

SENATE*Wednesday, August 27, 2014*

The Senate met at 11.00 a.m.

PRAYERS[MR. VICE-PRESIDENT *in the Chair*]**PAPERS LAID**

1. Ministerial Response of the Ministry of Local Government to the Thirteenth Report (2013/2014) of the Joint Select Committee appointed to inquire into and report to the Parliament on Municipal Corporations and Service Commissions on a Review of the Administration of the Point Fortin Borough Corporation. [*The Minister of Local Government (Sen. The Hon. Marlene Coudray)*]
2. Audited Financial Statements of Trinidad and Tobago Free Zones Company Limited for the financial year ended December 31, 2012. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
3. The 36th Annual Report of the Ombudsman for the period January to December, 2013. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]

CONSTITUTION (AMDT.) BILL, 2014

[Second Day]

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

That the Bill be now read a second time.

Question again proposed.

Mr. Vice-President: List of those who spoke: hon. Kamla Persad-Bissessar

SC, MP, Prime Minister, mover of the Bill; Sen. Faris Al-Rawi; Sen. Helen Drayton; Sen. The Hon. Dr. Bhoendradatt Tewarie; Sen. Diana Baldeo-Chadeesingh; Sen. Dr. Rolph Balgobin; Sen. The Hon. Larry Howai; Sen. Avinash Singh; and Sen. Dr. Victor Wheeler. All Senators wishing to join the debate may do so now.

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Thank you very much, Mr. Vice-President. Mr. Vice-President, I think it is a useful starting point to remind us of what the provisions before us really are all about, as there has been a lot of debate and discussion, some illuminating, some not, and one has to go back to what the provisions of the Bill before the Senate really state and what the intention is.

The first thing we must note in law is that in section 46(1) of our Constitution, the draftsmen found it necessary to say that Parliament had the power and responsibility to prescribe and make law for the manner in which our officials are elected. So it is in section 46(1) that the power to do what we are attempting to do is in fact rooted and provided for in the very Constitution of Trinidad and Tobago.

Now, what are we seeking to do? We are seeking to reverse a status quo that has prevailed since 1956 to now, whereby a Member of Parliament does not necessarily need to command the majority of the support in terms of the votes cast in his or her constituency. Now I heard my learned friend, Sen. Drayton, yesterday said, “Well, it really does not matter. Once the person is elected, they are the Member of Parliament for all the constituents in the constituency”. But I want to say that whilst that might be so in theory, in reality it is quite different, and the present system facilitates that distortion in our democracy.

I have faced the polls. I have gone up as a candidate and I can tell you that you begin by looking at the last general election results and you analyse according to your polling divisions where you got, or your party and the last candidate got their support. That is the starting point, and that is not just the starting point, it is also the end point of the journey of the MP because they can safely ignore the large tracks and segments of persons in the constituency whom they know did not vote for them. It is an offence to ask someone if you vote for party X or Y, but you will not know who voted for you. But you will know by virtue of the numbers you know in polling division X, Y and Z, I got more votes than my opponent, and you know, therefore, that is where your support is concentrated, and you are not in fact the Member of Parliament for all the constituents. Let us be frank about it. What really has been happening is that you tend to focus your energy, your resources, your commitment disproportionately on the areas where you might think that you have your support.

The reason you can safely ignore the rest is because you do not need their support. You do not need them. They pose no threat, they pose no danger and their vote does not count in terms of your election as an MP. So you can safely ignore them.

Hon. Senator: That is fact.

Sen. The Hon. A. Ramlogan SC: That is the fact. I grew up in the constituency of Tabaquite and you can see how it happens. I grew up in this system as a young man. Yesterday was my birthday. I spent it all day in the Parliament. [*Desk thumping*] [*Crosstalk*]

Mr. Vice-President: Happy birthday. Happy birthday, AG, on behalf of the Chair and Members of Staff.

Sen. The Hon. A. Ramlogan SC: Thank you very much. You see, I knew if I had said that, we would not be here today.

Sen. Al-Rawi: AG, happy birthday on behalf of the Opposition. We wish you the sincere best.

Sen. The Hon. A. Ramlogan SC: Thank you very much. Mr. Vice-President, it is that political culture that this system has facilitated that we need to change. How does one make the Member of Parliament—exactly what Sen. Drayton said, which is the Member of Parliament—for the whole constituency for all his constituents? The only way you can do that is by making the votes of each constituent relevant to the election of that Member of Parliament. Not only relevant to the election of the Member of Parliament, but also relevant to his removal. That is in other words, if you give the people the right to hire their Member of Parliament, you must give them the corresponding right to fire the Member of Parliament. [*Desk thumping*] That is the very essence of power to the people, and that is why these provisions are with us because now a Member of Parliament will know that if he concentrates only on those in the polling divisions where he gets his support and the support is a minority support, he knows now, “Well, you know, that may not be sufficient because there could be a run-off. At the run-off I need to get 51 per cent of the votes cast.” Then he also knows that even after that if he does not service the needs of all the constituents, he could be liable to a recall and every single constituent for the first time in our political history, they will now have power over their Member of Parliament that they can exercise to recall him. He knows that that is a possibility and whether the right of recall succeeds or not, may not be the only point.

The right of recall has an important psychological value. It is an important political psychological weapon in the hands of the people that they can use to ensure that they get effective representation. What will happen to the man who is not recalled, but there is a substantial turnout against him? How do you think the population will look at him? How do you think his party will look at him in terms of being the candidate in two years' time in a general election? He is no longer viable. He is damaged goods. The majority of people did not want you. So if 51 per cent of the people on the recall petition, they vote to recall the man—so they did not make the two-thirds, but let us say 51 per cent vote—what signal does that send? You really think that man is going to survive? I think not. So whether it succeeds or not, we must not ignore the psychological deterrent value of that right of recall.

Now, what does the provision say? You have two persons who can apply to the Elections and Boundaries Commission to have a recall petition issued, and that recall petition, once it is issued, you have to attain 10 per cent of the votes of persons who are registered and living in the constituency. So, the idea is you can canvas and so on, you go in and get the signatures.

I have heard the points made yesterday by Senators about the fact that, you know, there could be challenges in terms of verifying the signatures and so on, and one way out of that may very well be, to do as we did with the recall petition itself and put it in the hands of the Elections and Boundaries Commission, so that it is to the EBC office. Those who wish to sign the application for the petition to be issued, they can go in and sign it. So people can go there and do it if needs be. Once you attain the 10 per cent,

then you issue the recall petition, and for 21 days including weekends, there are designated offices where the people can go. If you are working eight to four, we leave it open on weekends. You can go and say, “Look, I want to support this petition to recall my non-performing Member of Parliament”, or for any other reason. Now, once the two-thirds threshold is met, the Speaker will be informed by the Chairman of the EBC, the seat will be declared vacant and there will be a by-election.

Now, Mr. Vice-President, that is in essence the provisions that deal with the question of the recall, and the question of the run-off I will come to. The run-off is very simple in my respectful view. It seeks to introduce a method that would allow for a majority Member of Parliament. I have heard all of the arguments yesterday and I want to turn to them one by one, and I will start with the question of the voice of the people and the consultation issue. We suffer from analysis, paralysis and consultation vacillation in this country. We will be in a state of perpetual vacillation on this issue if somebody does not have the political courage to commence meaningful constitutional reform, good, bad or ugly, but to have the political stamina, courage and strength [*Desk thumping*] like the hon. Prime Minister who has come here to personally pilot this Bill and to say. “Look, these are my reforms. I am not afraid to be judged by the population, but these are reforms that we promised you.”

11.15 a.m.

And we have to ask—if you ask people on the ground what is the complaint—the number one complaint in this country about the electoral politics, do you know what they tell you? They tell you—I mean, we talk about all kind of academic nice airy-fairy thing here you know, but “yuh

know what the man on the ground want—wah he go tell yuh? He say, ‘Boy, yuh duz only see dah fella around election time. Yuh does only see dah fella around election time.’” That is what the people on the ground, whether it is Laventille, Toco, Cedros, that is what they tell you. You only see your MP around election time. How do you treat with that?

If the Member of Parliament knows that he is liable to be recalled, right now, the people have no power over him, they are powerless in the face of his non-performance. They are saddled with him, he is superimposed and he is there for five years like a fixture. But the people are telling us, look, these fellas only come around election time. If you give that power of recall and you give that power to the people, then that Member of Parliament will be on his Ps and Qs, he will be in his toes, and there is a greater likelihood of the kind of performance and representation that people want.

If you ask people that: look, would you like to have a second chance to vote if your candidate did not make it? They will tell you, yes. I do not need a poll for that. I speak from personal experience. My first foray into politics was with the Congress of the People and I ran in Tabaquite against Ramesh Lawrence Maharaj and the PNM candidate was a chutney singer called Heeralal Rampartap. On the ground, people were saying, “Well, boy, you know, yuh ah young fella and thing, we want tuh give yuh ah chance, you know, but, you know I is ah PNM, ah hata to vote.” I say, “But it is a UNC safe seat, your vote—PNM has never won this seat and they never going to win it because of the statistics and it is a wasted vote. Why do you not give it to me so that we could try and make a difference?” Do you know what the people say? They said, “Listen, boy, I have to vote for meh party, I have to vote for meh party, but ah doh like that next fella, but if ah had ah

second chance, man, ah woulda close meh eye and give it to yuh.”

In that election, the Congress of the People were virtually obliterated and driven into political oblivion, notwithstanding the massive support that we had. That is what the first-past-the-post system did. Not even our own political leader was able to win his seat, but had there been a run-off, there would have been a run-off in the constituency of Tabaquite, and it would have been between those two candidates, the UNC and COP, and I cannot tell you with any degree of precision how the other persons would have done, but I could tell you that based on the feedback, I think we would have stood a good chance and likewise in St. Augustine, maybe. There would have been a run-off there as well.

So when people say, well, this thing will kill off third parties, this thing is bad for third parties, I say, but where is the empirical evidence of that when since 1956 to now, we have had over 46 third parties. I have checked it. Forty-six third parties have come and gone; they have not been able to survive because without a seat in Parliament, you cannot sustain a political existence. So when we speak about all this platitudes about third parties and so on, we must bear in mind that we are speaking from the altar of obliteration of third parties. No third party has survived [*Desk thumping*] none.

So that I heard Sen. Drayton said, “Well, this thing is going to help coalition”. Listen, whether it is the first past the post, with the run-off, without the run-off, coalition politics has been evolving a long time in this country. It is the reality of our politics. And right now, we have two coalitions: we have a coalition in the People’s Partnership, the Opposition People’s National Movement, they have a coalition with the MSJ and the

round table and square table and triangle and all them people, but whether they want to admit it or not, it is a prelude to a political coalition. They are coalescing, and whilst they are coalescing, it will lead to a coalition. Those are the facts. So, I do not know that by saying that, that takes us very far.

Now, Sen. Al-Rawi made some points about the law. I was very careful about this matter because, of course, any amendment to the Constitution will be a matter that one must take seriously. I therefore had my own views. I have practised as a constitutional lawyer for close to 15 years, 17 years now. But, I went to people whom I thought would understand that Constitution better than—and without question. I went to, firstly, the lawyer of choice for the PNM administration, and that person was Lord Michael Beloff, Queen's Counsel. He was the man who they hired in the Sat/Sharma matter when they were trying to hound him as a sitting Chief Justice out of office to drive him out. That was the man they hired, Lord Beloff. I went to Lord Beloff.

Lord Beloff in his advice, he said and I quote:

I do not consider any of the proposed amendments to violate any fundamental constitutional norms such as the separation of powers or the rule of law, nor is it at odds with the preamble of the Constitution. The mechanism for constitutional change is located—says Lord Beloff—in section 54 of the Constitution. It empowers Parliament to alter any provisions of the Constitution by majority vote of both Houses.

And he goes on.

Sen. G. Singh: Yea, yea, Faris, listen to that.

Sen. The Hon. A. Ramlogan SC: He goes through each proposed

amendment and he says a simple majority.

I then went to—[*Interruption*]

Sen. Al-Rawi: 4 and 5 rights too?

Sen. The Hon. A. Ramlogan SC: Yeah—well, I will come to the 4 and 5 rights because, you see, a lot of people talking about your rights being affected, and I think they misunderstood what the hon. Prime Minister said yesterday with respect to when she said there is no right to vote in the Constitution, and I will come to explain that.

You see—well, perhaps I can deal with it now—I was the lawyer who went to court on behalf of man called Derek Bain in a prisoner's right to vote case, because I was a strong advocate that even if a man's liberty had been deprived with due process, and he was imprisoned pursuant to a sentence imposed by a court of competent jurisdiction, that the man should nevertheless be entitled to enjoy such constitutional rights as he is able to notwithstanding the deprivation of his liberty. I went to court and I argued.

The first case that I argued for prisoners' rights was the case I did for the Rastafarians because they would cut off their dreadlocks in jail, and that was the case—the celebrated case of *Damian Belfonte v The Attorney General*. I succeeded in that case in establishing the rights of Rastafarians in this country to proudly retain their dreadlocks in jail and also to have respect given to them as Rastafarians for their diet because they are vegetarians. Cannot take a Hindu and feed him beef, Muslim and feed him pork as a prisoner any more than they should be able to force a Rastafarian to eat meat in jail. That was the case I argued for a man called Damian Belfonte. I won that case. Having lost it and been tossed around in the system, eventually I won it.

The second case I did was for a man called Derek Bain and I argued in the case of Derek Bain that the man enjoyed a right to vote under the Constitution of Trinidad and Tobago. I argued that case. I think it lasted almost two weeks. In that matter, I lost in the High Court. The honourable Madam Justice Maureen Rajnauth-Lee, as she then was, now elevated to the Court of Appeal, gave that judgment in the matter and ruled that the Constitution of Trinidad and Tobago does not provide as a fundamental human right, guaranteed in sections 4 and 5, the right to vote. We do not have in our Constitution an enshrined right to vote as a fundamental human right. That it is not to say that the Government does not want it, that is not to say that it is a bad thing or good thing, it is just a factual resuscitation of the law and that is what the hon. Prime Minister was doing.

Because when people say—and the reason for this is important is because I gathered that people misunderstood what she was trying to say. People are saying you are taking away a constitutional right. I am trying to explain to you, there is no such constitutional right, and that has been pronounced by our courts, because Damian Belfonte went to the Court of Appeal as well, and the Court of Appeal upheld the judgment. I wanted to take it to the Privy Council because I wanted to advocate that, and then I was interrupted to come and do this, and public law—and the constitutional cases have fallen. In fact, since I have been Attorney General, the constitutional cases against the State, it has fallen by 67 per cent.

Sen. Al-Rawi: AG, could provide some reflection on the right for freedom of political expression as opposed to the right to vote?

Sen. The Hon. A. Ramlogan SC: Sure.

Sen. Al-Rawi: Thank you.

Sen. The Hon. A. Ramlogan SC: I have been exploring the scope and ambit of the right to freedom of political expression since I did the case of *Basdeo Panday v Kenneth Gordon* in the Privy Council. In that case, we sought to argue that the scope, breadth and meaning to the provision that gave us the right to freedom of political expression is something unique and different for Trinidad and Tobago. We are the only Commonwealth nation that I found in my research that had two rights to freedom of expression guaranteed in the Constitution. We had a right to freedom of expression which most countries have, but Trinidad and Tobago has, as a unique and discreet and separate right, in addition to the general right to freedom of expression, it also has a right to freedom of political expression.

I was arguing before the Privy Council that that right to freedom of political expression must have meant something or else they would not put it, because they already gave you a right to freedom of expression simpliciter, and it must obviously have subsume with it any form of expression, whether it is political or anything, it is a right to freedom of expression. The Privy Council said, no, in the case of *Panday v Gordon*, they said no.

So, these things have been tested and developed. The right to freedom of political expression, I argued in the case of *Derek Bain*, the ultimate form of expressing one's political view is to vote. That was my case. I was the one who was arguing that the right to freedom of political expression ultimately meant that the articulation and demonstration of your right to freedom of political expression must obviously mean that I am expressing a political view when I vote, and I said the right to vote is, therefore, protected under the Constitution. They said, no, it is not and I have to abide by the

law. I lost the case. I did not get a chance, as I said, to take it to the Privy Council but that—the declared law for the Republic of Trinidad and Tobago is that the Constitution does not give you that. So when people talk about taking away rights and we need a special majority, I hope I am clarifying with pinpoint precision that that cannot be correct.

I then went, therefore, to Timothy Straker, Queen's Counsel. If you google him, you will see he is a man who is widely regarded all over the world as one of the leading and finest constitutional and election law jurists anywhere in the world. Mr. Timothy Straker, Queen's Counsel said, and I specifically asked him to address this particular issue about the right to vote and so on. He said and I quote:

I do not consider that the right to join political parties, the right to express political views and freedom of association and assembly are violated by any of these amendments. I do not consider either of these rights is in anyway violated by having an election for a House of Representatives which may include a supplementary or run-off poll in a circumstance where no one candidate has obtained the majority of the votes cast. A right to join a political party or to express political views is unaffected by the supplementary poll—that is the run-off—proposed in the Constitution. There is no inhibition consequential on the Bill. Views can be as freely expressed as before and joining or forming a political party and that is unaffected. It should be borne in mind—

And then he makes a very important philosophical, jurisprudential point. He makes the point that the sections 4 and 5 rights, those sections 4 and 5 rights, the foundation for them must be interpreted in a manner consistent with the

democracy we have.

11.30 a.m.

And he says this:

It should be borne in mind that all the rights in sections 4 and 5 of the Constitution are consistent with representative democracy. Representative democracy depends on elections and elections cannot be operated without a system of participatory votes. A rule which provides in certain instances for a supplementary poll no more undermines the freedoms in question than having an election in the first place.

It is as simple as that. He said if an election could undermine and interfere with your fundamental rights, well then you should not have a general election at all, even because that too would interfere with it.

He said:

You have to adopt what is called a purposive construction to the Constitution. We must avoid the austerity of tabulated legalism and we must interpret our Constitution as a living, breathing, responsive instrument which must embody the hopes, the aspirations and the evolving maturing nature of a functioning democratic society, which forms the bedrock of our civilization and the respectful rule of law.

[Desk thumping]

I then went to the man who taught me constitutional law and that is the man who is widely regarded as one of the grandfathers of West Indian constitutional law jurisprudence. Sir Fenton Ramsahoye QC holds the record for the most number of Privy Council cases by anyone in the Commonwealth. He is an intellectual giant of the highest order. When Sir

Fenton was knighted, I happened to be in the Privy Council and Lord Bingham broke all traditions and stood up and delivered one of the most glowing fulsome tributes and said that he was one of the intellectual minds that had come before the Privy Council that they considered to be “a legal genius”.

I Went to Sir Fenton. I said: “tell me about this.” Fenton came back with the exact same advice, independently. I did not share the legal opinion of one with the other. Everybody had their separate briefs, and so on. He came back with the same position. But I was happy to see outside of those three persons, that no less a person than the former Chief Justice and President of the Caribbean Court of Justice, Mr. Michael de la Bastide come out publicly in the *Newsday* of August06, 2014, to endorse my views and say that a simple majority is all that is required. I was also heartened and comforted by the fact that Mr. Kenneth Lalla, former Chairman of the Public Service Commission, came out and endorsed our view and said a simple majority is needed. I was even further comforted to see the Chairman of the Elections and Boundaries Commission, Mr. Norbert Masson, come out and say that a simple majority is all we need.

So it is not the Government alone. It is not me alone and it is not legal advisors of international repute alone. It is a former Chief Justice, a former President of the CCJ. There are many people, because they understand that the sections 4 and 5 rights, while we can talk about them and while I would have liked to say that included among them is the right to vote fact, the fact of the matter it is that our courts have declared otherwise.

And it is for that reason, in the case of *Mr Leod v the Attorney General* my learned friend, Sen. Al-Rawi invited me to harken to the point

made by the Privy Council that it was passed by a three-fifths and they can take comfort. That is so. I looked at the adjustment. But the point is the Privy Council also—that did not form part of the ratio decidendi in the case. And ratio decidendi of the Privy Council in that matter was very, very clear and what they said is, and I quote:

But more importantly, according to the Constitution, insofar as it alters section 49(1), a Bill shall not be passed by the Parliament unless it is supported at the final vote thereon in the House of Representatives by a three-quarters majority and two-thirds in the Senate.

But they isolated 49(1). In fact, they expressly held in that case that the rest of section 49 was not specially entrenched and did not attract any special majority vote. So, I think we are safe on that.

I took further comfort in the fact that on August 04, 1995, the Parliament amended section 50 of our Constitution to deal with the removal of a Speaker, to make provision for that and they did it also by a simple majority in that matter. In fact, it was 17/12, with one abstention. So, on the law I think we are on good grounds.

I come now to Sen. Drayton's contribution, yesterday. There were many things that were said. I thought it is useful to deal with some of the points. As a footnote however—I mean she is not here but as a footnote—I took note of her starting point, which was to invite me to consider the fact that my learned friend, Sen. Howai, last week in my absence was able to procure a very consensual approach to the Bill, and she invited me to take note of that and to hope that that inclusiveness and no defensiveness, et cetera, will prevail. I just want to say, for the record, that I was very happy

to hear. I found it rather difficult to reconcile her statement with the fact that Sen. Al-Rawi made a statement that the Opposition has been able to support 90 per cent of the legislation we brought to this Senate because we have accommodated amendments. So it is difficult to reconcile on the one hand the implied intransigence with the reality of the statistics that 90 per cent of the legislation brought has been supported by virtue of amendment, but be that as it may.

I am want to deal with the idea—a lot of nice buzz words, a lot of nice catch phrases for the media, and so on, and they picked up on it. I looked at the newspapers last night. Headline in one “a Trojan horse”. Now, I wondered, because Sen. Drayton did not condescend to tell us, who are the Greeks in the Trojan horse to whom she refers? Who are the Greeks in the Trojan horse to whom she refers?

Sen. Hadeed: Look him in front there.

Sen. The Hon. A. Ramlogan SC: You see, Mr. Vice-President, when that phrase is used, it has a particular connotation. It is about destruction. It is about enemy hiding inside the horse being taken by the Trojans and the Greeks with a heavily armed—well-trained people were inside there, they were soldiers. They came out and open the gates and let the Greeks in. So, it is about that kind of thing. But where is—who are the Greeks in the Trojan horse and who are they trying to destroy? We must be careful when we use this kind of imagery without carrying it to its logical conclusion to tell us more.

Now, she said it will deepen the winner take all, and power to the people sounds laudable but it is populace and it cannot guarantee that the majority of the electorate would have expressed their will a second time.

She says it could be a minority minus a minority in a culture where there is an increasing number of voices for the don of the above. Now, let us look at that, and she uses the phrase “tyranny of the majority”. There is no democratic system in the world that is not underpinned by a majoritarian principle. None! [*Desk thumping*] Whether it is PR, first-past-the-post, a hybrid, whether you call it a system that encourages pluralism, whether they call it a system of a simple majority, none! From Magna Carta come up, the quintessence of democracy is the principle of majority rule, and whether you calculate that majority by reference to the number of seats or by the number of total votes cast, however you calculate it, it is about the majority rule. And the reason people do that is because if you object to that, what you have is you replace the rule of the majority, if you want to say, to use Sen. Drayton’s words, the tyranny of the majority, you would replace it with the tyranny of the minority and you go back to before Magna Carta and the good old days when you had the validating elite in society ruling everyone and giving them breadcrumbs. Is that what we are saying? That we must—

You know, I see people having seminars and so on, and I welcome all of the debate. I saw Sen. Dr. Wheeler spoke about all the voices, but I want to remind us of something. We must be careful that we do not amplify the voices and misinterpret and misrepresent them as well.

I saw on the front page of yesterday’s *Guardian* a big story and two people with some placards and so on, but you know when you read the story “in de fine print some way down de road dey tell yuh” there was a poor turnout and not many people showed up. And then when you look at some of the discussions you will see it is like a game of musical chairs. What they have to say is extremely important and I want to hear them, but I also want

to tell you that I want to listen to the people on the ground by the corn soup vendor, by the doubles man, in the rum shop, in the market, they also matter and we have been speaking to them.

On the one hand we want to decry a poll and say: “500 hundred people could tell we what de country could do? And then we say 500 people outside Parliament we must take note ah dem. De country talking. De country speaks. Five hundred people outside Parliament de country speaks.” [Desk thumping] And we must listen. So today I ask the question: “de 500 people outside Parliament and de 500 people” who were polled to give the result that the large majority of people support these measures I want to ask what is the difference?

You see, the other point is this idea that you can have a lesser turn out and so on, I would come to it. What has been sadly lacking from the contributions thus far, I found, is empirical statistical data. So I went home last night and I spent some time doing some research because throughout the contributions thus far no one has bothered to cite any empirical data.

So, permit me, countries with the right to recall provisions. Sen. Helen Drayton cited some countries and they were not, obviously very flattering examples, but some of the countries with right to recall include Canada, Switzerland, United States, Venezuela, Peru, Taiwan, Japan, China. I mean, who is the Trojan horse in China? Who is the Trojan horse in Canada? Canada is one of the finest models of a democratic society. I do not know. [Crosstalk] Fine, but insofar as the concept there, I am not saying yes, it exist at various levels, I agree. It is at various levels but I am saying to you the concept is there as part of their democracy.

And on that note, for those who will come to say, well you know we

really use it for Presidential elections and so on, listen, we must think on our own two feet. This is the same Parliament where people stand and advocate the abolition of the Privy Council and its replacement with the CCJ, and in the same breath, they are saying: “well yuh know, other people have it but they do not have it for general election, why should we do it?” I think the time has come for us to think for ourselves and act for ourselves. [*Desk thumping*] Other people may not have the problems we have. Their MPs do not operate the way some of ours do.

In some countries they have the right of recall and the run-off, in Austria, in Colombia, Ecuador, Romania, et cetera. I mean, the list goes on but the long and short about it is 65 countries in the world use run-off.

And then we come to the question about the turn out. Sen. Drayton, as well as Sen. Dr. Wheeler both made the point, and quite validly, about the turn out for elections. How do we know that you would not end up, the second time around, with a majority of a minority? That is a valid point. Sen. Drayton said: “well the growing ‘none of the above’ will result, in her view, in a lower voter turnout.”

These are some statistics from around the world. In France, the first round and the second round. In the year 2012, in the first round there were 79.48 per cent, in the second round it was 80.35 per cent; in 2007, it was 83.77 per cent and then 83.97 per cent; in 2002, 71.60 per cent, 79.71 per cent in the second round; 1995, 78.38, 79.66 in the second round; 81 per cent in the first round, at the run-off 84.6 per cent; in Chile, 2009, 87.68 in the first round, 86.94 in the second round; 87.67, 87.12 in the second round; 89.94, 90.62. That is France, Chile. In Poland, 2010, 54.94, 55 per cent in the run-off; 49 per cent to 50 per cent in 2005, in 1995 in Poland 64 went up

to 68; Finland the figures remained the same, plus or minus 10 per cent and Peru, you had plus or minus difference of about less than 1 per cent.

11.45 a.m.

The fact of the matter is, the fears we are expressing here are simply not borne out by the evidence. This is the same Chamber that time and again criticizes the Government for not bringing empirical evidence, [*Desk thumping*] and today I bring the empirical evidence. And I say, show me a country where the run-off has realized the fears that you have expressed? Because—[*Interruption*—sure, and I want to tell you that, then transpose that into a Trinidadian context. If you ask the average Trinidadian, whether they will vote if you give them a second chance, I think they will. And I do not share the view that at the run-off you would have a lower voter turnout. I do not think so. So I am sure there could be examples of extreme cases on both sides of the fence, but by and large, I want to say that the research demonstrates that you have a median and there is no significant drop in the voter turnout, but even if it is, that is their right.

Then I come to the question of the run-off provisions. You will see—you know, the idea that somehow this is something that is designed to help the Partnership. You know, I do not know even if it was designed to help the Partnership remaining in power by virtue of people voting for us, that that is “ah wrong ting”, firstly, I see there is nothing objectionable about that. It is not “yuh tiefing de election. Yuh not introducing voting machines to rig de election”, as was done, no. You are giving power to the people so they can vote, [*Desk thumping*] vote for the candidate of their choice.

Seventy-five countries have run-off, but let me show you why that argument is fallacious. The argument that at the run-off, somehow it will

benefit either party, you know, we have to be very careful about it, very careful. In France—and I want to come now to empirical data. In France, in 2002, the first round candidate, Mr. Chirac, got 19.88, a little over 5.6 million votes in the first round, and Mr. Le Pen got 4.8 million, 16 per cent of the votes, and they were the two top who went to the run-off. So from 5.6 million in the first round, Mr. Chirac won at the run-off stage moving from 5.6 million to a whopping 25.7 million, that was how the run-off played off. His opponent went up as well by one million, but that was the result.

Just let me take you to Colombia. In Colombia 2014, that is this year in Colombia. We are talking about this year, close to home geopolitically. Mr. Óscar Zuluaga and Mr. Juan Manuel Santos, you had in the first round—Mr. Santos polled 25 per cent of the votes, Mr. Óscar polled 29 per cent of the votes, they went forward, and Mr. Manuel retained the presidency when he doubled his votes at the run-off to 7.8 million.

Peru 2006, now, this is interesting. In Peru in 2006, you had Mr. Tasso. Mr. Tasso was the first round winner in Peru with 3.7million votes. Mr. Alan García was the second placed person with 2.9 million votes. You know what happened at the run-off? The second placed man “beat de first place man”. So at the run-off, Mr. Alan García Perez, got 6.9million votes as opposed to Mr. Tasso, who got 6.2 million votes.

So at the run-off, it is not that the guy who comes first at the first poll, that he is guaranteed success. You cannot predict how people will vote. Bear in mind one of the beautiful things about the run-off is, those who no longer have their candidate and their political party in the race, they are now unshackled from the political affiliation that they held, and they are free to exercise their vote for a candidate out of the two. And what will operate in

their mind if—I think what will operate in their mind is who from the two guys that are remaining now, do I think will—*[Interruption]*

Mr. Vice-President: Hon. Senators, the speaking time of the Attorney General has expired.

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

Question put and agreed to.

Sen. The Hon. A. Ramlogan SC: *[Desk thumping]* Thank you very much. So I think that unshackled from your political affiliation to a party and candidate, because they are no longer a contender in the race, I think what people will focus on is well, wait, “it have two fellas now, either I will have to say well, who between dem two fellas will make de better Member of Parliament”, and I will cast my vote based on that. Even if you want to boil it down to brass tacks and say, who is the lesser of the two evils even if “yuh want to say dat, even if yuh want to say dat”, but you know, you will ask yourself the question. I mean, the choice is there.

I grew up in an ONR household. When I was growing up “dey use to have political meetings outside de lil run shop meh fadda run”. And the candidate was a man we supported, Mr. Karl Hudson-Phillips' ONR. The candidate was a man called Premchand Dass. I remember it very well. It was the first political meeting I went to in my life, and Premchand Dass and Mr. Karl Hudson-Phillips came there. I was very inspired by them as a young man, but the point is “deh eh win ah seat. So de inspiration gone.” *[Laughter]*

But the point I am making is, I remember that year that “my fadda” was talking to his friends and he said, you know, “look at dat fella, de

headmaster, de headmaster is such ah good fella, buh yuh eh see we should ah vote for de man, boy. We waste we vote with Premchand dem. Karl and dem eh win nuttin”, so that was the thinking. So I knew for a fact, that if my father had a second chance he would “have voted for de headmaster” fella, because in his view, “dat fella use to always be in de football ground with de young fellas, and he is always ah man in de community and ting. Yuh looking for ah WWF champion”, wedding, wake and funeral. “Dat is whey yuh looking for, yuh see. Some may add ah next W to dat. So leh we stick to dat, you see.” [*Laughter*]

Now, and then you go to Costa Rica, close to home. I have been to Costa Rica, and it is a country that I admire greatly. In Costa Rica 2014 election, this is that what happened. In the first round you had Mr. Luis Solís, who got 30.64 per cent of the votes; 629,866. He was the first round winner. What happened in the second round, was that he was able to double his votes and went up from 629 to 1.3 million.

What interestingly happened was the guy who placed second, with 610,000 votes, Mr. Johnny Mong, he went down to half of that. So half of the persons who voted for that man in the first poll decided, “I eh”—they changed their minds. “Dey say dey not supportin” him again. So it is very fluid dynamic. It is a very fluid political dynamic, the permutations are unpredictable and endless, but the power lies in the hands of the people. [*Desk thumping*] That is the point. [*Desk thumping*]

So there is nothing sinister or odious and repulsive about this that we must fear it. Nothing of the sort! So when I see people trying to paint Members of the Independent Bench and apply pressure to say, well, “who is de Judas? Who go be de Judas among them?” Judas for what?

Sen. Dr. Mahabir: “An who getting booed.”

Sen. The Hon. A. Ramlogan SC: “An who getting booed. And den I see ah headline today in de papers”:

“Al-Rawi: Independents under Pressure”

My learned friend reminds us that one Independent voted for COLA and that led to the coup. [*Crosstalk*] You know, “ah coup” followed, he says, yes. It is “ah pity yuh din remember” when Gail Merhair sat on the Independent Bench and voted to postpone local government elections for a third time, and no one said boo. I remember it well. All eyes were fixated and Gail Merhair sat on the Independent Bench and voted with the Government to postpone local government election for a third time, and to disenfranchise people. [*Crosstalk*] That was not being “ah Judas” and traitor to democracy then, no, that was something good.

Then we come—Sen. Drayton made the point, we should have some due process, Mr. Vice-President, that the man is not given any due process. Look, and say have a bipartisan committee in Parliament and so on to “gih de man ah right to be heard, before he get recalled”. Listen, no bipartisan committee in “de Parliament vote for dat man” to put him there. [*Desk thumping*] “It is de people on de ground dat vote to put him there, and let dem enjoy the power to move him. De people hire him to serve dem, to represent dem, and if he is not serving the people, let dem have the power and the right to fire him.” [*Desk thumping*]

What are we so—why are we so afraid to give power to the people? What are we afraid of? This is—I mean, this is—there is a certain sense of intellectual elitism. There is a democratic—it is an—[*Interruption*—you know, there is an aristocratic elitism running through the thing, man. Look,

we are all here in our own right—[*Interruption*]

Sen. Robinson-Regis: AG, would you give way?

Sen. The Hon. A. Ramlogan SC: Sure. Once I have some injury time from the Vice-President.

Sen. Robinson-Regis: Sorry. Thank you very much. I was listening to your contribution from upstairs. I just wanted to find out from the statistics that you gave, could you say whether those are parliamentary elections with the run-off in full parliamentary or in presidential elections?

Sen. The Hon. A. Ramlogan SC: I dealt with that before, and I said that it matters not where it is.

Sen. Robinson-Regis: It matters not?

Sen. The Hon. A. Ramlogan SC: I am focusing on the concept. It does not matter. The fact of the matter is, the run-off is a feature of the democracy in those countries, and likewise, we are asking for it to be a feature of our democracy in Trinidad and Tobago. [*Desk thumping*]

I also said that I think that the time has come for us to think for ourselves. So what if “dey din have run-off no whey else in de world? If dey din’ have” run-off nowhere else in the world, does that preclude Trinidad and Tobago with its collective wisdom and intellectual capital from saying, well, look “dis is ah good ting for our country, and start de ball rolling?”

Sen. G. Singh: And the diagnostic of the performance of MPs.

Sen. The Hon. A. Ramlogan SC: Yes, you see, but as “I come back, de bipartisan committee eh vote to put nobody there. Let de people enjoy de power to remove dem. Yuh know whey yuh geh yuh due process?” Your due process comes from when “de recall petition is issued and they

canvassing for yuh” to be removed. Go and talk to “de people”, that is your opportunity to be heard. Talk to “dem and say, listen, yuh eh see meh” for three years because x, y, z. That is your opportunity to be heard, that is where the due process is rooted, “not no Parliament committee”.

Now, then they come and they—we then spoke about run-off, according to Sen. Drayton, run-off is discriminating against a party unless it is in a coalition. You know, I am amazed to hear these things, you know. Run-off discriminates against a third party unless it is in a coalition. “Buh whey de first-past-de-post system doin?” Not a single third party in 46 parties, 4-6, not one has survived. So the first-past-the-post system is not discriminating against third parties unless they are part of a coalition? Not a single third party has survived. Forty-six have come and gone, unless they are part of a coalition. I mean, you have—take, for example, MSJ, always in the papers, Mr. Abdulah was here with us, good friend, nice colleague, but there are more letters in the MSJ than there are people supporting the MSJ. *[Desk thumping]* *[Laughter and crosstalk]*

And then we must bear in mind our history, Mr. Vice-President, the first recall occurred in this country under the PNM on September 28, 1973, that was the first recall. You know what it was? It was Dr. Eric Williams asking every single MP to sign an undated letter of resignation as a precondition to going up, *[Desk thumping]* that was the first recall. Sign an undated letter of resignation, give it to me, or else “ah not putting yuh up”. That is what led to Karl Hudson-Phillips breaking ranks with Eric Williams and forming the ONR.

And people said two term limits for a Prime Minister, “dey see no reason for it. If de people doh want you, dey will vote yuh out. Yuh know

in all ah dat nobody eh mention dat nobody vote out Eric Williams, because he was there till he ded. And he is de same—[*Interruption*] and de people want im and he is de same man who say, not ah dam dog bark. If ah put ah crapaud with ah balisier tie, vote for im. And he is de same man who had a Cabinet from 1956—1986, for 30 long consecutive years without ah single Hindu in it, and yuh steups at it. Yuh steups at it? Dat is still de attitude of the PNM. Dey will steups at dat kind” of alienation and discrimination.

Mr. Vice-President: Please! Sen. Robinson-Regis, I do not believe that that is acceptable, while the AG is making his contribution to say that he is speaking nonsense. Could you please withdraw that?

Sen. Robinson-Regis: I withdraw.

Mr. Vice-President: Yes, thank you.

Sen. Robinson-Regis: Mr. Vice-President, Mr. Attorney General, I withdraw the statement that you are talking nonsense. [*Desk thumping*]

12.00 noon

Sen. The Hon. A. Ramlogan: You see, today the PNM is trying to reincarnate itself, so we have my colleague here, the young Avinash Singh; but the point I am making is, for 30 years, people like Avinash Singh had no place in the PNM. I am saying that the fact of the matter is, when we say we have a perfect system and we could vote out people, Sen. Wheeler, that is not correct. Sometimes people will stay in power and, whether it is good, bad or ugly, you could have a minority ruling and it is not the best thing for the country. Let me cite it by reference to statistics again:

in 1956, the PNM got 105,000 votes; the other parties got 159,000;

in 1991, the PNM got 233,000 votes; the other parties got 284,000;

in 2007, the PNM got 299,763, the other parties got 351,763.

These are the facts, a minority government.

Now, Mr. Vice-President, Sen. Drayton also mentioned this growing thing about “none of the above”. I want to say something. You know, I have heard Senators and other people talk about this constituency nota, N-O-T-A. Listen, “doh” lump everything into that, you know. In any country in the world, there is a slice of the electorate that is not interested in voting. They are not interested. They are apathetic to the electoral political process. That is a fact and the “none of the above” is different to the people who are not interested in voting at all. And even the “none of the above”, you cannot complain; form a party. If you do not like any of the above, form your party. It is free.

But permit me, in the United States of America, one of the world’s greatest democracies, you know what the voter turnout is? In 1996, when Clinton defeated Bob Dole, it was 49.1 per cent. In 2008, when Barack Obama, at the speak, first mixed-race President in history, it was 56.8 per cent. Even in the November 2010 elections, it was 37.8 per cent. So less than half of the people registered to vote in the US actually voted, and that is the world’s greatest democracy, they say.

Some countries have compulsory voting, like Australia and others, Argentina, Brazil, Ecuador, et cetera, they have compulsory voting. *[Interruption]* Yes, but we do not have that, so we need to understand. Some people in this country do not vote because of religion. I mean, I had a friend who was a Jehovah Witness. He said he “doh” vote. So, that is one slice of “yuh” population; it is not that he is “none of the above”, for religious reasons you “doh” vote. Other religions have similar things.

So, Mr. Vice-President, I then come to the question of the consultation

issue. You see, we like to talk about—

Mr. Vice-President: AG, I just want to remind you, you have a further three minutes.

Sen. The Hon. A. Ramlogan: The consultation issue: You know I looked last night to see how many people submitted memoranda to the various commissions and I want to tell you the figures. The Hyatali Commission, 23 individuals submitted memoranda at the in-house meetings; 128 to the commission. The Wooding Commission, you know how many people submit? Sixty-eight individuals submitted memoranda and statement letters received and then you had a further 13 at the National Convention at Chaguaramas and I have the names here—38 and 68, roughly 100 people and that is it.

So when we say “consult” and make this big issue and so on, we have had constitution commissions and that was the consultation. So it is not as simple as people make it. Then we had, of course, whilst we are on the issue of consultation, the bizarre disclosure by the PNM, awoken from its political slumber, all of a sudden, that they have a 10-point Constitution plan. You know nobody “aint” ask them up to now who “dey” consult to come up with that. They are criticizing us and we had consultations throughout the length and breadth of Trinidad and Tobago and they are criticizing us and them suddenly get up one morning on a “vaps”, “voops” and “vaille-que-vaille”, come up with 10 points and say this is the Constitution reform; and they “aint” say who “dey” consult.

Then Reginald Dumas does a good job in terms of analysing and criticizing each and every single one. The Government received a report signed by every commissioner and they were entitled to receive it and act on

it in good faith. It is signed by everyone and I do not know that we were entitled to operate on the assumption that there was some hodgepodge report. No. I think we were entitled to receive it in good faith and think that it is a bona fide document and the signatures affixed thereto mean that they believe what they signed.

So, Mr. Vice-President, I think that in closing, my learned friend, Sen. Dr. Wheeler had made the point about a referendum and the point is we have to have a constitutional majority. You have to put the referendum to have it in the Constitution. Yes, it may be a good idea and all of that, but the point is that we have to contend with our realities.

What the Government is doing is delivering that which is within its constitutional reach and grasp. These are the measures that we promised that require a simple majority and the Government, instead of ignoring its promises to the people upon which they were elected, is saying, "Look, we are not afraid to fulfil those promises and we are not afraid to face the electorate again and say, 'look, we fulfilled our mandate; we were truthful to our promises. These are the promises we made and here is the checklist. We have fulfilled them.'"

So, Mr. Vice-President, I end by saying that there is nothing to fear in these proposals. There is not the introduction of a voting machine to rig elections. It is not voting electronically. It is not voting for Trinidad citizens and Tobago citizens, who live overseas, through the foreign missions. It is not any of that. It is a simple measure that is designed to enhance the quality of our democracy by giving people an increased sense of belonging, purpose and participation in the democratic process, such that they will have power not once every five years, but they will have power

every single day during that five-year period because they enjoy a right of recall, a right to hire, a right to fire, [*Desk thumping*] and that gives power to the people. I commend them to this Senate. Thank you very much.

Sen. Hugh Russell Ian Roach: [*Desk thumping*] Mr. Vice-President, I welcome the opportunity to participate in this most important but controversial debate on the Constitutional (Amdt.) Bill, 2014.

This Bill seeks to amend the Constitution to limit the period for which a person could serve as Prime Minister; to provide for the recall of Members of the House of Representatives; and to permit only candidates, who have earned more than 50 per cent of the votes cast in their respective constituencies, to be elected as Members of the House of Representatives. In total, this amendment Bill seeks to do three things basically.

Let me begin by stating that I welcome the very lively, passionate and enthusiastic commentary and lobbying by a large cross section of the members of the public over the past few weeks since the Government tabled and passed the Constitution (Amdt.) Bill in the Lower House. However, this was done without the support of the Opposition; the Independent Member of Parliament for Chaguanas West, Mr. Jack Warner; the founding member, former leader of the COP, Congress of the People, Mr. Winston Dookeran, Member of Parliament for Tunapuna; Member of Parliament for San Fernando West and Minister of Public Administration, Mrs. Carolyn Seepersad-Bachan; and the sole abstention by Minister of National Diversity and Social Integration and Member for Parliament, Arima, Mr. Rodger Samuel.

Contrary to what some persons have said, including the hon. Minister of Housing and Urban Development, Dr. Roodal Moonilal, that the

Independent Senators are being bullied and intimidated by the media, posting pictures of our faces on the front page, which one will it be, let me state categorically that such media coverage or, for that matter, any of the public pleas and lobbying of the sanctity of the Constitution did not at all cause me any apprehension or fear whatsoever. [*Desk thumping*] Instead, Mr. Vice-President, it served to motivate me and raise my awareness even further of what is at stake debating the Constitution (Amdt.) Bill and the consequences, should I ignore or neglect the significant and relentless outcry from the public that the said Bill is passed into law, if that be the case, without the most careful and microscopic scrutiny.

When you have clarity of mind and conviction to do what is in the best interest of the public without fear or favour, without prejudice, partiality or any form of discrimination—and I am not speaking about Sen. Roach's interest, but about the entire public, you tend not to have either hesitation or troubled thoughts about that which will best serve the public's interest, whose trust we must never, and I mean never, offend in the discharge of our obligations.

In my contribution today in this debate, it would be remiss of me not to acknowledge the numerous published articles in the print media, the opinions, the thought-provoking commentaries and editorials on the Constitution (Amdt.) Bill that I have been reading with fervour and delightful interest.

The articles penned by Tony Fraser, Sunity Maharaj, Kevin Baldeosingh, Douglas Mendes, Terrence Farrell and others were just a few of the stimulating ones that I have read and have had cause to reflect upon. I have also encountered the many ordinary Tom, Dick and Harries and

probably you could say Mary and Jane on the streets offering their personal views on the Government-sponsored Constitution (Amdt.) Bill to me and what they hope I will do or not do to protect the people from an apparently deaf Government intent on doing what they like, when they like and how they like.

Now, can I as a representative of the people, giving them a voice in the affairs of Parliament, although vicariously appointed, ignore those voices or consider them intimidating or threatening? I think not. To the contrary, again, I found them enlightening and I felt privileged to have experienced first hand the views of a public no longer content to stay quiet and await election day to vote.

Mr. Vice-President, we who have ears and want to listen know full well that there is an unhappy, distrusting, agitated and vexed people in our country today. We are very fortunate that we are a people that exercise great restraint with our politicians, given the almost weekly missteps being made by the Government, which is a virtue we should cherish.

I have visited and lived in a number of countries where governments who have done far less than what is taking place in Trinidad and Tobago ended up being prematurely removed by a fed up population. This is what happens when a Government fails to remember that it has been appointed and not anointed; that it is a servant of the people and not the other way around.

What more direct form of democracy can you have than a referendum provision in your Constitution? In the case of constitutional matters like our present situation, a constitutional draft amendment is submitted for the entire nation to vote either to accept or to reject.

In the United States, a draft amendment to the Constitution must be approved in all 50 states to become binding and valid. A point to note is that we in Trinidad and Tobago have to discuss, as a people, the system of electoral governance that is best suited to our unique circumstances. We have the tendency to copy laws from our developed countries, but do not also copy the spirit and soul of the laws, so that we are left with what I will call the carcass of the law, body without spirit and soul.

We must also seek to compare oranges with oranges and not oranges with apples. For many of the countries we tend to compare ourselves with have different histories, social, economic and political circumstances that we do not here in Trinidad and Tobago have, and that is something we must remain conscious of.

To me, the proposition of a referendum as an amendment to our Constitution would have more attraction to the public, serving to avoid widespread political speculations on which of the three proposed amendments to the Constitution is in the public's best interest. In this way, the public will have a direct say as to what is in its best interest.

12.15 p.m.

Mr. Vice-President, as a public law practitioner, I can say without fear of contradiction by my learned friends who are astute attorneys-at-law that procedure is critical to the decision-making process, and so important is procedure in both public and constitutional law that the courts are often very inclined and compelled to quash or set aside decisions of public bodies and public officials where the decision arrived at did not follow the proper procedure laid out in law or because the procedure followed, or not followed for that matter, was unfair, unreasonable, not in accordance with the

principles of natural justice or was absurd.

There is a lot of case law on the point of consultation by public bodies, public officials, even though there may not even be a constitutional or common law right to do so. The case law reveals, however, that once the process of consultation is engaged by a public body, that now raises what we call in law a legitimate expectation and that such consultation has to be conducted fairly. [*Desk thumping*] There are a number of cases that probably I could cite, but I am not going to turn this debate into a law lecture or a court of law, but we have present in the Chamber—we have, at least, I think, eight eminent lawyers who can verify what I am saying as in fact so.

The stance taken by the Government in seeking to railroad the passage of this very important Constitutional Bill during the usual vacation time of Parliament without the expected extensive discussion and information in the public domain is, at best, political indifference, autocratic and contemptuous of the public whose interest they ought to and ironically claim to be seeking.

Sunity Maharaj stated in her article on August 24, 2014, in the edition of the *Sunday Express* at page 12, and I quote:

“The result has been a back-to-front process, in which the vote was taken before the debate occurred. Now that the debate has exploded in public to reveal how desperately the country wants to discuss this matter, the wise response would be for the Government to take a cue from the misadventure of the infamous Section 34.”

She also went on to state:

“It was wrong to have bypassed the country on an issue as important as the voting process. Even if a simple majority is legal—an opinion likely to be tested in court—why would any government not want to

have the fullest possible public backing for a fundamental change in the voting process?

To sneak the bill into Parliament's vacation time and strategise with the simple majority as a confessed means of getting around Opposition objections is Machiavellian and downright dodgy. Then, to place this piece of subversion on the altar of democracy is the cruellest irony of all. And we haven't even got around as yet to discussing the bill..." [*Desk thumping*]

Sunity Maharaj's comments to me are reflective of the general and widespread feelings being expressed at every opportunity by the public at large. These sober comments are not easy to sidestep or avoid, if I am to be true to the remit of my obligations as an Independent Senator to act in the best interests of the public at large. The public is owed a duty to be consulted by the Government before such an important constitutional amendment can be laid in the Parliament for debate. [*Desk thumping*]

So insensitive do I consider the Government's action in seeking to pass this Bill through Parliament without proper full consultation with the public that I will not spend much time on debating the possible merits or demerits of these proposed amendments now before us for consideration.

The truth be told, given our changing demographic, social and economic as well as constitutional reform is a welcome political activity the country must seriously embark upon with some alacrity and dispatch. Constitutional reform, Mr. Vice-President, cannot be proceeded on the basis of a cherry-picking exercise, but rather it must be comprehensively and scrupulously done with full participation from the public at large. The run-off provision does not, from my research and understanding, lead to more

inclusive party participation whereas proportional representation has shown to be more favourable to coalition and smaller party participation.

Given the high level of distrust by the public at large for this Government, any initiative of the Government towards electoral reform months before election in 2015, is viewed with great scepticism and suspicion and they would have to do much to convince the public that their actions are not driven by any ad hominem agenda. After losing four consecutive elections in recent times, and following scandals after scandals, the moral thing for this Government to do is to return to the electorate for a fresh mandate just like Prime Minister Manning did on two occasions.

[Desk thumping]

Again, I will say, how can you expect the public to trust a Government who behaves like this? Who did not consult the public with this run-off clause and yet seek to make it law? I say enough is enough. The people of Trinidad and Tobago deserve to be treated with respect and have a say in what is a significant tampering with this, their Constitution.

[Desk thumping]

I urge the Government to do the right thing and withdraw this Constitution (Amdt.) Bill, and if it is genuine and sincere about constitutional reform, go back and consult with the people and return with a comprehensive constitutional proposal that we inside this Parliament and outside of it, can feel proud of and indeed seek to support. Until that is done, my duty to the people of this country dictates that I withhold my support for this Bill.

There were a number of comments made by the Attorney General, Sen. Ramlogan, that in using opinions he got from legal scholars in the

United Kingdom as well as Sir Fenton Ramsahoye who no one will dispute his legal track record of being above par, but the thing is, until a matter, until an opinion is tested in court, it remains an opinion. [*Interruption*] Pardon me?

Sen. G. Singh: Take it to court.

Sen. HRI Roach: Well, yeah, it is not for me to necessarily take to court, but what I am saying, the fact is that you have opinions of different people, and until they are tested in court they remain opinions, regardless of who it comes from. So, therefore, until the legality of whether or not the attempt to change the voting provision in the Constitution should be done by a simple majority or a special majority, that is something up for debate. That is something that would probably be tested in court if need be. But not because a Government has the majority, in all fairness, it means it must exercise its majority position so as to bring about some sort of distress or unease and anxiety amongst its population.

I have been fortunate to live in countries where when these things are done people react a certain kind of way, and that is why I keep saying to the population at large—to my friends and whoever listen or whoever I engage in conversation or engage me in discussion about this and other things, especially politics—that Trinidadians are very law-abiding; they are very patient, they are very easy-going people, and they have a high threshold for their politicians. Because, I mean, let us not fool ourselves, there is a lot of unease in the country. Everywhere I go, I was surprised to know that I am so well-known as a Senator, because I do not lime. Every time I stop somewhere—it might be the papers man, the gas station man, the woman I am buying avocados from—they are telling me about this, which I found

was very healthy. I was surprised.

The last time I experienced something as vibrant as this was when I was in South Africa before its elections, when people were now being exposed for the first time after being oppressed by a minority government to vote. They were all excited. But do you know what is also important? And I do not think this is the first time I am saying this in here. The South African Government, at that point in time, the interim government, the ANC, they set up something called a matlock trust, which was to educate people about their voting rights; about the constitution that was supposed to come. They educated them. [*Desk thumping*] Right? And this is what we need to do.

If we are going to tamper with the Constitution with something as significant as how we are going to elect somebody, the fact that it is being put in the Constitution and, arguably, it can be done by a simple majority—let us give that as a given, that it could be done like that—the fact is, the process is important. [*Desk thumping*] The fact is, what is being debated by the various consultations that took place in our country over the last year or two years, what has resulted is this run-off position was not there, and that is significant.

Most people, if you ask them, those who are grappling with and trying to understand, really have no problem with the first two items which are: the limited term for the Prime Minister and the recall of your MP, but most persons have difficulties with the last provision which is the run-off provision, and they do not understand it. They are confused and we owe them. We owe them an opportunity to understand it, and it cannot be discerned to them and educated during the halls of this debate in this

Chamber. [*Desk thumping*] This is not the correct way to do this thing.
[*Desk thumping*] Okay?

The other thing which people are not appreciating, if you have a run-off, when you are first going to do the first-past-the-post vote, everybody is voting on the same agenda. You are voting—you have five parties—for one of the five parties. Okay? People are voting based on the manifestos and so forth. They are voting probably on personalities. Right? You have this provision enacted, what happens? You have UNC and the PNM being the victors; the first and second runner. What happen to the third, fourth and fifth persons? What happen to the ILP? What happen to MSJ? What happen to NJAC? What happen to TOP, any of them? They fall away.

Now, what are these other two parties left to vote on? [*Interruption*] I would come to that. What are they left to vote on? They are left to take between two persons who they may not be interested at all in voting for. Say the result is 20/20, and there is one marginal seat, those persons in that marginal seat would not be voting on what the other parties or the other people of Trinidad and Tobago would have voted for the other 40 constituencies, because now they would have a direct input in determining who they put into Government. [*Desk thumping*] That is a whole different ball game altogether. [*Desk thumping*] So they are focussing on something completely different. [*Desk thumping*] So that is not equity before the law. It is not fair for the people. So the other 40 persons would have voted not knowing what the results would be, and they are caught now by one minority constituent that may determine who becomes law.

Now, the anxiety that people have with the 15 days, that lull, in making that determination is what kind of thing can go on. People want to

believe the best of human kind, but power and the lust for power sometimes can cause people to behave in unfathomable ways. Right? What kind of horse training will take place? What kind of money may pass? What kind of illegal activities? What are the level of desperation to seek power? We do not know. So those are the anxieties that people are grappling with, with this provision. It is not quite easily digestible, and it is unfair to have this force down person's mind without understanding it.

We must evolve; we must evolve. What obtained in Trinidad 50 years ago certainly does not obtain today. I left Trinidad 20 years ago to go to South Africa, and when I came back a couple years, a few years ago, it is not the same Trinidad and Tobago. Right? In some instances it is better, and in some instances it is worse off. In some instances, I think we have gone back rather than gone forward.

The discussion of race, religion and political power is something of a different tone that I never heard before. You heard the Attorney General say that Sen. Avinash Singh would not have been in the PNM 30 years ago. I do not know if that is a fact or not because, to me, that was not something I was conscious about. Right? I know Sham Mohammed, I know different people who were part and parcel of it, but it seems now that to be in a party your ethnicity and your religion is an important criterion, probably to get a job too. [*Desk thumping*] We should get past the point where whether who is in power or who is not in power—whether you are affiliated or your constitutional rights associated yourself politically with anybody—should not be a criterion or a hindrance to you getting a proper job once you are qualified. All these are things that are circulating. There are much more important constitutional amendments, to me, to engage in rather than just

cherry-pick and have one or two provisions. Why just pick those things that you said, all right, and see that it could reach here? Deal with the grapple with what we have to deal with in a real way. There are things that are serious for us.

So whether or not the PNM has stated that they would not vote for this or vote for that in the Constitution, you have a comprehensive well thought out, well-consulted report that has been widespread and engaged by the public, and bring it here and let the PNM do what they want to do. The electorate, at the end of the day, will then deal with them as the case may be [*Desk thumping*] but do not hide behind them and say you are not bringing this because they are not going to give you the support that you want. I find that disingenuous. I find it is a coward way out.

I mean, there are members on the other side and members of this Government who I have high regard for. I have had cause to engage them before getting in here, and while I am here, and they have always come up top-notch. Similarly, in the PNM, there are people who I have known who I have gone to school with, and I find them very lovely people but, at the end of the day, if they are not on the same page as me when I am here, which is doing the Government's business, there is no apprehension whatsoever for me to do what I need to do, and if it means supporting the Government, I will in fact support the Government. But if at the same token the Government is doing something I believe offends public opinion—not Ian Roach's opinion per se, but the public's opinion—why am I not going to do what is right in protecting their interest? [*Desk thumping*] I believe in this instance without even dealing substantially, without even engaging in the technical aspects of the run-off or not, the process engaged is wrong and it

has to be corrected.

12.30 p.m.

Until that is done, I am not prepared, you know, as representing the interest of the Trinidad and Tobago population who are not inside of here, but they are here vicariously through us to do that, I am not doing that. If it is that the Government wants to go back and bring a comprehensive reform package, I am totally there to support them. [*Desk thumping*] So in that regard, I will support the coalition party, I will support the PNM, I will support anybody that has the best interest of Trinidad in their proposals to be piloted through this Chamber.

There is a lot to be said. There is a lot of emotion, and it is understandable. People ought to be emotional about this thing. These are things that in other countries people lose their lives for. Another thing that is being said by some of the commentators and the contributors so far in terms of the run-off, most of these run-off provisions are dealt with Heads of State, which are different considerations, altogether—Heads of State, not parliamentary representatives of the constituency. Let us not fool the people, we are here to educate the people. [*Desk thumping*] Right? If you are doing something for the people's good, you have to look at the good and you have to look at the bad. You have to put the advantage and you have to put the disadvantage for them, and let them make their decision. They are educated, sensible people; they are not buffoons, they are not idiots and they are not stupid.

We have a very highly educated population in Trinidad and Tobago. We have GATE, we have all these different things—I mean, compared to the rest of the Caribbean, we are the only people who go from cradle to

tertiary education almost free. You could get your PhD now in Trinidad with the Government sponsoring it. The Government of Trinidad and Tobago, whoever it may be at this point in time, we must not belong, get on as though—and they must not behave themselves as though they are doing you some favour. They are your servants. I am your servant. I am here to do your bid. I have no security—I ought not to have any security in sitting down here as an Independent Senator, and if after I finish saying what I am saying here today, the President see it not fit because of public comment to move me, I am glad to pick up and walk out of here, and, hopefully, I could walk and not wheel out. [*Desk thumping*] Right. No. No. No.

It is important because, you see, there is a lot of unnecessary apparent antagonism going on by people at large, you know, and we cannot just ignore that. We have to be able to engage, like I said, when paying the tribute last night, unfortunately late last night, on former Senator, Ainsley Mark, and I said one of the things he said, let us move forward. In debating, I may disagree with you, but at the end of the day we would be on the same page. What it does is to move all forward in the interest of Trinidad and Tobago, and I asked that we cleave to that type of principle. It would have served us well. It will serve us who we are trying serve and put us in a different light. Right.

We do not need to go outside of Trinidad and look at what different things are happening in different societies, who are we fooling? There is something as a lawyer, there is something called precedent. Precedent is important, but I have always been labouring, I have always had difficulty, we were just importing precedent for precedent sake. I mean, what goes on in the United Kingdom does not apply here. Sometimes we go with cases to

the UK and they determine certain principles and they send it back here to be dealt with because they are not familiar with the domestic peculiar circumstances of Trinidad and Tobago, be it for cost or whatever it is.

I am sure that any of the lawyers in here will verify that what I am saying is in fact so. So why can we not be the leaders in a real way? Right. Do something that certainly is thinking outside the box, but thinking outside the box bearing in mind Trinidad's peculiar circumstances. We are a unique people. One of your strengths is now coming of as one of our weaknesses, our diversity. It seems now to be more of a headache than to be of an assistance. I mean, we are so rich because we have a blend in here. I do not believe in "back to Africa". I do not support "back to India". I believe Trinidad and Tobago forward always, we are now here. [*Desk thumping*] That is what I believe in.

The largest growing group in Trinidad and Tobago today is the mixed race, and Lord forbid, or hope, that probably past my time, Trinidad will probably become homogeneous being a mixed race, because it will take away from this myopic kind of position where politicians, for their own personal or whatever objective, are pedalling on the ignorance or the sentiments of people, or their insecurities, because ignorance is what **fear** strives on, ignorance. We need to be more educated as to our reason being in the country, being in Trinidad and Tobago. We are all Trinidadians and Tobagonians, however we came, however we came, the fact is that we are here and we have nowhere else to go but here.

What we need to build, what we need to construct, that we can leave with a sense of accomplishment, is a better future for our children that is coming by. That is what we need to do, and [*Desk thumping*] having said

that, Mr. Vice-President, there are a number of our speakers to come and I am sure they will be able to probably visit, on a more clinical basis, the merits of voting, the run-off, the merits of recall. I am neither here nor there with us fixing a fixed term for the Prime Minister, because, as it is, since 1986, upon Dr. Eric Williams's death, there has not been a Prime Minister who have survived more than two terms. Whether the hon. Patrick Manning had two-three short terms, three years, two years, or something, that is beside the point, the fact is, it is almost self-regulated. It is almost like a convention, so now you do not even have to legislate for that, it is almost happening on its own. [*Desk thumping*] It is almost creating convention, right. That is how convention comes about.

In terms of the recall provision, you are recalling somebody after three years on what basis? This has a lot to do—I mean, it has a lot of opportunity for mischief. Any party, [*Desk thumping*] be it the Government or the Opposition can get two people to do what they need to be done to get 10 per cent and then to do what it is and, at the end of the day, what are you going to achieve? It is difficult, because here it is you are dealing with recall of a Member of Parliament, if you are in Opposition you have no resources, you have no access to the purse of the country, so what really can you do? What is the criteria? What is your job spec? Are you to build 10 box drains every two weeks? Are you to hand out a certain amount of food cards? Are you to make sure that 10 per cent of your students supposed to get into the University of the West Indies or go to an Ivy League school in here? What is the criteria? It does not really make any sense.

It sounds nice, but when you look at it in its practicality and its efficacy, is it really, really something that we need? [*Desk thumping*] Is it

not more disruptive? To me, in the last time that I remember, and I can be corrected by the *Hansard*, when we were piloting the Municipal Corporations Bill, and proportional representation was being promoted as the reason that will give a voice to the third forces, to the smaller parties, I said I was not prepared to support proportional representation being brought in the Municipal Act on a piecemeal basis again, bring it on a wholesale basis. I think that is what is relevant to Trinidad and Tobago. [*Desk thumping*] The Hugh Wooding Commission Report says that, clearly says that, and I think that certainly would have encouraged a party like COP, it would have encouraged somebody like NJAC, all these people who have gotten votes. People sometimes want to vote but they say, “Well, I am wasting my time because I do not have a seat”. If they got a seat in Parliament they will make a difference. I do not see and I do not support the view that the run-off will assist in making it more democratic. I think it is antithesis to the whole [*Desk thumping*] prospect of small parties’ visibility, and giving persons voice in the Parliament.

Mr. Vice-President, I can go on, you see I am getting all worked up, but only because I feel passionate that what we do in here must really and truly be, not for ourselves, not for our party, but it is for the best interest of Trinidad and Tobago, regardless of where we sit, whether we sit on that side, this side or this side, we should have one common agenda, and the common agenda is putting Trinidad and Tobago first. Right? [*Desk thumping*] Putting Trinidad and Tobago first. It should not be because you are Indian, you are living in Penal; or you are white, you are living in Glencoe; or you are black, you are living in Laventille, and this is for you and that is for you. We need to get past that.

There is so much of that circulating in our society. It is corrupting the politics. It is corrupting us as a people. It is corrupting the goodwill that Trinidadians are known for, the love that is abundant and flows freely. The open kind of personalities that we have in encouraging and bringing people here. We do not set about to be a society—we look to diversify and we talk about tourism, Trinidadians do not have the nature because we are just loving people. So when people come here and they do not want to leave is because they get a certain kind of atmosphere that is different from any other part of the Caribbean. The beaches, we may not have the beaches, but we have lovely people here, and the loveliness comes about from the mixture, from the talent. We have educated, highly talented people here. Right. [*Desk thumping*]

So at the end of the day, Mr. Vice-President, what I am saying is that I am prepared to support the Government when they are prepared to bring a comprehensive constitution reform package before this Chamber that we can vote on that has the benefit and of the views of the public for whose interest is being sought to be put upon to serve, and until such time, I am not prepared, as I feel that my role as an Independent Senator is not to support this particular Bill. I am not casting any aspersion on the Government in terms of their motive. I mean, there is enough people talking about, speculating about what motive, why are they bringing this at this point in time, I am not even going down there. I am just going down on the basis, even if I am going clinically as a lawyer, it is not proper and fair process that has been engaged to bring this before us, [*Desk thumping*] and on that basis, Mr. Vice-President, I will like to thank you for the opportunity. [*Desk thumping*]

Sen. Dr. Lester Henry: Thank you, Mr.—[*Interruption*]

Mr. Vice-President: Sen. Henry, I did not engage you and give you the okay to go ahead, you started before I said Sen. Henry. [*Laughter*] Sen. Henry, please continue. [*Desk thumping*]

Sen. Dr. Lester Henry: Thank you comrade and Mr. Vice-President. I think I have had this opportunity now, at this time, following the excellent contribution that we just heard from Sen. Roach. [*Desk thumping*] I think he laid the perfect platform for the approach in which I intended to take long before I heard him speak. What we hear echoing from some of the Independent Senators and many people in the public domain, is this continued engagement in what I have referred to previously in this honourable House, as this Government's attempt to normalize madness, [*Desk thumping*] where you continuously engage in activity that defies normal logic and basic decency and thinking, and believe you could hoodwink the population to somehow, you know, fall for it over and over again.

Now, we know you have a good PR spin, and we have seen it in operation very, very often, and so on, but there comes a time when you have to be serious and you cannot get away with blatant by-passing of processes and ignoring basic facts over and over again. [*Desk thumping*] No, I mean seriously, the symbolism for the Government seems to be heavily centred around the Anil Roberts purported video, "It was not me". They want you to look at a picture, see everything, and then turn around and say, "It is not that". I mean, what is this? As I said, the title of my contribution, once again, "normalizing madness", because you have continued to behave as though—[*Interruption*]

Sen. G. Singh: Is that your theme for the budget?

Sen. Dr. L. Henry: That is my theme for you, for the Government.

[Interruption] Yes.

So, I mean, and we are talking about a serious matter as reform of the Constitution being sneaked in, as Sen. Roach pointed out, during the time when we should be on holidays and so on—*[Interruption]* No, we are going to continue to make that point because it is a valid point. *[Desk thumping]* We are not afraid of your PR spin that you are going to say, “Oh, we did not want to come here to do the Government—the people’s business in the middle of August”, we are not worried about that, you could say that until your sun burns out, it is still inappropriate. We are not going to fall for that. We are not afraid of that, right. *[Interruption]* Yeah, well, whatever, or your few days left in office.

What I am saying is that, number one, we heard it echoed from several people in the public domain and in this Chamber in the last 24 hours or so that rule number one about this Government is, we cannot trust you. *[Desk thumping]* It is not just the PNM perspective, it is a national perspective, we cannot trust you. Look at your track record, I mean, you do not have to go back 30 years or 50 years, which is what you like to do to justify your madness. *[Interruption]* No, you want to go back and talk about things that happened in 1961 and ’32—*[Interruption]* “How you mean?” Of course, yes, but again you tend to go up the history to suit your purposes. Before I get into describing why I say we cannot trust you, I mean, we have the AG talking about serving, power to the people and so on in this kind of thing, and nothing could be further from the truth with this constitutional amendment.

The AG emphasized about people voting and who voted for who and who could recall them and power to the people, did anybody vote for any of us in this Chamber? I mean, what is this? I mean, the man shouting the most about power to the people and give the people right to recall; nobody can recall him.

Sen. G. Singh: It is the elected people that determine we sit here.

Sen. Dr. L. Henry: Yeah. No. No. No. I am making my point. *[Interruption]* Yeah. You have your view, you will have your chance, right.

12.45 p.m.

So you have a situation where we as non-elected Members are debating whether to recall elected people. *[Interruption]* I know it allows for that, but it is not something we should easily overlook, and part of the consultation that did not take place should have been with both Opposition and Government people being involved. That is the essence of making decisions in the interest of the people; not unilateral stealth, creeping behind closed doors, for your eyes only; confidential information, reports, addendum and all kinds of subterfuge, and then spring it upon the Parliament in the middle of August. I will get back to that issue of consultation a little later on.

The Attorney General talked about the issue of race. I mean, this is something that we prefer we did not have to deal with, but since he raised the issue— I mean, we are talking about a Government who brought in to this Senate someone by the name of Devant Maharaj; that alone should disqualify you from talking about race in any forum. *[Interruption]*

Sen. G. Singh: Mr. Vice-President, 35(5). He is imputing certain innuendos and allegations against a sitting Member.

Mr. Vice-President: Sen. Dr. Henry, I will prefer you engage my discretion here instead of this. [*Interruption*] Sen. Dr. Henry, I am referring to you. Please keep on track and do not go down the line that you are going. I would prefer you do that; okay? [*Crosstalk*] Let us speak in terms of the Bill, and let us keep away—you are extracting from what was said previously, not in the context of which you are saying. Then you are casting aspersions on an entire Government based on a statement that has been made; therefore I will like you to refrain from doing so.

Sen. Dr. L. Henry: Hon. Vice-President, of course, I must abide by your ruling and your guidance, but the point I was making was that there were published articles by this particular person. This is not hearsay. This is something that is in the public domain over a number of years, so I do not understand. You cannot hide from that; that is the reality; so do not pretend that it is something I am making up; it is not any assumptions.

Mr. Vice-President: Sen. Dr. Henry, I have asked you to remove from that.

Sen. Dr. L. Henry: We could go on about the people who seem to have predominant influence in appointments in this Government, other people who are notorious for their views on race, and not in the positive way. They are a key part and key advisors to this Government. So do not come and tell me any nonsense about race from 30 or 40 years ago; it is you now. [*Desk thumping*] It is your ball, and we cannot trust you for several reasons. Your record is there in the public domain; we do not have to go back to 1960-something. You are in power now and look at the wreckage you have left, just in three or four years alone.

This legislation is another part of that wreckage. You have given us wanton wastage of public money, as my colleague Sen. Al-Rawi always

talks about, the hundreds of billions of dollars that have frittered away in three and a half to four years, with almost no economic growth to show for it. As I have said before, even by accident you should have had more to show for over \$200-plus billion, bordering on \$300 billion. We know we are expecting probably an \$80 billion budget this year, because as we said in the first budget, if you were spending record amounts of money in your first budget, what would you do when you get to year three and four. The hon. Minister of Finance and the Economy back then said, “Well, you know, we will have fiscal restraint”, and “This is just a temporary budget deficit”, and we said, “Nonsense”, and we have lived to see exactly what we had said, but I will have more to say about that on the budget debate.

Wanton wastage: LifeSport, fire truck, contract overruns, strange bidding or no bidding on major contracts, we have the whole scandal; again, more of that to come in the budget debate. [*Interruption*]

Mr. Vice-President: Sen. Dr. Henry, what are you speaking about? Your contribution is not based on the Bill that is before us? I would want you to stick to the Bill. The Bill speaks in terms of three major issues and, therefore, one would expect, yes, you would shift a little as everybody does, but apparently your contribution seems to sway away from the Bill. As you have stated, if you want, you have certain statements or contributions that you wish to make when the budget is being presented, well, hold that until the budget on September 08, and let us deal with the Bill that is before us. Thank you.

Sen. Dr. L. Henry: Okay, Mr. Vice-President, I was just trying to establish the ground for my argument as to why the Government cannot be trusted, before I move on to the substance, and I will link it back to the Bill

eventually.

Mr. Vice-President: Thank you.

Sen. Dr. L. Henry: What I am saying, it is the track record. Sen. Roach mentioned that there are a lot of people uneasy out there, and I wholeheartedly agree with it, because that cannot be ignored. There is a reason why people are uneasy, and I was just trying to establish that record and put it into the *Hansard* in particular.

Sen. G. Singh: You have a long run up. Short man, but a long run up.

Sen. Dr. L. Henry: Yes, yes, I am. I am getting there. That is all right.

So apart from establishing these issues, I want to say, that given the nepotism, the cronyism and all that we have seen from this Government, the appointment of unqualified people in positions, false papers, frauds, everything, there is a reason why Sen. Roach would have made the point that many people are uneasy. To be honest, as a lecturer at UWI for many, many years, I never knew we had so many frauds in this country until this Government took office, people with false papers and so on. We have email-gate, prison-gate, all kinds of things—[*Interruption*]

Sen. G. Singh: Email-gate perpetrated by the leader of the PNM!

Sen. Dr. L. Henry:—that is piling on, so this raises another issue in the public domain. [*Desk thumping*] We are not annoyed just about this particular Bill. We are annoyed about the whole track record of the Government.

Sen. G. Singh: “PNM annoyed from the time they lose power!”

Sen. Dr. L. Henry: So what we have is a situation where the Government has engaged—and we have seen this kind of deceit with the Tobago internal self-government Bill, before the election last year. So what I am saying is

your track record speaks for itself. I am just establishing that fact.

So that rule number one is that we cannot trust the Government under any circumstances. If you ever doubt rule number one, see rule number two. Rule number 2 is very simple: see rule number one. [*Laughter*] I will move on now.

Mr. Vice-President, we must oppose this Bill for many of the reasons outlined by the speakers before me; we have to. It is absolutely objectionable and should be thrown out with the rest of the waste, sometime later this evening.

How could any right-thinking citizen, after listening to the contribution of Mr. Winston Dookeran yesterday by our very own colleague in the Senate here, Sen. Drayton, my PNM colleagues on this Bench, even consider having support for this? This Bill should be withdrawn forthwith, [*Desk thumping*] no beating around the bush, no playing.

I must admit that I was a bit dismayed by the contribution of my friend, Sen. Dr. Rolph Balgobin, yesterday. I really was a bit dumbfounded as to what was really the point of his contribution. Many in this Chamber know that I have enjoyed a very good, cordial relationship with my fellow Senator, even though he is on the Independent Bench, so I am not trying to cast any aspersions on him. I just wanted to put on the record that I was a bit perplexed as to the reasons why he said he may support the Bill. He never said he would, so I want to make that very clear. He said that there was a possibility that he could support the Bill, which is his prerogative, of course, so I am not trying to say that he is wrong for stating his view. But I am saying, I could not understand the logic that was placed, because somehow there was some kind of hemming and froing and basically not getting

straight to his objections or his comfort zone with the Bill.

The one thing I wanted to point out is that in terms of the argument he raised in terms of breaking ranks with the Independents, that this was in the public domain and in the papers and so on. So we know about this issue and he mentioned that issue, and I just want to say that I beg to differ, in that, it is not about breaking ranks with any of your colleagues on the Independent Bench. It is about breaking ranks with the population, [*Desk thumping*] as Sen. Roach so eloquently articulated a few minutes ago.

It is not about breaking ranks with your fellow Independent Senators. We know that there is no caucusing, and Independent Senators are entitled to their private assessments of Bills and so on, so we are not debating that. That is within their rights, and they can take whatever position they want. That is absolutely clear. But to say that people are putting pressure on you to break ranks with your fellow Independent Senators is not the issue.

The public is concerned about breaking ranks with them, where people understand that this does not make sense. It is wrong by process and by other facts. So it is not just the process. The process is the main problem, because when we talk about the process, that alone should disqualify the Bill from being debated here. That is enough ground, but we could go further.

The Attorney General talked about consultation and so on in his contribution, and how many people were consulted. They act as though this is some kind of magic, and called some figures relating to consultations on changes in the Constitution from the past. Forgive me, Mr. Vice-President, but I want to quote from our first Prime Minister and father of the nation, Dr. Eric Williams.

Sen. G. Singh: A good man.

Sen. Dr. L. Henry: A very good man. I may quote a little extensively just for the record, because I think it is important to make the point to the population, who would not have had the exposure to this type of information. We, of course, tend to go by robber talk and hearsay when it comes to politics and, as we say in some circles, “rum shop talk”, and when you go back and check the information, from back in those days, you realize that a lot of what you thought was true turned out to be absolute nonsense.

1.00 p.m.

So what I am going to do, Mr. Vice-President, is quote extensively from what happened in the 1958 to '62 era when the PNM would have now come into power, and was discussing the Constitution. This is from Dr. Eric Williams, “*Forged from the Love of Liberty*” page 136. I will take off my glasses to read it since it is close up and it is in very fine print. So forgive me, I apologise up front for reading.

“On 21 November 1958 the resolution was passed in the Legislative Council for the appointment of a Select Committee on Constitution Reform under the...”—said—“Speaker, Mr. E.M. Duke... The deadline was fixed at 25 February. The citizens were given 33 days to submit their views.”

Listen carefully.

“Complaints were made that the period was too short.”

Sounds familiar?

“A new advertisement extending the period to March 31 was therefore issued on March 4. The citizens thus had a total of 67 days to submit their views.”

Could you match that with this nonsense? [*Desk thumping*] Sixty-seven, over two months. And who says, listen to people. This is the example.

Sen. Al-Rawi: Two weeks after they voted for it.

Sen. Dr. L. Henry: Right. So the period was extended on public complaint that the period was too short. What were the results of these efforts to enlist the corporation of citizens? Please note that the citizens had no draft on which to comment. So this was taking the views precisely from citizens, and that guided them. Right.

“They were merely asked to submit their views, *in vacuo*, in the abstract. In the 25 days allotted in 1947, to the O’Reilly Committee, received 18 memoranda. In 33 days allotted in 1955 the Sinanan Committee received 23 memoranda, but the Committee considered that only seven of these were of any substantial use. In the total of 67 days allotted in 1959 after an extension of 35 days, the Duke Commission received 10 memoranda. In our case, we allowed 40 days for the submission of views, but the citizens were asked to comment on a detailed Draft Constitution.

We printed 10,000 copies and fixed the price at 10 cents. We had to print a further 8,000 copies—18,000 copies in all. We wrote to 268 organizations in the country. And this is back in 195—268 different organizations...”—and further—“...sending two free copies...”—even at 10 cents. Sent “...two free copies of the Draft Constitution to each, inviting them to submit their views.”

So there was wide consultation. In fact, I was reminded by my father—some of you would know very well—that Dr. Eric Williams even consulted with parties along the line of NJAC which had approximately one

people in it. [*Laughter*] Right.

Sen. Al-Rawi: That is right. And the electorate was only 300,000 not—
 [*Inaudible*]

Sen. Dr. L. Henry: Right.

Hon. Senator: One people.

Sen. Dr. L. Henry: Yeah.

Sen. Al-Rawi: Bad English intended.

Sen. Dr. L. Henry: Yes. Yes. So what I am saying is that—and I further want to go on to emphasize that this was not a simple, ram down your throat type of effort when we are dealing with serious matters of the Constitution.

So—“The result is we received 84 memoranda from organizations,...52 memoranda from individuals in all walks of life, with 723 signatures. We received, in other words, almost eight times the number of comments, the O’Reilly Committee received, six times the number submitted to the Sinanan Committee and almost 14 times the number submitted to the Duke Committee. That is the comparative score...”

So the Draft Constitution, the venerable Dr. Williams, continued.

“The Draft Constitution,...was a best seller.”

And check out the level of detail and information that was required and was present in the early days of the PNM. Right. So it was a best seller.

“No book or document ever sold in Trinidad and Tobago as the Draft Constitution has sold. Here are the details:”

And the venerable Eric Williams had the details by bookstore. Remember we did not have Internet and so on back then. Some of you might say, why he did not put it up on the web.

So the book—Fogarty’s Book Store—every single one of 1,450 copies were sold; Muir Marshall”—some of you might remember that place. [*Crosstalk*] Okay—“every single copy of 1,300 copies were sold; Tunapuna—every single one of 350 copies were sold; Point Fortin—every single one of 200 copies; Couva—every single one of 200 copies; Chaguanas—every single one of 200 copies; Jeffers Book Store—every single one of 600 copies were sold; Sealy’s Book Store—50 copies; Cheong’s Book Store—every single one...”

And he goes on and on to list the kind of interest that constitutional issues generated in the population. Right.

In additions to these large sales in Port of Spain, no fewer than 5,180 copies were sold over the counter at the Government Printery. Other areas of the country sales were remarkable good. In Arima, only 17 copies remained of 500; San Fernando, 120 remained of 1,530. In Erin, only 10 copies remained unsold out of 200. In Cedros, only 15 copies remained out of 200. Siparia—and we go on and on. Okay. So let us establish, without any shadow of a doubt, what real consultation means. [*Desk thumping*] This was the platform, this was the basis for having consensus in our country, despite all of the rhetoric. And we have a few more quotes coming up to deal with some of the other issues raised, but for now, since my time is moving, I will proceed.

So, we have warned the public before. Do not be hoodwinked by lofty statements coming from the Government when we know the facts are totally different. And you can shout loudly, you could limbo, you could do whatever you want, the point is that we do not trust you, and even when you stand up there and sound confident that what you are doing is in the interest

of the people, it rings very hollow at the time. [*Desk thumping*] We have warned the population before. I said it a couple of years ago, but I will say it again for the benefit of the Members who were not here. You cannot bargain with the crocodile. The basic principle of bargaining with a crocodile is that you do whatever he wants, and he eats you last. That is the fact.

Now, many people in this country who were in and out of the government have come to realize that. Certainly we now know Winston Dookeran understands this now. [*Desk thumping*] Carolyn Seepersad-Bachan understands it now. [*Desk thumping*] The MSJ understands it very well now. [*Desk thumping*] Mr. Herbert Volney, remember him? [*Desk thumping*] He understands it very well now. And listen to this one. I am sure that Dr. Merle Hodge understands this very well now. [*Desk thumping*] Even the formidable Mr. Jack Austin Warner understands this now. [*Desk thumping*] So in other words, I have lived up to all my worst predictions.

Now, Mr. Vice-President, I actually do have something to say about the technical aspects of the Bill. Okay. Yes. I have gotten there now. Okay. Now there are just two things of the Bill that I want to comment on. I could comment on many more, but so many speakers have covered this ground, but I will just add my take. Some of you may be surprised to know that there is actually quite a bit of extensive economic research on the issue of the effects of run-off. I have downloaded several theoretical papers and some with empirical analysis and so on. So when the Attorney General talks about data, you know, we could do that too. Right. It is what I do.

So when we look at the information regarding run-offs, I have so many issues I could raise, but I will just raise a few. Very often run-offs, as

we know, some speakers have alluded to before, can influence the outcome because of what is known as strategic voting on the part of voters. That is the technical term used in the economics literature. That once voters are aware that there are run-offs, the initial vote can be effected just because they know that there is a possibility of a run-off. And there are several studies that I have looked at that could influence the process, and we have seen it happen. And in some cases the initial winner turns out to lose on the second round. Right.

And I will just site this one case here of a Republican US Senate primary in Texas in 2012, where on the first round one David Dewhurst got 624,000 votes, and the second place candidate was Ted Cruz, 479,000 votes. So the winner had 44.6 per cent, and the loser had 34.2 per cent. There was a whole string of small candidates who got several thousand votes split among them. And when you went to the run-off, David Dewhurst, the winner on the first round, went down from 624 to 480,000 votes, 43 per cent. Ted Cruz went from 479,000 to 631. Right. Something—[*Crosstalk*] that is what you face—[*Crosstalk*] But again, this was used in the paper to show what I was talking about, how the impact of what is called strategic voting. Okay.

So that if the other people know what the first round information is, they could—or they guess, or they make the right guess; and many people switch their vote after. Now all those people who were left out, right, many of them either stay home or they switched to the second place. And I will explain that later on, in a few minutes, when we look again at the whole issue of run-offs.

And the Attorney General was very careful to say, well the figures he

was quoting were from presidential elections in different parts of the world, and we have already established that what you are proposing is not that. So then why are you trying to still ram it down our throats, and talking about presidential elections. [*Desk thumping*] Just throw it out. Just “doh” not even mention it because it is not the same thing. Do not quote misleading figures for something that you are not proposing. If you were proposing a Bill for the population to vote for the existing President rather than have him elected in the Parliament, then those figures would be appropriate. So it is all huff and puff and irrelevant statistics because we are not talking presidential elections. Right.

But when you go to local elections in the place where elections are supposed to be the best and well-run elections in the world, and the bastion of democracy, when you go to the US—I am quoting here, Mr. Vice-President, from the Centre for Voting and Democracy, the FairVote campaign. Right.

“Run-off elections...”

And I am talking about non-presidential elections here. This is for State representatives and so on.

“Run-off elections for all our offices also tend to have lower turnout than first round elections...”

1.15 p.m.

Remember the AG was talking about, it is higher and so on, in the second round? For presidential election. It is the same kind of system that we have here, where people do not turn out to vote heavily in local government elections but they will come for a general election. It is a different thing altogether. So they find that:

“...lower turnout that first round...especially if the first round election takes place on the same day...”

Or some time close, I would assume.

“For example, of 171 regularly scheduled primary runoffs for U.S. House and U.S. Senate from 1994 to 2012”—a period of eight years that they looked at—“all but six of them resulted in a turnout decrease between the initial primary and the runoff, meaning that 96.5%”—of the time—96.

You hear that? So do not tell me any nonsense about run-off in just regular parliamentary representative elections. No. Compare apples with apples, not apples and oranges.

“The average decline in turnout was 35.3%.”

And I could go on. Once you get past non-presidential elections, you run into this problem, and many others have cited it. I am just giving you more meat on the bone. But also, I want to make another point before I move off from the run-off. Run-off elections have a very sinister origin that some of you may not know, especially in the context of the American system. I am quoting now from an article in *The Washington Post*, June 04, 2014, this year, and the title of the article is: “Runoff elections a relic of the Democratic South”. For those of you who know a little bit of American history, that should raise alarm bells.

Sen. Vieira: The Democratic south was not democratic.

Sen. Dr. L. Henry: Right. The Democratic south, as my friend and colleague, Sen. Vieira is saying, they were not. Everyone knows that the Democratic party was the pro-slavery party.

Hon. Senator: No.

Sen. Dr. L. Henry: You did not know that? Stop playing games.

Hon. Senator: The Republicans.

Sen. Dr. L. Henry: That was the pro-slavery party in America, up until the earlier part of the last century. So run-off elections, according to the author from *The Washington Post*:

“...runoffs”—elections—“are low-turnout affairs,”—in keeping with my previous statistic—“costly for cash-strapped state elections boards”—another point raised by other speakers on the Independent side—“and draining for candidates who have to spend another month or two”—in the American case—“campaigning for the votes of a narrow segment of the electorate. These days, given Republican domination of the South, they can serve to elect the most conservative possible candidates.”

So run-off elections have a sinister side to them, so that is why I was explaining, it should ring alarm bells, especially in the context that I laid, of the lack of trust that we have in anything the Government brings. [*Desk thumping*]

“But when primary and runoff elections were first created, around the beginning of the 20th Century, Republicans were an afterthought.”

The Democratic party was in power in the south.

“The runoff system is a vestige of a time when white Democrats controlled Southern politics, and manipulated election rules to make sure they stayed in power.”

Okay? That is the history. Furthermore, from the same article:

“But most states established the runoff”—I skipped over a few parts—
 “to maintain white Democratic domination of local politics. Letters

and speeches”—from that era—“that survive from the period show race was very much on the minds of those Democrats who advocated the primary-runoff...”

I continue. Very critical—my last quote from this article.

“The African American voters who did remain on the voter rolls were energized in the years following the Civil War, said Carl Jillson, a professor at Southern Methodist University in Texas. Democrats, who used to nominate candidates in conventions, began to move to primaries and runoffs as a way to unite the factions that split the party, and thus to head into a general election with an advantage against Republicans.”

So what you are doing here was probably lifted from the Democratic south.

Sen. G. Singh: How you arrive at that?

Sen. Dr. L. Henry: I said, probably.

Sen. G. Singh: Probably, and it is sufficient?

Sen. Dr. L. Henry: No, it is not. If the cap fits, wear it. [*Desk thumping*]

Sen. Al-Rawi: If the cap fits.

Sen. G. Singh: Foolishness, foolishness.

Sen. Dr. L. Henry: Hey, hey. That is unparliamentary.

Sen. G. Singh: My apologies.

Sen. Dr. L. Henry: I do not take it personally.

Mr. Vice-President: No, no, but that is not accepted. That is not accepted by the Chair and, therefore, he has withdrawn that. Okay. [*Crosstalk*]

Sen. Dr. L. Henry: Yeah, yeah, I know. When you are getting licks you tend to react spontaneously, you know, cover your—[*Laughter*]

Sen. Al-Rawi: “Braksing”, they call it.

Sen. Dr. L. Henry: So, Mr. Vice-President, I think I have, in addition to what was said by the other speakers, I think I am clear in terms of the impact and the issue of run-offs, so I want to move to another issue in terms of the whole scenario now with the recall, and I think this would be my second major point.

Now, Mr. Vice-President, the recalls are not a panacea, as the Government is making it out to be. And this is the second issue I have with the Bill. I think, once again, I must commend Sen. Roach when he touched on this issue. I think he dealt with it in an excellent manner and I will just add on a few of my own thoughts in looking at the recall situation.

Recalls are not an appropriate substitute for good governance. This is what is being peddled to us. It is not a good substitute for bad governance. Now, the point I am making is that if you have a dysfunctional government, no amount of recalls is going to help. You will just end up putting more square pegs into more round holes.

Sen. Al-Rawi: That is right. That is right. [*Desk thumping*]

Sen. Dr. L. Henry: And if you look at the Government's record, every time they fire somebody; they move someone, they seem to appoint somebody even worse than the person who was there. [*Desk thumping*] Anybody wants to tease me to name some examples?

Hon. Senator: No, no, no, no, no. They know.

Mr. Vice-President: [*Inaudible*]

Sen. Dr. L. Henry: "Tease" is not unparliamentary.

Mr. Vice-President: [*Inaudible*]—the Standing Orders—[*Inaudible*]

Sen. Dr. L. Henry: Okay, I stick to your ruling and your guidance. In fact, at one point we had a challenge on this side remembering the names of the

people on the other side.

Sen. Al-Rawi: The portfolios.

Sen. Dr. L. Henry: Every time we looked around there was a set of new faces, and we see some here today too. So, in, fact, the recall can be seen as a way of abdicating the responsibility of the leader. [*Desk thumping*] You could always say, “Well, oh, we are giving power to the people”. But what about your power to deal with errant Ministers and MPs? [*Desk thumping*]

In fact, the leader will be telling the population, “If you do not like them, you fire them, not me”. That is the essence of the recall. So that is the other side of trying to pretend that you are giving people power. In other words, it could be an excuse to abdicate your own responsibility.

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

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

Question put and agreed to.

Sen. Dr. L. Henry: Thank you, colleagues. I realize no “ayes” came from the Government side, and, well, I did not hear any much behind me either.

Sen. Robinson-Regis: The Leader of Government Business. The Leader did say it.

Sen. Al-Rawi: The Leader always says it.

Hon. Senators: “Aye.”

Sen. Dr. L. Henry: Oh, the chair is empty, okay. I did not realize they were missing. [*Crosstalk*]

So I am pretty much at the end, but this is a critical point, the idea that the Leader could be abdicating responsibility for reining in her own MPs,

Sen. Dr. L. Henry (cont'd)

because what we have is a party in power where there is a leader of a party. The people in the Lower House account to the Prime Minister.

Sen. G. Singh: Or to the Leader of the Opposition.

Sen. Dr. L. Henry: Yes, thanks for the confirmation, true. But seriously, it is still a party-based system and people are responsible to their political leader, and in the case of the Government, the Prime Minister. So you can have a situation where you have a totally unsuitable MP running amok, doing all kinds of foolishness and the Prime Minister says, “Well, you know, that is your problem. You decide. Go and get 6,000 votes or whatever, how many thousands, and you handle that, if you do not like it.”

In fact, finally, I think this might be the source of this attraction for the Prime Minister, because she is tired of firing people. [*Desk thumping*]

Sen. Al-Rawi: She holds the record in the Commonwealth. [*Crosstalk*]

Sen. Dr. L. Henry: No, seriously, this might be a very attractive proposition for the Prime Minister because, I mean, how many people could you fire? I mean, it must be stressful to have to be firing people every three months—[*Interruption*]

Hon. Senator: Three months is plenty.

Sen. Dr. L. Henry:—and reshuffle and so on. So in terms of this proposal, this Prime Minister might find this attractive, but we do not. I mean, the amount of firings, of course, is approaching Guinness Book of World Records. And you know, before next year, we are sure there are a few more that might go. When we used to say this two and three years ago, our colleagues on the Government side used to say, “Yeah, you go ahead and wait”, and most of them would be gone within the next few weeks.

I remember when—it was the first reshuffle or the second, when we

were here—[*Interruption*]

Sen. Al-Rawi: It was the third.

Sen. Dr. L. Henry:—and they sent around a list. We were having a retreat in Tobago right after and they sent around a list as to who would be in the retreat, and several Government Members signed first. They sent the same list around for the Government, the Opposition and the Independents, so we “coulda see” who signed, and almost everybody who signed as being in Tobago were fired the same evening. So, yes, I mean I do not want to call names, but I could because I remember them very clearly. I signed very confidently. [*Desk thumping*]

So I close by just reminding the population and our colleagues here that we have no reason—we have a very solid bit of evidence of the current Government and their behaviour and their track record. We do not trust you, rule number one. Do not forget it. And we are not accepting this Bill in any way, shape or form.

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

Mr. Vice-President: Hon. Senators, the time is 1.30 now and I intend to have the lunch break, so therefore we return here at 2.30. Therefore, the sitting is suspended until 2.30.

1.30 p.m.: *Sitting suspended.*

2.30 p.m.: *Sitting resumed.*

Mr. Vice-President: The sitting has reconvened and we will continue with the debate on the Constitution (Amdt.) Bill. The last person who spoke was Sen. Dr. Henry. Sen. Nicholas. [*Desk thumping*]

Sen. Garvin Nicholas: Thank you very much, Mr. Vice-President. Let me first say a thing or two, to give thanks to the hon. Prime Minister for the

opportunity given to me to speak on this historic Bill. It is not often that a Member of Parliament has the opportunity to make such significant changes to the lives and to the rights of people, and it gives me great pleasure to be able to speak on promoting rights to recall Members of Parliament for non-performance, the right to majority representation so that the will of the majority can be pursued whilst respecting the views of the minority, and the right to limit and curtail the time one person can serve as Prime Minister.

But before I go further, Mr. Vice-President, through you, to the goodly Sen. Dr. Henry, who is not present at the moment, I just want to make the point that I have always put Trinidad and Tobago first. [*Desk thumping*] I am not a racist. I am a proud citizen of Trinidad and Tobago. [*Desk thumping*] I am proud to be part of a partnership of all ethnicities, religions, members of different geographic locations, socio-economic backgrounds and the like. [*Desk thumping*]

Mr. Vice-President, the most controversial part of this Bill to me, is the bizarre and frenzied opposition to it by the Opposition. [*Desk thumping*] They have spent a lot of time through public meetings, talk shows, overnight vigils, protest and, dare I say, gross misrepresentation of the actual benefits of the Bill. But you know, this is not surprising. If one were to just study history, one would see that every time in history where power is taken from the elites and passed on to the people, there has been significant opposition. [*Desk thumping*] We go way back to our biblical studies, where Moses had to fight Pharaoh to set his people free, to give them rights.

Most recently, and I say recently being a couple hundred years ago, there was the other fight to end the bondage of enslaved Africans. Again,

the elites fought against giving people, ordinary people, rights to be called human beings. We remember apartheid in South Africa, where Nelson Mandela spent 27 years in prison fighting for the rights of his people to give, again, ordinary human beings the right to walk on the same side of the street as people of fairer complexion; the right to partake in meals in the same restaurants. That was fought against with guns, dogs and jail; the right to sit at the front of a bus that Rosa Parks fought for; the rights for equality of employment opportunities; the rights for equality of women so that women could enjoy the same rights as men; the rights of a young Pakistani girl to an education which we had the opportunity to hear speak courtesy the hon. Fazal Karim. [*Desk thumping*] These, Mr. Vice-President, are all examples familiar to all of us, where people of vision put their lives at risk to fight for the rights passing from the elites—a small group of elites—to the people.

In all those circumstances and struggles, well-dressed men stood in great chambers and articulated why these rights should not pass to the people. They did so passionately. They were able to bring all kinds of legitimate reasoning, but at the end of the day, luckily for all of us, all of us who sit here today, we were able to overcome those elites and gain rights to be able to stand here today, speak, to be educated, to even vote.

Mr. Vice-President, rights to development, health care, education and women empowerment are still being fought for. In fact, I spent the last three and half years fighting for others in the less developed Commonwealth. I stood up to great powers, powers that pretend or make out themselves to be the paragons of democracy, the paragons of human rights, and I had to fight against those very powers to ensure that the less developed countries, the less developed people in the Commonwealth got basic rights of health,

education and the empowerment of women. [*Desk thumping*]

Today, I happily stand in this Chamber to fight for the rights of my fellow citizens, to put power into their hands. I sit here, I listened to the contributions of hon. Members, I have listened to the contributions of hon. Members in the other place, I have listened to the talk shows, I have read the commentaries and I ask myself and I asked quite a few people: what really is the issue; what is the issue? From this Chamber I have heard lack of consultation, the Bill kills off small parties, run-off did not come from the people, the postscript was a private document, it is an abrogation of rights because the Constitution says one past the post, not two past the post. I have heard very disappointingly that an Independent Senator led to the coup of 1990.

Sen. G. Singh: That is not true because Abu Bakr was not an Independent Senator. [*Laughter*]

Sen. G. Nicholas: I have heard that change must be for the common good; second round is likely to be a minority vote; why run-off if someone gets 49.6 per cent of the vote; why rush; commission chaired by Government Minister so it is flawed; have a referendum. I have even heard reference to the THA that they would be next because of the simple vote; the provision will lead to mayhem. Those are the sorts of comments I have heard, none of which actually say why this Bill should not be passed and I will return to all of those questions and comments in a little while. But for now, Mr. Vice-President, let us examine where we are now.

Everybody complains about their MP. There are, even with the best performing MPs, constituents all around this country who complain that they are not being well served by their Member of Parliament. It has been the

history that Members of Parliament come in in their first year—and this is what I heard people say—they do very little in the first two/three years, and in the last two years or the last year, leading up to elections, you see them all the time asking again for their vote and this disturbs a lot of people and they would like to do something about it.

At present, yes, sure there is a recall provision in the Constitution that allows for a leader of a party, after the party has expelled the Member, the leader of the party confirms the expulsion and the Speaker declares the seat vacant. But that, Mr. Vice-President, is simply not good enough. That does not promote democracy, that does not promote good representation, and I separate good representation from good governance because often a Member of Parliament might become a Minister and he or she may well be an excellent Minister, and therefore, as far as governance is concerned, runs a Ministry properly, as far as the goods and services that that Ministry provides, all done very well, spends a lot of time with the Ministry doing executive work in Cabinet, but spends very little time with his constituents. Difference representation from governance.

We would like to get to a state and it is well articulated by the people. Not by us, the people. They would like to get to a state where they can hold their Member of Parliament accountable [*Desk thumping*] for the aspect of representation, and that is all we are asking here, you know. We have come here to ask that we put a system in place that will give the people of Trinidad and Tobago an opportunity to hold their Members of Parliament accountable at the level of representation. How could that be a bad thing? How could any civilized right-thinking society think that holding their Member of Parliament to account could be a bad thing?

2.45 p.m.

What is it that is feared? The only time a representative will fear being assessed and judged is if he or she knows that his or her performance as a representative is below par. [*Desk thumping*]

Sen. G. Singh: Or they have contempt for the electorate.

Sen. G. Nicholas: Or it could be that they just have contempt for the electorate.

The second proposal, Mr. Vice-President, or the second position I wish to examine is that of the election of a Member of Parliament at present. Now, the first past the post has been trumpeted as an excellent, efficient, safe way of electing a Member of Parliament, and you know you are right. I recall when I first started doing constitutional law, and we were going through the learnings of constitutional law, and one of the key elements of constitutional law was electoral processes. It was very clear that hundreds of years of debate, of consultations, have been spent on trying to get the electoral process right. To date, we have not got it right and that is why there is no universal system of elections. Different countries experiment with different models and systems that they believe is most appropriate to their own circumstances.

As we approach the age of 52 as a nation, it is appropriate and it is right for us to examine in greater detail our electoral process, and is it relevant and is it the most appropriate for our circumstances, and the answer is no. And the answer does not come from me that it is no, the answer comes from the many people all around this country who are interested in electoral reform and who have talked about electoral reform for the last few decades, which has resulted in a number of electoral reform papers and

commissions being set up because we are not satisfied.

And when we speak that this, the present system should be held on to, the status quo should be held on to, because if we go to run-off, it will be a bad thing. It will somehow create evil in the system and there can be no explanation for that evil because the first-past-the-post system allows for no overall majority. There is no overall majority required. Minority representation is common place. Small parties are reduced to irrelevance. And I say this again, small parties, after a classic first-past-the-post election, are reduced to irrelevance. That is the classic killing off of the small party. They have no voice after that.

Sen. Robinson-Regis: Excuse me, if I may? May I interrupt you please to ask a question?

Sen. G. Nicholas: Sure.

Sen. Robinson-Regis: Yes, thank you very much. Would you be able to show us the evidence of this, if you have it? That statement you just made.

Sen. G. Nicholas: Which one specifically?

Sen. Robinson-Regis: The statement you just made. The last statement about small parties. If you could give us the evidence.

Sen. G. Nicholas: Absolutely.

Sen. Robinson-Regis: Thank you.

Sen. G. Nicholas: Absolutely. I can tell you having been the leader of a small party [*Desk thumping*] the difficulties that one actually encounters in order to break through the first-past-the-post system. I struggled from 2005 to 2010 with the Movement for National Development. We had some of the best policies but we could not afford to come to the population because the first-past-the-post system had entrenched the big parties. [*Desk thumping*]

The big parties attract the funding; the big parties, people understand that it is winner takes all. People in constituencies understand that they risk allowing a party that they do not wish to come into Government the opportunity of Government if they vote their conscience, and that is the evidence. [*Desk thumping*]

First past the post also allows for a few people in marginal seats to actually determine the outcome of elections. So that you have these big chunks of safe seats all around the country, and 52 years of independence will show that there are some constituencies in this country that have remained underdeveloped for 52 years, simply because the vote in that block is taken for granted. [*Desk thumping*] You can make statements such as we can put a “crapaud” in a specific tee shirt, or tie, and the population will vote for them anyway, regardless of whether they have roads, drainage, sanitation, in those constituencies—basic infrastructure.

Sen. Ramlogan SC: Fifty years of government.

Sen. Robinson-Regis: Where?

Sen. G. Nicholas: Where?

Sen. Robinson-Regis: Yeah, where?

Sen. G. Nicholas: Well, it is clear to me the question being asked by the hon. Sen. Camille—[*Crosstalk and interruption*]

Sen. Robinson-Regis: Where in this country are there no roads and infrastructure?

Mr. Vice-President: Please, please, Senator. Please allow the Senator making his maiden speech to go—please. Continue, Senator.

Sen. G. Nicholas: Apologies, Mr. Vice-President, for not sitting while the Vice-President was standing. No, I am not going to call the constituency or

constituencies but the very fact that the hon. Sen. Camille Robinson-Regis of the PNM is unaware of constituencies around this country that have been remained underdeveloped tells you how much in touch they are with their constituents. [*Desk thumping*] And if ever there was a reason to move away from classic first past the post, that is it. [*Desk thumping*]

The other issue is that of term limits or prime ministerial terms. At the moment, a Prime Minister can serve for an indefinite period of time, subject, of course, to the electorate, and because of the way in which the first-past-the-post system works, by allowing for minority governments to come into being and be perpetuated, it is very possible that a minority Prime Minister can serve for a long time.

But more than that, a Prime Minister really and truly sitting at the head of a Government has a shelf life. A Prime Minister comes, has some ideas, and in the first two terms, has enough time to bring those ideas into fruition; after that, you can get stale. There are a number of countries around the world, including the United States of America, that have realized this. We, again, the people, have been talking about term limits for a very long time and they have been asking for it. They have been asking for it because they understand that it is not the most efficient system to keep a Prime Minister going and going and going and going.

Now, in 2010, you know it has been asked—this whole issue of consultation has been discussed and the process has been discussed. In 2010, I went to the people as a candidate. I walked, I met people, I spoke with people, discussed our manifesto, discussed our plans, and we promised term limits—I promised term limits, I promised recall and I promised a fairer voting system. As a result of that, Mr. Vice-President, 8,076 people

from Diego Martin North/East voted for me to give them that. [*Desk thumping*] Not 500 people at a poll—8,076. [*Desk thumping*] But more than that, some 350,000 people voted nationally for that. [*Desk thumping*] So when we talk about consultation, that is consultation! [*Desk thumping*] We went to each and every citizen of Trinidad and Tobago and clearly articulated what we were going to deliver and they said, “Thank you, we want it”. [*Desk thumping*]

The Prime Minister, in her wisdom, even with the mandate of the people, set about to deliver the promise by setting up even more consultation. A committee, as I understand it, was to go into the community and solicit views on broad issues. The initial report was prepared after 21 such consultations and comprises some 290 paragraphs of suggestions. This was the document, 290 paragraphs of suggestions.

The document was deemed a philosophical approach and really just gives a broad feel for what people were thinking. There were no concrete recommendations save to say and I quote from paragraph 290:

“As a Commission, we listened and we debated. The end product is now before you for your further consideration. We have done our job and the next step is left to our parliamentarians and the population.”

That was the closing paragraph of this document. They did their job, they brought about a philosophical document taking into being and into consideration all the views expressed during the 21 consultations, and it was for the Government, the parliamentarians, to have further considerations and take it forward.

But, the commission then embarked on four more public consultations to get feedback from the population. On Monday, February 10, they went to

north Trinidad at UWI; on Wednesday, February 12, they went to central Trinidad at the Chaguanas Regional Corporation.

3.00 p.m.

On Monday the 17th of February, they went to Tobago, at the Signal Hill Government, and on Wednesday 19th they went to south Trinidad, at the Paria Suites Hotel. This, to further discuss what they had presented to the population, and they presented this, I believe, in—this is dated December 27, 2013. So, they presented this in December and in February, they went ahead and had more consultations to refine the original reform document, all very proper because they promised the population that is what they would do. So they were again keeping a promise.

Now, they then produced a second document entitled: *Postscript to the Report of the Commission*. Much has been said about this document. They have, those in opposition to the reforms, tried to somehow demonize this document. It is said that this document was private, that this document came out of nowhere. But the reality is that this document was produced after the refinement consultations and it is only appropriate, that if you have further consultations and you are to report on these consultations, that you do so in writing and you send it to the Prime Minister who is head of the Cabinet, which the Cabinet in fact was the body that set up the Commission. So you must report to the Cabinet. And who do you send the document to, if you are reporting to the Cabinet?

There have been several commissions throughout our history. Each commission, when reporting to the Cabinet, sends the document to the Prime Minister. Who else could they send it to? And if you are sending a document to the Prime Minister, then you address it to the Prime Minister.

And this is what was done with this document. Look at it. Nowhere in this document does it say “private and confidential and for the Prime Minister’s eyes only”, nowhere.

In fact, at paragraph 4 it says:

After due consideration of the feedback received the Commission met and considered issues that were raised and arrived at a consensus on a suite of recommendations that the Commission felt required further commentary.

It goes on in paragraph 5 to say:

The discussion below is based on comments sent by the commissioners to the Secretary of the Commission on April30, 2014.

And I know the 30th of April has been brought up by others as a date of conflict. But here is what happened on 30th April.

The discussion below is an expansion of the seven items that constituted its comments of April30 instant. These comments as of April30 instant are highlighted in bold text below for ease of reference.

So that the document tells you what was sent on April30. If we go into the document a little bit, the first bold text is at paragraph 6. It says:

The proposals for constitutional reform should be separated into different Bills requiring special majorities or simple majorities as the case may be.

That is what the Government has done. This is from April 30.

At paragraph 10 it says:

The proposals for the right of recall and for term limits for the Office of the Prime Minister ought to be brought forward as soon as possible

as they only require simple majorities.

That is what we have done, following the process, following the consultation recommendations.

At paragraph 24:

“The proposal for fixed dates for general elections ought to be considered within the parameters of the discussion in the Report of the Commission at paragraphs 108 to 111 notwithstanding the special majorities required and should be in a separate Bill.”

And we spoke about that as well. The hon. Prime Minister spoke about that.

Paragraph 29:

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

So the proposal in this document was to bring proportional representation for the election of the Senate. The Prime Minister spoke about bringing that.

Importantly, paragraph 45:

“The Commission stands by its recommendation for the retention of the first past-the-post system for the House of Representatives; however, any opportunity to make the first past-the-post system for election to the House of Representatives a fairer one will be welcomed by the Commission.”

This is the report, after due consultation throughout the country.

Sen. Al-Rawi: Thank you, hon. Senator. Just for clarity. You referred to the name of the report a while ago and, perhaps, I did not get it correct. Would you mind just providing the correct name and could you please indicate where that document is from and if it is signed as well please?

Thank you.

Sen. G. Nicholas: The document is entitled: *The Constitutional Reform Commission, Postscript to the Report of the Commission*, and it is explained—[*Interruption*]

Sen. Al-Rawi: Where did that come from? Because I downloaded it off the Power to the People website and that is not the document that is on the site. It is called the addendum. Is there a different document? Just for clarity.

Sen. G. Nicholas: It is the same document, probably referred to by a different name but as far as it is here, it is called postscript.

Sen. Al-Rawi: Thank you.

Sen. G. Nicholas: Now, of course, one can play games with little things. And to the bottom it has the Constitution Reform Commission 18th of July, 2014.

Sen. Al-Rawi: Signed?

Sen. G. Nicholas: No signature is on it.

Sen. Al-Rawi: Thank you.

Sen. G. Nicholas: But it was confirmed by email, I am told. Now the reality is that this document is not in doubt. So we can play the games, but I am not here to play games, I am here about serious business. I am here about serious business, because I gave a promise to the people I walked around and asked to vote for me. And we promised that we would make things better for them. And whether you call it addendum or postscript, in paragraph 45 in either document, it says the same thing. So we would read what it says in the addendum.

“The Commission stands by its recommendation for the retention of the first past-the-post system for the House of Representatives;

however, any opportunity to make the first past-the-post system for election to the House of Representatives a fairer one will be welcomed by the Commission.”

Now, this honourable Senate would note that the other parts of the addendum or postscript have been adhered to by the Government. So that it is not that one paragraph was taken out and the other paragraphs ignored. All the paragraphs in bold, so far, the Government has considered and it is why we are here today, as a result of this document and its recommendations.

So, call it what you want, the Commission for electoral reform, the Constitution Reform Commission, reported to the Cabinet, via the Prime Minister, giving recommendations that were brought, or that were deliberated on, as a result and after the consultations throughout Trinidad and Tobago that were televised, some of them, and certainly were extensively reported on. And that is the process.

Now, it was made very clear that—and notwithstanding the law, as it relates to commissions of enquiry or commissions of this nature—a Government is never bound in total by any report that it has commissioned, especially one where the commission was set up to engage with nationals/with citizens, and to get feedback on what they would like to see. Because, clearly, no government would be able to give every citizen what they want, because one person wanting proportional representation, another one wanting first past the post, you cannot give both. So that in compiling the views and the wishes of the people, the Government has to then deliberate on it and, quite rightly so, the commissioners suggested that they deliberate on it further. Now, the Government deliberated. They took the

advice of first past the post staying. They took the advice. But they also took the advice to make that system fairer.

Now, how do I know that this system is fairer? Let us use a live example. This Chamber is a constituency, there are three parties in this constituency: the People's Partnership, the People's National Movement, the Independent Movement; hypothetical parties. First past the post, the Bill, vote on the Bill, first past the post. We all over here vote for it. We have the majority. Bill passed, because we have the majority. Small parties "doh" count. But, in a run-off, which is where we are, we now have to come to you. The People's National Movement, what about the Bill "yuh doh" like? Tell us how we could reform it to make you support it. Independent Movement, what about the Bill "yuh doh" like? How can we serve your constituents by making an amendment or two?

3.15 p.m.

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

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

Question put and agreed to.

Sen. G. Nicholas: [*Desk thumping*] Thank you very much, Mr. Vice-President, and thank you very much Sen. Singh.

So this is where we are. We are in a situation where very simply, we want to give the other parties, the other possible representatives, the other people with views an opportunity to participate in the election process. Now, how could that be a bad thing? I am confused. I am absolutely confused that this could be a bad thing, that this destroys you, that this is

anti-democratic, that this is autocratic, that just now it might be communism. I do not get it. I just do not.

Now, the other issue, abrogation of rights because the Constitution says one past, and not two past the post, and people have actually debated this outside the Parliament. I mean—[*Interruption*] there is only one party or one representative that will past the post, and it is the representative that gains more than 50 per cent of the votes. The first round, you do not past the post if you do not get 50 per cent, I mean, it is basic. Again, I am surprised at where it came from.

Change must be for the common good. Obviously, change must be for the common good, and that is what I have explained. If we have the first-pass-the-post system and we maintain the status quo, it is not for the common good. It is for the good of a minority possibly, but the common good extends to more people, a wider group and that is what this does. We are to extending to a wider group.

The run-off—another thing, why run-off, if someone gets 49.6 per cent of the votes? Because one has to set a threshold, and even if you set the threshold at 30 per cent, and somebody gets 29.9 per cent, what do you do then? So that unfortunately does not hold water. If you do an exam whether it be a medical exam, a law exam, a GCE, CXC, SEA, and you do not get the pass mark, you fail. Whether it be by .1 per cent or by 10 per cent, you fail, I mean, it is basic.

Why rush? What his being rushed? We came to the Parliament, we had an election campaign in 2010. We went to the people. We asked them what they wanted. We told them what we would give them if they supported us, they supported us, and we started the process, and we have now reached

the conclusion of the process four years later. Rush? What is the rush?

Now, the goodly Senator Roach, very passionate, very articulate, came to the Parliament in his submission, the Senate, this House and he quoted from a number of articles: Sunity Maharaj; Douglas Mendes, interesting; Terrence Farrell. I think the only person he did not quote from was Dr. Keith Rowley, yeah. The only person he did not quote from was Dr. Keith Rowley. Every single article Sen. Roach could find are in opposition to the Bill. *[Interruption]* He just focused on articles in opposition to this Bill.

He ignored:

The *Jamaica Observer* article by Garfield Higgins; *[Desk thumping]* he ignored the *Nation News Barbados* article by Chantal Monroe-Knight; he ignored the article by Marcia Braveboy, that Kenny Anthony clarifying his position on *Caribbean News Now*; *[Desk thumping]* he ignored the run-off confusion by Hamid Ghany *[Desk thumping]* in the *Sunday Guardian*; he ignored: Runoff vs first-past-the-post” by Andre Badoo; *[Desk thumping]* he ignored Nigel Henry’s—*[Interruption]* article in the *Trinidad Express* of August 09: “Run-off system more democratic”; *[Desk thumping]* he ignored Anil Goorahoo’s article: “Who Vex Lorse”; he ignored Farley Augustine, Yes, yes, yes in the *Tobago News*. *[Desk thumping]*

You know, it is unbelievable and that is just “ah lil piece ah de pie”.

Now, it has also been made an issue by some, that the Senate has been forced to sit in August to hear this very critical debate. *[Interruption]* Now, obviously, I would think that your first priority, as a Member of Parliament, is the business of the people. *[Desk thumping]* But I would like to look at—

I mean, I have done a little research and I have seen where sitting in August—I have both for the Parliament, the Lower House and Senate, but I will deal with the Senate. Sitting in this Chamber during August is not a new phenomenon. In fact—[*Interruption*]

Sen. Al-Rawi: In light of the new Standing Orders? [*Crosstalk*]

Sen. G. Nicholas: Hold on, hold on. I am—do the new Standing Orders apply to this House?

Hon. Senators: No, no, no.

Sen. G. Nicholas: So what?

Sen. Al-Rawi: They apply to the House of Representatives.

Sen. G. Nicholas: Well, we are not dealing with that, are we? So let us stick—[*Interruption*] let us ignore the misinformation.

Mr. Vice-President: Senators, Sen. Nicholas is making his maiden speech in the Senate. Could we kindly pay the courtesy as we have done to others before? Thank you.

Sen. G. Nicholas: [*Desk thumping*] Mr. Vice-President, I could deal with them, you know. Sitting in August:

The Fifth Parliament, 01, 02, 03, 04, 05, 06, ,07, 08, 09, 10, 11, 12 from—in fact, Monday, August 05, 1996; Thursday, August 07, 1997; Tuesday, August 12, 1997; Tuesday, August 18, 1998; Thursday, August 20, 1998; Tuesday, August 25, 1998; Thursday, August 27, 1998; Thursday, August 03, 2000; Tuesday, August 08, 2000; Tuesday, August 15, 2000; Tuesday, August 22, 2000; Tuesday, August 29; 2000; Wednesday, August 24, 2005; Thursday, August 25, 2005; Friday, August 26, 2005; Monday, August 29, 2005; Tuesday, August 29, 2006; Tuesday, August 21, 2007; Thursday, August 23,

2007—

And it just goes on. It goes on. [*Desk thumping*] So that just goes to show—it just goes to show, Mr. Vice-President—[*Interruption*]

Mr. Vice-President: Senators, I have asked that we should please, please, please—let us not overdo it, please.

Sen. G. Nicholas: The constant misinformation that has been placed in the public domain, that has obviously generated frenzy debate, is terribly unfortunate, but luckily, I have the opportunity to address independent minds, Independent Senators who have come from various fields, who can weigh the information, who can understand that there was no breach of process, there is no rush, nothing is trying to be forced down anybody's throat, this benefits the people. This is not anti-democratic. In fact, it is giving greater democracy, this is not killing small parties. It is giving small parties more influence.

All the information that had been given by the Opposition has been discredited, [*Desk thumping*] discredited. They have not been able to come here and speak to any issue with regard to these reforms, that are credible—[*Interruption*]

Sen. Al-Rawi: That includes, Roach?

Sen. G. Nicholas:—that includes the other PNM Senators. Is that what you are asking?

Sen. Al-Rawi: I am asking if that includes Sen. Roach. [*Interruption*]

Sen. G. Nicholas: I do not know. I could not say that. [*Interruption*] I did not know that, right. Mind you, Mr. Vice-President, I did not call anybody any PNM. I was asking for clarification, because I did not hear what Sen. Faris Al-Rawi asked.

Mr. Vice-President: Senators, please! Please! Please! This is the third time that I have asked to allow Sen. Nicholas to complete his contribution on the Bill, and making it more importantly that it is his first speech or maiden speech in this Senate. I feel then, I have not heard him mention the person that you are referring to as PNM. He made some statement relative to that. I was not quite clear what he was saying. So, therefore, I will have to give him a minute or so to—based on what has been taken from him. Please continue. [*Desk thumping*]

Sen. G. Nicholas: Thank you very much, Mr. Vice-President. Finally, and dealing with one of the—another one of the issues raised by Sen. Roach in his very passionate contribution. He spoke to the issue of resources, and again, the hon. Prime Minister, when she made her presentation here yesterday, spoke to resources. It is quite understandable that an Opposition Member of Parliament, and even a sitting Government Member of Parliament, may feel that he does not have, he or she does not have the resources available to do what is required in his or her constituency, and as such, the hon. Prime Minister has proposed—and we were given a little window into the budget, that a proposal to give each Member of Parliament \$10million, so that they would be allowed to carry out work in their constituency.

3.30 p.m.

Now, of course, the question was asked, “How do we judge performance?” Well, it is very easy to judge performance and one example that I wish to end with, is having a Member of Parliament sitting, for let us just say since 1991, across from a community recreational facility that does not have lights, having had constituents clamour for lights during his

incarnation as Minister of Local Government, Minister of Works, Minister of Health, Chief Whip and not being to deliver lights to the community ground, until this Government came into being. [*Desk thumping*] That would be one example of an MP who should be recalled.

Thank you, Mr. Vice-President. [*Desk thumping*] [*Sen. Shamfa Cudjoe stands*]

Mr. Vice-President: Just a few minutes, Senator, please. Hon. Senators, I really want to take the opportunity to congratulate Sen. Garvin Nicholas on his maiden speech. [*Desk thumping*] Sen. Nicholas is very familiar to me because we sat in another place. Some of you may not be aware that Sen. Nicholas was also a local government representative for many years—

Hon. Senator: For who?

Mr. Vice-President: For the PNM, and, therefore, he has gravitated to the [*Desk thumping*] post of commissioner. He was our High Commissioner in London and today we are sitting in the same Chamber again, in the highest order of the land, the Senate. Therefore, Sen. Nicholas, congratulations on your maiden speech. [*Desk thumping*]

Sen. Shamfa Cudjoe: Thank you, Mr. Vice-President. It is interesting to come after Sen. Nicholas. I want to, first and foremost, congratulate him on his maiden contribution. [*Desk thumping*] I was trying to figure out exactly where he was coming from, but then I recognized it is a PNM “tabanca”. [*Desk thumping*]

I want to deal with, first and foremost, the issue Sen. Nicholas raised, stating that it is no problem that we had to come back here during July/August. You will find Members of the Opposition, Members of the Independent raising this issue of having to come back in August to discuss

this matter because the practice has been Parliament would prorogue and we would have a break in August in order to spend time with your family; to get your children prepared for school and so on. So it is an issue and, based on the new Standing Orders that were just laid, passed and adopted in the Lower House, Standing Order No. 14 states:

“Fixed Recess”

Sen. G. Singh: That is irrelevant for us here.

Sen. S. Cudjoe: Will you please take notes and respond.

Mr. Vice-President: Just as I have protected, it is my duty to ensure that I protect the Senator while talking. [*Desk thumping*]

Sen. S. Cudjoe: Thank you, Mr. Vice-President. I thank you for your protection. It is never nice when I have to protect myself. So, I thank you for your protecting arm.

“Fixed Recess

Notwithstanding Standing Order 11 (Meeting Days) and subject to Standing Order 13 (Extraordinary Sitting), unless there are urgent or extraordinary reasons for so doing, no sitting of the House of Representatives shall be held from the first week in the month of July to the first week in the month of September in any year.”

So, I think that Senators, we ought to raise this issue because, just like every other practice of this Government, on the first day you make a rule, you break the rule the very first day and tell the population that they misinterpret it. And if the House of Representatives did not meet, we would not have any need to be here. So by stating that these Standing Orders do not apply to this House is a muted point. It is irrelevant. So I just really wanted to treat with that.

There are so many issues I wish to raise but, before I forget, allow me to place on the record my concern with this whole addendum because, at the end of the day, this addendum document and all the issues surrounding the addendum document is what is causing all the unrest and the disquiet within the society.

Now, an infant, the Standard 2 student can tell you, this report is dated December 27, 2013, the signed report, and the addendum came six or seven months later, in July 2014, an unsigned addendum. So the report that was signed came in December 2013 and the addendum came seven months later and we are not to be concerned?

When there are two members of the commission, the very same commission that signed the original report, who could state that, "We have never seen this addendum; we do not know where this thing came from, this whole run-off situation"; when you read the 17 reports coming out of the individual consultations, there are no thoughts, no records whatsoever of a run-off, so how did the run-off enter the equation? This is a pertinent question that the members of the society, even the members of the commission are asking. So to tell us, "Take it; it good for you", is not okay with us.

Seven months later, an addendum comes in and members of the commission are saying, "We do not know where it came from", we ought to be concerned. I want to draw your attention, Mr. Vice-President, to the several reports in the newspaper, labelled: "A constitutional coup d'etat!"; "Stop the debate"; "Bill backlash"; "More controversy in T&T"; and this "More controversy" matter is coming from *Stabroek* in Guyana, so while you read all the other international papers, be sure to read those also.

Prominent lawyer within our community, Senior Counsel Martin Daly, “So-called run-off election a ‘troublesome’ move”; “Reflections on a stealth-filled debate”.

And there are numbers, numbers, a large number of reports speaking about this matter, as to how this piece of legislation and its proposal came out in the still of the night; came on the scene on August04 and in one week we are just asked to accept it; take it; it is good for you.

So, I want the nation to place some focus on the report and the protestation of Mr. Carlos Dillon, member of the commission, and Dr. Merle Hodge. In the *Newsday* report of Sunday, August10, 2014, Hodge disputes addendum to reform report. Allow me to read, with your leave, Mr. Vice-President, some of the contents of this report. I quote:

“Constitution Reform Committee (CRC) member Merle Hodge yesterday claimed the addendum to the Commission’s Reform report released by the Prime Minister’s Office on Friday”—August08, eight months after the original report, Mr. Vice-President—“was an internal document tagged ‘Private and confidential; Not for circulation,’ and addressed exclusively to the Prime Minister in mid-July 2014.

Hodge claimed that this document was ‘never published and disseminated as the report was’ and that it was only on Friday that it became the ‘Addendum to the Constitution Reform Report’.

‘The run-off provision did not come from the people, and it was never revealed to the people before Monday, August 4, 2014, one week before it was to be debated in the Parliament’ ...”

And the news report goes on and on.

So, here we are caught between Members of the Government and

members of the Constitution Reform Committee, established and appointed by the Government, stating two polar opposite stories. The members sitting on the commission said, this thing was never reported; it never came up. How did it come into the equation? When you read the reports, as you go along, it was never mentioned, so we ought to be concerned. We ought to be afraid and, based on our experiences with this Government, we ought to keep our eyes on this and protest about it.

So, with that said, allow me to go on with my contribution. I want to thank this House and thank you, Mr. Vice-President, for the opportunity to register my disquiet, my disgruntlement, my dissatisfaction regarding this controversial matter. For me this is not just a matter about content. I feel that we are spending too much time discussing the technicalities and the content of the report and, to be quite frank, I do not think that that is our business. That is the business of the people.

My concern is based on the matter of the intent of the Government, a fundamentally flawed process and the betrayal of public trust. This Bill proposes to fix dates of general elections, a maximum of two terms for Prime Minister, a recall of poorly performing Members of Parliament and a second ballot run-off within 15 days if a candidate does not win 51 per cent of the votes. All these reforms are to be achieved by amending the Constitution.

Mr. Vice-President, the Constitution is the supreme law of the land, the highest law of the land. It contains the most important rules of the political system. It protects our rights and our freedoms as a people. It defines institutions and their powers and it should be the hardest piece of legislation to amend.

So, for the Government to simply interpret the Constitution in such a way to say that only a simple majority is needed, I find that quite troubling and I think the Government ought to be ashamed of itself, to say that, “I have gone to this legal luminary and I have asked senior counsel and the finest”—[*Interruption*] Can I make my contribution?—“people in the land to tell me that we only need a simple majority”.

I listened to the AG this morning because he said, “I wish we needed more, but they said all we need is a simple majority”. Now, if the people are the lifeblood of a democracy, if the Constitution starts by saying “we the people”, why do you not treat that right that we the people have, as a fundamental right, as a basic right, to treat it as you said you would like it to be, where more votes are needed? If you are doing this on behalf of the people and you say that this is power to the people, you would want to walk into this Parliament and present these proposals with the fullest support behind you. You would not want to be looking for loopholes here and there, in and out to try to get the minimal amount of support that is necessary to pass this piece of legislation. That does not sit well with me.

I am befuddled by this whole idea of simple majority. It has taken the nation by surprise that it is so easy to just come into Parliament and a small group of people just change the Constitution feeling that they do not need to discuss it with the population at large.

I think it is also shameful for this Government because this Government came into power riding on the backs of the people, on a large wave of support. In 2010, there would not have been a need for a run-off because they would have gained the support of the people so resoundingly. So a couple years later, to be in a position where you refuse to entertain any

discussion; where it is your priority to circumvent any substantial discussion with the people who put you in power, I find it rather chilling and it is cause for much concern.

3.45 p.m.

Mr. Vice-President, I do not understand why a Government that claimed to have so much support from the people and working on behalf of the people would dismiss the outcry of the population. The basic outcry is to pretty much halt the debate; stick a pin in it. People are crying, people are yearning for further consultation; people are calling out for public education on the matter. What is there to lose in consulting the people? What is there to lose in educating the people? [*Desk thumping*] Everybody feels confident about the move that we are about to make.

Now, Mr. Vice-President, constitutional reform is something for which we all have clamoured: the Opposition, the Independents, the members of the public at large and the Government. It is something that we all want, and by the Constitution saying, we “the People” then we the people should be given the opportunity to say what we want, what we do not want and what we prefer. So, I do not see the Government losing anything in consulting the people in a substantial way.

Mr. President, we are told—Mr. Vice-President, excuse me—now all these proposals have been placed at the altar of democracy. They said that they are deepening democracy and shifting the power from the Executive to the people, but the Standard I Social Studies student will tell you, plain and simple, democracy is Government of the people, for the people and by the people. There is no democracy if the people are not intimately involved. So it makes me wonder what is the intent of the Government if you refuse to

give an ear, a listening ear, to the people.

Mr. Vice-President, the success of a democratic process, a truly democratic process, speaks to this fundamental right of the people to be engaged in the decision-making process; to participate in influencing the decisions that affect them to the extent where the will and the intent of the people are echoed in the final policy. So, just by looking at that definition or that idea of what democracy should be, I think that we need to do some introspection as Members of Parliament. We need to reflect on how we conduct our own business and how we operate within this Parliament.

Many times there are no consultations on pieces of legislation that are brought to this Senate, and you will hear reports from workers in the Ministries that oftentimes the consultations are done the week before the Bill is brought to Parliament when the policy is already in black and white. So consultation is being seen now as a formality, and the success of a consultation by this Government is based on three questions: was the media there? Was the Minister photographed? Did the issue appear in three dailies? [*Desk thumping*] And I am not making this up. This is coming out of the mouth of people working in their Ministries. So, we as a Parliament need to examine how we develop policy.

As a matter of fact, Mr. Vice-President, I do not even have to dig so deep. This is four and a half years later and this Government does not have a legislative agenda. [*Desk thumping*] You claimed that you promised a legislative agenda in your manifesto and this is your policy, and here we are, four and a half years later with no legislative agenda. We know and the nation knows what is going to be debated the week before, sometimes two days before. So, there is no time for people to investigate the matter, to do

their own research, to comment or to send their recommendations.

Oftentimes we sit here in the Parliament and we are coming up with penalties and coming up with recommendations off the cuff. And, at the end of the day, when the Law Association strikes out and place the reports in the paper that they are not satisfied with the piece of legislation that was passed, it is already too late because it is already passed. So how democratic is the process? And these are very simple things that could be changed without all of this that we are going through today, Mr. Vice-President, by simply having a legislative agenda and sticking to it. Now, we know nothing is written in stone, but the people—the parliamentarians at least and more so the people—need to have an idea as to what is coming. How can I influence this process? How could I influence this piece of legislation? Mr. Vice-President, it does not happen like that.

So, at the end of the day, every battle has been fought in the name of deepening democracy. It involves the people at the bottom trying to get power from the people on the top. The people at the forefront, the people at the helm, they are pretty much fighting the Government or challenging the Government to pass over some of the power.

I have never seen a fight for democracy in any country in this entire world where the Government is pretty much holding down the people and stuffing a bottle labelled “democracy” down their throats. [*Desk thumping*] I have never seen it anywhere. So you have to really ask yourself, is this really democracy? I have never seen people fight back against democracy like this.

So, Mr. Vice-President, any true defender of democracy will know that the strong has a duty to protect the weak; the rulers have a responsibility

to educate and inform the ruled and the Government is obligated to honestly and accurately represent the views of the governed. Any process, any policy, any procedure that does not in any form or fashion resemble the rudimentary tenets of a democracy is not democracy at work. It is a recipe for chaos, a catalyst for instability and an impetus for social and political unrest.

Further, Mr. Vice-President, the manner in which this Government is adamant about forcing this ill-conceived, poorly drafted, self-serving unconstitutional proposals down the throats of the people they claimed to empower, I find it draconian; I find it bullish; I find it imperious and profoundly undemocratic at best.

Let us examine the situation at hand, Mr. Vice-President. The Constitution Reform Commission was established consisting of eminent scholars in our society, consisting of Dr. Merle Hodge as a commissioner, Mr. Carlos Dillon from Tobago, another commissioner, Justice Amrika Tewarie-Reddy, another commissioner and commissioner Dr. Hamid Alfredo Ghany. Now, this committee was chaired by Minister Prakash Ramadhar, Minister of Government, Minister of Legal Affairs and Leader of the COP. Dr. Wheeler who spoke before I did, and many of the people in society who would have written to the newspaper, would have stated their concerns on the potential for political bias, for possible self-serving interest and possible prejudice based on the main fact that Minister Ramadhar was the chairman of this committee, sitting there as Minister of Government and sitting at the chair as Leader of the COP, but he is expected to assist or to guide the commission in making unbiased proposals that influence the politics and the development of our country. Be that as it may, the

commission was established to solicit the views of people, of the people of the nation, on what they would like to see as we embark on this whole process of constitutional reform for which we all clamoured.

Mr. Vice-President, they said they travelled throughout the nation they held, how many? Twenty-one consultations with very small groups, as I understand that many of the consultations were poorly attended. I refer to these consultations as a brainstorming exercise because, in truth and in fact, they pretty much examine the ideas of what the people want. There was no deep discussion or consultation as to the mechanisms or the measures as to how these things ought to happen and two of the commissioners came out saying the same thing: Merle Hodge and Carlos Dillon.

There was not any discussion on the intricacies of the implementation or operationalization of these measures, so you have over 200 proposals. These ideas are what the people would like to see, but these are the knowhow coming out of these consultations. So, the Government took it upon itself and went into its little lab and cherry-picked a handful of these recommendations and decide that we are going to treat with these recommendations first. Coincidentally, these recommendations treat with elections, and we all know that general elections are around the corner. So, nobody had any idea that this was in the woodwork.

On August 04, the Lower House reported to Parliament and the intention of reporting to Parliament was to open the Fifth Session of Parliament, and there was agreement between the Government and the Opposition that we would all proceed on vacation. So out of the blues, the Government announced this debate would take place the following week. It is the first time the Opposition would have heard of this Constitution

(Amdt.) Bill; the first time the nation would have heard about this Constitution (Amdt.) Bill. This was never disclosed to any of us.

The nation, by extension, had no clue.

In the package that was circulated to the Members of the Lower House on the Opposition side, there was no Constitution (Amdt.) Bill in the package circulated. There were the other pieces of legislation on the Order Paper. The Constitution (Amdt.) Bill was not even on the original Order Paper. It was not found on Rotunda either. Usually when a Bill is laid in Parliament in the Lower House, you can quickly go to Rotunda and pull it up. It was not there, neither was it here in print. So now the Members sitting on the Opposition side has to now ask the staff: where is this Bill? Can we have a Bill? It was only then the Bill was circulated to the Members of the Lower House, I am advised. [*Desk thumping*] But yet there was consultation.

So here are parliamentarians seeing this thing for the first time and being told that they ought to debate it the following week and the nation, by extension, now hearing about it having seen a document relating to it. So you have to understand why there is public outrage on this matter. There is outrage on the contents of the legislation, the manner of the presentation and the posture of the Government and their scant disregard for the intelligence, the decency and the integrity of the people of our nation. [*Desk thumping*]

There have been various protest exercises; there have been night vigils outside the Parliament. Members of the public have been protesting in their many different ways. If you check the newspaper, you would see the different headlines speaking against this, asking the Government to stop, stop for a minute; involve us in the process, educate us as to what is

happening so quickly before our eyes. So, you have political analyst writing about this matter, reputed academics, respected legal luminaries, past members of Parliament, even members of the coalition claimed that they did not know that this was coming.

Mr. Vice-President, you know, I listened to the advertisement that came on the radio, probably a day or two after, the one that goes: Power for the people—[*Senator sings the song*—and then I heard the person—yes, yes, because the person who did that song was on the radio that very same week saying he did not know his voice was going to be used in this mischief. [*Desk thumping*] He did not know his voice was going to be used for that.

Sen. Al-Rawi: Shame!

Sen. S. Cudjoe: Mr. President, the guy was implying that he did not know his voice was going to be affiliated with this mess. He did not know anything about any run-off and was wondering why they are using his voice to promote that. I am now hearing that they are doing Ras Shorty I song too, Mr. Vice-President.

Mr. Vice-President, the EBC, if you read this piece of legislation, much of the responsibility for effectively implementing this legislation rests with the Elections and Boundaries Commission, and then you have the Elections and Boundaries Commission appearing in the newspaper stating, they were not consulted. Every single page of this legislation speaks about what the Elections and Boundaries Commission is supposed to do. They are saying that they were not consulted; they do not think that this thing would work and they do not have the resources to effectively implement this. [*Desk thumping*]

4.00 p.m.

They barely have the resources to operate properly in one general election, far less two, far less a recall that they have to ensure that two-thirds of the people are living in the area, and so on.

Sen. Hadeed: Permission? Could you advise if that was a letter that was written to Kirk Waithe of Fixin' T&T?

Sen. S. Cudjoe: Mr. Vice-President, Mr. Masson has not denied that and—
[*Interruption*]

Sen. Hadeed: No. No. But the information.

Sen. S. Cudjoe: You take notes, you will respond in your time. So, Mr. Vice-President, it is in the newspapers and members of the EBC are saying—and even if you do not talk to the EBC, we know the way the EBC operates and we know that there are shortcomings in the EBC, [*Desk thumping*] because immediately after the local government elections and the Tobago House of Assembly elections, the EBC came to the fore and was talking about the problems that they are experiencing. So to stand here and say you have consulted the EBC and the EBC is ready, it would be so far from the truth. Typical People's Partnership.

Mr. Vice-President, the public is on its proverbial knees crying out, simply asking the Prime Minister, simply asking the Government to stop, to halt the process, involve us, allow us to participate, help us to understand what you are proposing, but in fine “Kermit the frog” fashion, the Prime Minister say, “That is none of my business”. Mr. Vice-President, you are not aware of what is taking place. [*Interruption*] Anyway, you are not aware—anyway, I would not waste my time. You know what, they spoke so glowingly that a majority rule Government is more sensitive to the views of the people, but if we employ the provisions of this legislation that you are

proposing, a run-off would not be needed in 2010, right, which means that you would be a majority rule Government, right, and you do not have any care whatsoever to hear what the people have to say. [*Desk thumping*] So how much more sensitive is a majority rule Government?

Allow me to proceed, Mr. Vice-President. So here we are, the Government has introduced controversial legislation and, as far as the people are concerned, especially as it relates to the run-off, these proposals seem to benefit the UNC and seems to benefit the Government more than it benefits the population by large, by extension, [*Desk thumping*] more than it deepens our democracy. Because if you look, if you examine all of these provisions, you ask yourself, how much closer does this bring the people to the majority? How much closer does this bring the people or involve the people in the decision-making process? Do these provisions allow the general public at large to influence legislation? Would this make the Government give us a legislative agenda? None of these proposals, really and truly, improve and deepen our democracy as you promised it is going to be.

This Government promises a whole lot and they are always found wanting, and I know Sen. Garvin Nicholas could tell us from as early as the 60-year-old pension promise, they started from day one. So when you have groups like the Law Association crying out, women's groups in the different political parties, there are many young people who are saying that we really do not understand this to even have a view on it, and we should be making legislation and putting forward these proposals in a very sustainable way. We cannot be simply looking at the next election, we have to focus on the next generation because, as a matter of fact, I was about to say we but most of you are in the departure lounge, leaving.

Sen. Hadeed: Oh, you are now God.

Sen. S. Cudjoe: No, I am talking about politics.

Mr. Vice-President, allow me to clarify what I am saying. I would not be moved by Sen. Gerald Hadeed. I said most of us are in the departure lounge, because most of us would have spent a long time in politics, some of us would not return to politics.

Sen. Griffith: I now reach.

Sen. S. Cudjoe: But Sen. Gary Griffith now reach, he would be here for a while. There are some of us who truly and honestly say, “Okay, I have had one round of this thing and I am not going to do it again, this is too much for me”. So we are here right now, charged with the responsibility to do the right thing, and we ought to take advantage of that. Now, we are told that there has been no breach of the rules and there has been no rush, but this was August 04—and what day is today? August 20-something, over a couple of weeks, and the Government cannot—what prevents the Government from halting to hear the views of the people? The fact that the Government prefers to dismiss the cries of the people, it is, as I said before, very, very daunting to me. I followed some newspaper reports and I am seeing that the Government is now trying to belatedly democratize the process.

There is a newspaper report that states that the Prime Minister is going to hit the streets tonight, she is going to go out on the street herself to inform her party; this is the *Express*, August 16. Now that is a whole week after the Bill had been laid and passed in the Lower House. So August 16, the Prime Minister is now educating her own party down in Siparia where the meeting was held. I do not remember where it was, but you know what is interesting, because, you see, this Government has a reputation of putting the cart before

the horse. So after they have passed the legislation, there is a public outcry, they are being asked to wait, “Talk with us and postpone the Senate debate to later”, they said, “No, we would proceed”, and they are now running left, right and centre trying to have public meetings.

I witnessed a Minister of Government at the Hyatt last week Monday, chatting, soliciting media people to run the thing on the radio, run the meeting on the radio; you should have run the meeting on the radio, you should have run this information session on the radio before last Monday. Do not meet in private corners with stakeholders and media moguls asking them to promote your propaganda. [*Desk thumping*] This is not what I heard, I sat there, I saw, and I used my Tobago ears and I eavesdropped and I heard right. [*Desk thumping*] So, this is putting the cart before the horse. The resources that you are now expending to get people to promote your propaganda, you could have done that before, and if you are so ashamed, the people are asking for the thing, the process, and allow the people to get involved, because you said this is for them. It makes us wonder, is this really for the people?

Mr. Vice-President, in the interest of time—oh, not in the interest of time because I have 10 minutes left and I have 15 minutes later, so I have 25 minutes. So, in the interest of time, let us look at the third parties, right, because we were told that this new process allows the third party to have some bargaining power and they are able to negotiate better, before they would have died, like Sen. Nicholas’s party and that this measure promotes coalition and coalition government, the new way to go, because with these measures, the third party, they now have a voice and they have a chance to influence the process. Let us look at the third parties within this current

coalition. Let us start with the COP. The commission chaired by the Leader of the COP, they are now belatedly trying—first thing first, the COP would have mentioned their disquiet with the whole issue, they did not know anything about it and they voted—let me get there. They had a meeting and they stated their disquiet.

Mr. Vice-President, then they came to—as a matter of fact, let me say it for the record, you see this little gimmick of now having consultation after the legislation is passed, that is ludicrous, that is preposterous, because that is not consultation, that is manipulation. [*Desk thumping*] You are giving people the expectation that they are coming and their views are going to affect the legislation and affect the policy when the thing has already been passed in the Lower House, and when they show up to the meeting, you are now trying to force your views on them; that is not consultation, that is manipulation.

Mr. Vice-President, I expected more from the COP. Now, I want to make special mention of the Member for Tunapuna, the hon. Winston Dookeran and the Member for San Fernando West, Carolyn Seepersad-Bachan, because they were courageous enough to state the matters of their heart that they are uncomfortable, even being Ministers of the Partnership, that they are uncomfortable with this. So I sat there and Mr. Dookeran would have stated his position, and I am here waiting and looking at the Leader of the COP, because here is the founder of the COP saying that “I am disappointed”, and in usual pussycat fashion, the Member sits and watch, and he looked like if you say “boo” he will just melt or disappear.

Where is the spine? Where is the backbone of the COP? They were supposed to be the guardians of good governance and the ambassador of

new politics, and the promoters of democracy. Whatever happened to the COP? I recognized too that in the Lower House the Prime Minister gave the Members an option to have a conscience vote. I recognized that was an issue in the Upper House, maybe it is because the COP has been subsumed by the UNC, so you have six in one hand and half a dozen in the next. At the end of the day, that is none of my business.

Mr. Vice-President, I want to move on, [*Crosstalk*] and I want us to place on record and make special notice of the actions of the hon. Seepersad-Bachan and Minister Dookeran, because there is this talk in Tobago that if a seal comes out of the water and tell you, “It have shark dey”, you “doh” have to go and check if it have shark “dey”. So if these people living in the bowels of the People’s Partnership and they say, “This thing is not good. This thing is not good for anybody”, I am not going see if it good. [*Desk thumping*] If it have shark “dey”, if they say it have shark “dey”, I “doh” need to check it; it have shark “dey”.

Sen. Hadeed: You are still on that point?

Sen. S. Cudjoe: Yes, and you as a COP need to be concern.

Sen. Hadeed: No. No. No. I have my conscience.

Sen. S. Cudjoe: Okay.

Mr. Vice-President, I want to deal now with the NJAC. My brother, Sen. Moheni, is taking a little rest, [*Laughter*] but if he is as good as I think he is, he will be listening. He is probably thinking deep. Usually the practice of the NJAC—I grow up around NJAC, my father was an NJAC. My father gave me my name out of an NJAC name book, so I always looking out as to what the NJAC is about to do.

Hon. Senator: Your father was an NJAC?

Sen. S. Cudjoe: Yes. So, Mr. Vice-President, I am looking out for the NJAC because I am accustomed to NJAC going around with their speaker, with their loud speaker, and when they asked who to vote for, I used to be bawling, “NJAC”. So I am looking for the NJAC and I am waiting for Sen. Moheni to consult the NJAC in Tobago. I have not heard the loudspeaker. I am looking to see a town meeting, no town meeting, but let me take that back, they do not have enough members to have a town meeting, so probably a car meeting or something in a smaller space. But the point I am making is how these smaller parties, you said that this kind of legislation would give the smaller parties a voice, [*Desk thumping*] it would draw them to coalition, right, and it would give them more bargaining power, and all these third parties have lost their voice and become one of the same with the UNC. [*Desk thumping*]

Mr. Vice-President, let me put a Tobago spin on it. We did not know the position of the Member for Tobago East or the Member for Tobago West until they voted. There was no meeting, there was no press release, nothing as to this, no consultation, no word from Minister Alleyne-Toppin, no word from Minister Baker. Minister Baker told us he would go to the Parliament and he would vote and then he would explain. He came, he voted, and we are waiting on the explanation. Then he gets in the paper a couple of days later and said, “I am a Member of the Partnership”, then he let us know, “I am paid by the Partnership, and I am paid by the Partnership to conduct the Partnership Government’s business. I am paid by the Partnership Government to do the Partnership Government’s work”. He is paid by the Partnership, what a rude awakening.

4.15 p.m.

Mr. Vice-President, I want to place on the record that these Members were selected as representatives, to represent the views of Tobago in the Partnership and not to represent the views of the Partnership in Tobago. [*Desk thumping*] So no matter how much they are being paid, no matter how much they are enjoying being in the Partnership—I was in the airport yesterday, and I asked Minister Toppin—all flights were delayed, for a couple of hours flights were delayed. I said, “Minister, you waiting on the next flight too?” She said, “No, I have other arrangements.” I see an NOC helicopter landing in Crown Point—[*Interruption*]

Sen. Al-Rawi: Nah!

Sen. S. Cudjoe: She, her husband and her purse carrier guy boarded the helicopter, and they flew off, [*Interruption*] and we waited for our flight. But as I said, we sent these people to Trinidad to represent the views of Tobago, and we are still waiting for that representation. Tobagonians feel insulted. We feel like the process has been denigrated and we feel like these Members have turned their backs on us yet again. We did not know their positions until they voted; think about that.

So when you hear, “Power to the people”, in my humble opinion that is hogwash, pure poppycock, balderdash and bare bosh. [*Desk thumping*]

Sen. Al-Rawi: Translated—

Sen. S. Cudjoe: Translation: PP. [*Laughter*]

Mr. Vice-President, I want to deal now with three things, because Sen. Dr. Tewarie, who is not in the Chamber at this time, would have mentioned these issues. [*Interruption*]

Mr. Vice-President: Senator, please. Hon. Senators, the speaking time of

the hon. Senator has expired.

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

Question put and agreed to.

Sen. S. Cudjoe: Thank you, Mr. Vice-President, thank you colleagues. I did not see my Government smoothie, Sen. Ganga Singh, banging on his desk.

Sen. G. Singh: I did.

Sen. S. Cudjoe: Okay, all right.

Hon. Senator: That is your smoothie?

Sen. S. Cudjoe: Yeah, that is my Government smoothie. He is very nice to me. [*Crosstalk*]

Hon. Senator: "That is not a bromance, eh."

Sen. S. Cudjoe: But no, no, no; most of the Members of Parliament are nice to me, but Sen. Ganga Singh is nice to me. Sen. Kevin Ramnarine is nice to me. Sen. Maharaj, in his absence—[*Laughter*] "No, doh take it like that; I doh cross party lines on many matters." [*Laughter*]

It was Sen. Dr. Tewartie I was dealing with; he is always so passionate. He gave us a real heartfelt story about the Government fulfilling its promises and, "This is why we are doing this". He said, "We mentioned this in our manifesto and we have an obligation to keep our promise. In constitutional reform we promised three things." He said, "We promised the recall; we promised the term limit and we promised majority rule." That majority rule thing was not in the manifesto, [*Desk thumping*] so I do not appreciate these efforts to rewrite the story. The third item on constitutional reform was internal self-government for Tobago.

Sen. Al-Rawi: Shame!

Sen. S. Cudjoe: So to try to replace that at this time, with “Oh, the third thing was majority rule”, I find it hard to stomach. This run-off situation was not in the manifesto. As a matter of fact, what is in the manifesto, and the recommendations in the constitutional reform report, is the internal self-government for Tobago point.

Tobago has been clamouring for internal self-government since the days—it is over 100 years. This thing has been on the burner and the national platform for a very, very long time, since the days of APT James, and brought to life again by the late great Arthur Napoleon Robinson. It is interesting that the Prime Minister would go to Tobago at former President Robinson’s funeral and say, “This is my political guru and I try to follow the things he has taught me, and we honour him today”. What better way to honour former President Robinson than to give the Tobago House of Assembly and the people of Tobago internal self-government?

The legislation was brought to Parliament a couple of days before the election. They did not get what they want, it never came back—it never came back, because this Government was trying to foist upon us Mr. Ashworth Jack. His own party does not even want him, and we in Tobago must take it because the Government “say he good for us”.

Sen. Al-Rawi: A moment of silence for the politically deceased.

Sen. S. Cudjoe: Mr. Vice-President, it never came back. Legislation relating to internal self-government for Tobago never came back. We have had numerous consultations. Up to year before last year there were 41 consultations, and consultations are still happening. We have presented the ideas. We have presented the how, we have presented the why. We are just

waiting on the when. So this has been in train way before this run-off idea. Chief Secretary Orville London has written to the Prime Minister asking for meetings and asking for an audience and asking for an opportunity to bring this matter to the Parliament again. “The man write til he pen ink done, and no response.”

Tobago is still in a position where a young person who has just gotten married or a young person who wants to set up a business or put down a house on a piece of land has to write to a Minister in Trinidad up to this day, for permission on where to put a drain. I have a piece of land, I want to give a piece to my brother, I have to apply to the Town and Country Planning, they tell me no it is not possible. The Minister knows it is not possible, so I then have to write a letter to the Minister and ask him for permission for subdivision, who would then recommend me to an appeal committee, and then you are waiting on the response.

These are simple things that could be treated with. These things have been in train for a long time, for years under different administrations, because the current process started under the same Ashworth Jack and Hochoy Charles and they, years ago, under different administrations. We picked up the baton and we kept running with it, but we cannot get an audience from this Government. [*Interruption*] This is not in their manifesto, it is not on the constitutional reform document, so we are always wondering, “Where is this run-off thing coming from?”

The second excuse was, “Well, we brought this piece of legislation because we felt that it would be easier to get it by the People’s National Movement”. We know that the PNM would not have supported it, so we had to bring the legislation this way. Mr. Vice-President, from the onset the

People's National Movement, headed by Dr. Keith Christopher Rowley, the great, has said to this nation and said to this Parliament that the Opposition is prepared and would always support any piece of legislation or any measure, any strategy that is beneficial to the people of this country, as our actions have shown. [*Desk thumping*] I heard the AG boasting this morning that we have supported over 90 per cent of their legislation.

Many times they come to this Parliament without a policy or no clear idea as to what is to happen, and we have to unleash Faris on them to assist them. [*Laughter*] So to say you tried to get this past the Opposition, we have always supported all that is good. We have always been open to consultations and recommendations, and we have always assisted you, so that is a moot point.

Mr. Vice-President, the simple majority—we brought this because these are the issues that need a simple majority. Internal self-government for Tobago requires a simple majority also, so what is the hold up? There are a couple of other issues that this Government has promised that they have not fulfilled, that they could have brought. Public procurement legislation that the Chamber of Commerce is clamouring for.

Sen. G. Singh: We did that.

Sen. S. Cudjoe: We did that and it lapsed and it needs to come back. It could have come back before this. There are a host of other issues that relate to bringing the people closer to Government, bring the people closer to Parliament, having them involved, having them informed, having them participate in the decision-making process, and my point is it has not happened. How is that democracy? How is that deepening the democracy?
[*Desk thumping*]

Out of 200 recommendations, they treat with the ones that are about elections, and we are expected to stay calm and take it. This makes us question, what is the real intent. You see, because you cannot take anything from this Government at face value. Everything that they tell you is good for you, you will have to look at it “cokey eye”, you have to take a second look at it, because they are always up to something according to former Senator Fitzgerald Hinds, there is always the proverbial sting in the tail.

Mr. Vice-President, I raise again, for example, the Beverage Container Bill; everybody was excited about recycling. Can we remember the Beverage Container Bill? We were finally going to recycle water bottles and so on, only for it to be brought to our attention that the Government had been—had allegedly, it was alleged that the Government had been making arrangements—*[Interruption]* If we go back to the record we would see Sen. Dr. Balgobin raising the matter. I do not have to make up. I do not have to make up things here.

Hon. Senator: All we know is that it died that day.

Sen. S. Cudjoe: I do not have to; “it have enough going on over there”. We do not have to make up stuff. The Administration of Justice Bill, they said this is to clear up the backlog in the court system—

Sen. Al-Rawi: Dynamite the logjam.

Sen. S. Cudjoe: Only to get section 34 out of it, and coincidentally, friends and financiers get to walk free. The state of emergency, only to find out all these hundreds of thousands of money went to “wala wala”, for a prison that had a big hole in the roof that we cannot use, and we are still paying rent.

We were told the LifeSport Programme would help to save these little black boys; \$34 million paid for a math class that never happened.

Mr. Vice-President: Please, do not stray as far as you intend to go.

Sen. S. Cudjoe: Mr. Vice-President, as many of the other Senators have stated today, this is a matter of public trust, and I am stating for the record the reasons the public does not trust this Government.

To ask, “Why do they have a problem with 15 days? What could we possibly do in 15 days?” Based on our experience with this Government, 15 days is a long, long, long time for the Government. [*Desk thumping*]

Sen. Al-Rawi: They pull section 34 in one day.

Sen. S. Cudjoe: Fifteen days is a long time. Scandal to scandal, the media has to select which scandal it is going to highlight. Sometimes an issue is raised or there is a scandal you want to highlight, but you have to watch your timing, because you want to give that other scandal some time. And they are coming blow after blow, one after the other. In a couple of days we had all “kinda” gates—I do not want to go back on those matters—in a couple days.

It was a couple days we were dealing with Room 201 and right after LifeSport came. So 15 days is a long time for this Government because nothing is sacred, nothing is sacrosanct, nothing is untouchable. Any number could play anytime, any day with this Government.

They have a way of getting their hands involved in things that do not concern them, from independent commissions, and independent institutions to even the police. I remember the Tobago House of Assembly election; a couple hours or so before the results were called, they believed they were going to win. I do not know if the People’s Partnership has a police party group, but for some reason or the other, there were police officers guarding Government offices, and when you spoke to them later they said, “Well, we were post there because we did not want members of the former

administration to come in and destroy documents”. Now, people judge others by their own standards. We cannot even trust them for 15 minutes, “dey eh even win an election yet”, we trust them for 15 days? [*Desk thumping*]

I want to advise this Government once again, to take a step back, reconsider, listen to the cries of the population. If this is really about power for the people, then give the population a listening ear. Do not bring this legislation and these proposals in a piecemeal fashion, we will be buying cat-in-bag, because you come with one thing today and something else that may contradict or make it more complex tomorrow.

4.30 p.m.

Mr. Vice-President, I think that since there is so much excitement sparked on the matter, I think that this is the right opportunity to get citizens more involved in the happenings in government, in governance, Mr. Vice-President, and in fostering a good democracy. I see this—and if the Government is not prepared to do that, then this would clearly be not an issue of power for the people, but power for the party. I see this as a blatant attempt to subvert our democracy—[*Interruption*]

Mr. Vice-President: Senator, excuse. You have a minute left.

Sen. S. Cudjoe: Thank you, Mr. Vice-President. I see it as a means of undermining the fundamental freedoms and rights of our people that are protected by the Constitution, and abuse of Parliament, of parliamentary time, and abuse of power, a disregard for proper process and procedure. In our humble view, if the Government is not prepared to do this, then this is clearly a policy to advance the UNC at the detriment of the entire country. And this kind of policy and this kind of approach does not belong anywhere

in our nation's history.

I could recall a little old lady during the time when there was the Debe/Mon Desir highway, and she left instruction for the Prime Minister as to where to put the highway. There are some that may say that this legislation belongs there too, Mr. Vice-President, but in my humble view I am asking the Government to come back to the people and engage us in a conversation. This is power for the people. If it is not for us then, for who? Thank you. [*Desk thumping*]

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. Vice-President, for giving me the opportunity to contribute to this very critical debate today.

Mr. Vice-President, last night as I was exiting the Parliament in the company of my colleague Sen. Small, and in your own company, Mr. Vice-President, I felt like a stranger in my own land. For the first time since I have been a citizen in Trinidad and Tobago a group of people decided to boo me and to heckle and harass me as exited this Parliament. And I found it strange because over the last 25 years that I have been a public figure in Trinidad and Tobago, I became accustomed and spoilt by the respect that I have received from all segments of our society. And I found it odd that I would be subjected to these catcalls and these humiliating sounds coming from my fellow citizens, especially since yesterday I said nothing, and I do not know what they will say today, [*Crosstalk*] and I do not know if they had an issue with me or Sen. Small or Mr. Vice-President, something with you.

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

So, Mr. Presiding Officer, now, the reality is that there is a great deal of heat in the national population, and it is important for there to be a bit of

light. Much has transpired in this debate. I too took major exception, Mr. Presiding Officer, to that *Express* story, who is the one? Who will be the Judas? Well, I want it to be known that I share with some famous theologians a view about Judas that is not necessarily consistent with the prevailing view, because without Judas many things would not have transpired. For those who doubt me, Rev. Joy, for those who doubt me, go to my favourite gospel, the gospel according to St. John, cerebral, John 3:16 “for God so loved the world that He...”, not Judas, “for God so loved the world that He—God—gave his only begotten son that whoever believeth in Him shall not perish, but shall have everlasting life”. And so I am grateful to Judas, doing what he did, so that the will of the Lord will be preserved and to give me everlasting life.

Sen. Rev. Abdul-Mohan: Amen. [*Laughter*]

Sen. Dr. D. Mahabir: And some will say—thank you, Reverend—[*Desk thumping*]*—some will say, Mr. Presiding Officer, that as a Hindu I am not entitled to everlasting life. But I went to school, my first teacher was Miss Buckley on Chin Chin Road, Cunupia and she taught me to read at age four, and she told me that I should become a Christian. And I said, “Well I was born a Hindu” and so on. And later on she met me—she is no longer with us—and she told me, “Have you converted? Have you accepted Christ?” I said, “I have accepted Him in my heart, though I remain a Hindu”. And what she said was simply this, “Christ is a merciful Lord. If you are a Christian you get into heaven easy, and if you are a Hindu you have to work very hard”, and so she was sure that I was going to get there, and this is the reason I work so hard. [Laughter] And I try my best because I know that I am going there with a handicap. [Laughter and desk thumping]*

But the fact of the matter is, Mr. Presiding Officer, when we speak about Judases and so on, and when we try to intimidate people, I feel that yesterday something sad happened in the Republic of Trinidad and Tobago. [*Desk thumping*] It was an unprovoked attack. And I am appealing to all those politicians and non-politicians, leaders of civil groups, please let them know what it means to be a Trinidadian. What does it mean? And, Mr. Presiding Officer, before you say I am straying, I want to tie all of this, and I intend to take my full 45 minutes, and I hope somebody on the Bench will ask for an extension for me, as I did yesterday.

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

You see, Mr. Presiding Officer—Mr. Vice-President, now, thank you—the reality is that Trinidad and Tobago is a society with a unique heritage, and that heritage is the freedom of speech, and the freedom of thought, and the freedom of expression, not only in words, but also in our actions.

One recalls someone indicating to former Prime Minister Dr. Eric Williams that, “calypsoian Chalkdust is saying a lot of unkind things about you and your government”. And what was his response? Did he silence? No. He said, “Let the bleep bray”. You do not like him because he has a right to do so.

I recall hon. Prime Minister Panday when he refused to attend the Dimanche Gras show, “Why are you not going Prime Minister?” He said, simply this. “I am not going to pay to be insulted when I get insulted for free every day”. [*Laughter*] And so he would allow people to have their say. Our society has had a long tradition—and I will come back to that tradition—of freedom of speech and freedom of expression. And so I have

been in the public eye for 25 years, and I have attacked the PNM and the UNC and the Partnership Government, and I am sure they have “steupsed”—I see now there is a candy called “steups”, to it is part of our national pantheon now. They must have “steups” and say, “Let him talk”. He is arrogant and “all kinda ting”. Right. But no one has ever tried, ever this country, to silence me, and they will not succeed now. [*Desk thumping*] And I take exception—I do not take exception when I am in Customs when I am in Canada and they search me because they do not like how I look, but in Trinidad I take serious exception to that. This is not in keeping, Mr. Vice-President, with our culture, the culture that we have inherited.

And so I will simply indicate to all the people out there what you should try to do. Listen to the debate. Listen to the merits. Listen to the opposing view. Do not let people think for you. [*Desk thumping*] Listen to what Sen. Al-Rawi and Sen. Cudjoe and Sen. Avinash has to say. Listen to what Sen. Rolph has to say. Listen to what Sen. Roach has to say. Listen to what the Independents—and listen because this affects all of you. And simply believe one thing, that none of us in this Chamber would want to injure you or your future. [*Desk thumping*] That is not the objective. We are in uncertain territory, and in uncertain territory we are all trying to see if in this darkness each of us can light a candle and illuminate something that is unfamiliar.

And so, Mr. Vice-President, I would urge all the political leaders to simply indicate to the population, where tempers are rising, we are in an election year, but do not lose our “Trinidadianess”. Do not lose the character of our society. Someone once asked me, “Why is it that elections in Jamaica are violent, and elections in Trinidad are so calm”? I said, “Have

you ever been to a political campaign in Trinidad? You will always see a speaker box, you will always hear old talk, you will always hear what we call picong, and you will get loads of laughter, and you will see people from all sides, wearing all different kind of jersey, travelling in the same taxi to go back home. That is the nature of the culture, and I want that culture to be preserved. [*Desk thumping*] Because if we do not preserve that culture, we are going to destroy everything we are trying, Mr. Vice-President, to put in place for the future.

Mr. Vice-President, that is only preamble. Mr. Vice-President, last year as we opened the Fourth Session of the Parliament there is déjà vu. Because as you will recall on that day we debated the Municipal Corporations (Amdt.) Bill, 2013, and I would like to quote from the *Hansard*. So please excuse me for reading because I need to quote from the *Hansard*. And I am quoting from the Minister who piloted, Minister Dr. Rambachan. This is on September 10, 2013. During his speech, he continues:

“...as we step into the next 50 years of our life as an independent nation, this historic and landmark debate will be remembered by those celebrating our 100th anniversary of independence as a political game-changer.”

That is Rambachan, page 16. And we are talking about introducing proportional representation at the municipal corporation level.

Let me go to page 221. Page 211, Sen. Dr. Mahabir in his contribution in this House for the first time, though I had contributed as a temporary earlier; many years earlier. Let me quote what I said verbatim.

“We have spoken about Constitution reform for ages. We have

all known that the mechanisms inherited from the United Kingdom to determine our form of government may not be relevant to a society such as Trinidad and Tobago where, on average, 50 per cent of the population will be excluded from government 100 per cent of the time.”

So, we are talking about the need for changing the Constitution to be a bit more inclusive.

4.45 p.m.

I go to page 303. This is the hon. Attorney General, page 303 in his contribution. He said:

“...I think when one looks at this matter of proportional representation, it will never get off the ground and there will never be a right time to do this. There will always be an objection about not enough consultation.”

He continues, page 305. I will tell you where I am going, lest in case someone raises on a point of relevance. He continues:

“I personally think that the hon. Prime Minister demonstrated great political wisdom and strength and courage in doing it now...

And if you have to do it in the general election you have to introduce it and plant the seed now in the public’s psyche so that it will grow, [*Desk thumping*] and if it grows then it makes life a little easier to come back in the Constitution reform matter...”—and he continues.

Words of wisdom from the hon. Attorney General.

Then we go—last page I assure you, page 356 on the *Hansard* of that very game-changing Senate session. Committee stage, Sen. Dr. Mahabir, I am speaking here in committee stage, page 356:

Sen. Dr. D. Mahabir (cont'd)

“Mr. Chairman of the committee, again, from a non”—legal—
“perspective, to the AG, is it unequivocally that the primary intent of
this legislation—is to open the door to the possibility, sometime in the
future, of the country adopting proportional representation as the
mechanism for selecting the members of the Legislature?”

Sen. Ramlogan SC: Indeed, indeed.

Sen. Dr. Mahabir: Right, once that is in the open, I think that I will
support the view that there is no need for a sunset clause.”

I would like to appeal to the Government that there must not be a sunset
clause on proportional representation, having raised the matter, and I will tell
you why. When the local government elections were called, despite
apprehensions and concerns, and we look at how this system really played
itself out in reality, what did we observe? In Diego Martin, the PNM
benefited from proportional representation. In Siparia Regional
Corporation, the UNC benefited. And in Chaguanas, the ILP benefited.
And in that debate, Mr. Vice-President, an amendment was proposed, first
day in Senate I decided, okay, throw caution to the wind, propose your
amendment if you feel you are right, you are right, and I proposed at that
time that there should have been five aldermen as opposed to four, and I
gave my reasons. And had the Government accepted that amendment, the
situation of deadlock we saw in Chaguanas would not have happened.

And so, I am simply indicating to the Government, look at the amendment
proposed and simply come back to the Senate, have the legal people look at
it, and it is a simple amendment that once a regional corporation has an even
number of council districts there shall be five aldermen, and where there is
an odd number of council districts the number of aldermen elected by the

formula shall be four. And once you come up with that amendment you will solve all the problems, because you see, we were testing the waters, it was valuable to test; it was important to see what the Senate had to say, hypothetically; it was important to determine how the situation was going to play out in reality, and then come back and say we have seen how this operates, not in Israel, not in Guyana, but in Trinidad and Tobago, and we have seen now that there was some little gap that we needed to close and it ought to be closed.

But I tell you, the fact that the system of proportional representation was deemed to be so problematic, turned out that it was rather benign, it benefited all in the population, all. [*Desk thumping*] And I dare say, when, after a year I have contributed to debate after debate in this Senate, I do not think the Government should sell the PNM short when it comes to proportional representation. They have supported a number of Bills in the public interest [*Desk thumping*] and I think it would be important, sometime in the future—I was hoping the debate was going to be about that today, that we would have a real Bill on proportional representation. So that, having learned from the local government experience, we would be able to implement in the general election of next year, and in so doing we would be hopeful to get consensus. If the Opposition refuses to support, then let them pay the political price for so doing as long as the population is of the view that it is fair, if they misread the views of the population, it is their burden to carry.

So that, Mr. Vice-President, my first best option is really to have proportional representation, [*Desk thumping*] that is my first best option. But politics, and I am learning the political game, I come from the academic

world, and in the academic world we do not play that much politics, but everywhere you go, as long as there is another person who opposes your idea, you ultimately are drawn into the political sphere. And it is no different from there as well. But in the political world I have come to accept that it is not what I want but rather it is what is possible, the art of that which is possible. [*Desk thumping*] I want PR, I would not get it. Is what I am getting, the second best, is the second best acceptable?

Let me now focus before I go on to the Bill itself to two issues that I had been able to discern. One is process and the other is content. When it comes to process of how this particular Bill reached me on my iPad and then in hard form, I will give the Government a failing grade. I fully endorse Sen. Roach's position on process, that we do need a particular process of time. You see, I quoted from the *Hansard* before, because according to the AG, once the population is made aware of this new system and they have seen that it is not as problematic as it appears to be, and we have seen it in practice and there is familiarity, we would be able to implement with ease. But what we have here, Mr. Vice-President, is a Bill that was presented to us in a flawed process.

My favourite fast bowler in the West Indies team was a fella called Malcolm Marshall. God, I love Marshall. I actually saw Marshall bowl in Barbados, invincible. I saw a fella called Ravi Shastri make 100 against Marshall, one of the best contests in cricket right in Barbados, and whenever Marshall was bowling he always had a long run-up and you knew that his delivery was going to be pace like fire. And my colleague, Sen. Henry, who is always fond of saying, you cannot set a good field for bad bowling. That is true. I would like to come up with another statement, whenever there is a short run-

up, expect spin. I have never seen a pace bowler with a short run-up. So when you see a short run-up, short league time, expect a Sunil Narine kind of delivery; left break or off break, leg break, googly, doosra, all kind of thing. And so, I am not at all surprised that given the short period of time that the public has had to digest this particular piece of legislation, there is the expectation of a strange turn of the ball. There is a feeling that if I have not seen it, it is because I just have not seen it. It is there and so the expectation is that there is some cunning, there is some craft, there is some subterfuge, there is some scheme, there is some *l'école perche* inside here. *L'ecole is French and perche is scheme*, that there is something funny at play and the population is certainly justified in thinking in this way.

Mr. Vice-President, [*Desk thumping*] when I first saw it, I myself, held that particular view, there must be something strange. But in addition to process, there is content, the content of the Bill before me, and in looking at the Bill before me I had to ask myself, should I penalize the Government for a faulty process or should I look at the merits of the Bill? Forget process, say okay, process is faulty, but should I look at the text of the Bill itself and make a judgment regardless of how it came to me to be debated. I am supposed to look at the Bill that is before me. As I said, the first preference is for proportional representation and there should be no sunset clause on it. And let me therefore look at the Bill before me.

What hypothetically can be, there is *raison d'etre* or the rationale, *raison d'etre* or the rationale for this particular Bill at this time, except if the public thinks that there is something there, more in the mortar than the pestle. I have looked for it and I will tell you what I have seen.

When I examine the three major areas, term limits for the Prime

Minister, first off, I immediately knew we are looking towards the American jurisdiction now. Trinidad and Tobago in this global era is looking at the experiences of other countries. And the American system has worked very well for the Americans. What is the benefit of having the term limits? The benefit is that more and more—you are going to be able to attract people into electoral politics who are young professionals, knowing that no one is going to occupy the top position until he expires, and there is going to be a period of time that someone will occupy the top office and then he or she must demit office. This will act as a positive incentive for individuals who are public service minded, individuals who are people oriented, professionals who have this particular bent to get into electoral politics, [*Desk thumping*] and we need a lot more young professionals in the politics, and I speak now with a year of experience, the Bills before us are now complex. They require a lot of training even if we have consultants helping. They require a lot of our own professional training for independent thought. But I see a particular cost to this benefit, and what is the cost?

Hon. Persad-Bissessar SC: I get bored whenever I stay home.

Sen. Dr. D. Mahabir: Well, hon. Prime Minister when you stay home, I do not see you ever getting bored or anything, you will find something to get yourself back into the public domain, some column, some talk show, or something like that. [*Laughter*] It is the nature of the business.

But the reality, Mr. Vice-President, is this. When we begin to attract these people as I have seen in the Canadian case—I will come back to that—Joe Clark became Prime Minister at age 39, Canada; Mulroney, age 44; Harper, a young fella, I do not have his age; Clinton and Obama while in their 40's; Blair, a young man. What you are going to find is that these

people having completed their two terms may be 49 or 50. What are they going to do with the rest of their careers? Certainly, they are not going to stay home as the hon. Prime Minister suggested, they are going to be able to make some contributions, and in this regard, Mr. Vice-President, hon. Prime Minister, we cannot place in the back-burner the legislative retirement allowances Bill. The reason is this, you want your retirees in Parliament to be able to have a good income so that they will be able to replicate for Trinidad and Tobago what Carter has done in the Carter Centre or what Clinton has done in the Clinton Centre to be ambassadors at large, to be exemplars in the society, but we can only do that if we have proper pension arrangements for these young retired Prime Ministers and they are going to then discharge their functions in the interest of all.

5.00 p.m.

Because if they do not, my suspicion is this: after a year at home they will become so bored that they will get back into electoral politics, or they could be in line for the Presidency of this country, and I hold the view that the President of our country should be someone who has earned his way professionally, a different stream. The Prime Minister is an individual who is a professional with great people skills. So I see two different strands there and I think we would want to ensure, as we proceed in the future, that this particular amendment is meant for young Prime Ministers to emerge, young Prime Ministers to be well looked after, and for young Prime Ministers to be role models in our society, to continue to be exemplars to the young people in our nation.

Mr. Vice-President, 5.01, I think I have up to, theoretically, 5.32, you know.

Sen. Vieira: Yeah, you do.

Sen. Dr. D. Mahabir: I do, theoretically, right. So let me now, before I conclude on term limits—yes, I know. Let me, before I continue to the principle of recall, indicate—

Mr. Vice-President: Just to assist you there with your calculations, you have up to 5.17.

Sen. Dr. D. Mahabir: Five-seventeen.

Hon. Senator: Original time.

Sen. Dr. D. Mahabir: Thank you very much. Five-seventeen original time, and I was given the assurance that they would plead my case when that time comes.

Hon. Persad-Bissessar: Sen. Balgobin.

Sen. Dr. D. Mahabir: Sen. Balgobin, yes. Mr. Vice-President, the issue of term limits is rather benign. I think it is something that few in the country will take issue with. We have, since 1986, had Prime Ministers who have served for less. Prime Minister Manning only served for two years and some more. So that it is something which exists in fact, but we are simply making it into law now, and I do not see anyone in our society having any major difficulty with this particular provision.

Let me now move on to this issue of recall. Let us recall that in the year 2004 Hugo Chavez was subject to a recall referendum. So it seems as though we are copying from the United States and now, very good; we are copying from other parts of the world, including Latin America. Hugo Chavez did survive that referendum for a recall, and in the principle of recall, it is important to recognize what it is and what it is not.

What is recall? Recall, to me, as contemplated here, is very similar to

the death penalty that we have on the books. It is a very grave and serious punishment, but the likelihood of implementation is rather low because of the process involved. So it is good to have it on the books but we know that we really do not want to have a recall election, because if we do, it reflects badly on the political party. Your screening process, initially, was faulty. How could you screen someone who was going to be a non-performer? Clearly, if your screening process is good, you should be able to screen the performers from the non-performers.

So that let us say the screening process was good and the individual turned out to really be a person of no merit, in the United States there is a recall every two years, if we are looking at the US jurisdiction. In the congressional districts you are elected for two years and automatically you have to give up office. In our system, the Prime Minister has an opportunity to recall an MP who is a delinquent Minister on a daily basis. She has that power. She must have that power, that, "I can recall you. I do not like how you are performing. You are not really carrying out the policy of my Government efficiently". So you stand to face immediate recall in the Senate and also as a Minister, and that is enough to, I think, keep a lot of Ministers in line; that they should not conduct their affairs such a way that they are going to be seen as non-performers.

Then we have a recall after five years. But if the Government wishes to have a recall at the end of three years, I would like them to give consideration to the suggestion of Sen. Balgobin, of two and a half years midterm because it lies between what exists in the United States and what the Government wishes to have, a midterm. Because in the US you have these midterm elections at two years and in our situation we could have

midterm recall elections at two and a half years, and you can actually get that as part of our institutional structure.

But I do see, unfortunately, a potential for mischief, and as long as the Government could live with this, I, too, can accept it, and that is, we think that governments will have major majorities as the Partnership Government obtained with its 29 seats. However, when we look at 1995, 17/17/2, hon. Panday operated with 19/17; 2000, again he won the election, 19/17; 2001, 18/18, it is quite possible that in any general election we can have a 21/20 and however good that 21st Member is either side, it can go either way. That 21st Member, most likely, will be the representative for Tunapuna, so political leaders on all sides, make sure you have your best representative for that, because you see, if I am in a position and I have 20 seats and I am eyeing that 21st, I will find all “kinda kuchoor” to make, to make sure that 21st fella could be recalled, and that could cause a government to fall.

We are in a situation of margin. The man, the woman, could be a very good MP. The fact that people are dissatisfied—I am sure if you take a poll, there is not a very good performing MP now. Everybody will say, “I do not see them. My bridge is not fixed. I have flooding”, and so on. And it is quite possible—[*Interruption*]

Hon. Persad-Bissessar SC: Siparia.

Sen. Dr. D. Mahabir: Yes, and I am coming to Siparia. We are coming to Siparia too, because, you see, I can see further mischief. It is important to understand the MP may be a hardworking MP, making representation. He does not have power. You see, power depends upon the Executive branch of Government. Until the public servants decide to implement the policies of Government and until funds are released, the MP will plead from now until

infinity, and you are not going to get the bridge fixed or the light repaired, or the water supplies, or anything like that.

You know, I remember two debates ago, Sen. Ramnarine had to rise and say, you know, he does not prosecute people. We need to educate people as to what we do in this Chamber. We create the policy. We set the framework and it is left up to others, and if they are good to us, they implement, and if they are not good to us, we look bad. So we do need to understand that a non-performing MP may be non-performing not because of his own fault.

I can see mischief with someone wanting to remove a Prime Minister because, look at the situation, we have recall. After three years you have lost Tobago, you have lost Chaguanas West, you have lost the local government, you have lost St. Joseph and you have a highway passing through, “to boot”. People out there can look at your constituency and say, “You see, I do not think the Prime Minister is performing”. You see, midterm, everybody loses the halo effect and the honeymoon is done. The living is a little tedious, and so I can see someone triggering a recall of the Prime Minister to cause instability in our country when, in fact, it is no fault of yours. That is just how the political game is changed.

But, hon. Prime Minister, if you all could live with the mischief, it is your Bill, live with the mischief. I now come—[*Interruption*]

Hon. Persad-Bissessar SC: You could recall the recall.

Sen. Dr. D. Mahabir: You could recall the recall, but I can see mischief. I just do not know if it will play out, but anything can play in a 21/20 situation.

Let us now look at what is the most contentious, this run-off system.

Mr. Vice-President, a couple months ago hon. Sen. Hadeed lent me a book. People will think that Sen. Hadeed does not read. Well, he tells me he does many things, but he is a scholar. He lent me the book and the book was called *Spanish Trinidad*, and it is a book written—I do not have the title now. It is a book written by a Spanish scholar who looked at Spanish occupation of 300 years in Trinidad and was chronicling that occupation from a 300-year perspective from Spain. And in that book I began to understand why we are who we are.

Trinidad, Mr. Vice-President, is a country that has a varied tradition. We have drawn our people from a number of countries in the world and the Spanish influence is here. But when you read that back, *Spanish Trinidad*, you realize now that while we do not know it, we are more French in Trinidad and Tobago than you realize.

When we say, “You good oui”, “mash dog”, what does “mash dog” mean? M-a-r-c-h-e—marcher, to walk—“mash dog”.

Hon. Persad-Bissessar SC: “Parler”, Parliament.

Sen. Dr. D. Mahabir: In fact, in the 1950s, I was told that Dr. Eric Williams would actually campaign in Patois. He would go into his areas and campaigned. I was also told that up to the 1940s, the language of the people in the ground, was Patois French and Bhojpuri Hindi. In fact, my aajee, my father’s mother, who came from India in 1914, on the Chenab, told me that when she came to Trinidad the first language she had was Bhojpuri; the first language she learnt was Patois. She spoke the Patois because she sold her products in the Port of Spain market, and if she could not speak Patois she could not sell. We do have a tremendous French influence.

Where am I going with all this? Someone stop me for relevance. Do

not stop me, I will tell you. [*Laughter*] You see, when I look at the run-off system—and I am grateful to my daughter, **Lakshana**, for giving me the research that I needed. The only time I needed research was from my daughter. [*Desk thumping*] She gave me the research, and we have skirted the issue of data. I got the data.

The country that we are trying to emulate is not the United States in run-off; it is not Latin America with recall, it is France. And the French tradition is an interesting one. Let me quote some statistics. I will make do of the time.

People say this particular Bill does not make space for third parties. Well, in France, you have the run-off elections for both the President and for the MPs, all 500 of them. And let us see the parties in France: The Socialist Party, 280 seats; Miscellaneous Left, 22; the Green Party, 17. So wait, third party? This particular Bill has nothing to do with denying a third party, nothing at all. [*Desk thumping*] But, of course, there is a major gap in the Bill, eh. “Doh clap so hard yet”. The Radical Party of the Left, 12 seats; the Union for a Popular Movement, 185 seats; the Miscellaneous Right—three third parties, I am down to about the sixth party—14 seats; New Centre, to which I will refer, 11 seats; Radical Party, six seats; Centrist Alliance, 2; Left Front, 10; National Front, 2; the Separatist Party—there is a Separatist Party. There are two provinces in France called Alsace and Lorraine. The people might want to separate.

I always thought Alsace was a part of Germany. You know, when you call an Alsatian a German Shepherd, my friends in France say, “No, it is a French Shepherd because Alsace is part of France. So you have the Separatist Party too, Alsace and Lorraine; you have the Centre for France, 2,

and the other for the far right, 1. I have counted 14 political parties engaged in run-off. It is not about third or fourth. In fact, you have made allowances for 14 parties in France, and when you look at how the votes turned out, the Socialist Party in 2012, it polled on the first round, 7.6 million votes; on the second round, 9.4 million votes. So it increased. The Miscellaneous Left, 881 votes, it polled 709. It fell.

The Green Party, 1.4 million in the first ballot, 828. It fell. The Radical Party of the Left, 429, 538. It rose. The Union for a Popular Movement, 7 million on the first ballot, 8.7 million on the second ballot. So what we have observed in France is this.

5.15 p.m.

This is a society that we are emulating. Should we emulate? Well, I will tell you. You see, the tradition in France is not proportional representation. The tradition in France comes from the philosopher Voltaire: I will disagree with what you have to say, but until death will I defend your right to say it. In France, everybody has freedom of speech. It is for this reason that the political leaders in this country, Panday, Manning and everybody, have been tolerant of freedom of speech and people who have criticized the Government left, right and centre, and they will just step up and say, "Here they go again."

The French tradition is one that allows, Mr. Vice-President, for a great deal of dissent, a great deal of conflicting opinion, and if you notice from this particular list of 14, not a single party is aligned to an ethnic group, race or religion in France. Religion is private and since they are all French people, ethnicity does not arise. Go and get your ideas. Come up with your ideas, and in the left you have all kinds of left. You have communists,

socialists, all kind of thing, and if you feel that way—and you have some parties getting seats, for example, the New Centre, 11 seats, 569,000 votes. It is able—[*Interruption*]

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

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

Question put and agreed to.

Sen. Dr. D. Mahabir: Thank you very much, Mr. Vice-President. I have actually had the very good fortune of seeing a run-off in action, but not at the constituency level, at the leadership level, and that was in June of 1983, the Conservative Party of Canada. I was a graduate student in Montreal at that time, and in June of 1983 the Conservative Party of Canada met to elect a leader. The incumbent was Joe Clark and the rules were simple, and I am surprised that in the PNM Constitution they are looking at this rule. I saw how it worked in an afternoon. There are 2,800 delegates. They are operating under a delegate system and it is only when a candidate receives 1,400-plus delegates, he will be elected the leader.

On the first ballot, Joe Clark first, thousand and something; Brian Mulroney, second, 700; John Crosbie of Newfoundland, third; and John Crombie IV—John Crombie was my favourite candidate because I liked how the fella was talking. He was what we now know as a compassionate conservative, but second ballot he dropped out. Joe Clark was first on the second, he was first on the third ballot, and on the fourth ballot when it was left only to Joe Clark who was running first all the time, and Brian Mulroney who was running second all the time, all the delegates of fella call John

Crosbie—but not all—two-thirds of them went over to endorse Mulroney.

So we saw the second place candidate on the fourth ballot crossing the 1,400, and that is how Mulroney became Leader of the Conservative Party by defeating Joe Clark on the fourth ballot. So the second place candidate can win on the fourth ballot. This is not a two-round, this is a multi-round. In 1976, the Conservative Party of Canada met to select a leader. The chosen son was a fella called Claude Wagner of Quebec. Because he was a French speaker, they figured he could break the stranglehold of the Quebecans in the Conservative Party. Wagner, Mulroney and Clark running one, two and three. Clark came in a poor third on the first ballot. Second ballot, Clark came in second. Third ballot, Clark came in second. Fourth ballot, Clark overtook. Coming from third, he was able to overtake Wagner on the fourth ballot, and at age 39 he became, on the fourth ballot, the youngest Conservative leader that Canada was able to elect. So I have seen how people in a party convention, in the same political party, can engage in trading and how they can cut deals to ensure that the person closest to me was going the win.

So it is in the same political party, same ideology, they got a consensus candidate. But then and then, I looked at the results and I want to speak to the results—I think I have 12 minutes. Right! If you know how I wish I had a half hour more, eh. But do not worry. I cannot get everything I wish for, so I have to go for second best. Twelve more minutes. *[Interruption]* Well, no, no, it is not wasting. I am relaxing the voice a little bit, Rolph. When I examined the elections at a constituency level now, as I said, it is the election in France where there are 14 political parties. I am using as an example from the Seine's 11 constituency. I am sure the

political scientist would be very well aware of the French 2012 National Assembly elections.

In the Seine's 11th constituency, candidate Julie Sommaruga polled 29.93 of the votes, coming first. Seine's 11 constituency. She was the socialist candidate. Candidate Marie-Hélène Amiable who was the MP, she came in second on the first ballot with 29.2 per cent. She is a Left Front candidate. Third place candidate, and this is what I want to speak to. You see, Joe Clark, third place candidate in 1976 went on to become political leader. Third place candidate, Jean-Loup Metton, M-E-T-T-O-N, from the New Centre Party got 24.1 per cent of the vote. So what did we have in this Seine's 11th constituency? One Julie Sommaruga, 29.93; Marie-Hélène Amiable, 29.2—very close election; Jean-Loup Metton, 24.1.

In this election, you see, if we are following the French system let us follow it right, because last year I suggested to the Government to consider five aldermen and they did not take on old Mahabir and we know what happened in Chaguanas. In fact, I was told by Sen. Al-Rawi, he used some of what I said in the *Hansard*, to prove to the people in EBC that the Government really did not take on good advice, but do not worry. Not because it came from me it was good, but I thought with those numbers—I am reasonably good with them, not very good, but after I work up the numbers I tend to get it right.

In this situation, there was what is known in France, a triangulire—usually the Bill that we have before us for is for two people. Only the top finishers. You would have had in Trinidad and Tobago, Sommaruga and Amiable only. You would have not included Jean-Loup Metton, but in France the rule is this. Anytime a candidate has secured at least 12 1/2 per

cent of the votes, that is, if he has saved his deposit, if he feels he has a chance—you see, the first round in an election is to determine your electability, the second round is to determine your “winability”. So for them, if you have the money, if you have the backing, 12 1/2 per cent of the votes, you can get on the ballot if you feel you will win.

If people feel you cannot win, then they simply will not vote for you. They will see you as a troublesome candidate. But Jean-Loup Metton, with 24.1 per cent, was only five points away from Julie Sommaruga. And so, what happened in that election, the records will reveal is this. Marie-Hélène Amiable who came in second, decided to voluntarily withdraw because she knew she could not win on a second round because she was from the Left Front and the leading candidate was socialist. They were like two peas in a pod, though kind of like first cousins having a little disagreement. But she could not see eye to eye with the New Centre fella, so she decided, I am going to withdraw in favour of Sommaruga, so Sommaruga could go to Parliament with a sizable majority. Why do we want our candidate to go to Parliament with a significant majority? The reason is this: I have heard MP Jack Warner say that he has come to the Parliament with the biggest landslide of people voting, and therefore, he has clout. “Doh give me trouble.” The second I suspect is the hon. Prime Minister—look, when election results are called I always get the Siparia results first and I always ask myself: Okay, if PNM 4,000, how much will it be for the Siparia 18,000/19,000? We know it is a huge spread.

The reality is, in Trinidad and Tobago, now we want two things, hon. Prime Minister. What do we want? We want our MPs to go into Parliament with a significant majority. But second, what do we want? We want to look

at those marginal seats. You see, in France, when you look at the French system and you scientifically say are we trending to it, this is what has happened.

In 1995, when we looked at the election we saw four marginals, Baratania/San Juan, St. Joseph, then we had Tunapuna and San Fernando West. Four! In the last election, there were something like 11 and with the loss of Chaguanas West, the bastion of the UNC, broke the ethnic barrier in Trinidad and Tobago in election voting. What we now have is something like 13 marginals. In the 13 marginals I can see that the Government is presenting a proposal that will give the population there an opportunity to send to Parliament an individual of significant standing.

Now, if it is that you have a triangulire, suppose for example, that you have a triangulire in Chaguanas, and in Chaguanas, let us assume you have ILP first, UNC second and PNM third—let us assume Sen. Avinash Singh runs again and he moves from 400 to 4,000, I will say, “Avinash, nobody should stop you because you have proven that you have the largest growth.” And if he is a third place candidate with 20 per cent of the population, I think if he think he has the gravitas, the pull, he should be able to run. Let the population decide whether—you see I am taking another look at the third place candidate. His growth has surprised even himself.

And so, I have tabled an amendment. [*Laughter*] The amendment hon. Prime Minister, is this, because I have looked for the spin, I have looked for the scheme, I have not seen it. I have looked for the cunning, I have not been able to determine it, because when I look at the French elections, I have seen that—and I relate it to Trinidad—it is a situation that can go anywhere. It is impossible to predict who will be the beneficiary of

this run-off. Impossible! It could be the PNM. In fact, it may very well be to the Government detriment, in that you come first in all 13 and you come second in a run-off on all 13 and you lose the election. But if you want to take that particular trouble, that is your trouble and your “ghanjhat” to take. But really, really, my amendment is as follows and I trust that on this occasion the Government will give it serious consideration.

Sen. Vieira: Four minutes.

Sen. Dr. D. Mahabir: I have four minutes, very good timing. Thank you, my esteem colleague.

My amendment on section 8(4) of the Constitution is this. After 8(4) when they said the second highest number votes to be held, I am continuing:

“Any candidate who polls at least 20 per cent of the votes cast”—in France it is 121/2. I am saying 20 for a reason—“is also eligible to contest the supplementary poll. Where more than two candidates contest this poll, the candidate who polls the highest number of votes will be declared the winner.”

You see, in that situation you are not guaranteed a 50 per cent. Because, hon. Prime Minister, this is the reality. Whenever you have two people contesting, there is an immutable law of the universe. The winner of that contest must secure more than 50 per cent by definition, and the reality is this. If you have more than 3 per cent and since you only have two votes, two two-rounds, it is quite possible that the population instead of moving to the majority candidate—thank you—can vote as they did, but then, Mr. Vice-President, that is the will of the people. That is how they have spoken. They have said that is their desire and they are not going to vote. In that two minutes, let me give an example. Let us suppose that in a constituency we

have 20,000 voters and 12,000 turn up to vote, and the results are as follows: Five, four, three. A gets 5,000—five and four, three. That is how it goes. Five, four, three. That four and three would beat the five, but let us assume according to what the Government is proposing.

The fella who gets 3,000 votes is eliminated. That fella who gets 3,000 votes let us say, is a popular candidate. They love the fella. He is a conscious candidate. He is NJAC, he is TAPIA, he is Avinash Singh. They loved the fella and if he does not go, they refuse to go out to the polls, what happens? We have 8,000 people who did not vote, and he who did not vote has agreed so we cannot count them, but we now have 3,000 people who are refusing to vote, what we have here would be the first place five and the second place four contesting. Nine thousand people going to vote and all the first place winner has to do, hon. Prime Minister, is to hold on to get 4,500 out of the 5,000. He could lose 500 votes from his 5,000 and still win the election. Why? Because he will vote for himself. So in first instance, where he gets 5,000 out of 12,000, he gets 42 per cent of the vote in the second instance where he gets 4,501 out of 9,000, he gets 50 per cent, is that really the 50 per cent you want? The answer is no, and therefore, hon. Vice-President, I did not know it was going to be so entertaining.

I would stop here only because my time has come to an end, but I have to say that once the Government gives serious consideration to the amendment and to the facts presented, I would rest my case temporarily.

Thank you very much. [*Desk thumping*]

Mr. Vice-President: Hon. Senators, the time now is 5.32 p.m. I intend to take the tea break, and therefore, the sitting is suspended until 6.02 p.m.

5.32 p.m.: *Sitting suspended.*

6.02 p.m. *Sitting resumed*

Mr. Vice-President: We will continue with the debate on the Constitutional Bill.

Sen. David Small: Thank you very much, Mr. Vice-President.

I appreciate the opportunity to join in the debate here this evening on this very important Bill that has probably allowed the Parliament Channel to enjoy its highest ratings ever. I think people do not understand how much this is being monitored. During the earlier break I went out and I received a phone call this afternoon from two colleagues in Houston and they are plugged in, a little group of Trinis right now in Houston are looking at this on the Parliament Channel's website very interested. This debate has galvanized interest of Trinidad citizens around the world.

I also got an email from a colleague who is a Trinidadian but based in Doha, and because of the huge time difference it is in the middle of the night, but they are like, "Smalley, we on, we on." And so that the magnitude of interest in this places an additional burden of responsibility on us to be rigorous in what we do. And, unfortunately, for me, that is my normal modus of operation.

I want to begin, Mr. Vice-President, if you would permit me, to acknowledge that yesterday was a historic day for this Chamber, when we had the hon. Prime Minister coming to the present a Bill. And I think it is one thing for the hon. Prime Minister to present a Bill, but I think for me what was significant was the hon. Prime Minister sat here for the entire day. We wrapped last night after 10:00, the hon. Prime Minister was still here, I left her here. And I think that is important because when someone is in charge of something and you say, "this is important," you have to

demonstrate how important it is to you, and I think that was key that the Prime Minister felt that in the scheme of all the things that are of national importance, this was the number one priority for her yesterday. And I see the Prime Minister is already here today and I think that should be logged.
[Desk thumping]

Mr. Vice-President, I also want to deal with something that Sen. Mahabir referred to. We had an interesting experience leaving last night, where we were wrongly booed leaving the building, and you know, I am fairly unflappable with things like that. But perhaps it is because people—what plays out on the floor here, the average citizen does not understand that once the cameras are off, there is generally a collegial atmosphere amongst all representatives.

I have people I talk to very well on the Government side and the Opposition side and, certainly, on the Independent Bench. And there is mutual professional respect that pervades the way in which this Parliament operates. And I think I am not sure to the extent that people really understand and grasp that.

I have many people—Minister Hadeed, Minister Ramnarine, Minister Ganga, Minister Coudray, Minister Fazal Karim, Minister George, people with whom I have, what I consider normal-people conversations. Senator Al-Rawi, Senator Robinson-Regis. I would meet Senator Robinson-Regis in our favourite supermarket in St. Augustine. I mean it is just—Massy Stores.

I think it is important for people to understand I would have a beverage with a little spice with my colleague Dhanayshar Mahabir at our favourite watering spot. So people, I think it is important that this is not us against each other toing and froing. This is people sharing different view

points from different perspectives, to which we are perfectly entitled, we are perfectly entitled. And there is a respect that goes across the floor. I am not asking you to agree with my position, but you should respect my position, and I think that is all that happens. [*Desk thumping*].

So Mr. Vice-President, I, myself, I am not sure how I am going to do for time but I am going to stay on track.

One of the major reasons for democracy, certainly not the only reason, is that it puts ultimate control over those with their hands immediately on the hands of power into those who would be affected by the exercise of that power.

Following from that thinking, a review of what I consider to be the public debate of almost any topic, it shows that we seem to be always constantly pressed to chose from a range of allegedly incompatible alternatives with either a choice of for or against, which entrenches what comes across to the public as an adversarial view. And this is where it seems that people, the art of compromise seems to be a bit missing in the way in which we do things. We have demonstrated it at times, but sometimes I think that the extent to which that compromise occurs is not—people do not understand fully.

Mr. Vice-President, as a legislator, there is also a moral dimension to what we have to do here. The promise of improvement in administration and the aspirations citizens have for it, include distinctions which we should not ignore when thinking about what might flow from our actions or our decisions here today.

The letter and spirit of the law, legality and justice, rules and principles, baselines and aspirations, negative and affirmative and, of course,

fear and hope, which is what is going on a lot in the system now. Ideally, we would like to serve them all, but it is physically impossible to serve all of these ambitions.

So Mr. Vice-President, personally, I would admit, to personally be wrestling with these issues, I have been imbued with an uncomfortable, but I would not say relentless determination to ensure that at least what I have to say today is level, it is fact-based and can stand the most rigorous of examinations.

So, Mr. Vice-President, please forgive me for that moment of introspection because I think it is important for people to understand where my brain is at as I continue with my contribution.

Mr. Vice-President, I always take the view that the last time I checked, our country is a democracy and the ability to speak out is only constrained by issues to do with slander, otherwise we can voice opinions freely and as loudly and as often as we please.

As a general comment, I tend to argue that in any country in the world the Government in office has a built-in base of supporters who would rally behind any measure they propose. What makes a democracy is the extent to which those opposing the Government's plans can raise their voices publically, without fear of reprisal. The vibrancy of the national discussion and the fervent nature of the many and several letters to editors, as well as the many direct mailings that I have received, points to the strength of our democracy.

Mr. Vice-President, I wish to lay out the canvass of the flow of my discourse this evening. One, firstly, I will offer general comments on the various elements of the national discussion; two, I will attempt to deal with

what I consider to be some issues about what I call the basis for comparison. Several comparisons have been made and I want to respectfully disagree with the basis of some of the comparisons that have been used. Because in my mind, the message that is being sent could be misleading.

I will then comment on each of the key elements of the proposals contained in the Bill, and I deliberately left my comments around the process to the end, and I will explain why I left my comments on the process to the end, and then I will wrap up with what my thoughts are on the entire process after that.

So Mr. Vice-President, in my general comments, in the world of professional analysis, it is often said, "it is not what is done, but how it is done." That could be the determining factor in whether a particular initiative succeeds. I think that based on all the comments made to date, the Bill is actually being questioned not only on what is in it, but also the provisions, how the provisions came to be.

In the world in which I operate of professional analysis, recovery from such a fatal combination is very rare and I will shortly point out we may not be operating in a space where all of the rigor that should have been applied or could have been applied was applied, and it has led to a lot of instability in the system.

Mr. Vice-President, I want to deal with a general malaise of Governments around the world, it is something called, consistency of policy. And the Royal Swedish Academy of Sciences published an article entitled, *Finn Kydland and Edward Prescott's Contribution to Dynamic Macroeconomics*, dated October 11, 2004. For the record, Finn Kydland and Edward Prescott were awarded the 2004 Nobel Prize for

Economics/Science. And I wish to quote as follows:

“Consider a rational and forward-looking government that chooses a time plan for policy in order to maximize the well-being of its citizens. Kydland and Prescott show that if given an opportunity to re-optimize and change its plan at a later date, the government will generally do so. What is striking about this result is that it is not rooted in conflicting objectives between the government and its citizens, nor is it due to the ability of unrestricted policymakers to react to unforeseen shocks. The result, instead, is simply a problematic logical implication of the rational dynamic policymaking when private-sector expectations place restrictions on the policy decisions.

A significant upshot is that governments unable to make binding commitments regarding future policies will encounter a *credibility problem*. Specifically, the public will realize that future government policy will not necessarily coincide with the announced policy, unless the plan already encompasses the incentives for future policy change. In other words, sequential policymaking faces a credibility constraint.”

Mr. Vice President, it is the responsibility of Government to make a winning case for the public in support of its policy actions, and what is often important is consistency of policy measures and supporting action. This legislation has come to the Senate just shy of one year since the debate on a Bill to introduce a measure of proportional representation into the system. During that debate several speakers indicated the Government’s thinking and support for proportional representation, as well as hopes for possibly

expanding it to the wider system.

Mr. Vice President, I will not say much more on this, but applying the thesis proven for which they won the Nobel Prize—this proves the thesis of Kydland and Prescott and it validates the experiences to date, that this apparent shift in Government policy has caused a lot of the challenges that the Government itself is facing today: lack of consistency in policy. When you say one thing one time and then you come back and you say something else the other time, you create a problem. And there is a macroeconomic theory that has been proven, and this is probably a very good test case for it.

My learned colleague, Dhanayshar Mahabir, would be well aware of Finn Kydland and Edward Prescott.

Sen. Mahabir: You read that, boy? That hard, you know.

Sen. David Small: Yes, I did my reading, I did my research.

But these are guys who went and did a macro-analysis of Government policy, how Governments make policy and they won a Nobel Prize to essentially say Governments will struggle when they flip-flop with policies. And I am starting high up, Mr. Vice President, and I am going to drill down. But for me, this theoretical underpinning is important for my logical mental process. Because I approach things—so forgive me for this slightly different approach.

So what is intent of this legislation, Mr. Vice President? I believe that we must first be clear about what we are doing. The late Stephen Covey, the author and muse, in some of the management writings he said we should begin with the end in mind. The end that has been proffered by one of the key proposals is that it be better and an improved system if elected reps achieve a majority of votes in a particular constituency. On the face of it,

the logic of that is very appealing and I do not personally have any problem with that. I think that the logic for that is sound. So while this appeals to democratic idealists, what is not said is that there is zero evidence to suggest that election by run-off brings about any improvement in service delivery to constituents, which is where I would have thought at least part of the focus on Constitution reform would have been.

I think if you tell constituents in an area that their rep would always be available to them, he will ensure all of their issues will be dealt with, I fully suspect that they might care quite a bit less whether he won by 40 per cent or whether he won by 55 per cent. Because there, what citizens want is quality and consistent representation—

PROCEDURAL MOTION

Sen. Singh: Thank you, hon. Senator, for giving way just for me move the procedural motion.

Mr. Vice President, in accordance with Standing Order 9(8), I beg to move that the Senate continues to sit until completion of business or a convenient time for adjournment.

Question put and agreed to.

CONSTITUTIONAL (AMDT.) BILL, 2014

Sen. David Small: Thank you, Mr. Vice-President.

What must be noted, Mr. Vice-President, is that we are engaged in the process of considering an amendment to what many would argue is a flawed system, depending on where you sit, with systems that have their own set of flaws. And I would be the first to say no system is perfect. So that we need to—and this is where the balance in how things have been presented I had a little bit of a mental challenge because I understand the positives, but I

would like to be able to say, listen, you list the positives, you list the negatives and then say why we are doing it. And you debunk the negatives. I am not sure if that has been presented in a rigorous enough way.

What does exist, as supporters for each model who tend to highlight the relative advantages, and I have done my research, Mr. Vice President, and it is an important point to make that a majoritarian voting system is an electoral method which gives the right to appoint all the representatives to the majority of the electors, denying representation to the minorities.

Both first-past-the-post and run-off systems are exactly alike in this regard, there is no difference in this respect. Interestingly, I have not heard anyone presenting data to support an argument that governance would be better under this new package, probably because such cannot be substantiated. As a citizen, is it unreasonable to ask what is expected to be better from these changes? And this brings me to my next point, expectations.

Citizens may very well be expecting improved service delivery from their elected representatives now that they may be able to exercise their potential new option of having them recalled. But what is in there to mandate that there is going to be improved service delivery to the citizens? I am not sure. And depending on how we sell this to people, we could be selling a fallacy, and while I do not think there is anything insidious inside of each of the particular recommendations, we have to be careful what we are selling because people will buy it as we sell it, as manna from heaven, and it may not necessarily be that.

And there is a fundamental challenge, Mr. Vice-President. Earlier this afternoon we heard an impassioned contribution from Sen. Roach and I have

had his experiences, you know, you go to random places and you meet people and people not are not sure what it is. And the problem is, they say, “Mr. Small, I do not like this,” and I say, “Why do you not like it?” “Uhhh...” they cannot say. So that for me there is an information gap. I do not think that people just—people do not like it and they cannot explain why, it tends to be because there is not enough information, they do not know where to get the information, or it has not been shared in a way in which they could understand and assimilate it. I think there is a communication issue in there that needs to be fixed.

I want to move on to item two in my thesis, Mr. Vice President, and that is about just trying to set the basis for comparison, and for me this is important. Many comparisons have been made, but I think that the basis for comparison and, more importantly, the data source has not necessarily always been provided. And in the rest of my contribution, for the avoidance of doubt, whenever I compare election systems, I am speaking about systems that provide for election to the national legislature in the countries concerned.

In the other place and even in the Bill essentials, I see that USA is used as an example of a country where run-off and recall are used. Mr. Vice President, those statements are misleading if you work with my thesis. In the United States, they do not use run-off, they do not use recall for elections to the National Legislature. And I understand the AG today when he said the concept is part of their system. I accept that, that is very true. But if I sit in an audience somewhere overseas and I say, “In Trinidad, we use proportional representation,” that would be absolutely true, but it would also be inaccurate. Because I should say, “We use proportional representation in

electing Aldermen in the Local Government Elections,” then it would be correct.

So that we have to be careful how we transmit information to people because by saying it is used in the USA and it is used here, and it is this, it is correct, but it is inaccurate and it leads to people making wrong conclusions.

I understood the AG’s explanations and I beg respectfully, very respectfully and humbly to disagree. It is not appropriate. It points people in a direction that skews how people approach and think about the issue. And I think that it is important that we deal with that.

So Mr. Vice-President, I think that also several other, in all of my readings, just for the avoidance of doubt, I want regarding the issues about the US election results or first past the post, that information is freely available on the United States, Federal Election Commission’s website, I have printouts of it here, and all of the elections for senators and congressmen and for the President are first-past-the-post, that is what it is.

When you—I want to quote from an article entitled, “Recall of Legislators and the Removal of Members of Congress from Office, by Jack Maskell, dated January 5, 2012, from the United States Congressional Research Service, and I want to quote:

“As to removal by recall, the United States Constitution does *not* provide for nor authorize the recall of United States officers such as Senators, Representatives, or the President or Vice President, and thus no Member of Congress has ever been recalled in the history of the United States.”

So that while I understand that the United States uses run-off in its primary elections, the natural attachment to that from the Trinidad and

Tobago context is that they use run-off to select the candidates in primaries for the parties. The comparison here in Trinidad and Tobago is when the parties are selecting candidates there is an internal screening committee and candidates are selected. In the US they have a little more formal process to select the candidates, because what often happens is that there is more than one person interested in being a Congressional representative or a Senatorial representative.

Mr. Vice-President, to complete the North American picture, and I want to say Canada uses first-past-the-post, India uses first-past-the-post. I mean, there are so many, I looked at the *Hansard* in the other place and I think that a lot of information went out there. It is important that I put that information out there, and it may not necessarily impact what we have to—it may not even impact my own conclusion here but I cannot sit by and see skewed information being played in the public record and at least not make an attempt to correct the public record.

Mr. Vice-President, I just want to do it quickly in terms of data when we spoke about run-off, and my good colleague Sen. Mahabir gave us the wonderful French history, and I will come to some of that later. But according to the data, and my data source is the International Institute for Democracy and Electoral Assistance, which is an intergovernmental organization which supports sustainable democracy worldwide. And I will tell you how I validated that source of information in a short little while. But according to them, out of the 217 countries that they track for election processes, 18 use the run-off system, one-eight, all right. And the list of countries that use, the 18 countries that use the run-off system are: Bahrain, Belarus, Bhutan, Central African Republic, Comoros, Cuba, France, Gabon,

Haiti, Islamic Republic of Iran, Kiribati, The Democratic People's Republic of Korea, Mali, Mauritania, The Republic of Congo, Turkmenistan, Uzbekistan and Vietnam.

So while it is fair to say that the system is used in several other places and it is factual, it could also have been said that only eight per cent of the countries in the world use it. So data is a funny thing, Mr. Vice-President. You can present data in different ways. You can say, "many countries use it," but if you said, "only eight per cent of the countries in the world use it," it puts a completely different spin on the data. There are many ways you could package the data, but my position is just to present the actual data and people can make of it whatever they want.

To complete the picture, according to the IIDA, there are 45 countries in the world that use first-past-the-post and 81 that use proportional representation, which is the most common system in use. So perhaps that could provide some guidance to where the thinking could be going about what we want to do.

I am not trying to promote anything, I am just sharing data. So that you have 81 proportional representation, 45 first-past-the-post, and then the next highest is the run-off system 18, one-eight.

Mr. Vice-President, I want to deal with another matter that I am not sure if it has been put in the public domain, but this is the one that is the biggest issue for me because I have heard and like Sen. Mahabir, I had an issue with process, and I am going to deal with process later on. Then what I rationally did is tried to understand, inside of what I feel to be a massively flawed process, was there anything inimical to the public interest that the Government was trying to pursue? And I have looked at it, I have listened

and I do not get the sense that there is anything sinister in the plans of the Government in bringing this to the table. How it has come has caused a huge problem, but I do not sense any malice or any sinister approach on behalf of the Government in bringing this, that is my read on it. So I am not necessarily agreeing with Sen. Mahabir, but that is on the basis of what I have read and what I have seen.

But, Mr. Vice-President, this is the point that I think has been missed. The Bill envisages a package that includes term limits for the Head of State, a run-off provision and an election to the— and provisions for recall. Of the 18 countries in the world that use run-off, only one also uses recall; one. If you compare how many countries in the world that have first-past-the-post, only six use recall.

So Mr. Vice President, based on the data obtained from IIDA, this Bill would place Trinidad and Tobago in a very exclusive club of a total of two countries to have run-off and recall provisions and then also term limits. So I, in the absence of empirical data to support how these measures would work together—you see, this is where I am struggling mentally. I think the measures individually, we can sit and we can pick them apart and say, good, bad and indifferent. But there is no empirical evidence to show how they work together. And for me, that is the biggest mental challenge that I have, and I have no objection per se to any one of these measures, in all honesty. But because this has not been tested as a package, I have deep concerns, and the fact that it only occurs in one other place in Kiribati, a small island in the South Pacific. I am concerned and I want to share my concern with the Government, because if the Government has looked at this and has said, “Listen, we have looked and we assessed how it is going to work

interlinked,” for me, I have not heard anything to deal with that, and that is my biggest, number one, huge concern.

6.30 p.m.

So, Mr. Vice-President, I know Trinidad and Tobago is a unique place but I think to so drastically amend our system to one where we are only joining one other country in the world seems to be something that could use a little additional thought. Humbly and respectfully, I think that it could use some additional thought. I have looked at the Constitutional Review Commission Report and that is a big issue, because what we are doing here, we are making Trinidad and Tobago the test case for this, and I am not sure if that is—whether wittingly or unwittingly, that is something we wish to do. So in closing off this portion of my discourse, I have attempted to place accurate and traceable data into the public record. So that I think that the informational integrity of the discourse can continue at a higher level going forward.

So, Mr. Vice-President, I just want to comment briefly on the key provisions and I will not be very long here because I think everyone speaking so far has had much to say about all of the various provisions. So that the recall provision is a device to bring back—to bring some accountability, and again, it is immediately sexy. [*Laughter*] It is immediately sexy, it is almost a bromance, when you think that I have an MP, I have never seen him, I can get him out of there. Honestly, I think this provision is almost benign. I almost see it, even if it goes into the law, it might never ever be used, because the process of using it, waiting until effectively day one of the fourth year, and then to get a petition and then—I mean and then you just have that 365-day window to action that. The

chances of actually moving that are so small, so I understand why it is sexy and everybody gravitates towards it and I am relatively benign on it, but I think that I am not sure if it is—

And there is a couple of issues with it because we have to remember the society we live in. Trinidad and Tobago is a very small place and because it requires 10 per cent to begin the process—you know, I probably have 2000 friends. You know, the size of the constituencies in Trinidad are very small and there are people with axes to grind. I know several contractors who have 2000 employees and if you really—it presents the opportunity for mischief, it presents an opportunity for mischief. [*Desk thumping*] It does not mean they will get the two-thirds but I think it presents an opportunity for mischief.

Another issue is that there are single issue groups. We know there are some groups who have gone to the High Court and all—single issue groups, they have one issue, and they are going to tell their MP, “Unless you get my issue done, I am going to recall you”. You are actually holding the MP to hostage. “MP, this thing passing through here, we doh want it. If you doh tell the Government to back off on it, we going to get you to recall.” And you see that places another problem, it causes another problem.

I have been in the civil service for over 20 years and governmental programmes span many years. When you come in as an MP and you have a programme that is going to take five years and then two and two and a half years into it, the constituents are threatening you, you are scared to even support what your Government is doing because you have a little issue group and they can easily rally, “run ah curry que and gather ah set ah people” and get 2000 signatures and say, “You, you geching trouble”. And I

am scared about that because why—[*Crosstalk and laughter*] You could get 2000 signatures easy.

I came in here yesterday and I think most people got an envelope with couple thousands signatures, I do not know where they came from, but those things can happen very easily. I am scared about some measure in there to protect. So that, I think, potentially, it could actually lead to what I call an excess of democracy where the threat of a recall lessens the independence of an elected official in that it undermines the principle of electing good officials and giving them a chance to govern. [*Desk thumping*] I think that is a fear I have.

Again, I have done a lot of reading and those are some of my concerns, I am putting it on the table. For me that is—so the single issue groups, there are groups that we know, this is passing through here, “we doh like this, we doh want this and is you”, the MP, “we coming for you”, and you are holding the MP to hostage. So, those are things that I am concerned about and I am not sure if in the process of bringing it to the table, we have considered all of these things. We may not be able to stop it but at least we could understand if it happens how do we manage those issues. As I always tell people I come here and I am trying to work for Trinidad and Tobago and there are issues inside of here that I have a challenge with. I may not necessarily be against but I have challenges.

So, Mr. Vice-President, I wish to quote from an article entitled “Hasta la Vista: A Comparative Institutional Analysis of the Recall” by Prof Matt Qvortrup. For the notetaker, it is spelt Q-v-o-r-t-r-u-p. He is the Director of Research at Cranfield University of the United Kingdom and I quote:

“The recall (...of elected representatives following a special election) has received increased attention in recent years....the mechanism has been championed by reformers as a means of holding elected politicians to account. Yet no comparative study has been undertaken to empirically test the effect of the provision. There is some (limited) evidence that the recall has improved trust in government in the US and to a”—smaller—“degree” in some small States “in British Colombia.”—in Canada. “But overall the recall has—paradoxically—tended to strengthen politicians who win recall elections.”

And for the record, Prof. Matt Qvorturp teaches British politics and constitution at the University of Cranfield in the United Kingdom and is a recognized expert on comparative institutional engineering. He has been described by the BBC as the world’s leading authority on constitutional referendum. Mr. Vice-President, our country is very small and the potential for this provision to be abused is there.

Mr. Vice-President, recall in theory is direct democracy at its purest but it presents a fundamental conundrum on the whole issue of democracy, if the recall vote to overturn elected officials is less than the vote at which the person was first elected into office. So that where we have the legislation, part of it proposes that you need 50 plus to win the popular vote to be elected and then to start the recall process, you need 10 per cent and then you need 66 and two-thirds per cent.

Perhaps, this is only part of the reason why only one country in the world, one country in the world today, pairs run-off with recall, one country in the world. I am not sure—if this is what we want to do, fine, but I want to

make sure that we understand what we are doing. I want to make sure we understand what we are doing, it does not exist anywhere. I mean, Kiribati—let me not cast any aspersions on the good citizens of the country of Kiribati but it exists in one country in the world and I am deeply concerned about how this thing works, and because I have not heard anything about this in particular, this is my number one concern. We are proposing legislation that combines measures and the combination of measures just exist in one place in the world, and we will be number two, and I have not heard anything to say, well, we have put this to a rigorous test, we have analyzed—I have not heard that.

Mr. Vice-President, I now move on to run-off provision. The run-off elections at the national level—and again, for the avoidance of doubt, whenever I compare systems, I am comparing elections at the national legislature, just to be clear that I am comparing apples with apples. Many of the countries that utilize this provision were under partial or total French control at some point in time in their history. The list of these countries includes the Central African Republic, Comoros, Democratic Republic of Congo, Gabon, Haiti, Mali, Mauritania, Vietnam and, of course, France. So fully, half of the countries in the world that use the run-off system can trace their political roots to France with eight of those countries having French continued as their national language.

So that, as my colleague, Sen. Dr. Mahabir indicated, the roots of the run-off system is definitely French-based. So it is still largely used in places because of essentially an accident of history and because many of the citizens of those countries would have been educated in French, would have understood the French systems, and have gravitated towards the French-used

system of electing their national legislated officers. Mr. Vice-President, forgive me for digressing but I found this particular part of my research to be very interesting and it was really a lot of rich reading for me.

So, Mr. Vice-President, in an article by renowned constitutional expert, Sarah Birch, entitled “Two-Round Electoral Systems and Democracy”, and for clarification, “two-round” means the run-off. In the international lexicon, it is called the two-round system. The author argues—it is published in the “Comparative Political Studies” at page 36—no, sorry, Issue 3, pages 319—344, the author argues in the abstract and I quote:

The possibility of holding a second round of voting is a destabilizing factor that inhibits democratic development and encourages the use of non-electoral means of exercising power. This is because the institution of the double ballot works to fragment the party system by establishing districts specific strategy incentives and by diminishing the element of uncertainty that is key to securing cooperation by important political actors.

Birch also argues and I continue:

All in all, the characteristic effects of two-round elections are poorly understood and the two-round system is more likely to encourage abstention in the second round.

Mr. Vice-President, I have done masses of reading. The general indication from the authors is that the two-round system or the run-off system lessens competition partly as a consequence of the substantial reduction in outcome uncertainty following the first round.

So that as I have earlier pointed out, a run-off system for election occurs in only 18 countries. In looking at the listing that I have mentioned,

Sen. D. Small (cont'd)

none of them could be reasonably be said to have the type of governmental system that we have, none of them. So I am not sure if we are choosing a system, what was the basis for choosing a system? Is it that we had similar cultures, similar history, similar political systems? I have not heard the arguments about why it was chosen, on what basis it was chosen, I am not saying anything is wrong with it per se. I found it actually pretty interesting, but at least for packaging the information, I think it is important to say this is how we arrived at it. How did we arrive at it? You see—

Hon. Senator: Why?

Sen. D. Small: I am not even dealing with why, I am dealing with how. What was the theoretical underpinning? If you are doing something, you have to come and say this is how we arrive at and I am not sure if I have heard that.

Mr. Vice-President, I also take the view that this should not proceed without strict rules in place for campaign financing.

Hon. Senator: Absolutely. [*Desk thumping*]

Sen. D. Small: The reality is that better financed candidates will have an unfair advantage in a run-off given than less well-financed candidates may have exhausted their funding in the main election. So that perhaps, the candidates in a run-off should be provided, from the state, with a statutory amount of money and eat and it is monitored and that is all they have to spend for the run-off. We need to find a way to fix that because invariably, you will have two candidates running, or three candidates running and when you come to the run-off, one guy is out of funds, his money is done, and the guy who still has money has an unfair advantage. So I am only picking what I consider to be the big cherries here. There are several other higher hanging

fruits but I have gone for the very low-hanging fruit that I can find.

So I have heard in the debates in the other place and here that the run-off election same or more voters tend to vote. No hard data has been provided that I could see. In my own research, it shows that the experience is exactly the opposite and that less persons vote in the run-off than in the main election.

Coming out of this, there is another issue that—about perversion of the system and I think Dr. Mahabir—because, it seem, Dr. Mahabir, your 12,000 votes and 5,000, 4,000, 3,000, so you and I, [*Laughter*] we have probably the Vulcan mind meld so I am not going to go through the example, but there is potential for the system to be perverted. You could have a candidate winning—leading in the first round and then losing in the second round.

6.45 p.m.

But if you combine the votes in the two rounds, he has more than the other person, but the other person who won in the second round won. Is that really a majority? That is not a majority. It could never be. It could never be. I see Sen. Nicholas. Let me go through my example. Perhaps, Sen. Nicholas is not with me. Let us say 12,000 actually vote in a constituency and candidate A gets 5,400 votes, which is 45 per cent, and candidate gets 4,560 and candidate C gets 2,240, so a run-off is held between A and B. In the runoff, you have less people voting. I take it as a given. Ten thousand people vote. Candidate A gets 4,200 votes and candidate B gets 4,700 votes. The winner would be candidate B. But that would be by, really, a minority vote.

It is a minority vote in the second one, and if you add the votes

together in the first and second round, it is a minority vote. So I am not saying there is anything wrong with it. Understand where I am going. I am saying there is opportunity for the system to produce a perverted result, which goes against what the stated intention is. The stated intention is to give somebody with 50 per cent of the vote. You could have a situation where somebody in the second round, gets less than the person who got in the first round and be the winner. That could never be right. So that, again, I am not opposed to the measures, per se, but these are things that need, I think—I am respectfully, respectfully asking that this be given some more thought. We are embarking on something that I understand. I am one of those that say the way we have it now needs to be changed, but process and timing and making sure we get it done.

You know, I had a guy “coming to do” some work home for me and he was trying to fit a lock for me and he said: “Boy, Mr. Small, I have to—you know what to do—measure twice and cut once.” Measure twice but cut once. I think in this case it is better we measure twice and when we cut the hole we cut the once, but we know when we cut the hole, the hole does the job. So, I am struggling with it, because my internal sense is that there is nothing, no ill will on behalf of the Government bringing this, but I think that some of the measures in here require some analysis. [*Desk thumping*] And because this is my job, I do this every day for a living, when I go somewhere and I present something to somebody’s board of directors they rely on what I say. They know that I have done the work. And all I am saying is I have looked at it and I am not seeing that level of depth of rigour in what has been presented. I am concerned about that. I am really concerned, Mr. Vice-President.

So, I hope Sen. Nicholas got my explanation.

SENATORS TURNING BACK ON CHAIR

Mr. Vice-President: Before I make the statement, I also have a concern and I have been looking at it for a while. I do not like the idea that I am in the Chair or the President himself and one is speaking down there and the Chair is turned, you turn your back to the Chair. I find that it is a bit disrespectful. I do not like the idea. You have been doing it. Several people have been doing it, not only you, but I looked at it on occasions that I have sat in the Chair and I feel that is not the best thing to do. Even though you want to listen to the person speaking, but when you completely, as you have just done, turn the chair and your back is to me, I feel that is not in keeping with good protocol. So I am—not only you, but I have observed others doing it. I would like you to refrain from doing so.

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

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

Question put and agreed to.

Sen. D. Small: Thank you very much, Mr. Vice-President. Mr. Vice-President, from me to you and to all Senators, no disrespect is intended. I humbly and respectfully apologize for the laxity.

Mr. Vice-President: I was not referring to you.

Sen. D. Small: Mr. Vice-President, I want to place on the record that I have noted your concerns and I will make sure that I act in accordance with your direction, Mr. Vice-President.

Mr. Vice-President: I hope the others take example from what you have said. [*Laughter*]

Sen. D. Small: Mr. Vice-President, so listen, I probably need another hour but let me try to—I need to just start to wrap up. Just for clarification, I think the hon. Attorney General in his contribution quoted that run-off in the second round, there are some examples of it.

According to a report by FairVote, a non-profit organization that acts for electoral reform in the USA, produced a report entitled: *Federal Primary Election Results Run-offs*. It is the same data that was presented by Sen. Dr. Lester Henry, and it essentially shows that when they tracked—for eight years in the USA in the primary elections, whenever you have a run-off, the average drop-off is over 30 per cent, it is one-third. So, there is a fundamental issue with run-off elections and the second round delivering much less voters than the first round and when you factor that in, you could have perversions in the system where somebody wins on the second round but if when you looked at the first round they would not really have gotten a majority. So, I think we need to address that.

Mr. Vice-President, I want to move on the provisions dealing with term limits. Several years ago, when I had a much fuller head of hair, I studied Government at UWI in a programme and the lecturer was actually one of the members of the Constitution Reform Commission and he shared with the class—I always remember this, the first day of the class—that the Westminster system reposes powers of an omnipotent nature in a Prime Minister and these often tend to amplify whatever normal human failings the holder brings to the position. Perhaps, if only for this reason, limitations on the time a person can stay in such a position seems a supportable argument.

I think that, Mr. Vice-President, this, in conducting my own research on the matter, many authors have suggested that the head of government having a long run may not necessarily be a bad thing, as that person would gain and apply lessons from his/her experiences, and further deposits that a leader does not necessarily become corrupt purely on the purely on the basis of being in office for a long time, although it does occur. What I was pointed to is that, as a general rule, history has shown that once a leader stays too long, citizens tire of them and are engaged in their removal from office.

As for the provision, I want to deal with that, for fixed election dates, again, it seems eminently supportable and it will certainly remove the speculation that usually surrounds the actual announcement of the date and would lend itself to a more orderly set of preparations for national elections in a situation where the playing field is level.

I just want to make an argument though, that while I do not feel, this for me, is a big huge issue, I am not sure how much work went into getting it here. In the UK, there is something called the Fixed-term Parliaments Act of 2011, and it essentially says that the Act fixes the date of the next election in the UK at the 7th of May, 2015 and every five years thereafter. This could only be varied by, first, a Motion of no confidence passed in the Government or a Motion for early general is agreed by at least two-thirds of both Houses without division. I think that, in putting the provision in there, there are some things we need to consider.

I started to understand what is happening this year. Mr. Vice-President, this year Bulgaria called for a snap election because Parliament was dissolved because of a financial banking crisis.

Ukraine President dissolved Parliament and called for election forcing the Government because of the war they are having with Russia.

Kosovo has called for a snap election, scheduled for early elections because the Government lost a major vote in the national Parliament and the Government seems to have lost the faith of the people.

In Cook Islands, they called for early election. All of this is this year. In Cook Islands they have called for elections because one of the members of the Cabinet resigned from the party and formed a party to oppose the Government, and in Slovenia, the Prime Minister has called early elections because he lost the internal party vote to be the leader of the political party.

I have just shared that there is a multitude of reasons why, in many countries, you have that flexibility in setting the election date, because lots of reasons could happen that could actually need—so, I think there needs to be some proviso, some caveat, in the existing recommendation to deal with the unforeseen passing of the Prime Minister, God forbid, or a national emergency, or several issues.

Sen. G. Singh: That is anticipatory because that is not before us as yet.

Sen. Al-Rawi: It is not laid at all.

Sen. G. Singh: It has been drafted.

Sen. Al-Rawi: It is not laid.

Sen. G. Singh: So, it is anticipatory. But we will take your recommendations.

Sen. D. Small: Mr. Leader of Government Business, I am so happy to hear that. You are very facilitative, as usual.

Sen. G. Singh: You have to marry both.

Sen. D. Small: Mr. Vice-President, I also want to now, quickly, a few

comments on the constitutional review process. I agree with my colleagues that the process is flawed and all I want to say is that, if you apply, as a practical consideration, constitutional reform could not never be an apolitical activity to succeed. All right. It could not be. Constitutional reform should not, in any way, be seen to be a staged activity by the sitting Government of the day. And the obvious question to be asked, Mr. Vice-President is: how desirable is it to have a Constitutional Review Commission chaired by a sitting member of the current administration? I think that, and I will share with you a lot of my comments. I will share the source because I have my thoughts but my thoughts were validated by an external source, which I will come to.

In wrapping up, Mr. Vice-President, fundamentally altering the electoral arrangements enshrined in the Constitution should be cautiously and comprehensively approached and seek the highest possible level of consensus, in my respectful view. [*Desk thumping*] Amending the Constitution is not like amending other laws, and I think that the process, given the many—I have heard that there are many public responses for and many public responses against, and all I am saying, okay well let us put all of them in the matrix, pull all of the issues, have someone pull out all of the issues and understand how do we treat with them, can we respond to them, rather than just say: “well this is for and this one is against” and you only look for the “for” and you only look for the “against”. No, let us collect all of the views. Let us collect positive, negative and sit somewhere and say: “okay, let us analyze and see whether or not this has any validity and if there is any way we could treat with it. I am not enamoured with the approach of saying, Mr. Vice-President, well this one—

I think that to move this forward, it requires mature deliberation, it requires review. And I am happy, Mr. Vice-President, although my normal consultancy rates—the Leader of Government Business says they cannot afford me, but I think it requires some movement towards really understanding, with some depth and some granularity, what we are doing. And I, on the basis of my analysis, which I am challenging anybody to question, question it, interrogate it. It is not that I believe that I am right and I am not asking anybody to like my opinion. I am not asking for that. I am saying the things that I have said, I have supported it with accurate data that can be verified and I have an external verifier.

Mr. Vice-President, I want to quote from an article from Chatham House. It is entitled: “Establishing the Rules of the Game—a Comparative Overview of the Processes of Constitutional Changes”, by Professor Matt Qvortrup, Director of Research at Cranfield University in the United Kingdom, and I quote:

Constitutions constrain political action but they also protect the individual and vulnerable minorities. They limit the scope of legislative omnipotence and hinder the abuse of power. This may create dissatisfaction, but in doing this they contribute to cementing the rule of law for as Dolf Sternberger famously noted: a certain degree of moderate dissatisfactions serves to benefit the State.

Mr. Vice-President, when one is approaching a task, it is important to understand the rules of the game. The experiences of others could be a guide to help avoiding potential pitfalls, so I understand the references to other places. In fact, if one were not to do that, then you would not understand the landscape and you will be going down a slope where you do

not understand where you are going.

7.00 p.m.

Everyone has jumped quickly on the for or against bandwagon. I did not have that luxury, Mr. Vice-President, and in the event, that is not my character. Popularity is not a factor in my determinations. So even though I was booed by the crowd, I am not here to be popular. What is a major factor is the application of the appropriate rigour to my analyses. All that I have attempted to do here today, is to provide information, facts and observations that I hope will shape our common understanding of the landscape. [*Desk thumping*]

If the decision is to—that this legislation is implemented, then at least I hope what I have done here today is provide a better understanding of what we are entering into, is relatively uncharted waters. I am not sure if we understand that is—if we are agreeing to do that, but understand that we are going into waters that no one has ever, well, one other country has gone into, and I am not sure if that has been impressed upon all and sundry.

Mr. Vice-President, given my factual observations and the analysis I have conducted, my decisions and my positions are logically pushed in a particular direction, but as I have always stated, I do not expect perfect solutions. I tend to be willing—what I call a 70—to accept a 70 per cent solution to anything, as opposed to remaining with the status quo. I am one for change. I like to be moving forward and being progressive.

However, the legislation presents a combination of measures that have not been tested as a package, and I posit that the experience and capability, [*Desk thumping*] and the sheer number of the administrative requirements to get this done, I am not sure if Trinidad and Tobago is ready for this as a

package at this time without some additional analysis.

So, Mr. Vice-President, in wrapping up, my lingering concerns are:

1. The level of confidence in the veracity of the process utilized in developing the measures before us;
2. The way in which the supporting data that was put out by the supporters was used, and the fact that key elements clarifying the data set that was used was not provided, thus potentially providing what I consider to be a skewed and in some cases, misleading information going out there;
3. The rigour that was applied or not applied in providing an analysis of the positive and negative effects of the individual measures; and then
4. Knowledge of how the package of measures will work together, given there is virtually zero empirical evidence of same.

So, before I close, I wish to acknowledge the sounding board and reference point provided to me by Dr. **Matt Qvortrup**, the head of research at Cranfield University in the UK. Dr. **Qvortrup** is part of my international network, and he is a renowned scholar, author and government advisor on constitutional systems, and was able to provide a credible external and highly reliable reference point for key portions of my research presented here today, including verification of data sources.

I had several discussions with the good professor. He looked at all of the various elements of the legislation. We had several conference calls about the issue, because I felt this was so important. I had views in my mind. I read everything, but I felt I needed an external verification of worth. [*Desk thumping*] Dr. **Qvortrup** has asked me to make sure that when—he

wants to understand the outcome, because he is going to be writing something about this. Because this—what you are proposing here does not exist anywhere in the world, and he wants to be able to—he said he wants first dibs.

Sen. G. Singh: So he has an interest.

Sen. D. Small: He has an interest. So it is important and I am not knocking the individual measures. I am just saying—*[Interruption]*

Mr. Vice-President: Sen. Small.

Sen. D. Small: Forgive me, Mr. Vice-President—*[Interruption]*

Mr. Vice-President: You have a few seconds. Go ahead, but just be mindful.

Sen. D. Small: Yes, thank you, Mr. Vice-President.

Like everyone here, I am here to seek the best interest of the people of Trinidad and Tobago. I have been asked by His Excellency to do a particular job, to come here and impart my knowledge and my experience today, and bring them to bear on the things that are brought for our deliberation. I think that in doing this, my particular approach is very focused, is very deliberated, is very data driven.

What I have done, I think I have done—presented today, shows that we have a package of measures that is not tested, and I have no objection to the individual measures whatsoever. If the Government had come and said, listen, we want to replace first past the post with run-off alone, I think that may have actually flown. But when you put together these packages of measures that were not tested, Mr. Vice-President, I am concerned. I have deep concerns, and I am calling respectfully on the Government powers that be, to take my concerns into consideration in the decisions that they will

take.

Mr. Vice-President, with that, I want to thank you for the opportunity to speak, and I appreciate your guidance. [*Desk thumping*]

The Minister of State in the Ministry of National Security (Sen. The Hon. Embau Moheeni): Mr. Vice-President, thanks for the [*Desk thumping*] opportunity to make my contribution to this most important debate. I must say that I have been heartened by the amount of interest this constitutional Motion has generated across our nation. It is healthy and it augers well for the continued development of our nation. On that score, I do congratulate the population of our great Republic of Trinidad and Tobago. [*Desk thumping*]

I also would like to commend our hon. Prime Minister for the courage that she has taken, in bringing this piece of legislation so close and such a short time before the next general election, and standing with that courage for the best interest of our democracy.

It has been said that the purpose of life is to create, but the nature of life is to change, and there comes a time when change may not only be desirable, but also necessary. This piece of legislation and the several comments that have been made about it, is legislation—yes, to amend the Constitution, but it is all about the question of strengthening our democracy. [*Desk thumping*]

It has created in my opinion too much emotion, and I will explain what I mean, as I go along, because the Constitution (Amdt.) Bill, is not a Partnership Bill, is not about party, it is about the democracy of our Republic. Those who over politicize it are not doing a service to our nation. As a matter of fact, any constitutional debate is not a debate to be

politicized. It is a debate for sober thought and discussion and ideas, where we could weigh the merits and demerits of our actions.

It is not as Sen. Shamfa Cudjoe may have said. It is not about NJAC or UNC or COP or even the PNM. It is a question of what we can do to strengthen our democracy. We have to recognize as well, that the Constitution can only be given expression and life through the people of our nation. It can only be given life through our institutions, and this is why it is so important to pay respect to a word that I have heard over and over, the question of process. But when we say that we need to get our citizens involved, are we talking about emotion, are we talking about the kind of language I have been hearing, draconian, bullish, savagery? Is this what we are talking about? Because within that kind of environment, sober discussion is placed on the back-burner.

It is unfortunate that we could have reached a stage where—as Sen. Mahabir had to come and bring to our attention, the fact that he was booted and he was not the only one. This is not about partisanship. This is not, as has been put forward, an attempt to steal an election. As a matter of fact, the same thing was said when the limited proportional representation was introduced in the local government elections. But if you go back and you check the record, you will see that had it not been for that measure, the PNM would have had less aldermen. [*Desk thumping*] So in spite of all that they were stating before the local government election, that it was a plot, and it was a scheme, they benefitted from it. And there is no way we could sit here and say—and predict how the population will vote when these measures are introduced to determine who will benefit or who will not benefit.

We have to recognize that at the end of the day, after these measures

are implemented, what we need to be concerned most about is, how it will affect the well-being and the welfare of our people. No nation can grow, no nation can be built by approaching critical discussions out of emotion, bullish, draconian. No nation can develop that way.

We have to recognize that this document, the Constitution, as well as however we may want to amend or to change it, has to be given life through the enlightenment of our population, through the actions of our people. That is what will give life and meaning to our Constitution.

I want to deal with the question of the right of recall for Members of Parliament. I believe that based on our historical experience, this measure can only but auger well for the democratic process, as well as for our population.

I do not see how we stand to lose when an MP knows that if he does not satisfy his constituents, they can say, we have had enough. That in my opinion, can only auger as an incentive or an additional incentive for that MP to be proactive, to be diligent and to be productive. I have heard a number of comments where that is concerned. Sen. Small spoke about holding MPs to ransom. The fact is that we need—the problem here is not the legislation. We need as a nation to do more to lift the bar where our political engagement is concerned. We need to do that.

We have inherited a political culture that grew out of the past so many years, that we need to do more to change. The danger does not lie in seeking to hold an MP to ransom. Even before the election, that same MP may have been held to ransom, because we know that in our nation, politics and politicking have not always been what our people would really desire.

7.15 p.m.

But to use that as a deterrent to bringing this measure of recall; to use that as a deterrent to putting into place a measure that will put greater power into the hands of the people, I think, will be making an error because, in the final analysis, if that MP is to be recalled, who is he going to be recalled for?

I have heard some Senators say that a question of what criteria will be used, whether it is criteria A, or criteria B, or criteria C. When that individual offered himself to be a candidate, the only criteria that was used was the willingness of the electorate to vote for him. He had to go out there or she had to go out there and convince the electorate, I am going to do A, B, C and D and, on the basis, the electorate placed him or her into Parliament. [*Desk thumping*] And at the end of the day, if the electorate sees that that Member is not fulfilling their expectations, I believe they should have the right to recall that Member.

While the Bill may have stated three years, I have heard mentioned mid-term, two and a half years. I personally believe it should be two years. After two years, the electorate should be convinced that this Member of Parliament is either living up to the expectations or not living up to the expectations. In other words, when we talk about this measure of the recall of MPs with whom the constituents are not satisfied, what we are talking about is not democracy on paper; we are talking about democracy in action. [*Desk thumping*]

I want to look also at the question of the second ballot, the run-off voting, which has generated so much discussion. The fact remains that the two terms for the Prime Minister, the term limit, as well as the measure of the recall, they were both in the 2010 manifesto of the People's Partnership. And not only were they in the manifesto, but they were part of the campaign.

They were spoken about on the platform; they received the support and the acclaim of the population and, if you are talking about the question of recall, I see no problem in seeking to introduce a measure to ensure that a candidate gains anywhere above 50 per cent. I see no problem in introducing a measure that ensures that a candidate does not become elected unless he or she could gain a majority.

I have listened to the argument that it does not exist anywhere else in the Commonwealth and I also heard the concerns of Sen. Small, which are quite valid. But the fact remains as well that we here in Trinidad and Tobago, we might be a small nation, but it does not mean that we cannot accept leadership. [*Desk thumping*]

When the Trinidad and Tobago football team went to Germany, we became the smallest nation in terms of geographical size, as well as in terms of population, to qualify for a World Cup finals. That was leadership. [*Desk thumping*] When Dwight Yorke went to London, he did not go as a follower. He went as a leader. Hasely Crawford, Keshorn Walcott, Brian Lara; they went as leaders. We have to recognize that, nationally, yes, we must be diligent and observe what is taking place among our neighbours in the region as well as in the international community but, at the end of the day, we have to study our own historical experiences; we have to study our own national situation; where we are and where we want to be; what legacy we want to leave for our children, and we need to make decisions that are in our own best interest.

I have heard that the run-off ballot will destroy third parties, but no one has convinced me how that is going to happen because I was reading a statement in the papers where it was said that vote once and in 15 days your

vote no longer matters. The fact remains that, with the present system, after you vote once, you will not even get a chance to vote a second time. But if this measure is adopted, at least at the end of the day, after that first ballot is taken and some of the parties are eliminated, you will now have a second choice, out of those who have gained a larger measure of support, to determine out of these which one do I want or which one am I prepared to choose.

I do not believe that our actions, our vote, our support should be based on bias. That is going to create racial conflict and racial tension. That is going to cause a loss of democracy. Under the present system, after you vote once, it is only one party going forward. If you are given a second chance, a second opportunity, I cannot see how that is going to create a loss of our democracy. In my opinion, that will only strengthen the democratic process.

I agree with Sen. Dr. Mahabir when he says that we need some light on this situation because all of us must accept responsibility whether as parliamentarians, whether as leaders in our educational institutions, whatever institutions they may be; that we need to do more to ensure that our debate on matters such as these could be one that gives our population an opportunity to see a more enlightened debate rather than one that will degenerate into what we had outside the Parliament yesterday.

I, too, was booed, I think, not that emotion is not good sometimes, but when you are talking about something as sober and lasting as our Constitution, it has to be done with a sober mind and collective mind frame. [*Desk thumping*] It has to be done in an environment where we recognize that what we are doing is laying the foundation for the years to come.

Look at the Republican Constitution, which was designed by the then Prime Minister Dr. Eric Williams and Sir Ellis Clarke and which has stood for 40 years—and which has stood for 40 years. There was no participation of anyone else except when it reached to the Parliament and, as I would say, participation is a right and this Constitution, the Constitution amendments, were discussed in different parts of this country. Yes, the run-off was not there but, as I said before, I see no problem to bringing in a measure to complement the second measure I mentioned, that was the recall.

The fact remains that what we are doing today has to stand the test of time and we are talking about amending the Constitution. What criteria are we prepared to use? I believe, most importantly, in the fact that the Constitution has to grow and has to reflect our aspirations and recognition of our nation.

The Constitution and our Constitution amendments are not for a party. It is not for a region, neither for Charlotteville, nor for Point Fortin, nor Diego Martin, nor Scarborough. It is not for Tobago or Trinidad. It is for all the people of our nation and, as such, our debate has to be conducted with that in mind. Our debate has to be conducted in a way that we recognize the objective cannot be partisan; it cannot be racial. We cannot encourage racial divide. We cannot encourage division at all as a matter of fact.

But does it meet our criteria and what criteria I am looking at? Are the measures being introduced reasonable? The two-term limit for the Prime Minister, is it reasonable? Is it reasonable to give our people the power to recall an elected MP with whom they are not satisfied? Is it reasonable? Is it reasonable to offer our people the opportunity after they had cast their first ballot to say, “Okay, let us narrow it down before we make that final

decision as to who we are going to put into office.” Is it reasonable? I say yes.

7.30 p.m.

Secondly, is it fair? I say it is fair as well, because the measures that are applied apply to all candidates regardless of political persuasion, affiliation, race or otherwise. So it passes the first test of being reasonable; it passes the second test of being fair. Does it pass the third test of being progressive? I say yes, it does. [*Desk thumping*] It does pass the third test of being progressive because it does take our nation forward on three counts: one, term limits. You give a Prime Minister up to a maximum of 10 years and six months to deliver your agenda, and then let someone else continue the agenda.

It gives greater power to the constituents. Now, they do not have to sit down and wait for five years. They can say, “Okay, you have failed to deliver, right, we are going to recall you.” And that in itself will be a motivating factor to let our MP realize that we are not tin gods, but we are servants of our people.

Does it pass the fourth criteria? The fourth criteria is that it has to grow out of the sovereignty of the people, and it must recognize that it is the population that is sovereign. That is why the Prime Minister said if the measures are so bad, come 2015, the Partnership will be voted out, and I agree with that 100 per cent. The people are sovereign and it also passes that test because it places greater power into the hands of our sovereign nation and people of Trinidad and Tobago. [*Desk thumping*]

But this Constitution must also grow out of the values, the principles and the historical experiences of our people in terms of where we are today.

And, as I said, the nature of life is change. Let us, as we go forward, recognize that we have a responsibility to pay honour to the sovereign nation of Trinidad and Tobago to remove the culture of the tribal vote that we have seen over the years, that we have for too many years played on that. And, in my opinion, to say that these measures will cause a greater racial divide and more racialism within our country, I say that is an insult to the intelligence of the population of Trinidad and Tobago. [*Desk thumping*]

If we look at the run-off elections, vote number one, the first round is when you have all the parties there. That is when you will tend to find each party being able to pull their constituents, their support. So, if it is anything tribal it would be in the first run-off. In the second run-off or in the second poll, that is when they will be looking for the swing vote and the floating votes and broadening it. That is when it will become more nationalistic. That will encourage that broadening of the process, and that in itself will strengthen the process.

If we are going forward, we need to recognize that the importance as leadership—and when I say leaders, I do not only mean in Parliament, but all those who hold leadership positions across our nation—that in pursuing to develop a more mature political and a more mature people, generally, as leaders, we have a responsibility to set the example. We have a responsibility to show that light that our people need. We have a responsibility to develop greater tolerance and respect among our people. The time has come to remove the mental shackles from our mind.

I say that in speaking for the National Joint Action Committee, we sat down and we deliberated on this matter for several hours on a number of days recognizing the importance, not only the importance, but the

significance of this move, and the message it is going to send to our people. We are convinced that the measures being implemented are positive and in the best interest of the democracy that we are seeking to build and broaden in this Republic of ours [*Desk thumping*] and, therefore, I have no choice but to support this measure, and to call on all of us to reflect very carefully and to give it the support it deserves.

As we stated, so many years ago, politics is not just the road to Parliament, but it is about how we live. It is about how all of us as a nation are going to build a better society. There is a time for politics and there is a time for nation. I thank you. [*Desk thumping*]

Sen. Rev. Joy Abdul-Mohan: Thank you, thank you very much, Mr. Vice-President. I truly appreciate the opportunity to join the debate which is so exhilarating on this very important issue of constitutional reform and, especially, the Constitution (Amdt.) Bill, 2014. At this point in the debate, no doubt, the various arguments, thoughts and commentaries have been thoroughly ventilated representing a broad cross section of Trinidad and Tobago, and by the time you reach number 42, you know, much have been said.

I thank very much, my colleague, Sen. Vieira for giving way to me today. Usually, I am the last on the Independent Bench to speak, but today I have my colleague Sen. Le Gall who will also speak, but Sen. Vieira has chosen to speak last. Nevertheless, I would attempt not to repeat and rehash covered territory. I would, therefore, aim to highlight some of the main items and, hopefully, briefly speak about points not covered. Those who know me on the Independent Bench know very well that I try to take a different approach after all the scientific analysis of various topics. I take a

more pastoral approach and may be that will help. I do not usually speak for more than 15 to 20 minutes and, hopefully, that would not change.

Nevertheless, permit me, Mr. Vice-President, to preface my contribution with a few general comments. Forgive me if I pontificate a bit or sound sentimental to crave the indulgence of Sen. Nicholas. Forgive me for engaging a lil frenzy as it were; forgive me, but that is part of our nature.

Whenever I make a contribution as an Independent Senator, you know, I always try to live up to the prayer that we say at the beginning when the President or the Vice-President of the Senate would lead us to serve with honesty and courage and conviction without prejudice, and I listen very carefully.

Mr. Vice-President, even before I became an Independent Senator, I observed that when Bills of a controversial nature are placed on the table, they do not always encourage healthy debates, but they seem to raise the adrenalin of the general populace, and sometimes they ensue aggression, bitterness, anger, acrimony, negativity and even divisiveness at every level. That is my observation, in my opinion, and we may say, very casually: "That is politics Rev. Joy, welcome to the real world." And whether that is so or not, it is a real concern for me when those kinds of behavioural patterns, you know, come to the fore. So I have noticed that when certain types of behaviours are displayed especially at the Executive level, these emotions, especially aggression, trickle down to other levels especially the grassroots, some of whom, respectfully, may not have a clue of what the real issues are; may not have a full understanding of the issues, but are guided or even coerced by political and prominent personalities, including the media to respond in a particular way. [*Desk thumping*]

I know the media has a responsibility, but they have to take their responsibility very seriously and cautiously. I love the media eh, do not get me wrong guys. You have your role, but I would like to say that my faith in the integrity of politics was diluted just a little bit over the past two weeks, and why? The question is the means and lengths that some people go through to get someone on their side is appalling to me.

I know there were many, many genuine persons who genuinely had an interest in my well-being. I am not an apologist for any party or any group, by I try to be a voice to the voiceless. I did state that at the beginning when I was appointed an Independent Senator. Surely, everyone has an opinion and that is their right and many individuals, however, young professionals, who really want to see a change, especially for my generation, get frustrated and discouraged with the political climate at times when the real issues are lost in the melee, “mauvais langue” and the picong, and many of them are not inspired to sometimes read the newspaper or listen to a talk show or discuss the issues at hand because of a lack of substance.

And further, Mr. Vice-President, the young intelligent professionals and even the very simple man and woman with whom I interact on a daily basis have expressed their deep concern for my safety, especially when this topic of constitutional reform came up. So, I was wondering but why should they even think about my safety. I used to drive through Gun Hill all 12 midnight, no one never bothered me. Why are they worried that I am coming to the Parliament and they are concerned about my safety? But their concern reflected a deep-seated belief that we have not yet attained the status of a mature democracy. That is their opinion and that, for me, is a serious issue and I can be corrected.

7.45 p.m.

Mr. Vice-President, I am pleased when leaders at every level encourage and motivate persons to engage in constitutional reform. I am also pleased when leaders and prominent personalities, even the media, inspire people to be cautious when they make an informed and educated decision regarding constitutional reform. But I am concern when and if someone is forced or coerced by another to make a decision, especially if their actions and voices incite violence or polarization. I have a problem with that, hence the reason I was very pleased when the hon. Prime Minister called for a vote of conscience, and that vote of conscience is not a vote of feelings per se, but a vote for what one believes is honestly right for the good of all. That is what a vote of conscience is all about. It is a God-given gift. It is a God-given gift so that you may choose what is right for the good of all.

You know, I am sure there was good reason why the hon. Prime Minister suggested this approach and, you know, Mr. Vice-President, hats off to anyone who accepts leadership as President, Prime Minister, or even leadership of the Opposition or any, any, any organization, especially of a country. [*Interruption*] Yes. You know, hats off because you carry a heavy weight on your shoulders. Be that as it may, I still dream of a day when political debates and campaign platform speeches would be free from “mauvais langue” and character assassination.

Call me an idealist, I have said that before right here in this august Senate. I dream of a day when there will be a greater level of respect for others who have a difference of opinion. I dream of a day when leaders, especially political leaders, would focus on the issues at hand and make the

best of the gift of time, especially when very important and sensitive Bills are being debated in both the Upper and Lower Houses. You see, in my humble opinion, it is counterproductive to debate matters and to make informed and educated decisions late hours in the night and wee hours in the morning when the human body is tired. That is only my opinion, but my opinion, you know, may be fluff, but it is my opinion, but I cherish my time. I cherish my time.

I will tell you this, Mr. Vice-President, when I leave my parish, as it were, to come here on Tuesdays, and now on Wednesdays, I have to account for my time you know, and when I leave, you know, I leave a day's work there, I leave the people because I interact with people, but when I also leave I give back a day's pay to my employers, and that is important, that is accountability. [*Desk thumping*] Okay. That is accountability. So, you know, I worry when things go a certain way, and it is not that I am "mammy soft child, doh worry about dat at all, doh let this face fool you". [*Laughter*] I grew up very rough, as a tomboy. Nobody knows that because I "doh" look it, you know. I grew up with boys and my parents, you know, trained me very independently and, of course, nobody can sway me that easily.

In my opinion, therefore, the time has come to engage in a new approach to politics, using the concept of what I call "carefronting", but I did not coin that. I did not coin that word per se, but, in order words, caring, confronting and integrating ones needs and the ones with the needs of others in a joint effort toward creating true community and effective living is what I feel we need in the political arena now. That is only what I feel—I feel that. You see this concept of "carefronting" was coined by Prof. Dr. David Augsburg. He was actually a Baptist priest, not a Presbyterian, and I quote

what he says, it is very important:

The care frontal impact of our coming together can be creative, strengthening and gross producing. This concern for a balance wholeness of personal integrity and sensitivity to people, runs through this concept of “carefronting” as a creative way of uniting care and candour in life’s relationships.

I think it has a lot to do with what the hon. Minister, Ganga, mentioned, you know, that politics is compromised, but we always make sure we do not compromise the wrong things, but only the right things, and we may say right is relative just like truth.

We would not argue that today, but I must say, at the onset, that wrapping my mind around this issue was not easy. Like my colleagues, especially Sen. Small, we grapple with these things. So, you know, my mind around this issue of constitutional reform was not easy, because it took me a long while just to reach the conclusion that this Bill, with amendments, may not violate any legality per se, but I am not a lawyer. I would allow the legal minds to sift through and ensure that there is nothing illegal, but the problem is that a percentage of the population feels very strongly about one of the amendments, as it is defined in the Bill. When so many people, justified or not, are all so visibly upset, all at the same time, all for the same reason, then something does not feel too right, or something feels wrong. It cannot be that the process by which the Bill came into being is altogether right, or that every one of our concerned citizens is wrong, and so we have to create the balance. Before I can begin to understand why this is so, I must try to walk a mile in the shoes of my fellow citizens.

So let me lay the foundation for some questions, and I am not going to

repeat the statistical analysis and scientific analysis, but I may ask, through questioning, just to reemphasize, but not go through the whole process of that analysis. The purpose of the Senate is to give Bills a second sober examination, and in this Senate we are all able to do that very well, I think, given the wide talent of people here, or the pool of people who have proven themselves in their respective fields of endeavour. I truly believe that. You know I miss you all when I do not see you. That does not mean I am coming out every August, okay. I listen, and those of you who speak will know that I look at you when you speak. I do not leave this Chamber unless I have to eat or go and do something else, you know, that is necessary, but I listen. I may not agree but I listen, and I see the passion with which everybody speaks, whether it be from the Government or the PNM, the Opposition, or even my fellow Independent Senators.

I truly believe that everyone has something good to say, something reasonable, rational, and because everybody has good intentions for the good of the country. So we have lawyers, we have civil servants, we have doctors, we have economists, we have tertiary lecturers, we have women and men of the cloth, and we have people with special needs; what a wonderful group of people. [*Desk thumping*] We are supposed to be, therefore, the check on the system, balancing out the presenting needs of the country with the real needs of the country.

Further, Mr. Vice-President, as Senators, I think, really, we have only three rights: the right to come to Parliament, the right to be heard and the right to vote. Now, I still think that is a right, contrary to, you know, the hon. AG's explanation, but I was glad for it. I understand it. Now, I think for me that might be a more important point to debate on the voting issue

than the run-off. I am just saying that. [*Interruption*] Well, you see, very good, thank you, Sen. Al-Rawi. That third right to vote, along with the responsibility of balance, I just mentioned, is where I want to ask a few questions of myself, and maybe to my 30 and more colleagues in this august Chamber: what would be our position if any government proposed a Bill to adjust our role as balanced creators, or creators of balance? What would be our position? What would be our position if any government proposed a Bill to change the way we vote? And would we be calm, or as calm in this debate if a run-off vote was introduced in the way we vote for Bills? Those are just some simple questions. I really do not know the answers to these questions but they cause me to pause and take a step back and take a wider view of what is happening, and so I have to think very carefully.

Coming to the Bill, Mr. Vice-President, three amendments being proposed and they may seem simple to some people, but very complex to those who may not be au courant with certain issues listed here. The first one in terms of the limitation of the years, or the terms rather, of the Prime Minister really is not a big issue for me, personally. I like when there are terms set out for persons who are serving in certain positions. In fact, as a principal of a tertiary institution I served two five-year terms, and that was it, because at least my talent and whatever I could have contributed those years, I offered them and then others could come and also offer their talent, and perhaps bring new things to the table. So, I do not have a problem with that, per se.

The second amendment, in terms of recall, you know, my institution this is my constitution. We are doing constitutional reform too and we have a section called “right to recall”, and it is a two-thirds majority vote for those

present and those voting, so I am accustomed with recall myself—they can recall a board, they can recall individuals who are not performing. Okay. [*Desk thumping*] That is an important aspect. However, before any MP can be removed or recalled, a proper and just mechanism must be put in place, and my question is: Are we mature enough? Are we ready to set up that kind of mechanism?

Now, the real trouble here is in relation to the issue of run-off elections. I think, Mr. Vice-President, even though some parts of a Bill may look good or feel right, if one part of that Bill is disturbing, I am not sure and, in fact, I should say, it is difficult for me to support an entire whole if something it in disturbs me. In relation to the issue of run-off election, you know, parties that win elections are able to persuade the swing vote. We heard about that already, but who are the swing voters? People who are between maybe the ages of 30 and 60, more knowledgeable, employed, well read, well travelled, will these people come out to vote a second time? I ask, probably not. It was a task to get them out in the first place. What happens if the two top parties still have less than 50 per cent, because the swing voters did not come back out the second time? What if the second and third party have the same number of votes, who drops off? So it is obvious that I join my fellow Senators who spoke about the need to educate, to inform the public regarding this particular issue, because this is the issue of contention. This is the real issue of contention.

8.00 p.m.

Some may answer that the only way to know is to try it, but without full ventilation of the population and at what expense? That is my question: at what expense? So like many of the population, while I welcome the focus on

reforming the Constitution, I will have my concerns that the changes must define Trinidad and Tobago for what it is: a cosmopolitan and democratic nation.

I am glad that the hon. Minister, Sen. Dr. Tewarie, admitted, as well as I think Hon. Larry Howai, that, “If you could fault us for anything”—and correct me Ministers—“it is that particular issue of run-off elections, because that was not part of the consultation”, and I am glad that they said that.

Reform and always reforming—we need constitutional reform, that was said. In fact, the religious organization to which I belong has a protestant history of reform and always reforming, so that is why I had mentioned that we too are going through constitutional reform, but what I want to say is part of our constitutional reform in my institution or organization, we must—it is incumbent upon us to do a lot of consultation. This package I have in my hand, if this does not go down to the masses and it goes at different stages, if it does not go to the grass roots, from the very local church up to the various standing boards and committees, then it would not really reflect democracy, which is part of our history.

My concern, therefore, is one of principle. If I read here on page 8 of this very beautiful, very nice, the report of the Constitution Reform Commission:

“In attempting to ensure that the constitutional reform process should have the widest public participation when it comes to making that final decision on a new draft constitution, there was discussion among Commissioners on whether issues raised in this constitutional reform process should form the basis of a referendum.

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

But the emphasis for me is consultation, and if there is a lack of consultation it will really go against the principle by which I live and do my work. [*Desk thumping*] I cannot do it.

It is incumbent upon me to do it in my scenario, in my institution, and if I come here and I do not encourage that same principle, then I will be a hypocrite, so I cannot do it. [*Desk thumping*] So suffice it to say, at the heart of the many concerns about the proposed amendments to the Constitution of Trinidad and Tobago, is the concern of whether true democracy is at work, especially regarding run-off elections.

In my opinion, it would serve us well to go back to the basics and remind ourselves what is politics and true democracy. I will not give a lecture, do not worry, but I want to just remind us that the term “politics” is rooted in a Greek word which means, “to govern the affairs of the citizens through justifiable means”. I read that to myself when I am involved in church politics—we do have that there too—that politics is all about the governing of the affairs of the citizens through justifiable means. That is important for me to always keep at the forefront. On the other hand, we all know democracy has to do with the rule of the people, whether it is direct representatives, social, economic democracy, it has to do with the people.

Mr. Vice-President, as I did my research, which many of my

colleagues already reiterated, I reminded myself of these various descriptions of democracy. I also had to remind myself that during the long period of the evolution of this concept of democracy, from the time of the Greek city States—the Greeks must be happy; you know how many times we called their name today—to the present time, we find that the people have always been at the centre or core of all these attempted efforts to define and understand democracy. So the inclusion of people and their well-being are at the core of democracy.

This inclusion of people and their well-being ensures that minorities are not treated as dispensable or less deserving of equal treatment, as far as basic human rights are concerned. Whenever I speak of human rights now, in this 21st Century, I have learnt to place more emphasis on not so much the rights, but what it means to be human. I think that is lacking now. When we talk about human rights, we talk about the rights, but we forget about what it means to be human.

Indeed, we all are familiar with the description of democracy and we have heard it: government of the people, by the people and for the people.
[Interruption]

Sen. Ramnarine: Abraham Lincoln.

Sen. Rev. J. Abdul-Mohan: Yes, Abraham Lincoln. So the question is: is the system being proposed for a run-off poll inclusive? Does it take the right of minorities seriously? If at the run-off stage of the election process, you say to supporters of minority parties: You can no longer vote for the party or candidate you voted for in the first round, and you must vote for one of the two losers—and they will be losers if they did not get 50 per cent and more of the votes cast—is this not bordering on coercive politics, *[Desk thumping]*

maybe for some oppressive, discriminatory? Maybe; I am asking.

Is it not a denial of people's fundamental right to vote for the party or candidate of their choice, a party or candidate with whom one can share similar moral values and principles? I will tell you this: I prefer to hang out with five people who could live up to the kind of values and principles I adhere to, than 100 who is not even practising one. I am worried about that.

To attempt to force upon persons a choice between two losers only, might be restrictive, maybe undemocratic and may border on dictatorship. I have heard many say that people are free not to vote or spoil their ballot, those things get me uneasy, you know. It gets me uneasy, "Yuh free not to vote; spoil yuh ballot if yuh want". But, indeed, that is their right, that is their choice. That too is their right and their choice. But for others, including parliamentarians and intelligent people, to suggest to people that they should exercise that option not to vote or spoil their ballot, sounds to me a bit callous and disrespectful to me. That is only to me; that is my opinion.

The right to vote was won after a long struggle, and was not easily obtained. Maybe that is why I get passionate and emotional, as a woman, as a minority. At one time slaves and women and the landless and the poor, all considered minority groups, marginalized and disenfranchised, were denied this right, but thankfully those days are long over.

People should be encouraged to vote for the party or candidate of their own choice, a party or candidate that embraces moral and ethical values for which they stand. Not to force you to vote for somebody else or say, "Stay home". I do not agree with that. The voice of the minorities must be taken into account. I believe that. I did hear, respectfully, that the minority will be

taken into consideration.

I was worried when Sen. Dr. Mahabir started to talk; I thought he was going to take away my role. He knows I come from the spiritual perspective; he almost started to preach. Incidentally, the religious tradition to which I belong, and many of us, which has shaped my life, teaches me that the minority is important. An historical figure, one man with 12 friends, representing various disciplines, turned the world upside down, and a world organization was born with which the world had to contend and could not ignore—one man. When we think also not only of Jesus, but when we think about Mahatma Gandhi, and Nelson Mandela, Martin Luther King, even though they had a support system, one. It is funny when we say, “50 and one”. I said, “Well you still need the one. You need a minority on the Independent Bench.” You need one.

My dear fellow Senators and Mr. Vice-President, I am, therefore, of the view that for genuine democracy to thrive, it must be inclusive and not exclusive. We have to encourage that. Any callous dismissal of minorities at any stage of the election process and thereafter is born out of a level of arrogance and is a most regressive step for me. I ask again: Is the proposal before us regarding run-off election, of the people and by the people? If it is in the best interest of the people, then they need to be convinced that this is so. Somehow they are not convinced, and that is why many may believe that the work of the Commission may be unfinished and that the amendments maybe are being rushed. Perhaps it is the rush factor that is causing suspicion, mistrust and even anger among large segments of the population.

As one of my ministerial colleagues where I work said, this proposal

of a run-off election has come as a thief in the night, but the thief has awakened the population. It has done what the Commission has seemingly failed to do. That is only a comment, but it is good to hear the voices. But now that the people are awakened, they are in a better position to defend their position, what they believe. And so it is the feeling, therefore, that if not the two first amendments, that last one of run-off election needs to go back. It needs to go back somewhere. It needs to be put on hold, as it were.

Mr. Vice-President, the debate has begun, and I am pleased that so many people have responded from various sectors of the society. It had to happen one day; then let it continue outside the confines of the Parliament, especially with the run-off. If there is a consultation anywhere, maybe I would be the first to go on the run-off election. Let it go back to the business community, the Law Association, the inter-religious organization, the civil society as a whole.

I would like to ask: Will it hurt to put a Bill on hold, let us say for two or four months, to ensure that the pet peeve or the concern of the population regarding the run-off election system can be explored? Give a deadline and say, "You asked for this, we want to meet you half way. We asked for this; you asked for this, so we are giving it to you." Next four months, all the MPs, you work, everybody, Independent Senators, get yourself in the consultation, tell them about run-off election from every aspect, every constituency.

All the MPs, get them to work now, get the people, mobilize them and say after four months, "You have had your chance to learn about run-off, after that we coming back to vote." Will it hurt? We waited so long, will four months hurt again, for the public to respond so that they could never

say they were never consulted on this aspect of the amendment? I am just asking. And to ask the Government to hold its hands on that aspect of maybe the Bill, like the Judges Salaries and Pension Bill. I do not think it is a defeatist approach. No one should feel defeated when someone says, "Hold up a little bit. This is what the people asking for, give them a chance."

I think it will do some good. It will bring back, you know, population confidence in the decision-making process regardless of the merits or demerits of the actual law that will pass. I think it will bring back some confidence.

8.15 p.m.

So I want to end, Mr. Vice-President, on a very interesting book, and it is only because of this discussion I was able to access such a book. Dr. C. Nikolenyi, a professor of political science at Concordia University, Montreal Quebec, Canada is very much interested in the comparative study of electoral and party systems. He investigated the formation and stability of coalition governments, electoral alliances, voter turnout, party system fragmentation, and electoral reform. And he wrote a very interesting book entitled, "*Minority Government in India: The Puzzle of Elusive Majorities*". And hear what he says, and I quote:

The changes that have taken place in the party system in India, the largest democracy in the world have been gradually moving India increasingly closer towards the consensus model. India's democracy is no longer of the majoritarian type, as the fragmentation of the party system, the election of hung Parliaments and the practice of multi-party coalition governments and the recurring ability of the legislator

to dismiss Cabinets point to the emergence of the important consensual traits in the country's democratic regime. Unquote.

I am glad that Sen. Nicholas mentioned that on the campaign trail all politicians go from house to house, village to village, town to town, city to city to influence people, to inform them about what is there in the manifesto. And I do believe that when major changes are recommended regarding constitution, the same strategy should be used to inform.

And thus in conclusion I humbly suggest that we make use of a consensus model of decision-making which will reflect the diversity of the population and the common good of all citizens. It is a much more dialogical approach to constitutional reform, and it allows room for consultation and exploration. Thank you very much. [*Desk thumping*]

Mr. Vice-President: Sen. Vieira, you indicated—Sen. Vieira. Who is really going through? [*Crosstalk*] I am having an indication of three Senators wanting to speak.

Sen. G. Singh: Mr. Vice-President, we have an arrangement—[*Indicating to Sen. Robinson-Regis*] you will speak. If not I will have somebody speak.

Mr. Vice-President: So, who therefore—

Sen. G. Singh: There was an arrangement.

Mr. Vice-President: What does the arrangement entail?

Sen. G. Singh: Because Camille was going speak.

Mr. Vice-President: She is going to speak.

Sen. G. Singh: Yeah. That was the understanding I had.

Mr. Vice-President: All right. Sen. Robinson-Regis.

Sen. Camille Robinson-Regis: Thank you very much, Mr. Vice-President. I am pleased to participate in this debate. And, Mr. Vice-President, as I rise

to participate in this debate, the type of anxiety that has permeated the country is reminiscent of the type of anxiety that existed when in 1989 the Parliament passed a Bill during the NAR's term in office with what people termed "one vote" of an Independent Senator. And despite the fact that some say that this did not cause the coup, and this did not cause the unrest, I would like to indicate that it did change the course of Trinidad and Tobago's history. Because, Mr. Vice-President, this Bill which was to cut the wages by 10 per cent of every member of the public service, all hourly, daily, weekly—rated employees, all contract officers, all members of the defence force, all teachers, all police officers, all judicial and legal service officers, excluding judges, prisons officers, fire officers, chairmen of statutory bodies, staff of statutory bodies, staff of municipalities, county councils, chairman and staff of the THA and the port authority, Mr. Vice-President. It affected a large majority of the people of Trinidad and Tobago.

And, Mr. Vice-President, I take the time to cite the persons who were affected by this piece of legislation that history says was passed because of the vote of one Independent Senator whom everybody loved and continued to love after the vote was cast. It affected a large majority of the population. And the Bill before us today is going to affect the entire population of Trinidad and Tobago, Mr. Vice-President. [*Desk thumping*] It is not just going to affect the voting population which is approximately a million and forty people. It is going to affect every single citizen of Trinidad and Tobago.

And, Mr. Vice-President, there has been a certain level of angst, and a certain level of upset that has pervaded Trinidad and Tobago ever since this Bill has come to the Parliament of Trinidad and Tobago. Because as

Senators before me have indicated, not only is this Bill to change the electoral system, but in fact, Mr. Vice-President, the issue that really is before us is a situation where, like 1989 when the Parliament was 33/3, a government came to office on the wave of very high hopes, on the wave of people feeling that it was going to be a change, on a wave of people feeling that there was new politics. And in fact, like the current Government of Trinidad and Tobago, this hope, this new politics and this promise of “We shall rise” with each passing day this Government has only brought to the citizenry of Trinidad and Tobago despair, disgust, and distrust. [*Desk thumping*]

Mr. Vice-President, I say without fear of contradiction that this Government has mastered the art of the deception, and what is before us is an election gimmick masquerading as constitution reform. [*Desk thumping*] Mr. Vice-President, this is nothing more than a naked attempt by the Government to hold on to office by any means necessary. We on this side are firm in our view that this is not constitution reform, this is naked political chicanery. [*Desk thumping*] But, Mr. Vice-President, given their history we can expect nothing less. We on this side are of the firm view that this Government has neither been honest or forthright with the people of Trinidad and Tobago, nor with the Parliament of Trinidad and Tobago.

Mr. Vice-President, if you look at the process, and I know a number of my colleagues have spoken about the process, but as Sen. Small and other Senators have said, process is as important as the eventual outcome, and the Leader of the Opposition has said, and I quote:

If there is a process that is wrong or that is wicked or that has no right in it, are we to forget the process and assume that because

there was bad process we will have a good outcome.

We on this side of the House say, that that could never be correct. [*Desk thumping*] Mr. Vice-President, the Constitution Reform Committee in its report at paragraph 135 in its first line says, and I quote.

“The House of Representatives should continue to be elected as it has always been since independence, in order to permit a fair amount of political continuity.”

And, Mr. Vice-President, that mechanism of election since Independence has been the first-past-the-post system. This document from its outset has not questioned that first-past-the-post system, and has insisted that we should continue to be elected by the Westminster or first-past-the-post system. The very commission that was established by this Government, under the chairmanship of the Minister of Legal Affairs, recommended that this system be retained. I repeat, nowhere in the report was there any discussion of a system of run-off, and we the people, we the people, and I speak on behalf not only the People's National Movement supporters, but speak on behalf of the people of Trinidad and Tobago when I say, that we are upset by another attempt at deception by this Government. [*Desk thumping*]

Mr. Vice-President, the question that needs to be asked: is there a right way to do the wrong thing, as Dr. Rowley has asked, especially when the wrong things is being done surreptitiously? We on this side posit that the wrong things is being done surreptitiously by this Government. Politics is about people, and the deepening of democracy can only have true meaning if there is full and frank consultation. Those of the Constitution Reform Commission have said that there has been a breach. So that whatever this

Government says cannot exclude them from this clear breach of trust that has occurred. Deepening democracy, Mr. Vice-President, is not what you say, but deepening democracy is what you do. [*Desk thumping*] Discussion must be open, transparent, the Government must continuously operate in a manner that—has continuously operated in a manner that is neither open nor transparent. Just look at way they dealt with the Invaders Bay project. Just look at the way they have dealt with the highway to Point Fortin.

Mr. Vice-President, I say to the Government, every single Member of the Government, that the people of Trinidad and Tobago have lost confidence in you [*Desk thumping*] and they no longer believe anything you say or do.

8.30 p.m.

Mr. Vice-President, prior to becoming a full-time politician, I served as an attorney-at-law. I was involved mainly in a family practice and corporate practice. Several instances of domestic violence I had to deal with on behalf of my clients, and practically everything that this Government has done to the people of Trinidad and Tobago reminds me of a case of domestic violence, spousal abuse. They came to the people of Trinidad and Tobago and were married on a bed that included the MSJ, the COP, the TOP and the COP. Mr. Vice-President, this is their manifesto. [*Senator displays the People's Patnership manifesto*] This is what it looks like. They know what it looks like. And if you look at the manifesto you would see Ashworth Jack. He has gone, no longer exists.

Sen. Al-Rawi: Politically deceased. [*Desk thumping*]

Sen. C. Robinson-Regis: If you look at the manifesto you will see Makandal Daaga of the NJAC. Well we do not see him anymore, we saw

him at the marriage but after that we did not see him again. Mr. Vice-President, if you look at the manifesto, you will see Winston Dookeran—[*Interruption*]

Sen. Ramnarine: Mr. Vice-President, 35(1).

Mr. Vice-President: I did not see anything there that could really create, that creates anything—please, continue.

Sen. C. Robinson-Regis: Thank you very much, Mr. Vice-President. In this very debate, Mr. Dookeran, the founder of the COP, voted against this Constitution reform. We have Errol McLeod who was supposed to be representing the MSJ, I understand. Well, he and the MSJ have parted ways. The only person on this manifesto who as the Baptists say, still stands predominate, is the leader of the UNC, the only person on this manifesto. And, Mr. Vice-President, we in this country, like persons who undergo domestic violence and spousal abuse, have endured physical abuse. Eight thousand of our populace were arrested under the state of emergency. [*Desk thumping*] We have endured financial abuse. Those of us who live along the East-West Corridor, even though a number of the seats that put this Government into office were from the East-West Corridor, have been starved for resources, financial abuse. [*Desk thumping*]

Mr. Vice-President, we have, prior to the marriage or when the marriage was started, we had a clear fence protecting us from bandits and from other persons who wanted to invade our country with drugs and with guns. They removed SAUTT, they removed the OPVs, now we have no protection in our homes. That is what we have been facing. We have gone for exclusion orders as has been done in many domestic violence situations. We went for protection orders, so we went to Tobago, and 12—we got them,

we were protected 12:nil. [*Desk thumping*] We went to the local government, we were protected by 85 seats. We went to St. Joseph, we were protected in St. Joseph by the people and we are saying here this evening that despite all of this, the Government wants to come to us tonight and tell us that this Bill is for our good. We are saying tonight, as we have said yesterday and we said in the other place, that if this Bill is so good, why does debating it and even reading it feel so bad—

Sen. Al-Rawi: Exactly. [*Desk thumping*]

Sen. C. Robinson-Regis:—for the people of Trinidad and Tobago?

The Prime Minister has indicated that we would be the first in the Commonwealth to have this system, to have the run-off. I think the only other country in the Commonwealth that has the run-off is Kiribati. And, suddenly, we want to be the first to have the run-off system, we want to be the first to have the run-off and recall system at the same time. We would be the first of 52 Commonwealth countries to have this system. The only other countries that have this system are: Belarus, Ecuador, Nigeria, Palau, Venezuela, Ethiopia, Kiribati and Liechtenstein. These are the countries that have a full recall system.

Mr. Vice-President, in the United Kingdom a draft recall Bill was put out for public comment in 2011. It languished and went nowhere. The public was totally against it, against recall and it had nowhere to go. Our Constitution has been amended over 20 times. A number of people do not recognize that the Constitution of Trinidad and Tobago has been amended over 20 times. Perhaps the most significant amendment to the Constitution was the issue that dealt with the Commissioner of Police and the police service. And, Mr. Vice-President, that was not a simple majority. But what

distinguishes the People's National Movement from other parties in this country, is that when we recognise that something is in the best interest of the people of Trinidad and Tobago, we will press forward and work with anyone who would ensure that the interest of the people of Trinidad and Tobago is foremost. [*Desk thumping*]

So, Mr. Vice-President, when they say that they brought this particular Bill, because it only required a simple majority, the police amendments required a special majority. But, Mr. Vice-President, we sat with the Opposition, we sat with the Police Service Commission, we sat with the stakeholders to ensure that everyone was on the same page and that through negotiation, through consultation, we could arrive at a position that made everyone comfortable.

So when they talk about, that it is because it required a simple majority, that is why they brought this, we do not believe them. Because we have told them on more than one occasion, if a piece of legislation is in the interest of the people of Trinidad and Tobago, we are willing to support it, special majority or not. And we have not reneged on our word. I want to indicate that even with that Constitution amendment that dealt with the police service and the Commissioner of Police, we had to negotiate with the then Opposition and they extracted a price, and that price was the removal of the veto of the Prime Minister. And because we were of the view that this particular amendment would be in the interest of the people of Trinidad and Tobago, we agreed to the removal of the veto of the Prime Minister because we have the interest of the people of Trinidad and Tobago at heart. We are of the clear view that this electoral reform Bill and that is what I would call it, it is not a true and genuine Constitution reform Bill. This election reform

bill, this is election gimmick—[*Interruption*]

Sen. Al-Rawi: Exactly.

Sen. C. Robinson-Regis:—is a last ditch effort on the part of this Government for survival, and I put that in the context of how this Government has operated. Just last week we were doing another piece of legislation dealing with the Miscellaneous amendments to the FIU, Financial Intelligence Unit, the anti-terrorism legislation, and the criminal proceedings. Because of the fact that we know this Government's history, we were very concerned and it was not just on the part of the Opposition, it was also on the part of some of the Independents. We were very concerned about a specific clause that the Government told us that they had copied the legislation from the UK legislation, but yet one specific clause that appeared to be an escape route for anyone who at this time may have been perpetrating criminal acts, was left out.

You know, perhaps a word that was used consistently during that debate was the issue of “inference”, inference from a particular type of behaviour. And, Mr. Vice-President, I make bold to say that there was an inference based on the type of behaviour that has come from this Government that something not too wholesome was taking place. And consequently, we all said that we would not support this legislation and it demanded a special majority if that specific clause was left out. And, Mr. Vice-President, we continue to maintain that position and eventually the Government saw the error of its ways and did include that clause. But the real issue in that piece of legislation was because we have a pattern, a history and we inferred that it could not be either a genuine mistake or that it was being done for any good intent. I repeat that, we on this side feel that there

is no true good intent as it relates to this piece of legislation. [*Desk thumping*]

Sen. Ahmed: Mr. Vice-President, 35(5), imputing improper motives to a Member.

Mr. Vice-President: You have repeatedly drawn to the attention of the Chair, 35(5). I have been following the debate and I am not of the view, that based on her contribution, that she is imputing improper motive. Please, continue. [*Desk thumping*]

8.45 p.m.

Sen. C. Robinson-Regis: Mr. Vice-President, as I talk about inferences and behaviour, I just want to draw another analogy. When the West Indies, as a team, had pace bowlers like Holding, Sir Curtly Ambrose, Gana, and several others, and they were said to be terrorizing the other countries, the British and the Australian in particular, for some reason the British and the Australian came up with a new set of rules for bouncers, for where your foot landed and it would be a no-ball, for your run-up, for your pace, for how many no-balls you could bowl, how high the ball should go. They came up with an entirely new set of rules, and the effect of that was to tame the West Indies team that had been destroying every team in its way.

They also decided in England—in the UK—that West Indian batsmen and bowlers could no longer participate in county cricket, and a number of sports enthusiasts and sports writers said that these rules with regard to the bowling rules and the fact that they could no longer participate in county cricket, led to the demise, or the breakdown of the West Indies team. They changed the rules in order to gain an advantage.

I put that on the floor, or the table of the Senate, that what we are seeing here

is a change of rules in order to gain a supposed advantage, just as just before the local government election they changed the rules in terms of the aldermen in order to try to gain an advantage. Mr. Vice-President, as I stand here tonight, we, of the PNM, say—and I am saying this without fear of contradiction—they could change the rules, they could call election, they could do what they want, the People's National Movement will win the next general election. [*Desk thumping*] And let me put it on the record that upon winning the next general election, if this piece of legislation is passed, the People's National Movement will repeal it right away [*Desk thumping*] because it is said that this piece of legislation may be an advantage to the incumbent government—to any incumbent government. But we, of the PNM are saying that we do not want to gain an electoral advantage in this way. We want to gain an electoral advantage because the people have looked at our plans, our policies and the way that we deal with them, and they believe that we deserve to be the Government of Trinidad and Tobago. [*Desk thumping*] So I repeat, that immediately upon our win, we will repeal this law if, heaven forbid, it is passed into law. But, Mr. Vice-President, we will deal kindly with you.

Mr. Vice-President, I heard Sen. Mahabir indicate that he felt very upset about the protesters who were outside last night booing him, or he thought it was him who was being booed. I just want to put him at ease. I was also booed when I came in yesterday. Several other people were also booed—you were booed—so he is not alone. But you know what can be even more unsettling for a citizen of Trinidad and Tobago? It is a situation where, as Dr. Rowley found himself, where, at the Divali Nagar, he was vilified for attending the Nagar to which he had been invited. [*Desk*

thumping] So now Dr. Mahabir understands how a citizen could feel when something like that happens, especially unprovoked and unnecessarily. I just thought I needed to put that on the record.

Mr. Vice-President, I want to also show Dr. Mahabir—he is not here—how this citizen may have felt who, it is said, was beating drums and he was manhandled—[*Holds up newspaper*]

Sen. Al-Rawi: On the road, which is not an offence.

Sen. C. Robinson-Regis: On the road, and it is not an offence. You see, Mr. Vice-President? [*Shows article in newspaper*] I also want to point out to Dr. Mahabir, look at the front page of our newspaper. [*Holds up front page*] When last have you seen a front page of our newspapers look like this?

Sen. Ramlogan SC: When David Abdulah was arrested.

Sen. C. Robinson-Regis: When last?

Sen. Ramlogan SC: I told you, when David Abdulah was arrested.

Sen. C. Robinson-Regis: And look at this, look at the headline: “Run-off Rage”. Should we be subjecting our citizens of Trinidad and Tobago, who want to express their constitutional rights, to this kind of abuse, because they feel as though they have been left out of the process and they do not agree with how things are proceeding? It is their right to protest. [*Desk thumping*] It is their right to assemble. They should not be treated as though they are strangers in their own land.

Mr. Vice-President, we are not saying that if anyone was breaking the law that he should not have been taken care of by the police because we support the police in the correct exercise of their duty, but we also have to express concern if protesters felt that they were incorrectly handled.

I would like to indicate that one of my colleagues—and it was Sen. Mahabir—said—and as a prelude—that perhaps our system, if we adopt this system, is moving toward the French system, because France is certainly one of the countries where this run-off is held. I would like to put on the record that a document entitled “Electoral systems - General elections in France - 2012”, asked the following questions about the electoral system in France. And among the questions is:

“Who organizes the election?

How much does an election cost?

How does the voting system work?

How are the ballots counted?”

One of the things that I thought when my colleague, Sen. Mahabir made his case, was that if we are looking at the French system, then we must look at it from its history and in its entirety.

Mr. Vice-President, the French system was born out of revolution. The French system, I repeat, was born out of revolution. Secondly, in France, there is a plethora of parties, and what the system attempts to do is, for want of a better word, weed out the parties that would really not be able to make the 12.5 per cent. So that the party that was headed by Sen. Garvin Nicholas would have been one of the parties that was weeded out. And I want to assure Sen. Nicholas that if his policies and programmes were really that good, the people of Trinidad and Tobago would have recognized it and would have voted for your party. So I do not know—you are saying that—
[Interruption]

Sen. Nicholas: I live in the real world, you know.

Sen. C. Robinson-Regis: You are saying that your policies and

programmes were so excellent. If they were that excellent, you would have been voted for. [*Desk thumping*]

But, Mr. Vice-President, let me indicate, this article says:

“How much does an election cost?”

This is the system where there is the run-off system:

“The estimated cost of the 2012 general elections is...€169.6 millions...”

It says:

“How does the voting system work?”

A candidate is elected in the first round if he/she obtains an absolute majority of the total votes cast, provided this amount is equal to a quarter of registered voters in a given constituency.

Protest vote and abstention are somewhat taken into account: to be elected in the first ballot, a candidate must receive the absolute majority of the votes cast and a number of votes equal to a quarter of the number of registered voters.

The second ballot takes place”—when a candidate must have been—
“a candidate at the first round and obtained a number of votes equal to 12.5% of the registered second ballot, a relative majority of cast votes is enough to get elected.”

What was very interesting is that they also anticipate if two candidates have exactly the same number of ballots. And it says if two candidates have an equal number of votes, the way that they decide who should be elected is that “the elder candidate is elected”—based on age.

So when we refer to the French system, let us look at it in its entirety. Are we saying that we want this expensive electoral system? And are we

saying that if there is a tie, because of your age then you would be elected as the winner? We have to look at that. But it is not only that aspect of the French system that we have to look at. In an article by the Election Resources...Legislative Elections in France, it says:

“The National Assembly is composed of 577 members elected every five years in single-member constituencies by the runoff voting system.”

And under the run-off system:

“...if fewer than two candidates meet this requirement, the runoff is held between the top two candidates. In the second round, the candidate that obtains the largest number of votes is elected to office.”

It also says:

“...the winner of the first round of presidential balloting”—after a second round—“went down to defeat”—the first round winner.

Which is one of the concerns that has been consistently made in our Senate.

But one of the other issues that has to be examined is the fact that if we were to look at a map of the world—and I thank Sen. Drayton for introducing this in yesterday’s debate.

9.00 p.m.

If we were to look at a map of the world, we would see where we are now saying we want to be the first to have this system, that the first-past-the-post system—and it is entitled, “The Electoral Systems of the World” from the *Institute of Democracy and Electoral Assistance*. The first-past-the-post system is in Canada, the United States, all the Caribbean islands, Botswana, Zimbabwe, Zambia, Tanzania, Kenya, Uganda, Ethiopia, Sudan, Nigeria, Côte d’Ivoire, Yemen, Oman, Madagascar, India, Burma, Nepal, Bhutan,

Singapore, Malaysia, Brunei Darussalam, Palau, Federated States of Micronesia, Marshall Islands, Solomon Islands, Samoa, Niue, Cook Islands, the United Kingdom and the Republic of Ireland. That is most of this map. [*Senator displays map*] Most of this map.

The countries that have the system that this Government is now saying it wants to move to—remember the system that they want to move to, that the Government wants our country to move to, exists really nowhere else in the world, but where it is perhaps closest, let me read out those countries, Mr. Vice-President, and listen to the names. It is in Mauritania—oh, by the way, Gambia also has the first-past-the-post system, and Swaziland. This is the two-round system which is the same as what we are being asked to move to. It is Belarus, France, Mauritania, Mali, Egypt, Iran, Turkmenistan, Uzbekistan, Kyrgyzstan, Mongolia, Korea—that is the Democratic People's Republic of Korea—Vietnam, the Central African Republic and Gabon.

Mr. Vice-President, just—[*Interruption*]

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

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

Question put and agreed to.

Sen. C. Robinson-Regis: Thank you very much, Mr. Vice-President, and I thank my opposite colleague, Sen. Ganga Singh, for moving the extension and I also thank my fellow Senators for agreeing to it.

As I was saying, these countries have a history of instability. As a matter of fact, just a few headlines from those countries that have this type

of election. From *The Guardian*, not the *Trinidad Guardian*:

“Afghanistan prepares for presidential election runoff amid fears of violence.”

From the BBC:

“Afghan election: Run-off vote held amid violence.”

And Chathouse.org says:

“Election in Afghanistan’s Evolving Political Context.” And it says:
“It is clear that political figures in Afghanistan from local brokers to national-level figures have adopted to the electoral systems, learning how electoral structures can be manipulated”—learning how electoral—“votes can be bought and sold, and positions can be secured.”

Those are just some of the headlines.

In the Democratic Republic of Congo, the International Community—and this is from “International Foundation for Electoral Systems”.

“The international community is urging calm in the Democratic Republic of Congo after violence marred the announcement of a runoff election in the country’s presidential race.

The European Union is sending 400 additional peacekeepers into the capital Kinshasa after three days of clashes between forces loyal to the top two presidential contenders. The United Nations already has more than 17,000 troops in the country, the world’s largest peacekeeping force.”

Mr. Vice-President, I ask the Government tonight: is this what they want to have visited on our democracy; are these the kinds of headlines that they would like to see if such a system is put in place? Like my colleagues,

I have done a certain amount of research and it says that:

Amongst the disadvantages of the two-round system—and I quoting from “The Electoral Knowledge Network” and it is an article entitled, “The Process of Change”. It says amongst the disadvantages, the two-round system,

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

It “also places an additional burden on the voter in terms of time and effort required to cast the vote as the voter has to make it to the polling station twice, and sometimes there is a sharp decline in turnout between the first round and the second.”

A complete opposite view as that promoted by the Attorney General in his contribution and when he gave us his statistics.

The two-round “system shares many...disadvantages... Research has shown that in France it produces the most disproportional results of any Western democracy.” [*Desk thumping*].

Mr. Vice-President, I want to repeat that because we are being told that France uses the system and it works. And it says:

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

This is another disadvantage:

“One of the most serious problems...is its implications for deeply

divided societies. In Angola in 1992, in what was supposed to be a peacemaking election, rebel leader Jonas Savimbi came second in first round of a...presidential election to Jose dos Santos with 40 per cent of the vote as opposed to dos Santo's 49 per cent. As it was clear that"—Savimbi—"would lose the run-off phase, he had little incentive to play the democratic opposition game and immediately restarted the civil war in Angola, which went on for another decade. In Republic of Congo in 1993, prospects of a government landslide in the second round of a"—two-round system—"election prompted the opposition to boycott the second round and take up arms. In both cases, the clear signal that one side would probably lose the election was the trigger for violence. In Algeria in 1992, the candidate of the Islamic Salvation Front...led in the first round, and the military intervened to cancel the second round."

Mr. Vice-President, is that what we wish to visit on our country that has a clear history of peaceful transition from one Government to the next under the first-past-the-post system?

We are being told that we need to ensure that there is more democracy for the people of Trinidad and Tobago. We know that there have been concerns about our Constitution, but we have said on more than one occasion that the concerns that exist with regard to our Constitution are more concerns about oversight. They are concerns about how a government runs the country. They are concerns not about the electoral system so much, as they are concerns about ensuring that people feel that when a Government is elected that they are treated fairly across the board. We have said that when the Prime Minister uses the People's National Movement's Constitution

(Amdt.) as an example of—well, the PNM has run-off and why are we against run-off.

Mr. Vice-President, in the People's National Movement, all of us believe in one thing. [*Desk thumping*] It is a homogeneous party. It is not a nation of people. Yes, it is a nation of PNM in the PNM, but it a homogeneous party that is first and foremost. [*Desk thumping*] It is not several different types of people. It is a homogeneous party with all the races, all the religions, but with the belief in what the People's National Movement stands for as a party. So on that count alone, you cannot compare what the PNM has done with what you will do for a country of Trinidad and Tobago [*Desk thumping*] despite the fact that we may be doing the right thing, but we have to look at the country as a whole.

The second issue is, when we made those changes to our Constitution, we went for almost a year with the Constitution team and they went to every constituency; they went to every party group; they went to every constituency group; they went to every unit of the party, which is the women's league, the youth league; they went to the leadership of the party; and eventually after canvassing everybody and all their beliefs, they went to the General Council of the party and we had a special convention to adopt after a year, and that is a political party. And, Mr. Vice-President, that is how you do proper consultation [*Desk thumping*] even in a political party, and that is why we continue to have overriding concerns about this piece of legislation.

I would like to ask some questions to the Prime Minister and they are questions that have come before, but I would like to crystalize them again. I ask the question: why did the Government deviate from the original report?

[*Desk thumping*]

9.15 p.m.

Mr. Vice-President, a report that says there is a website, and if you go to the website, all you see are these issues about the run-off, the recall and the two terms. You only see the pros, you do not see the cons. If this Government wanted a proper debate on this issue, when you go to the website, you will be able to see everything, [*Desk thumping*] not just what they want you to believe.

Sen. Al-Rawi: And the citizens paid for that, millions of dollars.

Sen. C. Robinson-Regis: The table of contents of their document which is a document entitled Constitution Making and Reform, and this is a document referred to in the website says before you have a Constitution Bill, you need public participation which talks about changing—[*Interruption*]

Mr. Vice-President: Senator, please be advised that you have two minutes.

Sen. C. Robinson-Regis: Thank you, Mr. Vice-President—modes of the Constitution, you need to have civic education and most importantly, you need public education.

We are of the firm view that when this Bill was debated in the other place, it showed an illustration of the mindset of this Government, because when the Bill was debated, and the Prime Minister spoke, there was a big screen TV that was placed outside the Chamber for the public to view. However, as soon as the Prime Minister concluded her presentation, the big screen TV was shut off, so you heard one side of the argument and it is always said you have to hear both sides.

Hon. Senator: Who pay for that, boy?

Sen. C. Robinson-Regis: The people of Trinidad and Tobago. [*Desk*

thumping] Let me also advise this Government that this Barbados pollster, who says that he is in support of the Bill, is also remembered for predicting that the COP would win the 2007 elections by a landslide. I advise the Government to remember this and be wary of that support.

We are of the firm view that this Bill is designed to try to beat the PNM under any circumstances, and that is the only reason for it. Just like under another UNC leader, we were told that we would be run into the Gulf of Paria, that after 33-3, we would never surface again. We are saying that after this Bill and the last four, almost five years, the PNM will win the next election. [*Desk thumping*]

Mr. Vice-President, as I close, I would like to say that the People's National Movement through consultation and through two Constitution committees, one headed by former Speaker, Barendra Sinanan and one headed by Camille Robinson-Regis—[*Desk thumping*] Thank you—came up with 10 points—and I know that my two minutes are at an end.

Mr. Vice-President: It is already gone, I am just giving—

Sen. C. Robinson-Regis: Thank you very much, Mr. Vice-President, but I am winding up. But let me just put on the record that of those 10 points, we are saying that campaign finance reform is important, that the size of the Cabinet is also extremely important, that the powers of the President, the Caribbean Court of Justice, self-government for Tobago, Municipal Corporations and the limits on the number of Senators who may be in the Cabinet serving as Ministers are very important.

Let me also say that these points are out only for discussion and the reality is that we will have the biggest consultations on these points in the general election, and this is the Constitution that will come to this Parliament

and be passed by whatever majority is necessary under the People's National Movement. Thank you, Mr. Vice-President. [*Desk thumping*]

The Minister of State in the Ministry of Gender, Youth and Child Development (Sen. The Hon. Raziah Ahmed): Thank you very much, Mr. Vice-President. I rise at this hour, 9.19 p.m., to join the debate after a lot has been said and after a lot of emotion has been displayed. I want to begin by responding to the last two contributions from Sen. Robinson-Regis and Sen. Abdul-Mohan.

Sen. Robinson-Regis began by saying that the Bill was an election gimmick masquerading as constitutional reform, and that she spoke for the people of Trinidad and Tobago. So I listened very carefully for her to make the points that would represent the positions of the People's Partnership since she was speaking for the people. But she did not make any points that represent the positions of the People's Partnership, and therefore she was not speaking for the people, she was merely speaking for the PNM. [*Desk thumping*]

Then she said that we wanted to come here tonight in a last ditch effort, and then after she did not have too much to say so she pulled out a map and started to read off a list of countries that I think have been read about twice before, a long list of countries, and she held on to that map, her time expired, she got an extension, she still held on to the map and was still reading a list of countries. And then she pulled out one country, Afghanistan, and spoke about some headlines in that country, and failed to recognize that the problems in Afghanistan really stemmed from the hunting of Osama bin Laden and that is why that country was in this kind of turmoil and it did not connect.

But she also did add, towards the end of her contribution, that the PNM—the Constitution has a provision for run-off and she actually said it was the right thing, the run-off was the right thing. And that would—I think there is only one other point that she raised which I will come to a little later. Then I want to respond to Sen. Mohan's contribution where she ended with an expression that the legislation seems to have come like so-called thief in the night.

So, Mr. Vice-President, let us examine this so-called thief in the night. This thief in the night came a long time ago and continued to come very often, but my earliest reflection of a thorough understanding of this thief in the night because this thief in the night has been showing its face very frequently, and I will give you a little background of that. And that thief in the night first came to me consciously during the period 2002—2003 with Independent Senators in this country, and went all around the country to bring public awareness to the need for constitutional reform. That happened subsequent to an 18-18 tie which led to a Government being taken away from the incumbent where it should have remained, according to Westminster protocols. [*Desk thumping*]

Just in passing, yesterday Sen. Baldeo-Chadeesingh made frequent reference to the research that she had done and to the Westminster protocol, but she spoke instead about a “Westminister” protocol but I am assuming that it is the same word.

Sen. Al-Rawi: So did the Prime Minister by the way.

Sen. C. Robinson-Regis: So did the Prime Minister.

Sen. C. Robinson-Regis: So tell your PM the same thing.

Sen. The Hon. R. Ahmed: So the point is that—[*Crosstalk*] No, you said

the word several times.

Sen. Cudjoe: And so did she, so did she.

Sen. Al-Rawi: So did the Prime Minister.

Mr. Vice-President: Please, please, Senators, it is late now and please allow the Senator to make her contribution just as she had done while the others were so doing.

Sen. The Hon. R. Ahmed: Thank you, Mr. Vice-President, for that intervention. So faithful adherence to the Westminster system was sort of in question from since the 18-18 tie and the constitutional reform debate has been raging ever since. There are hundreds of articles, scholarly articles, research articles, newspaper articles—you can google it—covering decades of discussion on the topic of this thief in the night from prolific writers like Lloyd Best, Martin Daly, Kirk Meighoo, Jamadar, Hyatali, Wooding, Ryan, Le Guerre, Pantin.

And so it was in 2002 that I also was caused to follow intently a Motion brought in the Senate by then Sen. Kenneth Ramchand. That was a private Motion that was first debated on November 26, 2002 and approved on June 03, 2003, and the gist of that Motion was referring to the fact that the People's National Movement, the PNM, in its 2002 manifesto had committed that party, then in Government, to the widest possible discussion and participation in the process leading up to reform of the Constitution for a modern Trinidad and Tobago. So that was thoroughly ventilated in this Senate between 2002—2003, that same thief in the night which I have been following since this thief in the night that has been coming so often.

Sen. Rev. Abdul-Mohan: Mr. Vice-President, could I—one clarification, please? Without misunderstanding, my quotation carefully was the proposal

of the run-off election has come as a thief in the night, and I was just quoting someone. It is the proposal of the amendment of the run-off election, not the entire legislation. Thank you.

Sen. The Hon. R. Ahmed: Thank you, Senator, Mr. Vice-President, through you. Maybe you spoke specifically to the thief in the night, but in my understanding, you spoke to the entire context of the Bill. I believe that you used the word “Bill”, but I could be corrected if you did not use the word “Bill”.

Mr. Vice-President: Yes, you have heard the clarification on what she said so—

Sen. The Hon. R. Ahmed: Thank you, Mr. Vice-President. Since the 2002 manifesto of the PNM, the concept of constitution reform was promised to be debated and ventilated fully, and the Motion that came to the Parliament at the time was because the Government at the time, although having articulated a position, had done nothing about it.

In fact, between 2002 and 2010, while other persons and other interest groups continued to discuss constitutional reform, what happened in the PNM was that nothing was done about it until—and I will come to that a little later—the infamous clause 40. But let us fast-forward to another manifesto, a manifesto of 2010 put forward by the United National Congress and which became the policy position of the ruling People’s Partnership Government. The people voted the People’s Partnership Government into power on the basis of promises made in that manifesto, and so that Bill made its way into the Parliament. The Bill to amend the Constitution of the Republic or what I would like to call our power to the people Bill.

You see, while the PNM ruled from 2002—2010, it was a manifesto

promise that they failed to deliver even though it had been debated in the Parliament in 2002. And when Sen. Drayton referred to the fact that we must not ignore the goodwill of the people, historically, that manifesto promise of the 2002 manifesto of the PNM was totally ignored. In fact, how was this dealt with? When the People's Partnership came into Government, it certainly has never ignored the goodwill of the people and after 21 rounds of consultations, and historically after three decades of six appointed commissions on Constitution reform, finally the Government brings to the table a debate on constitutional reform. [*Desk thumping*] And we have people saying that it is the first time they are hearing about this, and the goodly Senator said she wanted four more months to consult about this when, in fact, we have had—and I listed a length of names of people who have been talking about this.

But this debate, you know, is about democracy and we have had some of the very common definitions of democracy by the people, et cetera. But what are the fundamental questions when we talk about democracy and it goes beyond. It goes beyond the little cliché definitions and really democracy speaks to the institutions and the processes of representative Government, and these are characterized by nothing other than free and fair elections, multi-party competition and majority rule, and that is what the process of democracy is.

I recognize that democracy probably means many things to different people but I listened to Sen. Mahabir's plight of last night and in speaking to the whole question of democracy and the freedoms of our people, I too stood on the pavement and listened to the booing and jeering by the supporters of the PNM.

9.30 p.m.

And I listened to Sen. Dr Wheeler's contribution yesterday, and he expressed great admiration for the fact that the people had assembled outside of the Parliament building and were there to lend their support. And I could not help but wonder, because I also witnessed, stood on the pavement and heard the booing, and I wondered, you know, this being selfie season, Mr. Vice President, being selfie season, I wondered if my friend the dapper Sen. Faris Al-Rawi would take his cell phone and his lovely dapper suit and do a lovely selfie with his people booing. And I wondered, too, if he would take his bright young daughter into the selfie to capture this historic debate and this historic protest in front of the Parliament with his people booing Members of Parliament who come here to do a job. [*Desk thumping*]

And not only did I see it on the pavement last night, it was after the end of the debate in the other House, there was also that kind of booing and cheering, and to me, Mr. Vice President, it represents a simple lack of manners and a lack of respect for persons when they stand outside the Parliament to boo, and it looks to me like hooligan behaviour.

Sen. Dr. Tewarie: The same thing they do me at Independence Square.

Sen. the Hon. R. Ahmed: And is that the legacy that the Opposition Senators of the PNM, who are all absent from the Chamber, with the exception of goodly Sen. Singh, the legacy of the absent PNM senators, who are not here doing their jobs, is that the legacy that they want to leave, one where their supporters would go down in history in this historic debate as having stood on the pavement outside the Parliament and booed Senators, and is that the glory of the PNM? Is that the glory of the PNM?

And so, Mr. Vice President, I listened and I heard of all the things that

we “shoulda” and “coulda” and “woulda” do, but during the time when the PNM was in office they did nada, nada. [*Desk thumping*]

So what does this Bill and section 8, in particular, bring to us? For one, when I first heard about how it would play out I said, well, okay, this for me personally, would remove a fear that I have always had that my vote could be wasted. Why? Because the run-off gives me another chance to pick between the better of two, and my vote would, therefore, never be wasted henceforth. [*Desk thumping*]

And, you know, it is about making a commitment to my country and ensuring that a democratic process would prevail, and it was Peter Drucker who said that “Unless commitment is made, there are only promises and hopes, but no plans” and, therefore, this legislation is historic.

And so, Mr. Vice-President, I noticed Sen. Robinson-Regis also flashed around the front cover of some of our newspapers and I was appalled, really, to see the cover myself, and I looked at it this morning and I said, oh my gosh, police and protesters; “Police and Protesters in front of the Parliament,” one newspaper, two newspapers. I am not going to try to analyze what I see inside here, but there is something called fast thinking and slow thinking, and fast thinking helps you to make quick assessments of situations of danger and this is a situation of danger precipitated by the ranting and raving of protesters. Mr. Vice-President, I make a public call on the media, on the press to denounce this kind of distasteful booing by political supporters anywhere in this country. This is not the kind of behaviour that we are accustomed to and what is emerging, for a simple debate in a Parliament that requires a simple majority, this kind of what looks like violence should be discouraged and denounced by the media, in

particular, and by the Opposition Senators. [*Desk thumping*]

Because in bringing, in coming to debate the business of this country, we are now being exposed to scare tactics designed to intimidate, designed to intimidate and when, you know, we all did a lot of research. I was really blown away by the level of research done by Sen. Dr. Mahabir, by the level of research delivered this morning by the hon. Attorney General. And having done all of the work and having made the commitment to spend the hours that are due, and knowing in our hearts and in our minds that the consultations have been in progress from way before I was born, Mr. Vice-President, people have been talking about constitutional reform, I cannot help but feel a sense of tension when Sen. Robinson-Regis declared that the PNM would repeal the Bill if it were passed by this honourable House, where we have engaged in debate. And I felt tense because of the disrespect that such a position shows for the Members of this honourable Senate, [*Desk thumping*], and it is the same disrespect that was demonstrated outside on the pavements last night. [*Desk thumping*]

And let me say that we fool no one, because I have been around long enough, for enough decades to recognize that the way we behave outside on the pavement, is the way we behave inside our homes. [*Desk thumping*] And the mothers and the fathers who stood outside there and booed would one day be booed by their own children inside their homes. [*Desk thumping*]. It is a universal law, it is inescapable as the night follows the day, Mr. Vice President. But the moving finger writes and having writ, moves on.

Let me turn now to an article dated February 8, 2014, called “Hybridising our Constitution” by Selwyn Ryan. And this is testimony to

the fact that this constitutional discussion has been very active, and this is what Selwyn Ryan says in the article. “My own”—and I am reading this because it responds to some of the critique that we have had, especially from the Opposition, and even from some of the Independents about this widespread consultation that has to take place and, you know, the unfair advantage to people. And this is what he says, having participated in consultations and in his own words he says:

My own reaction to the report—referring to the report, that is, the genesis of the Bill—was informed by what happened over the many years in which I sat as a member of three such commissions. We have in fact been discussing constitutional reform since the 1950s. We have had Ellis Clarke, Eric Williams, Hugh Wooding, ...Hyatalli, ...Ryan, ...LaGuerre, ...Ghany...”—and he goes on and he says “Stripped of the details, their various reports all resemble... Basically, the process involved a trickle-down process legitimised by an attempt at popular consultation, one in which the same people participated in more or less the same numbers”—all the time. And—“The broad masses do not turn out to these meetings.”

So having done all this research, I am sure we all found this article. Having done the research, and this is what somebody who has participated in three commissions is saying that the level of participation has been historically low, we now come to this honourable Senate and try to give an expectation that now we are going to get mass interest.

If since 1976, since 2002 when the Independent Senators went around, we did not get that widespread voluminous amount of people coming to these consultations, it means that a lot of people in this country are content

to go about their business and leave the business of legislation to the Houses of Parliament, and that is why it comes to debate in the House of Parliament.

This Government, the People's Partnership Government has said we have had enough consultations, we have had debates in the Senate, we have had private motions, and we are now going to take some action to try— [*Desk thumping*]—to bring into reality some of what the people have said, and we did not do this from an unguided position. We engaged a commission, another commission and that commission presented a report and in that report the commission made the commitment that it would return to the public after the feedback process and four such consultations were held in January of this year, three in Trinidad and one in Tobago.

So commissioners signed off on a report and in there, gave a commitment that this was a report, as is, but let us get some feedback and then we are going to return, have consultations, four consultations were held and an addendum was generated, and that has created quite a bit of confusion in the minds but it is a simple thing. The commission promised that it would bring some more consultations after the initial report and that is what it did, it delivered. [*Desk thumping*]

I now want to turn to an article in the *Jamaica Observer* by Garfield Higgins, who, on writing in the *Jamaica Observer* on August 17th, had this to this to say. He said:

“Prime Minister Persad-Bissessar’s actions, since taking office in May 2010 are a testimony to the fact that she leads and does so from the front. She is not a Shaggy, Scooby-Doo Type Leader... ‘Leaders who are afraid to make decisions because of uninformed fear, rabid political opportunism, self-aggrandisement, corruption of

conscience, political Angina Pectoris, or unwillingness to be unpopular are the scourge of the earth.”

He goes on to say that her most recent, referring now to the Bill:

“Her most recent project to inspire foundational change to the constitution of Trinidad and Tobago again recommends her as a leader of tremendous grit.” [*Desk thumping*]

9.45 p.m.

And then he goes on to ask—well I am skipping all of the very nice things that he has, but time does not permit—why would anyone who believes in true democracy not support term limits for Prime Ministers and parliamentarians? He says:

“The only explanation I can think of is that they suffer from a methuselah-like political complex. These are often the politicians who have the most ruinous effects on the Caribbean. They hang on to power like ticks on cows, like parasites in the intestinal tract.”

[*Desk thumping*]

And referring to the right to recall non-performing MPs, he goes on to say that it:

“...would force politicians to represent their constituents with real vigour and purpose, instead of being peons of their political party leader and his/her agenda.”

[*Desk thumping*] I thought that was quite an interesting article coming from up the Caribbean.

But I was also very impressed with another article carried in the *Trinidad Guardian* on Thursday, August 14, by Cleveon Raphael, where he said that—speaking on the decisions and the whole electoral and

constitutional reform and referring to the measures:

“Apart from these far-reaching measures another high point of the sitting was the instruction given to the government team by the PM that they were free to vote on the package according to their conscience.”

And he asked the question saying that he had:

“...never heard of such a development in our parliament.”

The question he asks is:

“Does that speak of a leader who was interested in entrenching herself in office, or someone who wanted to choke the population out of their democratic right by snatching away our freedom as claimed by the opposition PNM?”

[*Desk thumping*] And then, towards the end of the article he says:

“I...took strong offence at charges emanating from the Opposition that the measures were aimed at politically destabilising the country and for the life of me, I do not know what would move anyone to make such a nonsensical and” politically “dangerous charge against citizens of this country.”

And so, Mr. Vice-President, when I listened to some of what was said by the Opposition, I recognize that they speak with a certain level of predictable bias, a certain level of—[*Interruption*]

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

Mr. Vice-President: Standing Order 35(5) seems to say that she is imputing—so, therefore, I cannot say that what she say is that. The word is commonly used and, therefore, you should continue. [*Desk thumping*]

Sen. The Hon. R. Ahmed: Thank you, Mr. Vice-President. Yes,

predictable bias is a very, very common word. It is also called systemic error and it predicts that because you are aligned with a certain party and a position, you will have a certain bias. It is a way of thinking. It is standard and acceptable and it is not insulting in any way and it is certainly overruled by the Chair.

And so, I also want to refer to an article from March 07, 2013, last year, titled: "Amendments to the Constitution" by the now deceased John Spence, may God rest his soul, where he made reference to, again, the whole national consultation that has been ongoing, this so-called "tief" in the night that we have seen on the placards and so on, where he says at the *Express* editorial of March 05, referring to March 05, 2013, discusses the launch of the national consultation on constitutional reform and reports on the presentation of Chief Justice Ivor Archie who is reported to have stated aspects of the existing Constitution are not working. I agree to let us identify those aspects. And he goes on to say that the Chief Justice calls for a complete rewrite of the social contract that is to govern the way we and our institutions function.

And so, as a Government that listens and a Government that responds to the needs of our people, this Bill has come to the Parliament and the major contention appears to be the fact that everything was not ventilated, every "t" was not crossed, every "i" was not dotted out in the public domain. And as I have said before, it would be senseless then to continue to have Houses of Parliament if every nitty-gritty has to be debated out in the public domain. And so the Commission recommends, and for years it has been recommended and the Bill comes and there seems to be a contentious aspect of the Bill, but we have had a very laudable presentation by some of the

contributors to this debate, as to how to resolve the little issues.

And, therefore, Mr. Vice-President, the fundamental question that remains is: the purpose, why are we doing these things? And it is really about reforming the politics of the country, so that the power is given to the people. So that the people have a greater voice, so that the people get a second opportunity in the run-off to think again and to come back and to place a vote, because you have no voice if you have no vote. And all those people who say: “Well I did not vote”, you really do not have a legitimate opinion anymore. If you are not participating in the process, then what are you doing?

And so, we have tried to come up with a solution to reconnect our people [*Desk thumping*] to the politics and to the legislative agenda, about which Sen. Cudjoe did not seem to have a clue. But, I mean, I have been coming to the Senate in this—[*Interruption*]

Sen. Cudjoe: Neither do you.

Sen. The Hon. R. Ahmed: Yes, you said that there was no legislative agenda. Mr. Vice-President, maybe I am the only person who gets this Order Paper. Maybe I am the only person who checks to see that the Bills and papers presented are tabled to give sufficient time, according to the Standing Orders, for the debate. Does anybody else get the Standing Orders?

Sen. G. Singh: The Senate is very efficient. Everybody gets it.

Sen. The Hon. R. Ahmed: So, the legislative agenda comes forward and due process is followed, in terms of how long something must be tabled before a debate is entered into and this has been the law for, how long? Since 1976, I am guessing, the genesis of these particular Standing Orders.

And, therefore, the legislative agenda is always here. I do not know why you are not getting it on the iPad that has been provided to you. I do not know if the Order Paper confuses you with the word “agenda” but it is really the same thing. It is a different word, but it is the same agenda and it tells us what we are going to do and we normally—*[Interruption]*

Sen. Cudjoe: Right now, you do not have a clue what you are talking about.

Mr. Vice-President: Senator, please, when you were speaking you asked for protection of which I did and I am expecting that you pay the same courtesy to the contribution being made and not do so now. Thank you very much.

Sen. The Hon. R. Ahmed: Thank you, Mr. Vice-President, for correcting the goodly Senator and reminding her of the error of her ways.

So, today we stand in this honourable Senate to address reforms that seek to introduce a system where voters will be made to experience how their vote matters. And I think this point is very, very critical. Have we ever individually experienced how our vote matters? Because, prior to the UNC winning an election, I never had an opportunity to participate, because if my party lost I was lost, I had no voice, I had no say, no say in the district in which I grew up, which was a traditional PNM district, and up to today—this will address a question that was asked earlier about which communities have been neglected.

I grew up in a traditional PNM district, Mr. Vice-President, and I went there not long ago, and they still do not have running water in the pipes. When I was in high school, we would have to “ketch” water when rain fell. We would have to buy water from the truck—“PNM till ah dead” in my

Sen. The Hon. R. Ahmed (cont'd)

constituency, but they never gave their people water. They never gave them an essential, a basic commodity. And, today—[*Interruption*]

Sen. G. Singh: I would correct that.

Sen. The Hon. R. Ahmed: Thank you very much, Sen. The Hon. Ganga Singh. [*Desk thumping*] Today I go back to the community where I lived and “and ah buy meh lil roast corn by de side ah de road, but dey cyah offer meh ah lil bit ah water tuh wash meh hands, because they have none running in de pipe.” Traditional PNM constituency, La Brea—“PNM till ah dead.” I wish I could change that for the people of La Brea.

Sen. Cudjoe: What about Siparia?

Sen. The Hon. R. Ahmed: I really wish—I am talking about where I grew up madam, Senator.

So this democracy, where voters must feel that their vote counts, is a better form of democracy. And how else am I going to feel that my vote counts? If I cast my vote for the goodly Senator Solomon and I did not succeed because he lost, then, perhaps, I could cast my vote for another goodly Senator.

Sen. G. Singh: Sen. Henry.

Sen. The Hon. R. Ahmed: No, no. “Nah” never for the PNM, sorry. Never for the PNM, never. Ah know ‘bout dat one fuh sure. Never. Never. So that is how I will actually experience, for the first time in my life, how my vote counts, because prior to that if I lost, that was the end of that. I was heard no more and they do not care because they did nothing, even in the constituency where I lived, which belonged to them.

So, the voting rights of people, Mr. Vice-President:

...should be held in the highest regard and there must be transparency

and fairness in the electoral process. And our citizens should enjoy freedom of choice and respect for the political affiliation and should be confident that their vote should not be manipulated or tampered with.

Mr. Vice-President, that paragraph came from the Vision 2020 draft National Strategic Plan of the PNM.

10.00 p.m.

Mr. Vice-President, that paragraph came from the Vision 2020 Draft National Strategic Plan of the PNM. And today, you are not showing any respect for people who have a different political affiliation, because you sit in your seats and you sanction the hooliganism going on outside the Parliament. [*Desk thumping*] And then I must speak about this constitutional reform that was laid as a Paper in the House of Representatives on January 09, 2009. I must read clause 40, which was the PNM's attempt which was designed by "dey say ah select group", which says that:

"When this Constitution becomes law, the Prime Minister will become the President under this Constitution until a President is elected."

So it was that clause that contributed to the rise of the People's Partnership, because not only was it offensive to members of the United National Congress, the members of the COP. Not only did it give rise to all—a number of other little parties, but it gave rise to the hon. Kamla Persad-Bissessar—[*Desk thumping*—so when—as Prime Minister of this country. So when Sen. Robinson-Regis, in her debate said that she was questioning, you know, the political mandate and so on, about going to vote

and so on, and about polls and what the people are saying. Mr. Vice-President, this was a poll from this year.

Kamla rises, a poll from this year, [*Desk thumping*] dated May 25, 2014. So four years into Government, the polls “still reading pretty”. In fact, “the polls still yellow”. I want to say particularly in response—I do not know how I am going for time, I know I have a shorter time limit than most. I want to say that in terms of—in response to Sen. Dr. Wheeler’s contribution yesterday, where he said, you know, he was so impressed with the people outside. And Sen. Drayton said—she also spoke in her contribution very early on, about the goodwill of the people.

A number of other persons spoke about the people and about ignoring the people. And I am really concerned that somehow, you know, when you rely on your eyes to come up with what you consider to be empirical evidence, and you pass in front the Parliament and you see some red jerseys, but you did not go around to the breakfast shed and the side of the Parliament, to see the thousands of yellow jerseys that were also lined up there peacefully—[*Interruption*] holding their own behind the bars. Nobody running, nobody jeering, no police had to hold and pull them back, because people were now being physically threatened. So when we talk about the people, we must be careful that we speak always about all the people without partisan interests.

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

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

Question put and agreed to.

Sen. The Hon. R. Ahmed: [*Desk thumping*] Thank you, Mr. Vice-President. In the short time that I have, I just want to go back to the threat by the PNM, that if they should gain power in this country, the first thing they will do is repeal this Bill when it becomes an Act. I just want to make the point that the Parliament makes laws for the nation, and the Parliament can repeal laws as time passes. But the promise to repeal this law if the Opposition should win an election, is nothing more than a crude, intimidatory tactic, focused not on us, but on the Independent Senators who have so far expressed their views freely and without fear or favour.

The purpose of Parliament is to make laws, and Parliament makes a law by passing legislation. We have brought laws which we promised to bring, and we were voted in by virtue of the promises that we made, and we have brought it for debate in the place where the Constitution says it must be debated. We are still hearing people crying for it to go back out into the public domain, when we have done it 21 times already in the last two years. And, therefore, I am asking that persons desist from threatening the Senate with repeal. Let us go to the electorate first and as always, the people will decide. Mr. Vice-President, we are of the strong view, that to vote against constitutional reform as brought in this Bill, is to vote against the people.

Let me say in conclusion, Mr. Vice-President, listening to those opposed to the reforms, and some of the convoluted and twisted arguments put forward by the PNM Opposition, I am minded to recall from Macbeth, the old Shakespearean character who said:

There comes a time when fair seems like foul, and foul seems like fair.

There is mischief from the outside of the Parliament. Mischief to boo and

berate MPs in light of this Bill. But I say that evil will never prevail, the laws of universal justice will win, will prevail every time, each and every time. And the people of this country who are open-minded, and are unafraid of change, who are not intimidated and coward by the villains of fear, the villain of lack of focus, and the villain who says I will not experiment. Those people will embrace this initial reform, as we in the People's Partnership Government continue to bring value and added value, of sterling examples of exemplary leadership in our Prime Minister, who calls a spade a spade, who makes decisions with thorough analysis and consideration for all, and who does not tolerate slackness. So those who have eyes to see, will support these measures and vote for the Bill, that gives power to the people.

I thank you. [*Desk thumping*]

Sen. Dr. Sharon Le Gall: [*Desk thumping*] Mr. Vice-President, thank you for the opportunity to contribute to what is an extremely important debate, in the constitutional and political life of the people of the Republic of Trinidad and Tobago. I am very much aware that the hour is late, and I do promise to be brief. We are all aware of the proposals before us, to our Constitution, in the form of the Constitution (Amdt.) Bill, 2014, and basically, there are three proposals, term limits for the Prime Minister, the right of recall by citizens/constituents and a run-off election.

Now, I want to state at the outset, that I am not philosophically opposed to any provisions that promote increased participation in our democracy. I am not philosophically opposed to any provisions that promote accountability as well. And I certainly am not physically opposed, sorry—philosophically opposed—the hour is late, pardon me, Mr. Vice-President. I am not philosophically opposed to any provisions that

encourage new leadership to the ranks of our political parties.

On the face of it, the provisions that provide for term limits for the Prime Minister, may satisfy the last principle promoting new leaders. The Constitution Reform Commission report referred to succession planning, and I believe that on the face of it, providing term limits for Prime Ministers will achieve succession planning. In the report—if my memory serves me correctly, term limits were linked to fixed dates for election. So at some point in time I do not know if that proposal will be before this place.

Sen. G. Singh: It is already drafted.

Sen. Dr. S. Le Gall: Okay. The other proposal is the right of recall. Again, on the face of it, it promotes accountability of Members of Parliament who represent constituents. The Constitution Reform Commission report also discussed this right of recall, if my memory serves me correctly, again, in the context of general reform of the House of Representatives, making a distinction between representatives who also hold ministerial portfolio, and there will be a disparity between the responsibilities of those representatives who were also Ministers. So how will we assess the ability of those representatives who are also Ministers in the terms of the discharge of their functions to their constituents? I am assuming that certain targets would be set, objectives to be achieved. So these representatives could be assessed against their performance over the two to three-year period. Okay.

There were also proposals to make the Senate an elected place, okay, and all Ministers would emerge from the Senate. This is contained in the report as well. So persons in the House of Representatives would be able to dedicate their full time to serving their constituents.

Now, we come to the run-off provisions, which seem to be the provisions

that seem to cause a lot of angst to members of the population. The run-off provisions, the stated rationale for the provisions, appears to be an electoral mechanism that will produce a majority candidate, as opposed to a plurality candidate. So it is supposed to be designed to produce candidates who have more than 50 per cent of the votes casted. The process is a two-stage or two-tiered process. You will have a first round of elections, with multiple parties competing. As proposed, the amendments suggest that the top two candidates will now move on to a second round, and the assumption is, the losing candidates and their supporters will throw their weight behind one or the other of the front running candidates. Now, there are many, many factors that will influence voter turnout in run-off elections. Now, the type of election is important. We have heard data and statistics from all over the world, that suggest that there may be a higher or as high a turnout in the second round of voting.

We have to make a distinction whether that run-off election takes place within an internal party context, when the assumption is, all voters belong to the same party, and presumably adhere to the same party philosophy. Under those circumstances, turnout in a run-off election will tend to be equal or even higher, because they are voting for a particular party leader to advance a cause with which they can relate to. It is a different scenario when you have multiple parties with multiple political agendas and multiple philosophies.

Those losing parties' philosophies may not cohere with the two front runners. So that may influence voter turnout in the run-off elections. There is also the phenomena of voter fatigue, persons may not wish to return to the polls, and we also have a phenomena of a growing portion of our population

who do not vote at all, okay.

And another factor or variable that would influence participation in a run-off is whether the parties who are involved in a run-off have the resources to engage in another round of campaigning.

10.15 p.m.

Now I have had the benefit of listening to very informed contributions which proffered data and statistics from all over the world, from countries that do have a run-off system and I know there is benefit from learning from other more established, if I may say so, democracies. There is benefit in that.

When I was a student a few years ago, or maybe more than a few years ago, I came across an article that dealt with legal transplantation and essentially the author of that article, Edward Wise, said that we can benefit from more established models in other jurisdictions and it is not necessary that those jurisdictions share our political, economic, social or cultural circumstances.

Edward Wise made a very compelling argument. I respectfully disagree with Edward Wise because we have to take into account our peculiar political, economic, social and cultural circumstances when we are looking to other jurisdictions as examples.

Like I said, there is benefit in looking at other models. We do not always have to start tabula rasa. We can borrow from other jurisdictions, but be mindful when we are transposing those laws or those processes into our context. We must be mindful of our peculiar local circumstances.

Interestingly, the very first article, scholarly article as opposed to contemporary writing, that I read on run-off elections was written by

someone called William Shelton and William Shelton was not a political scientist. Actually, William Shelton was a statistician and within that article he proposed certain formulae to anticipate voter behaviour in a run-off election.

Interestingly enough, all the other scholarly articles I was able to access refer to some kind of statistical data formulae to anticipate voter behaviour and came up with varying results. I would like to suggest that we can engage in a similar exercise. We are saying that a run-off election is beneficial. Well, let us test it. We have raw data from the Elections and Boundaries Commission, dating back decades. That data deals with a specific political model, the first-past-the-post model, that is the current model that is in existence now.

We can test the run-off model using that raw data to anticipate whether, in a run-off system, had it existed then, how would the result change. How would it impact parties? How would it impact the representative nature of the votes cast? So we could actually do that forecasting. I know I am stepping outside of my core discipline, which is law, and into the realm of maths and statistics, but interestingly, in another life, I did do maths and stats at the University of the West Indies. I have long forgotten most of that learning.

Sen. Dr. Tewarie: You do not have to stick to your discipline.

Sen. Dr. S. Le Gall: So I will propose that we could do that kind of forecasting to test one model against the next and we can throw in the model that we see to be favouring proportional representation, so we can compare all the models using the raw data provided by the Elections and Boundaries Commission and that is one way we can localize the information. So we can

say that under the first-past-the-post system, these were the results; under the proportional representation system, these could be the results; and under a run-off system, these could be the results.

As I promised, I will be brief and I want to conclude my brief contribution by saying that democracy is both ideal and process. We have to identify what are that ideals of our democracy. They are not necessarily unique to us, but we can identify what those ideals are. I would offer that one ideal is participation, and participation is effected through voting, and whatever proposals we seek to implement or advocate, we must test those proposals to determine whether they advance our ideals, our idea of what a democracy is.

And with those few words, Mr. Vice-President, I thank you again for the opportunity to contribute to this extremely important debate. [*Desk thumping*]

Sen. Vieira: Mr. Vice-President, also, may I just remind that that was Sen. Le Gall's maiden speech. [*Desk thumping*]

Mr. Vice-President: I asked the question before you concluded and I was told that it was not. Therefore, you did in fact indicate to me that you will search and see if it was so, so we just left it out. Notwithstanding, I want to commend and congratulate you on your maiden speech and therefore, I think you did excellent. So congratulations. [*Desk thumping*]

The Minister of Tourism (Sen. The Hon. Gerald Hadeed): Mr. Vice-President, whether or not it was Sen. Dr. Le Gall's maiden speech, I want to congratulate you. It was precise and it was well thought out. [*Desk thumping*]

I would like to first say that I am very, very happy today to be part of this

historic debate on the change in our Constitution and I would like to address Sen. Cudjoe for a minute to allow her to understand yes, I am in the departure lounge; I am in the departure lounge because I am going to go back into a bit of history that you should listen to. [*Interruption*] She is in the departure lounge in the PNM.

I want to refer, first of all, why I am here. My fight and all that I have put up with today and am putting up with today, and the facts that I am going to lay on the table today resonates as far back as 1959 and, given permission, it is relevant because it deals with this same fight that is taking place in and out of our country because we need and require the changes that our forefathers, in 1959, went to Marlborough House to try and get, fairness. [*Desk thumping*]

The first letter was written to my father by Bertie Gomes, Albert Gomes. And why it is so important to me because my father was part of the original POPPG and the Liberal Party and the DLP that came together for the first Government in Trinidad and Tobago. [*Desk thumping*] It reads:

“Green Park Hotel,

Half Moon Street

London.

14th Nov. 1959.

Dear Aziz,”—my father’s name

“We went to Barclay’s this morning and got the money you sent. The Bank had the wrong address, so that it went to ‘Victoria Hotel’, which is a place we do not know. However, all’s well now. The only difficulty is that the money is not enough,”—in those days that could pave the way to Rome to deal with these issues—“Both

Stephen and Seukie”—Mr. Seukeran, Stephen Maharaj; Mr. Seukeran, the grandfather of Sen. Al-Rawi—“share my concern about this aspect of our mission here. We cannot leave before everything is settled and we have the Secretary of State’s final decisions in writing—or in an agreed communiqué. The danger in leaving before we have this is that the moment we turn our backs the pressures from Williams in Trinidad may automatically increase—and the Colonial Office be persuaded to yield on some vital point. We all feel that we cannot risk this, since it could mean the loss of our entire case. We have done very well to date. We know roughly what we may and may not expect. The next elections will be fought on 30 seats. Our impression is that the Secretary will concede this point to Williams. Our fight on this point, therefore, is to ensure that all opportunities for staging a corrupt election are removed. Our demand is for an independent commission, a strictly objective method for determining the new constituencies (rigidly on the basis of 1 seat for a certain number of electors) and rejection of the PNM demand for acceptance of special circumstances, i.e. physical dimensions of constituencies. And we are putting up a battle to ensure that Tobago does not get an additional seat. I assume that you have seen the press statement we issued. We did this because we know that the PNM employs the tactic of announcing that they did not want a particular demand that they have made and fought for just as soon as they suspect or are told that they cannot get it. They do not want us to be able to claim credit for it and they fear loss of face when we win a point at their expense. That is what they did when they learnt that Colonial Office would

postpone implementation of the new constitution until after the elections. Let us see now how they will get out of their stand for a bi-cameral system”—that is the system that we are here with today. “Butler”—that is Uriah Butler—“is solidly with us on this, and the PNM must now face the fact that whenever an election comes they will be championing the retention of the nominated system which both Williams and Dr. Solomon have strongly condemned. Our impression is that they will not get the right to have a Governor appointed on the advice of the Cabinet nor will it be possible to alter the constitution by a mere two-thirds majority in the Leg. Co. The elected Attorney General may be possible, but he would not be an attorney general such as we know the office at present, for there will be a director of prosecutions who will be in charge of that part of the present duties of the A.G.”

10.30 p.m.

“We have also protested against the attempt to validate the improper acts of the present government (car loans) by altering the constitution for the purpose. We feel that Bhadase should in his public statements and speeches stress all those points which we have taken especially the fully elected Legislature so that D.L.P. will get full credit for all these. I have seen Rogers, Amery and Goodhart privately and will see Lennox-Boyd at his home tomorrow. Stephen is doing a fine job keeping Buzz under control. Buzz is always with us everywhere we go; but more of that when we meet. This letter of course is for Bhadase and yourself... Tell him all the boys are putting their best feet forward. It's a hard fight. Tell your son, Alphonso”—my diseased

brother—“we celebrated his victory here—”

He won in 1959. He won a seat in the Town Council for northern. It was one of the first seats that anybody won from the PNM before 1956.

“another generation of Hadeed as politician!” [*Desk thumping*]

Sen. G. Singh: Priceless history! [*Desk thumping*]

Sen. The Hon. G. Hadeed: This is important to me because we are fighting here today for mistakes that were done in 1962 behind closed doors; doors that none of us know about. I—yes, Sen. Cudjoe—know about it because I am old and I am wise. [*Desk thumping*]

I come to another letter; another good letter. It is addressed to:

The hon. Bhadase Sagan Maraj

Sagan Avenue.

Champs Fleurs

And the sender is no other than Lionel F. Seukeran. And I will read it again, because it is good for people to know where and who fought for what.

“Green Park Street Hall...

21 Nov.

Dear Chief”

Hon. Senator: What year?

Sen. The Hon. G. Hadeed: 1959.

“Alls’ well at this end and from all appearances we are sure to come off with many victories on our side. Thursday night I telephoned Rogers and told him we were leaving for home. He got worried and called us to the office at once. I accused him of delaying and only trying to appease the Government side, but he went out of the way to offer us hope which the Secretary of State has also held up.

We have had fiesty talks with the chairman of the Conservative Group Mr. Nigel Fisher MP, and done a great deal of lobbying outside the Colonial office. We have many people on our side. Hochoy's appointment is a feather in our cap as we asked for a West Indian Governor approved by the Queen. Perhaps you can play this angle with the press at home.

I feel confident now that we will have the better of this fight. We are working very hard inside and outside the Colonial Office threatening, agreeing, disagreeing and all in all carrying out arguments successfully.

Gomes feels like I do, that we will succeed. Butler is here helping in one push which helps us, that there is 'no constitutional changes' before a general election. This gives us a good lead for compromise in our favour.

We are now fighting for the uni cameral legislature against special treatment for Tobago, and for an independent boundary commission with seats on a population basis. At best no changes of consequence will be introduced before the next election except for the six seats.

We may be here for quite a while. And the talks are now turning in our favour and we intend to pursue it. Oh! How I wish you were here! It would have given us a new and added zeal.

All I wish and hope for is that you are watching your health, take care of yourself for as I see all of you have a mighty role to play for the country in the next elections. Take a holiday while we are away and have a complete rest. Will you?

With best wishes to you and the family and may you live for many

years to pursue a fight which you now shoulder.

Lionel Seukeran.”

The grandfather of—I remember long ago when he was growing up, the Senator, that he was known as Johnny Seukeran, and I do not know why he jettisoned his name or why did he jettison his grandfather’s contribution to the fight. I really do not know. Maybe a change of name is a change of heart, but what I would like to point out here today, it is not what was done or what we are doing today is the problem. What we are doing today is, we are trying to solve, the solution—bring the solution to the problem [*Desk thumping*] that happened in 1962 with the independence Constitution where they did all the damage. Who did it? Two men. There was no consultation with anyone. [*Desk thumping*]

The 1976 Constitution, again, who did it? Two men: Eric Williams and Ellis Clarke. Where was the consultation? We had Prime Minister Manning with his constitution. Where was the consultation? We had the hon. Leader of this Opposition. He got his round table together, where was the consultations? Anybody know where they were? Anybody understood what was going on? I can tell you because I was around when all of these things were happening. What happened then should never have happened. [*Desk thumping*]

There were areas in the DLP constituencies that they put in place—state of emergency in six DLP constituencies during the course of their consultation in bringing together the 1961 Constitution that we are working with today. [*Desk thumping*] That is history. That is the conniving type of history that the PNM has given us all their life. [*Desk thumping*] They come and say there was no consultation. Well, I just want to correct some

information about this consultation and why people backed away from what they committed to. Loading up! [*Laughter*] Let me say and let me inform the Independent Bench, I would not worry to inform—[*Interruption*]

Hon. Senator: The PNM.

Sen. The Hon. G. Hadeed: Waste ah time; waste ah time. They do not listen. They have no intention of trying to understand that they have been the problem from 1956 to 2014. [*Desk thumping*] They all drop here and speak like they are angels now fall from heaven. They have caused damage; untold damage to the children and the elderly of this country.

[*Sen. Dr. Rolph Balgobin in the Chair*]

I came here yesterday, and walking in the front of the Parliament building it was mob rule. It was mobbed, and I saw my dear friend hugging, hugging them up like if Jesus just came—they saw him and it was all love. [*Crosstalk*] When he left after all of them hugged up—I was looking at him from upstairs. I would show you what he was doing. [*Senator wipes his face with a handkerchief*] Yes, hugging them up, and as he turned his back, he was wiping his face like something went wrong.

Sen. Al-Rawi: Who are you speaking about?

Sen. The Hon. G. Hadeed: I am not speaking about anybody in particular. You was there, let them understand who was there. All who was there, let them understand who was there. I know when I was walking there they started to boo me. Do you know what I did? I put my bag down and, Mr. Presiding Officer, I waved to them, but that got them more—I do not know what to say.

Hon. Senator: Angry.

Sen. The Hon. G. Hadeed: Angry. I like that word. Yes, so, when they

got more angry, I waved more. Do you know what happen? One of them was bawling so much her teeth flew out her mouth. [*Laughter*] That is how angry they get. [*Desk thumping*] Let me say, it was important for me to see what went on. That was mob rule. Absolutely mob rule!

Let me give you all some history, recent history, about the PNM. I will give you some recent history. Recently, I read in the newspaper they are now trying to find candidates for 13 constituencies; 13. One wonders why? Being an inquisitive person, I started to find out that they have 30 constituencies under the control of the political leader with management in there. They do not have in the other constituencies. As a matter of fact, they went to Toco/Manzanilla and try to gerrymander and takeover the constituency and there was a fistfight up there; same thing in Arima.

Sen. Al-Rawi: Standing Order 35(1), Mr. Presiding officer.

Mr. Presiding Officer: Well, I think that Sen. Al-Rawi may have a point, and that we ought to confine ourselves specifically to the legislation that we are considering.

Sen. The Hon. G. Hadeed: I am tying it back with political culture.

Mr. Presiding Officer: Okay. Then if you must, you must do so quickly. It would be excellent.

Sen. The Hon. G. Hadeed: Okay. What I am saying is, if we allow the PNM to continue to bring their agent provocateurs from all over [*Desk thumping*] to stop any progression for legislation that will do good for this country, like this Bill, what are we doing?

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

They have them in the media; they have them in the Law Association; they have them in the churches. Not your church ma'am. [*Desk thumping*]

Not you all. I know you have a good church. Okay? [*Desk thumping and laughter*] They have them all over. Soon as anything good has to come out—anything good has to come for this country, they all come out of the woodwork to stop it. Do you know why? Because minority voting is their pattern. Their pattern is to win the elections with minority voting, and that brings me to the point. [*Desk thumping*]

10.45 p.m.

Just bear with me a second. I want to read what transpired during the course of consultations for us to bring this Bill to this honourable Senate. On March 2013, they launched a public consultation on constitutional reform; 17 public consultations, including three in Tobago, several stakeholder consultations including the Tobago House of Assembly; December 2013, a report of the constitution committee presented to the Government; January 2014, Cabinet agrees to four additional public consultations of the contents of the commission's report as per request from the public; January 2014, four additional public consultations, including one in Tobago; March 31, 2014, details for submission of written comments of commission report; April 2014, compilation of public comments and deliberations of the commission begins; important day now, July 09, 2014, final meeting of the constitution commission, Merle Hodge and Carlos Dillon absent. This was where the issue of run-off elections, as a method of achieving a fairer and more representative election process, was discussed as an alternate to or in conjunction with proportional representation.

July 13—15, 2014, postscript arising out of the commission's deliberations was circulated amongst all commissioners. This postscript included the proposal for run-off elections as a means of achieving a more

representative election process. Commissioners commented upon and agreed, unanimously, to the postscript. July 17, 2014, postscript to the commissioners' report forwarded to the PM. The work of the constitution commission ends at this point. July 28, PM announces changes to be made to the Constitution. August 05, 2014, debate began in the House.

When the heat turn on, when the PNM agents provocateurs came out [*Desk thumping*] in their numbers, when the media came out and started to slam it all, there is where we saw who did not have belly to stand up and own up decided that the ship sinking, "Let me get out of here", and that my friend is not what all of them signed to and agreed to, to pull out. [*Desk thumping*] Who pulled out? But did they pull out because they did not know what was going on and they did not say? Ms. Hodge intimated in a newspaper article, she knew about it. She knew about it. So, today, what we are looking at? We are looking at what we need do to make things right. Things that were wrong. Things that went wrong so long ago.

The hundreds and hundreds and hundreds of hours of constitutional changes that wanted to be made from the Hyatali, it goes even before that, Wooding, Hyatali, the whole lot; nothing came out of it. This Government, this Prime Minister has said that she will bring it and she did. [*Desk thumping*] This Prime Minister said in this Chamber, if the people do not like it her political career is on the line. [*Desk thumping*] I am saying, and I am asking for support, do not let it be a situation where because one, two, three, five or six of the Independent Bench must vote for it and that you are under pressure by many sources. I heard Minister Small saying he got a— [*Interruption*]

Hon. Senator: Senator.

Sen. The Hon. G. Hadeed: Sen. Small. I am sorry. Sen. Small—
[Interruption]

Sen. Small: Thanks for the delegation.

Sen. The Hon. G. Hadeed:—getting a lot of texts, he said he could not handle no more, and I am sure every one of you received the same pressure. I got something here yesterday, as soon as I opened it, a million names, “you eh know wey de hell it come from. Ah throw it in de back dey”. Put it in the back. That is where it deserve to go, in the back.

So, ladies and gentlemen, I will close by saying, yes, I will support this Bill *[Desk thumping]* fully and without hesitation, because this is something that my father and many more, before all of you, was fighting for in the colonial office, and I carry that fight at the end. Thank you, ladies and gentlemen. *[Desk thumping]*

ADJOURNMENT

Mr. Vice-President: Leader of Government Business.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. Vice-President, we have been at it since 11.00 a.m. this morning, and consistent with the undertaking I have given to hon. Senators, I think that this is a good hour for us to adjourn the House to tomorrow, Thursday, August 28, 2014, at 2.00 p.m. to continue the debate on the Constitution (Amdt.) Bill, 2014.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.57 p.m.