrong with that is that it has no basis in law, and I will go on to deal with the whole question of the Special Advocate and to demonstrate that this transplanted mechanism is sociologically, contextually, inappropriate for the environment that is Trinidad and Tobago.

Madam Speaker, it is my intention first to deal with the question of the legal right, the legal personal privilege right of an attorney and his client. Madam Speaker, section 5 of the Constitution says it very clear that:

“...of the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him...”

The legal learning is very clear and I am certain, Madam Speaker, that the Attorney General would recognize that this constitutional right that you have for your attorney of choice is not something that you just dismiss. It is part of our law. Madam Speaker, section 1 of the Constitution says that:

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Singh (cont'd)

2020.05.29

“The Republic of Trinidad and Tobago shall be a sovereign democratic State.”

And this was interpreted in Collymore some 33 years ago. It is the duty of the court to give effect to this fundamental provision of the Constitution. Section 1 in that case said, Madam Speaker, contains a separate substantial guarantee. On the other hand what matters is the content of the concept of a democratic state as that term is used in the section and not generally. That said, the Constitution is not to be interpreted in a vacuum without regard to thinking in other countries with similar values equally, Madam Speaker.

And Lord Steyn in the *Mauritius v Khoiratty* case said this, Madam Speaker, and I quote:

“The idea of a democracy involves a number of different concepts. The first is that the people must decide who should govern them. Secondly, there is the principle that fundamental rights should be protected by an impartial and independent judiciary. Thirdly, in order to achieve a reconciliation between the inevitable tensions between these ideas, a separation of powers between the legislature, and the executive, and the judiciary...”

Madam Speaker, in the case *R v Derby Magistrates Court* 1996, Appeal Case 487:

“The principle which runs through all these cases, and the many other cases which were cited, is that a man must be able to consult his lawyer in confidence, since otherwise he might hold back half the truth. The client must be sure what he tells his lawyer in confidence will never be revealed without his consent. Legal professional privilege is thus much more than the honorary rule of evidence limited to his application to the facts of a particular case. It is a fundamental condition on which the whole

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Singh (cont'd)

2020.05.29

administration of justice rests.”

So, Madam Speaker, when you look at the manner in which the interaction between the attorney and his client is now confined to a designated area, clearly that represents to my mind an infringement of the Constitution.

And in the case of Sookram, Madam Speaker, the court went on to some extent to indicate that even if we were to support a special majority, you cannot interfere with the right to communicate confidentially with one's attorney. Adherence to the rule of law would not permit a legislator to legislate away the protection afforded to this most important right because it is a pillar upon which the administration of justice is based. So this confinement, this designation, is not a designation that is consistent with the Constitution.

In Sookram, Madam Speaker, the law that was struck down was an 1838 prison rule that would have had the protection of the savings provision of section 5 of the Constitution. The law was notwithstandingly struck down because it was not in accordance with section 1 of the Constitution. So that what you are seeking to do here will be struck down under section 1 in the current situation. Madam Speaker, and you have learning in this whole area, Lord Burpham, in another case, Madam Speaker, learning in the whole area that points to this kind of assertion of the capacity to be with your client, with your attorney as constitutionally guaranteed to communicate, Madam Speaker

Madam Speaker, in clause 4 of the Bill, subclause (3), it appears to me that there is cover here, cover being provided and I would read the section to demonstrate what I am saying, Madam Speaker:

“For the avoidance of doubt, all communication data obtained by a Constable prior to the coming into force of this Act lawfully obtained

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Singh (cont'd)

2020.05.29

pursuant to section 32 or 33 of the Proceeds of Crime or section 5 of the Indictable Offences (Preliminary Enquiry) Act shall continue to be admissible into evidence.”

Obtained prior to the coming into force of this Act.

So, Madam Speaker, so what you are having here is lawful justification, an attempt to bring about lawful justification for what was unlawfully done. It is clear, Madam Speaker. The question is whether clause 4(3) is a cloak, a shroud, a veil to hide something that is sinister. The hon. Attorney General owes us a duty to inform this Parliament whether this section is applicable to any ongoing matter or any contemplated matter, Madam Speaker, and that is perhaps the motivating force behind this section of the legislation, Madam Speaker.

And it is in this context, Madam Speaker, we must recognize that in the realm that we are in, this Government is saturated with allegations of falsehood. It has given up significant political capital in that regard. So there is a complete lack of trust and mistrust in the current environment. So that for laws of this nature to operate effectively without any allegations, there must be the confidence and the trust of the people that what is happening, what is going to be lawfully engaged in will be something that in which there is no hidden agenda.

Clause 6(2)(h), Madam Speaker, states that:

“...interception of communication transmitted to or from a device in a prison or a vehicle used to transport prisoners;”

And the interception is conducted by an authorized officer. Madam Speaker, you know we come at the—I know there has been debate on grabbers and jammers. I am not going to go into that. But for someone who has knowledge and a sense of history of what has happened with respect to the prison system in this country, one

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Singh (cont'd)

2020.05.29

only has to go to the newspaper of Sunday 02 June, 2019, by Denyse Renne, *Trinidad Express*:

“Trinis seem to enjoy re-inventing the wheel:

Prisoners escape, investigations are ordered, committees are formed, recommendations are made and then zilch.”

And in this article, Dr. Ramesh Deosaran spoke about some 30-something recommendations of the commission of enquiry headed by then Bishop Clive Abdullah—and I am happy my friend the Minister in the Office of the Attorney General and also Minister of Public Utilities has now come in—because, you see, Madam Speaker, this commissioner of enquiry into the prison and the recommendations made was handed over to the Minister of National Security, Fitzgerald Hinds in 2004, and the newspaper article deals with that. So you come here and you say, what is wrong with that? You know what is wrong with that? Is because you did nothing when you were Minister of National Security, and you come here to find out what is wrong with that? Everything is wrong with that. So they have a series of recommendations that were not implemented and now you find yourselves with the lack of implementation seeking to allow for interception of communication from prisoners in the transport mode. It is a question of management to my mind, just a simple question of management.

So, Madam Speaker, I want to deal with the question of the special advocate, because in your absence, hon. Member for Laventille West, you indicated in your contribution that the special advocate is a mechanism, is a specially trained lawyer, highly trained, who will go to the police station, who will go to the court and represent the client and I indicated in your absence that that is simply not the law; that you were talking arrant nonsense. So, I have to say that whilst you are here.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Mr. Singh (cont'd)

2020.05.29

Madam Speaker, the special advocate is really a creature of a triangulation. The hon. Attorney General spoke about triangulation and also I think the hon. Minister of National Security, but the triangulation that created the special advocate on the basis of the European Commission of Human Rights in Strasbourg pointed the British political directorate to the Canadian model as to the utilization of special advocate in immigration matters. So you have the incipient beginnings of that triangulation.

Strasbourg dealt with the case of Chahal and they made reference to Canadian system in immigration matters. So you had Strasbourg and Ottawa making reference to London. So you have that triangulation. But the way the special advocate system has worked, Madam Speaker, when you read the literature that provides for that, it is simply utterly dysfunctional and I will go on to demonstrate that from the learning, Madam Speaker, because you seek to transplant that into our system and what you will have is that you will have a mechanism that will be rejected by the body politic that is Trinidad and Tobago. First, there is no indication as to how this special advocate is going to be appointed in the law, no indication whatsoever. In the British system, it is done by the Treasury Secretary. In the Canadian System, it is done by another mechanism. But in our law it is silent. Is it dependent upon regulations? And there are no regulations here before us.

The mention, Madam Speaker, is that the special advocate is really someone who is seeking the interest of justice. The Constitution provides for us a different approach. In this society—in the British system special advocates have 20 years' experience. Where are you going to find sufficient criminal attorneys that will have 20 years' experience in Trinidad? And then when they participate in a matter,

Interception of Communications (Amdt.)
 Bill, 2020 (cont'd)
 Mr. Singh (cont'd)

2020.05.29

if it is gang-related, then they will become tainted and they will not be able to participate in subsequent matters, Madam Speaker. Madam Speaker, the learning I point to and I indicate that this special hybrid that they are seeking now to triangulate into Trinidad is simply not relevant to us. Special advocates, Madam Speaker, in the faces of secret justice, a bureau of investigative journalism from the 1st to the 11th 2012:

“Special advocates are inherently unfair and contrary to the common law tradition—

An army of lawyers drawn from London’s most talented barristers is the physical embodiment of the unfairness of the UK’s secret justice system, according to critics of the UK’s expanding secret courts.”

And the learning goes on, similarly, in the Canadian system, Madam Speaker. The special advocate, when you look at what is set out in the Constitution, cannot bring in witnesses, could cross examine, cannot bring in experts, and then you have, in several cases, the learning points to the fact that special advocates are inappropriate and they are not really required.

So, Madam Speaker, in the 20 minutes allocated, I want to indicate that legal professional privilege must be protected. Secondly, that the utilization of special advocates is really inappropriate, unconstitutional, and is really an arbitrary imposition upon the defendant who will have no sight of anything else and under this notion of “secretness” it is inappropriate in our society. I thank you, Madam Speaker.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, it is 30 minutes to wrap up for the mover of the Motion as well?

Madam Speaker: Yes, 20 minutes to wrap up.

Hon. F. Al Rawi: Thank you. Thank you very much. I thought it was 30. Madam Speaker, I thank you for the opportunity to bring conclusion to this Bill. It was refreshing to hear my colleague for Chaguanas West on the floor. I always enjoy his debates, certainly, it was a welcomed position to hear some reflections on the law, because this is after all a debate on the law. It was equally refreshing because it was the exact opposite of the contribution from the Member for Naparima who, unfortunately, came with a speech that apparently someone had written for him and he had bothered to digest.

Madam Speaker, we have a few issues standing in terms of wrap up. Quite simply put, if I were to combine the contributions of Chaguanas West, together with Oropouche East, there is an allegation that somehow this Government lacks the moral authority to bring legislation of this type. Indeed, the hon. Members suggested that there was some degree of mistrust of this Government in relation to law. The contributions then meandered from my friends opposite, across a submission that much of this is unknown to the law. My friend, my hon. colleague for Couva North, made some startling contributions as to the need for a code for practice. Soon after she said that the law itself was not constitutional, and then we went into the allegations of the law effectively lacks in proportionality and ought not to stand from a constitutional perspective.

5.45 p.m.

Madam Speaker, this law is certainly not about zoology, as the hon. Member for Oropouche West sought to bring us into considering, there is nothing to deal with that, nor is this law about Cambridge Analytica, as the Member for Naparima tried to suggest. Madam Speaker, therefore permit me to respond in the round as follows. First of all, the fact is that the amendments to this law are with a very

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

strong legitimate aim. The legitimate aim that we seek to bring is underpinned, first of all, (a), by the fact that section 2 of the Constitution makes the Constitution the supreme law; (b), by the fact that we stand here pursuant to section 53 of the Constitution, which is, of course, the power of the Parliament to make laws for the peace, order and good governance of our society; that section 53 is flavoured or coloured by sections 4 and 5 of the Constitution if they are applicable. And sections 4 and 5 of the Constitution, in particular 4(1)(a), due process of law; 4(1)(b), the protection of the law; 4(1)(c), right to private and family life; 4(1)(d), right to fair trial; those are only relevant in considering a section 13 exception, meaning you require a three-fifths majority of the Members in the Parliament and that it is the type of law that a democracy such as Trinidad and Tobago recognizes, that section 13(2) of the Constitution. Those factors are only relevant if the sections 4 and 5 rights are in fact being infringed.

So let us go, in particular, to the dicta of Mr. Justice of Appeal Bereaux who said in the case of Northern Construction, as he was reflecting upon Suratt and other principles, and I quote:

“If the legislation is not inconsistent”—under sections 4 and 5—“then its passage with a three fifths majority is superfluous. There can then be no basis for finding that it is not reasonably justifiable under section 13(1) of the Constitution.”

And in fact, it was Mr. Justice of Appeal Bereaux, in the Northern Construction case as it was set out, and in the majority decision of Francis, as he referred to it who said:

“The proportionality test...”—is—“a two step approach to the question of the constitutionality of an Act of Parliament:

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

- (1) Does the policy of the legislation pursue a legitimate object?
- (2) Does the limitation or restriction of the constitutional right bear a reasonable or rational relation to the object...”

And he said this:

“The test was applied by Baroness Hale in *Suratt* (supra). Baroness Hale’s formulation is nothing but a more recent expression of a long established principle. But it is also now one of three limbs”—in—“the test to be applied in considering...an Act of Parliament is...reasonably justifiable...”

So Baroness Hale, in our own Court of Appeal, reflections by Mr. Justice of Appeal Bereaux is a statement—and let me remind you, section 58 of that judgment, in the *Suratt* judgment, Baroness Hale said not every section 4 and section 5 right requires a three-fifths majority exception simply because you are touching with the right; (a), because there is a legitimate aim; (b), because the measure of amendment is rationally connected to that legitimate aim; and (c), because it is proportionate to touch that aim. And in that discussion Baroness Hale and the Privy Council in *Suratt* set out quite clearly that you can in fact treat with rights identified under section 4 and section 5 of the Constitution if in effect it is something that is already known to the law, it is within our grasp as our democracy evolves, or is, depending upon what state we are in. We are at a present point and always evolving, and the law is that there is a presumption of constitutionality, and that presumption must be rebutted and that there is a rebuttable process in treating with that.

So, Madam Speaker, the fact is let us jump to proportionality. First of all, to the Member for Couva North, had the hon. Member had the benefit of the advice written by Gerald Ramdeen for the Member for Chaguanas West, which is in

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

circulation amongst the UNC Bench—I recognize that line of thought. I recognize Sen. Ramdeen as he once was in his writings but Sen. Ramdeen then, now Mr. Ramdeen, in writing for the UNC is entirely wrong in his approach. However, he is taking the approach of an advocate on an issue. He was asked to produce advice for the Opposition but that advice is debateable, and in the debate today we underpin ourselves by the principle of proportionality and therefore, constitutionality and the supremacy of law, and the reasonableness of making law for the peace, order and good governance of our society.

So what are we talking about in terms of proportionality? What are the rights that we are touching inside of here? What are the sections of the law that potentially need treatment? Section 4(a), clause 4, treats with the concept of the applicability of this law to proceedings as defined there. The proceedings are criminal proceedings, mutual legal assistance for extradition, et cetera, under the Mutual Assistance in Criminal Matters Act; anti-terrorism and civil asset forfeiture, explain your wealth; that is the definition of proceedings. It is not as Oropouche East put it, civil proceedings. There is no civil proceeding in this. In any event, the civil law already recognizes the power to obtain information but it is not under anything other than the Norwich Pharmacal procedure, a Mareva injunction, an Anton Piller order, so it is already known to the civil law but it is not civil law.

In answer to the hon. Member's submission, Oropouche East said that we should call this the "Interception of Communications and Stored Data Act", and then went into a conspiracy theory that we are for the first time accessing stored data. Nothing could be further from the truth because it is in the Bill, Madam Speaker. In the Bill we recognize, in the new 4A(3):

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

“For the avoidance of doubt”— and I am reading here— “all communications data obtained by a constable prior to the coming into force of this Act and lawfully obtained pursuant to section 32 or 33 of the Proceeds of Crime Act or section 5 of the Indictable Offences (Preliminary Enquiry) Act...”

Those are existing laws. The Indictable Offences (Preliminary Enquiry) Act is an Act of Parliament since 1917, and section 5 existed since 1917. And the Proceeds of Crime Act which was born and bettered up to about 2009, when you look to the real substance of that law in 2009, that Proceeds of Crime Act allows for production orders under sections 32 and 33 since then.

So it is arrant nonsense—to use the expression from my colleague for Chaguanas West—it is arrant nonsense to make it up as you go and suggest that this law is to access stored data on somebody’s device. That is just wrong. It is a betrayal of intellect to suggest something like that. It is a betrayal of the ability to be literate because had you bothered to read the law, which all of us are provided, free of charge, by this Parliament. In fact, “Give meh back de money”, the Parliament should say to all hon. Members opposite because you should at least have the courage to break the spine of the books that the Parliament gave to you and read the law. [*Desk thumping*] If not on the books then in the iPad that they gave you as well for free, as the laws of Trinidad and Tobago are published for the entire world to see. So, Madam Speaker, I reject that out of hand as arrant nonsense. [*Desk thumping*]

So let us look to this idea that everybody should be afraid, and the media should be bawling, and the Government is coming to get you, Madam Speaker— Madam Speaker, section 6(2)(b) of the Interception of Communications Act

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

already allows interception of everybody in Trinidad and Tobago without a warrant, everybody. So where was the UNC's sense of piousness, piety, decorum, regard for the journalists in this country, regard for the average citizen in 2010? Where were they? When they passed the law in 2010, to use the words as Oropouche East, to "maco" people, on the "say-so" of Mrs. Kamla Persad-Bissessar, the Member for Siparia, then Prime Minister Kamla Persad-Bissessar who alleged that she had files on people from the interception of communication conducted. Madam Speaker, I say here today that the person who handed Mrs. Persad-Bissessar the files at her home in Phillipine confirmed that the hon. Member kept those files and they were destroyed after that. That alone ought to be the subject of a criminal investigation but let us not go there.

So I accept nothing from the hon. Members opposite about what is right or what is wrong. What I can say, the existing law, section 6(2)(b) allows for the interception of everybody. In fact, the existing law is unconstitutional arguably and we come here to fix that. There is an ouster of the jurisdiction of the court in section 17 and section 19 because we say that the court shall admit evidence. There is no judicial discretion. And when we look to that, if we come back to section 4A, section 4A, as we introduce it into this law, is merely a procedural amendment. We are not looking at any concept of retrospectivity in respect of a substantive law, we are dealing with a procedural aspect of law.

If we look to the provisions of sections 17, 19; if we look to the provisions of 6(b)(i), 6(2)(h), where we are allowing the interception as we have it now, we are dealing with safeguards for the first time. And let me put it to you this way—
Madam Speaker, what time is full time?

Madam Speaker: Full time is 6.02.

Hon. F. Al-Rawi: “Oh, good Lord.”

Madam Speaker, the safeguards that we have are set out in the admissibility of evidence; 17(a), 17(b) are entirely subjected to safeguards; 6(2)(b), as we look to admissibility of evidence, evidence may be admitted, that is evidence of anybody who has been intercepted without warrant if you satisfy the conditions of 17(2B) and 17(2C). Evidence in a prison intercept may be admitted, if you satisfy the provisions of 17(2A), 17(2B) and 17(2C). We are legislating the Bailey principles coming out of the case law. And very specifically, I want to say this to the members of the media as the Opposition tries to frighten them, there is a specific requirement in 17(2C), subparagraph (c), where you must only admit, a judge must only admit that evidence if the use is proportionate to the gravity of the alleged or suspected offence. In other words then, it is obviously legitimate that sources of journalistic input are protected and this is not a “nilly-willy” position.

Had the Member for Couva North bothered to check the law, the hon. Member would have realized that the code referred to in England is because in the United Kingdom they do not need a judge to say you could do that, it is an administrative process. We take the step of going to a judge. New Zealand, administrative process; Canada, administrative process; United States, in several areas, administrative process; they do not even knock on the door of a judge, hon. Member for Couva North, so you are comparing watermelons with rocks, most respectfully.

Ms. Ramdial: That is not true.

Hon. F. Al-Rawi: The hon. Member seeks to tell me that that is not true. Madam Speaker, the concept of a “special advocate”, the hon. Member for Chaguanas West said that a special advocate is not known and nobody says how these special

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

advocate is done, whether it is done by way of rules and regulations. That is why we are amending the law to include a new section 25A to allow the rules of the Supreme Court to speak to that.

It is a certain sense of myopia that persons can suffer from if they do not understand—I will use a word that my friend for Chaguanas West used on many occasions, it is a form of intellectual—how should I say—let me not be uncharitable, it is a form of intellectual lacking if one were to forget that a little while ago there were people in this country saying, “Where will I get attorneys-at-law to represent me in a defence matter?” It is true the criminal bar is limited. Today, we have a public defenders’ division in Trinidad and Tobago, a competent counsel appointed for you, and this Government birth that when many others just simply spoke about it. But the concept of “special advocate” is well entrenched in the common law. And why do we want a special advocate? We want a special advocate so that we can protect the players in national security from the risk of harm but it is not a carte blanche position. It is a position where we are saying that the court will decide who the special advocate is—it is set out in the provisions—the court will decide who the special advocate is. The court will direct the conditions for that. And I want to point this out, the legal professional privilege is squarely preserved in the prison, squarely preserved in the context of any interception or recording, because we allow bugging in prisons for the first time, that is carved out in the law, but there is another legal professional privilege because the special advocate must act in the interest of justice and also for the client. Who is the client?—the accused.

The mission is a narrow purpose to look at the admissibility of evidence which is sensitive information; who was the person that intercepted, how did they

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

intercept, what was the equipment that intercept? Because if you want to deal with admissibility of evidence and you want to get past the rules of hearsay, you have to lay the evidence as to who, where, how, what happened otherwise you are not going to have the evidence admitted. And to simply say in section 17 and section 19 that the evidence shall be admitted is to cause a breach of separation of powers because that is the discretion of the court, and I cannot understand why my learned friends opposite want this law that they passed in 2010 to fail. And to answer my friend from Chaguanas West, this law is not designed to attack a case; that would mean to make this *ad hominem*.

The learning in *Liyana* strictly tells us, the learning in the section 34 case, Northern Construction tells us, you cannot legislate for a matter in court. That is frowned upon in the literature and in jurisprudence. So, Madam Speaker, the fact is that codes of conduct exist, the fact is that legislation exists, public interest immunity exists, special advocates exist, closed proceedings exist, and interception via warrant and non-warrant exists. In the United Kingdom, and the Bailey case sets this out, it is clear that you can intercept conversations of prisoners. And by the way, to answer my learned friends, the case of Al-Rawi where there was a frowning on the use of that type of information was for civil proceedings, not criminal proceedings. You see, you have to make sure that you are relevant to the understanding. Madam Speaker, it is apparent that I must do the rest of my wind up in committee stage and therefore, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Hon. F. Al-Rawi: Much obliged. Madam Speaker, in accordance with Standing Order 68(1), I beg to move that the Interception of Communications (Amdt.) Bill,

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)
Hon. F. Al-Rawi (cont'd)

2020.05.29

2020, be committed to the committee of the whole. And may I inform that we have amendments to circulate, please, if they could be done now.

Bill committed to a committee of the whole House.

House in committee.

Madam Chairman: Have the amendments been circulated? Whip? Have you all got them?

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Madam Chairman: Attorney General.

Delete and substitute the following:

“Commencement 2. This Act comes into operation on such date as is fixed by the President by Proclamation.”.

Mr. Al-Rawi: Madam Chair, we propose that clause 2 actually be deleted and replaced with a commencement clause that this Act shall come into operation on such a date as is fixed by the President by proclamation.

Madam Chairman: Chief Whip.

Mr. Lee: May I ask the Attorney General the reason for this?

Mr. Al-Rawi: Oh, sure. I am sort of in a bind as to how to explain this in light of—I may need your guidance. Madam Chairman, because we propose—on the second page you will notice a deletion of the preamble, may I address both issues at the same time because it is germane? Clause 2 is the deletion of the three-fifths.

Madam Chairman: Yeah, I guess you could address it. We will still deal with the deletion at the end.

Mr. Al-Rawi: Much obliged. Thank you, Madam Chair. Madam Chair, as I

indicated in the piloting of this Bill, this law is underwritten by proportionality and constitutionality. In fact, the Bill before us is intended to remove unconstitutional features of the 2010 law, specifically the separation of powers in the admissibility of evidence. Secondly, and I have gone through in the Bill in the piloting and replied. I would not go through the grounds but suffice it to say, we have considered this very carefully. I have taken the opportunity as well to obtain specific, written and other advice from a learned Senior Counsel that have confirmed my own view and that of my colleagues in the Cabinet that this Bill does not require a three-fifths majority. And that is specifically the case because of reliance on section 2, section 53 of the Constitution, on the dicta in particular coming out of the Barry Francis decision, coming out of Suratt decision, coming out of the extended proportionality considerations in *R v Oakes*, et cetera, and in looking at the impact of due process and balance and proportionality in law.

So we have taken very careful advice on this matter. It is something that I also stated when we were in the Senate so it is written in both Houses. In those circumstances, we propose the deletion of clause 2. Clause 2 as it originally stands is that the Act shall have effect even though inconsistent with sections 4 and 5. We had inserted that initially, out of an abundance of caution, only because the issue was potentially arguable but because it can be argued both ways, and there is ample precedence for this, as we did in the Income Tax Act, the child marriage Act where we abolished child marriage, and many other pieces of laws. I am standing on the back of things like the equal opportunity legislation, we propose to delete the special majority requirements of this Bill.

Mr. Lee: Madam Chair, I just want to put on the record in the committee stage that we are not in agreement of the removal of this clause 2 which we feel that, you

know, this entire Bill relates to 4 and 5, and we are not in agreement with removing this clause.

Madam Chairman: Yes, Attorney General.

Mr. Al-Rawi: It is in the record because this is no doubt going to be the subject of potential litigation. Permit me to put onto the record that we are absolutely clear for all the reasons that constitutional law basis that this law does not require a three-fifths majority. I stand by the contributions of my several colleagues in this debate and also the record in the House, and I want to confirm, yet again, that one of the most eminent Senior Counsel in Trinidad and Tobago in constitutional law has confirmed this view in a very profound piece of advice rendered to the Government. We also do this specifically because, Madam Chairman, crime cannot be allowed to continue unabated where the only thing that stands between Trinidad and Tobago having a chance at life and liberty is the UNC. [*Desk thumping*]

Madam Chairman: Member for Oropouche East.

Dr. Moonilal: Thank you very much, Madam Speaker. My friend the Attorney General did indicate he will continue his winding up speech in the committee stage. For the record, since this is, Madam Chairman, a defining moment of sort, would the Attorney General care to put on the public record the identity of the legal and constitutional adviser who has proffered this advice?

Mr. Al-Rawi: Yes, Madam Chairman, I think I should, quite happily. It is Mr. Fyard Hosein, Senior Counsel.

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clauses 3 and 4 ordered to stand part of the Bill.

Clause 5.

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

Madam Chairman: Attorney General.

Insert after the definition of “prison”, the following definition:

““proceedings” means proceedings referred to in section 4A;”

Mr. Al-Rawi: Thank you, Madam Chair. Madam Chair, we propose, out of an abundance of caution, that we define “proceedings”. The point is that legislation must be read as a whole and even though we have an application section, section 4A which defines proceedings to mean criminal proceedings, anti-terrorism, Mutual Assistance in Criminal Matters Act, extradition and also civil asset forfeiture and explain your wealth legislation, even though that is the case we propose to insert a definition of “proceedings” so that out of the abundance of caution, “proceedings” can only ever, insofar as admissibility of evidence in the several sections 6, 17, 19, et cetera, and the new insertions will only ever be meant to be read as that, specifically excluding any allegation that these could include civil proceedings because that is not the case.

Question put and agreed to.

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

Clause 6.

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

Madam Chairman: Attorney General.

In the proposed paragraph (h), insert after the words “authorised officer” the following words:

“_

(i) in the interest of national security;

- (ii) for the prevention or detection of an offence-
 - (A) under this Act; or
 - (B) for which the penalty on conviction is imprisonment for ten years or more, and includes an offence where death, imprisonment for the remainder of a person's natural life or life imprisonment is the penalty fixed by law;
- (iii) for the purpose of safeguarding the economic well-being of the State;
or
- (iv) for the purpose of giving effect to the provisions of any international mutual assistance agreement.”

Mr. Al-Rawi: Madam Chairman, because we propose to remove the three-fifths majority, because we believe that we are underwritten by proper constitutional measure to do that, as an effort to shore up and ensure that there is no risk to unconstitutionality, we propose to curtail the references now permitted. We are looking specifically at paragraph (h). Now, 6(2)(h) is where we introduce the concept of the prison and in the prison where we are allowing, in fact, interception of communication, not on a telecoms network necessarily but interception of communication, we propose that that be underwritten or circumscribed by the parameters circulated there. That is not only would the admissibility of the evidence be circumscribed by the fact that the judge must consider issues such as proportionality, nobody was tricked, you are not breaching legal professional privilege, and all of those factors.

But in particular now we are adding in that that evidence must also be in the interest of national security for the prevention or detection of an offence under the Act for which the penalty for imprisonment is 10 years and for the purpose of

safeguarding economic well-being of the State or for the purpose of giving effect to the provisions of an international mutual assistance agreement.

6.15 p.m.

This finds support from the parameters that you would see in section 6(2)(b)—section 6(2) itself, where the exceptions in giving you a non-warranted intercept are allowed. This is also very specific because what we also want to do is to make sure that we manage the concept of what is referred to—I just want to get it from the case law itself so that when we get to court that this would be properly written—that we manage the concept of a roving enquiry or a “standardless sweep”, as it is referred to so that we can manage the constitutional aspects around what is referred to as a “standardless sweep” by circumscribing this position.

So let me repeat this for the record. The safeguards will be, number one, first threshold for the prisons intercept, that you have got to have these interests satisfied: national security offences, et cetera. Number two, it is then subject to judicial discretion as to proportionality and as to the fairness of the process, specifically recognizing that there must be no breach of legal professional privilege or trickery, et cetera. That is an engrossing of the principles set out in *R v Bailey* referred to as the Bailey principles, which is the locus classicus for describing the fairness of due process, and your right to equality and treatment under the law, et cetera. And those are the reasons, Madam Chairman, for the proposed amendments.

Mr. Singh: Thank you, Madam Chair. I get the impression, hon. Attorney General, that you recognize the weakness of your shift from it being a requirement of section—that is inconsistent with the Constitution, so you start arguing your case at the committee stage.

Mr. Al-Rawi: Madam Chairman, as a parliamentarian and as the Attorney General and Minister of Legal Affairs, I am bound to cede the record, because my learned friends have threatened to go to court a thousand times, albeit that they have lost almost all of the time, the point is that I must “take front” before it takes anything. So I am properly ceding the record under *Pepper v Hart*, but for the record I do not accept that we are in any way or fashion intruding [*Desk thumping*] upon any section 4 or section 5 right in such a manner as to require a section 13 exception. I want to again borrow the words of Mr. Justice of Appeal Bereaux to say that that is a non-starter. I borrow of course the underwriting from Baroness Hale in *Suratt* and the many other dicta that we have on proportionality. [*Desk thumping*]

Question put and agreed to.

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

Clause 7.

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

Mr. Al-Rawi: Madam Chair, again because of the removal of the three-fifths requirement that was suggested initially, and so as to manage the constitutionality of this Bill, shore it up even more, out of an abundance of caution and definitely solidly and under the advice of counsel, in this case senior counsel as well, we propose for the same reasons articulated with respect to the amendment to clause 6, that we introduce a further improvement. So that we are adding into section 6(b)(1):

In the proposed section 6B(1), insert after the words “authorised officer” the following words:

“_

- (a) in the interest of national security;
- (b) for the prevention or detection of an offence—
 - (i) under this Act; or
 - (ii) for which the penalty on conviction is imprisonment for five years or more, and includes an offence where death, imprisonment for the remainder of a person's natural life or life imprisonment is the penalty fixed by law;
- (c) for the purpose of safeguarding the economic well-being of the State;
or
- (d) for the purpose of giving effect to the provisions of any international mutual assistance agreement.”

Madam Chair, I would like you to note that 6B(1) treats with communications in a prison or a vehicle used to transport.

Again, I would like to underwrite that the law has well recognized, particularly in the United States jurisprudence, in the United Kingdom, the European Court of Human Rights and indeed the Supreme Court in the United Kingdom, that prisoners do not enjoy the same full panoply of rights that ordinary citizens do. They certainly have the right against any intrusion into their legal professional privilege, which is why we have carved that out and maintained it, but because we want to allow a prison to be a prison to be a prison, not troubling ourselves as to who is corrupt in bringing a cellphone in or out, we want to make sure that persons inside the prisons are well aware that they are going to be subjected to the law.

I want to draw in aid of this amendment as well the fact that the Bill proposes that the prisoners must be informed expressly that they can be

intercepted. Secondly, we have provided the opportunities for those positions as well, and we have accepted out the legal professional privilege areas. So these combined efforts, last point now about to be made, is that this falls subject to a judge admitting the evidence. The evidence is not ipso facto automatically admitted. You have to go through a judicial consideration for the admissibility of the evidence and, again, the Bill itself sets out the proportionality requirements: no trickery proportionate to the offence, required, et cetera. So this is an attempt to improve the law so that we make sure that we avoid any form of conflict with anybody's rights which we are sure we are not infringing.

Mr. Lee: Just for the records, Chair, the Opposition is not in agreement with this amendment 7.

Question put and agreed to.

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

Madam Chairman: Can we do the remaining clauses to clause 29 as a block?

Mr. Singh: Madam Chair, I would like to look at clause 16.

Madam Chairman: All right. So we will do from 8 to 15 and then we will call 16 separately.

Clauses 8 to 15 ordered to stand part of the Bill.

Clause 16.

Question proposed: That clause 16 stand part of the Bill.

Mr. Singh: Madam Chair, I would like to get some clarity from the hon. Attorney General with respect to this clause because I get the impression that “special advocate” based on the clause means an attorney-at-law. Is there any experience component in that? Is there going to be a pool? Are the regulations going to reflect all of that? Where is the precedent for that, is it the Canadian or the British?

And clearly based on the function of the special advocate certainly the capacity is a very confined capacity, that you cannot call witnesses. You can cross-examine existing witnesses but you cannot call. The law says that you will represent the interest of the accused or the defendant, but is there going to be communication allowed with the accused or defendant?

Mr. Al-Rawi: Madam Chair, may I ask the hon. Member where the statement that they cannot call witnesses is?

Mr. Singh: Well, based on the learning from the precedent you have had, the British learning points that there are no room for witnesses to be brought in.

Mr. Al-Rawi: Sure. Thank you for the clarification. So, Madam Chair, first of all the precedent comes from across the Commonwealth, Canada, the United Kingdom, the experiences in Northern Ireland, et cetera, the United States. A number of jurisdictions have special advocates. Secondly special advocates are intended to be of course attorneys-at-law, and the qualifications and requirements will find themselves relevant mostly under clause 24 of this Bill where we introduce a new 25A that the rules of the Supreme Court would kick in to provide the structures for these matters. So this is something that the Judiciary will be managing in its criteria and arrangements.

Thirdly, and thank you for the clarification, we are bound by the law. The laws says in subsection (4) of the new proposed section 17A:

- “(4) In this section, “Special Advocate” means an attorney-at-law—
- (a) appointed by the Court to represent the interests of the accused or the defendant, as the case may be, in closed proceedings;
 - (b) who acts in the interest of justice; and
 - (c) whose function is to represent the interests of the accused or the

defendant, as the case may be, by making submissions to the court, adducing evidence and cross-examining witnesses making applications to the court, seeking directions from the court, and generally assisting the court.”

Inside of that, in the interest of justice, representations to the court, applications to the court, is the entire gamut of legal representation: calling witnesses, adducing evidence, objecting to evidence, et cetera.

Furthermore, any attorney-at-law acting beyond the interest of justice provision, all attorneys-at-law owe two duties, one to their client; two, to the court. Because we as attorneys-at-law, you yourself included, hon. Member, as attorneys-at-law, are officers of the court, and we owe an obligation to the court not to deceive the court, to mislead the court, et cetera. These two combined interests definitely put us in the position where the interest of the defendant is paramount alongside the duty to the court.

So this is a very special arrangement. There is no limitation in the function, and the rules of the Supreme Court will certainly, in addition to regulations that may be offered under section 24 of the Act, allow for assistance.

Mr. Singh: Madam Chair, I want to thank the hon. Attorney General for his clarification. Having regard to the wide ambit now of the special advocate as against the general conception, the Canadian and the British, I see no reason why you are denying the defendant, the citizen, the right to an attorney of choice. I see no reason why.

Mr. Al-Rawi: I thank the hon. Member for that submission. Trinidad and Tobago may not be aware—I am going to say it again—we have birthed a Public Defenders Division. That Public Defenders Division is to address the very point

my learned friend just made. You have an attorney at choice, but in the due process and fair trial provisions what you are really required to have is competent counsel. So there is no constitutional right to an attorney of choice. There is a constitutional right to a competent counsel. And therefore our research has taken us into the provision, hence why we birthed the Public Defenders Division, to the point where if you do not have an attorney-at-law who can represent you in accordance with the court's directions and under the Criminal Procedure Rules and subject to the risks of sanction under the rules, an attorney will be appointed to you and for you to act as competent counsel.

So there is no right to counsel of choice in the strict sense. I mean, there are obviously always qualified positions on these things, but the fact is you do not have a right to counsel in the due process and fair trial aspects. You have a right to competent counsel, and then of course there is the overriding provision of the interest of justice.

Madam Chairman: Member for Chaguanas West?

Question put and agreed to.

Clause 16 ordered to stand part of the Bill.

Madam Chairman: So I will now put 17 to 29 en bloc, unless somebody wants to ask on a particular one. Any Member?

Question proposed: That clauses 17 to 29 stand part of the Bill.

Madam Chairman: Member for Chaguanas West?

Mr. Singh: My apologies, clause 21, where section 23 of the Act is amended.

Madam Chairman: Just one minute, please. I think in the interest of smooth flow I will call clauses 17 to 20.

Clauses 17 to 20 ordered to stand part of the Bill.

Clause 21.

Question proposed: That clause 21 stand part of the Bill.

Mr. Singh: Madam Chair, you have the deletion of the word “criminal”, and the Attorney General in his presentation indicated that it is confined to criminal activity and quasi criminal activity. Could you explain what is the impact of this?

Mr. Al-Rawi: So because we are deleting the word “criminal” what would be left would be the word “proceedings”, and pursuant to the amendments we made to clause 5 where we inserted a definition for “proceedings” to four things: criminal proceedings, anti-terrorism offences, civil asset forfeiture, explain your wealth offences, and mutual assistance in criminal matters, extraditions matters. I used the expressions “criminal” and “quasi criminal” because under the ambit of the Anti-Terrorism Act and the civil asset forfeiture Act—certainly the Anti-Terrorism Act if you recall the section 22B onward offences, which is the civil listings by the Attorney General. I refer to those laws as being criminal and quasi criminal because the civil aspect of that will not permit the functions, but the criminal aspects of the anti-terrorism and the civil asset forfeiture, explain your wealth legislation will certainly require those aspects.

The quasi criminal aspect comes in because when you are dealing with terrorist property, as we have in section 22B, 22B(b), 22AA of the Anti-Terrorism Act you will recall that we had amended that law such that the Attorney General had to make references back to the Director of Public Prosecutions and to the police, because in a large majority of terrorist financing cases where you are going for the listing, you are then going for the seizure of property, and those all spring from criminal offences.

So you are not a terrorist unless you are deemed to be a terrorist in two

ways. Firstly, by way of criminal proceedings in another jurisdiction or in Trinidad and Tobago and, secondly, by way of listings coming out of the United Nations Security Council Resolutions 1373 and 1276. Those are the two UNSCRs, where you are deemed by the United Nations to be terrorists, and then there is a listing come back from freezing, et cetera, orders.

So I have used the “quasi criminal” in that context, because even though the Attorney General makes an application under the civil realm to the High Court for listing and for seizures, it is on the back of criminal proceedings, a determination in a court that you are in fact a terrorist, either abroad or locally, or under UNSCR 1276 and 1373.

Question put and agreed to.

Clause 21 ordered to stand part of the Bill.

Clauses 22 to 29 ordered to stand part of the Bill.

Preamble.

Madam Chairman: Hon. Members, as a consequence of the amendment to clause 2 the question is that the preamble be deleted.

Question proposed: That the preamble be deleted.

Dr. Moonilal: Ma'am, can I speak? I just wanted to raise a matter with the Attorney General and get a comment, again for the record, because as I have said before this is a very defining moment in this piece of legislation. The Attorney General I am sure, not being the type of arrogant person that his colleague is, would want to respond.

Having regard, Attorney General, to the fact that this Bill was passed in the other place with a special majority and certified, then came to this House, removed the special majority and, for all intents and purposes will not be certified, does the

Attorney General now propose to go back in the Senate with the amendments, remove that requirement and debate this matter yet again? Because it would appear that the Senate that voted, today we heard from you, that in the Senate the Opposition and Independent voted and so on and nobody objected—you said nobody on the Independent Bench—they may feel that they were misled. The Member for Laventille West when he spoke sought to convince the national community that nothing in this particular Bill required any concern about constitutionality, and they were on very good footing to proceed as we were. So it would require now another double back in the other place to deal with that, otherwise it would be that that House and this House, to a certain extent, have been misled.

Madam Chairman: Attorney General, and then I will take Member for Laventille West.

Mr. Al-Rawi: So, Madam Chair, the reason why we have a bicameral system of Parliament is that you are required to pass through both Parliaments. A Bill may originate in the House or may originate in the Senate. If there are amendments in either House, it must be confirmed or approved by the other House. So this Bill originated in the Senate. The UNC voted no in the Senate. Nobody on the Independent Bench voted no.

In the Senate I informed the Senate then, in the face of the UNC's statements that they would not support the law and that they would never see the light of day, I informed that it was debatable that this law required a three-fifths majority, and that there were amendments that could be made to move it down to a simple majority. In fact, we have just conducted that exercise here. So to answer the hon. Member we would be going back to the Senate as the amendments from the House

will have to be taken to the floor of the Senate.

For the record there will be no deceit, because we already gave the notice. Secondly, it is open for a House to do this. Thirdly, we have precedent. The precedent that comes most readily to mind is when we did the amendments to cause the abolition of child marriage. If you recall the UNC Bench was adamant that babies, 12-year-olds, had to be married or should remain married. We made our statement that we considered that that was institutionalized pedophilia.

In the Senate the UNC Bench voted against the Bill. It was a three-fifths majority Bill. We came to the House, we deleted the three-fifths majority Bill in the House. We want back to the Senate. We did those amendments in the Senate and they passed into law. So this is well within precedent. Attorney General Ramesh Lawrence Maharaj did the same thing on a number of occasions. So this is not without precedent and we will take those to the floor of the Senate to discuss them.

Mr. Hinds: Madam Chairman, I think the Attorney General made the point that I was about to make. So I simply want to add it is another example of the irascibility of my friends on the other side insisting that we do not pass law for the benefit of the people of Trinidad and Tobago.

Question put and agreed to.

Preamble deleted.

Madam Chairman: Hon. Members, as a consequence of the amendment, the certificate will also be deleted.

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

House resumed.

Hon. Al-Rawi: Thank you, Madam Speaker. I wish to report that the Interception

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)

2020.05.29

of Communications (Amdt.) Bill, 2020 was considered in committee of the whole and approved with amendments. I now beg to move that the House agree with this report from the committee.

Question put and agreed to.

Bill reported, with amendment.

Question put: That the Bill be now read a third time.

Madam Speaker: We will have the division, but it is not a special majority. Hon. Members, we are going to have a division. We are going to wait three minutes for Members who are dispersed throughout the complex to come into the Chamber before we commence the division. Members are reminded that even if the Clerk has already passed the Member in the usual voting sequence, once a Member is present in the Chamber before the division is announced he or she will be called upon to vote.

The House divided: Ayes 19 Noes 12

AYES

Robinson-Regis, Hon. C.

Al-Rawi, Hon. F.

Imbert, Hon. C.

Young, Hon. S.

Deyalsingh, Hon. T.

Hinds, Hon. F.

Mitchell, Hon. R.

Forde, E.

Cudjoe, Hon. S.

Garcia, Hon. A.

Interception of Communications (Amdt.)
Bill, 2020 (cont'd)

2020.05.29

Gadsby-Dolly, Hon. Dr. N.

Dillon, Hon. Maj. Gen. E.

Webster-Roy, Hon. A.

Lovell, Hon. Dr. F.

Olivierre, Ms. N.

Leonce, A.

Antoine, Brig. Gen. A.

Smith, D.

Cuffie, M.

NOES

Lee, D.

Rambachan, Dr. S.

Karim, F.

Moonilal, Dr. R.

Newallo-Hosein, Mrs. C.

Gopeesingh, Dr. T.

Indarsingh, R.

Singh, G.

Bodoe, Dr. L.

Ramdial, Ms. R.

Paray, R.

Gayadeen-Gopeesingh, Mrs. V.

Question agreed to.

Bill accordingly read the third time and passed.

6.45 p.m.

Madam Speaker: I ask Members to observe Standing Order 53.

COPYRIGHT (AMDT.) BILL, 2019

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, I beg to move.

That a Bill to amend the Copyright Act, Chap. 82:80, to give effect to the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or otherwise Print Disabled and to the Beijing Treaty on Audiovisual Performances, be now read a second time.

Madam Speaker, I am confident that this Bill is a Bill that we can all agree has phenomenal intent, very long overdue purpose, and is one which will result in the betterment of our society. The Bill before us, Madam Speaker, proposes an amendment to the Copyright Act and that amendment effectively is to achieve three simple purposes: number one, we propose to bring to life the provisions of the Marrakesh Treaty; number two, we propose to bring to life the principles of the Beijing Treaty; and number three, we propose to bring to life our obligations under the Marrakesh Treaty, the Beijing Treaty, and under the World Intellectual Property copyright regime with something referred to as technological protection measures. Those are technological aspects which can circumvent copyright. Those are the three main aims of this law.

Madam Speaker, copyright is a right. It is a property right. Copyright is, as defined under the Copyright Act and we had copyright legislation in 1985, we then had amendments in 1987, and copyright, as defined in the legislation, is a specific and valuable concept. Copyright in our jurisdiction contributes to some 2.1 per cent of our GDP. Copyright is a property right which subsists in literary and

artistic works that are original intellectual creations in the literary and artistic domain, including, in particular, works such as books, speeches, dramatic works, stage production, musical works, audiovisual works, works of architecture, works of drawing, photographic works, works of applied art, illustrations, maps, et cetera. But, Madam Speaker, copyright in that particular context has various aspects to it. There are two aspects to copyright. One is referred to as your economic rights, that is your right to manage your copyright, to produce, to reproduce, to distribute, et cetera, and then you have other rights referred to as moral rights. Your moral rights is defined to under the copyright, include your right to paternity to say that is your work, your right to say that you do not want anybody to cause derogatory deviation away from that right, you know, to basically make it obscene.

When we look to our copyright regime, we have had our Act, Chap. 82:80, amended some four times. This ought to be the fourth occasion. Our 1997 Act replaced our 1985 Act but our copyright really brought to life the concept as anchored in the Berne Convention. The Berne Convention for the Protection of Literary and Artistic Works is 1886. Trinidad and Tobago considered that in 1995 when we caused ourselves to join the WIPO's march on that.

[MR. DEPUTY SPEAKER *in the Chair*]

The second aspect that our copyright deals with and which this Bill treats with is the Rome Convention. The Rome Convention for protection of performers, producers of phonographic and broadcasting organizations 1961. That was a limited aspect because we did not have the other aspects of audiovisual performance, et cetera, taking of no moral rights, no fixation rights, et cetera.

Our law also articulates around the TRIPS Agreement. The Agreement on Trade-Related Aspects of Intellectual Property Rights. We, of course, anchored

the World Intellectual Property Copyright Treaty. We also anchored the World Intellectual Property Organization Performers and Phonographic Performers Treaty. We deal today with the Marrakesh Treaty. We deal today with the Beijing Treaty, both of which are now in full force.

As Attorney General, with responsibility for intellectual property and having a passion and love for intellectual property, I declared that I, in one of my master's areas, pursued intellectual property as an area of dedicated focus along with information technology and alternate dispute resolution, but it was IP that I found great love for. And in intellectual property I noticed that our intellectual property office was not going as far as it could. They were not on an electronic platform. They were not being pushed in the right way. We had acceded to the Rome Convention, the Marrakesh Treaty, the Beijing Treaty, or the Singapore Treaty. They were just lying around without purpose.

Today as a stand before you our Intellectual Property Office is up live, you can pay for your applications online. We have signed an MOU with the Singapore patent and—Intellectual Property Office, forgive me, bringing life to that end of expertise into this end of the world. Today, as we come forward, we recognize that neighbouring rights, derivative rights, other rights, et cetera, need to be birthed better, and what better time to bring to life copyright and protection of intellectual property than in the post-COVID-19 pandemic. A lot of the work that we have achieved as a Government in bringing intellectual property into focus, fortunately was conducted in the period 2015 to 2019, as we birthed the ability to do everything online, be it online filing for documents in court, which we did in our electronic payments into and out of court, which we did in our Criminal Division, our Family and Children Division, which we did in our Registrar General's Office;

be it the financial instructions which we put into place to allow for e-payment, so you can have e-filing and intellectual property to make intellectual property at the office work.

All of these things were put into place by a government, this Government, which fortunately can now have COVID managed online, and it is at that point that we need to deepen our entrenchment of provisions. So, let us jump quickly, what is this Marrakesh Treaty? What is this Beijing Treaty? Why do we propose to anchor these positions into effect? The Marrakesh Treaty, I would like to say, is an incredible piece of work. And the Marrakesh Treaty is something that I think we can all agree is for the betterment of Trinidad and Tobago. The Marrakesh Treaty is to allow us to treat as VIPs, not as just very important people but visually impaired people, or print impaired people, the right to access literature. There is a book famine for our people who are with sight impairment, for our blind. And for years you have heard me repeat in this Parliament a name, Suratt, Baroness Hale in Suratt. Is it Kenneth Suratt himself, that litigant, who is the architect of pushing for this Marrakesh Treaty to come to law, pushing for the amendments to the Copyright Act to be born in here, and I want to pay him a public salute to Trinidad and Tobago, publicly saluting Mr. Kenneth Suratt for the work that he has engaged on behalf of all VIPs in this country.

He is joined by another very important group of people, our own Intellectual Property Office, our Controller of Intellectual Property, Mr. Regan Asgarali, his predecessors, by our own Sen. Anthony Vieira, who in fact was the consultant, hired by WIPO, who engaged in the consultation to make this law come to life. We have been blessed with people who have never let go of the passion of intellectual property. So, let us look at the Marrakesh Treaty, and let us look

specifically at its preamble. The Marrakesh Treaty so done because we had passed it in Marrakesh itself, where the World Intellectual Property Office came to me to decide upon it, says, and I quote from the preamble:

“Aware of the barriers of persons with visual impairment or with other print disabilities access to published work...

Taking into account that the majority of persons with visual impairment or with other print disabilities live in developing...”— or— “least-developed countries,

Recognizing that, despite the differences in national copyright laws, the positive impact of new information and communication technologies on the lives of persons with visual impairments or with other print disabilities may be reinforced by an enhanced legal framework at the international level.”

That Marrakesh Treaty, which finds itself in our Bill before us, Mr. Deputy Speaker, is critical to us. Listen to what the Marrakesh Treaty does. When we look to our provisions, we look to clause 3 of the Bill, we would see the first thing that we do, relative to the Marrakesh Treaty, is that we anchor down a definition of “accessible format”, subclause (e):

“accessible format...”—is— “copy of a work in an alternative manner or form which gives a beneficiary person, access to the work...”

We then deal with the concept of a beneficiary person. Mr. Deputy Speaker, what time do I finish?

Mr. Deputy Speaker: At 7.19.

Hon. F. Al-Rawi: 7.19, much obliged. Beneficiary person—

[Hon. C. Robinson-Regis stands]

Mr. Deputy Speaker: Leader of the House.

ARRANGEMENT OF BUSINESS

The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis): Sorry. Mr. Deputy Speaker, in accordance with Standing Order 53, I beg to move that the debate on the Act to amend the Copyright Act, Chap. 82:80, be now adjourned.

Mr. Deputy Speaker: Proceed, Leader of the House.

ADJOURNMENT

The Minister of Social Development and Family Services (Hon. CAMILLE Robinson-Regis): Mr. Deputy Speaker, I beg to move that the House do now adjourn to June the 5th, 2020, at 1.30 p.m. At that time we will continue debate on an Act to amend the Copyright Act. We will also do the Motion under Government Business, Motion No. 4, I think it is—Motion No. 5. We would also do Motion number—we would also do an Act to amend the Motor Vehicles and Road Traffic Act, and, Mr. Deputy Speaker, we may also have a Bill coming from the Senate, and we would do that also.

Indian Arrival Day Greetings

Mr. Deputy Speaker: Hon. Members, as we all know Indian Arrival Day will commemorate on Saturday, May 30, 2020. Before I put the question on the adjournment of the House, I will now invite Members to express their Indian Arrival Day greetings. I will call on the Minister of Community Development, Culture and the Arts.

The Minister of Community Development, Culture and the Arts (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, it is my honour on behalf of the Government to bring greetings in this honourable House on the occasion of Indian Arrival Day. Today, we are indeed blessed to celebrate with the East Indian Community the 175th anniversary of the arrival of

Indian Arrival Day Greetings (cont'd)
Hon. Dr. N. Gadsby-Dolly (cont'd)

2020.05.29

the East Indian indentured labourers to our shores. The East Indian community and customs have indeed contributed significantly towards the unique quality of Trinidad and Tobago's culture. Ours is a rich plural society, upon which the East Indian influence is clearly seen in every sphere of our daily life, culture and history, from music to dance, theatre, academics, business, religion, visual arts, food, and so much more. The effect of our East Indian heritage is clear.

Mr. Deputy Speaker, we live in difficult times today, fraught with uncertainty due to COVID-19. We are being forced to retool, re-engineer and reconnect to each other in novel ways. Now, more than ever, we must hold firmly to the most important aspects of our culture and heritage lest we lose them and ourselves in the quest to conquer our new normal. Even in the darkest hours of uncertainty in the COVID-19 period in Trinidad and Tobago, widespread comfort was sought by home production of one of the most fundamental examples of the East Indian influence on our street food culture. Mr. Deputy Speaker, everyone was making doubles.

The celebration of Indian Arrival Day is another example of our legendary tolerance and high levels of acceptance as a people, and we should all be proud of the fact that we coexist and indeed thrive in this atmosphere of diversity. As we move forward together, as a people and a nation, I urge us all to continue reaching out to our fellow citizens and dedicate our efforts towards the achievement of progress, unity and excellence. Happy Indian Arrival Day to all citizens of Trinidad and Tobago. [*Desk thumping*]

Mr. Deputy Speaker: I now call on the Member for Tabaquite.

Dr. Surujrattan Rambachan (Tabaquite): Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, on behalf of the hon. Leader of the Opposition as well as my

Indian Arrival Day Greetings (cont'd)
Dr. Rambachan (cont'd)

2020.05.29

parliamentary colleagues and myself, I am deeply honoured to present Indian Arrival Day greetings on this the 175th anniversary of the arrival and presence of East Indians in Trinidad.

I greet you though and I greet the community of Trinidad and Tobago in the name of our ancestors, as we remember them again this year with gratitude in our hearts and admiration for their spirit of persistence in very difficult circumstances. I am truly happy that events like Indian Arrival Day, Emancipation Day, Shouter Baptist Liberation Day, Eid-ul-Fitr, and other similar festivals and occasions are celebrated in our country on an annual basis. Apart from enjoying the friendship of those who gather for the celebrations as well as the cultural performances, there are also occasions when on reflection of our heritage and the journey our ancestors made over the past 175 years, we can become personally inspired to do more, to serve with even greater commitment than sacrifice so that the future will be a better one for all of us. We must always remember that our primary purpose is to build a better future for all of us. These occasions are really reality checks and moments of truth as to whether we are making the quality and quantity contributions, which we are capable of, as productive members of society.

We have not gotten to where we are today all on our own, far from it, foundations were laid by the ancestors, not only East Indians, but before us our African brothers and sisters as well as Chinese, Syrians, Lebanese, and other settlers to our country. Even as we celebrate Indian Arrival Day, we celebrate them all and recognize that whatever success we have had is as a result out of the sacrifices and contributions of those who preceded us as well. Indian Arrival Day as a holiday did not come about by simple wishful thinking. The history of how it came to be recognized as a holiday has still to be properly documented and tribute

Indian Arrival Day Greetings (cont'd)
Dr. Rambachan (cont'd)

2020.05.29

has to be paid to those who ensured that it became a reality. That history will show that as late as the 1980s, there were many prejudices present in this society. Prejudices born out of insecurities in some sectors of the society. The prejudices however ignored the fact that whether a holiday was granted or not, you could not dismember the cultural and religious souls from the people of Indian descent, as you could not also dismember the cultural and religious souls of the people of African or Chinese descent.

Long before the holiday was finally granted, the Indian community was celebrating the day and had constructed a monument to mark the arrival in Cedros. And may I say, Mr. Deputy Speaker, that this monument is perhaps the first of its kind in the western world and was constructed in Cedros by myself and Councillor Basdeo Manmohansingh in 1985, way before 2011 when India constructed a monument to represent the point from which Indians departed in Calcutta to this area of the world. That monument in Cedros is really a statement of not just the arrival of East Indians, but is a statement of our patriotism and love for our country Trinidad and Tobago. It is my view that we are far better off and in a far better place by having all of these celebrations as national days. These days do not make us any less Trinidadians and Tobagonians, they do not make us any less true and committed citizens of our country. They are not days of divisiveness as were the arguments put forward in the debates of the 1980s.

In fact, by acknowledging our heritage, we are constantly reminded of the rich values and inspiring traditions which have placed us in a better position today. By acknowledging our heritage and the work of our ancestors, we have in this country been able to borrow from each other's traditions the best, and incorporate into our own life formula for success and growth. This is our beauty as a people

Indian Arrival Day Greetings (cont'd)
Dr. Rambachan (cont'd)

2020.05.29

and this is why we are a beautiful nation. In a real sense, without these celebrations, I am of the view that a lot of history will not be told and the generations of the future may well grow up not knowing of this rich past that we have. Already so much has been lost, whether in terms of traditions or physical assets.

We need as a country, we need as a people to pay greater attention to preserving this past through our museums and our libraries. Our investments in these areas are too small. University students doing social studies must be encouraged to research and write the history of villages, document the lives of village heroes and tell their stories by way of audio, by way of video, by way of books. These efforts must find private and public support for funding. This year, COVID-19 gives us a real opportunity to correct this. The moneys that would have been spent in public celebrations are not going to be spent this year and it gives us an opportunity for the Government to launch a 175th anniversary heritage fund, in which we will encourage the production of plays, poems, arts, everything that reflects the Hindu and Indian presence, and Muslim presence for the last 175 years, the Christian presence also.

Mr. Deputy Speaker, today I also call on the cultural community to come to the assistance of several East Indian artistes who are now sick, who are in a state of depression through poverty, and who need financial and other support. Mr. Deputy Speaker, a people who are forgotten from where they came, who have forgotten how they are, where they are today would be a troubled people. Our art must also record our presence. And, Mr. Deputy Speaker, I speak of these not just as an exercise in generating ideas but my history as Mayor of Chaguanas witnessed the publication of the first volume of a book called *Contributors* which is a collection

Indian Arrival Day Greetings (cont'd)
Dr. Rambachan (cont'd)

2020.05.29

of the profiles of 100 persons who contributed to the building of Chaguanas. As the Minister of Foreign Affairs in 2012, to mark the United Nations International year for People of African Descent, an art competition was held at the Ministry involving students of this country in which 60 pieces of art reflecting the African presence was displayed at the United Nations in New York. I hope that these pieces will be preserved as I understand they are now at the Trinidad and Tobago embassies abroad.

And so, Indian Arrival Day must teach us to preserve with vision and persevere with vision, and to have faith in our abilities and strength to succeed. Indian Arrival Day must rekindle the spirit of the jahajis, and the brotherhood and sisterhood of the boats. Happy Indian Arrival Day to all here in Trinidad and Tobago and may we enjoy a blessed Indian Arrival Day. Thank you, Mr. Deputy Speaker. [*Desk thumping*]

Mr. Deputy Speaker: Hon. Members, I wish to join in the extending of warm greetings on the occasion of Indian Arrival Day. Since the arrival of the *Fatel Razack* on May 10, 1845, the unique culture of the East Indian community has significantly added to the national heritage and history of Trinidad and Tobago.

Indeed, many great leaders and pioneers have emerged. Our historical records have hailed Adrian Cola Rienzi, Dr. Rudranath Capildeo and former President, Noor Mohamed Hassanali for their immense contributions to the governance and political affairs of the Republic. In relation to the arts, we can salute names who have enriched our culture tapestry such as, Sam Selvon, V.S. Naipaul, Sundar Popo, Drupatee Ramgoonai and this list is by no means exhausted as with each generation there are names worthy of recognition.

Hon. Members, we are thankful that our fellow countrymen came to these

Indian Arrival Day Greetings (cont'd)
Mr. Deputy Speaker (cont'd)

2020.05.29

shores and helped to shape the proud nation that we are today. Known for its cultural diversity with cooperation, comradery and unity, we stand firm in our National Motto that together we aspire and together we shall all achieve. Happy and safe Indian Arrival Day 2020. I thank you. [*Desk thumping*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 7.18 p.m.