

SENATE

Tuesday, September 18, 2018

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

Madam President: Hon. Senators, I have granted leave of absence to Sen. David Small who is out of the country.

ARRANGEMENT OF BUSINESS

Madam President: Hon. Senators, with your leave, I will defer until later in the proceedings the swearing in of the temporary Senator.

PAPERS LAID

1. Ministerial Response of the Ministry of Agriculture, Land and Fisheries to the Third Report of the Joint Select Committee on Land and Physical Infrastructure, Third Session (2017/2018), Eleventh Parliament on an inquiry into the strategies for diversifying the type and number of agricultural commodities produced locally. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
2. Ministerial Response of the Ministry of Agriculture, Land and Fisheries to the Fifth Report of the Joint Select Committee on Social Services and Public Administration, Third Session (2017/2018), Eleventh Parliament on an inquiry into the adverse health effects of fireworks. [*Sen. The Hon. C. Rambharat*]

Ministerial Response of the Ministry of Health to the Seventeenth Report of the Public Accounts Committee, Third Session, (2017/2018), Eleventh Parliament on the Examination of the Audited Financial Statements of the Trinidad and Tobago

Bureau of Standards for the financial years 2009 to 2013. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Local Authorities, Service Commissions and Statutory Authorities (including the THA)

National Lotteries Control Board

Sen. Khadijah Ameen: Thank you, Madam President, and may I welcome you back? Madam President, I have the honour to present the following report:

Tenth Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA), Third Session (2017/2018), Eleventh Parliament, on an Inquiry into the Internal Controls Systems and Corporate Social Responsibility Policies of the National Lotteries Control Board (NLCB).

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

Sen. Nigel De Freitas: Madam President, I have the honour to present the following report:

Interim Report of the Joint Select appointed to consider and report on the Constitution (Amdt.) (Tobago Self-Government) Bill, 2018.

Income Tax (Amendment) Bill, 2018

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I have the honour to present the following report:

Report of the Joint Select Committee appointed to consider and report on the Income Tax (Amendment) Bill, 2018, the Mutual Administrative Assistance in Tax Matters Bill, 2018 and the Tax Information Exchange Agreements Bill, 2018 (together with a Minority Report).

I thank you.

URGENT QUESTIONS
Manual Searches for Land Titles
(Resumption of)

Sen. Wade Mark: [*Desk thumping*] Thank you very much, Madam President, and may I join in welcoming you back to this honourable Senate.

To the hon. Attorney General: Can the Attorney General indicate when manual searches for land titles will be resumed at the Registrar General's Department?

The Attorney General (Hon. Faris Al-Rawi): [*Desk thumping*] Thank you, Madam President. I am very pleased to inform that the move of eight million deeds; 7,000 RPO volumes; four million life and death certificates, birth certificates, adoption, et cetera; and 90,000 company records is well in tow. We expect, in that move time, to be able to open the manual search side of the registry in stages.

Firstly, the Real Property Ordinance documents ought to be completed and moved by today and the unpacking onto shelves within one week and we can open that. And secondly, in terms of the land registry, which is again a five million documents portfolio, we are hoping again for a further two weeks beyond that.

We are anticipating that we have been able to beat our deadlines but suffice it to say, it is a very careful exercise that is unfolding because we must barcode and document every document that is leaving and going and its proper receipt. Thank you.

Sen. Mark: Madam President, I know this is a very meticulous exercise that the Attorney General and his staff would have to undertake, but could the Attorney General indicate the kind of inconvenience it is causing to officials who have to

conduct the necessary title searches to ensure that transactions are executed on a timely basis? Has the Attorney General taken that into account?

Hon. F. Al-Rawi: Thank you. I have met with stakeholders, the Registry Search Clerk Association, the Law Association, the Bankers Association and members of the public. In fact, I just came from the registry. We have been working 24 hours a day. We have enlisted the facility corporation of the TTDF.

But what we are engaged in right now, Madam President, is an exercise that has never been done before. The barcoding of documents is something that simply was never done. The records of Trinidad and Tobago were not done on an inventory basis. The system that we are using right now allows us to track a document exactly where it is on a shelf and, therefore, we are improving the ease of doing business in a way that has never happened.

I might add that there is an inconvenience obviously, which was catalysed by the earthquake, which is an unprecedented event. What we have, however, is the full functionality of the online system. So there is the full electronic search on the Property Information Management System referred to as PIMS. We expect this week to be able to open the in-house version of PIMS, that is at the registry at the AGLA Campus at Richmond Street.

All in all, this mammoth exercise undertaken, we have already opened the registry. Online searches are completely functional. Up stamps are fully functional already. Issuance of duplicate CTs are already fully functional. The RPO volumes have been moved as of today and the old law, which is 90 per cent of the registry, will take us, as I indicated, a couple weeks extra because the unpacking of the exercise is there.

This was something which was catalysed by the passage of the earthquake, which, of course, interrupted our pre-organized plans to do this two months later.

We are well on track, if not beating the track that we have indicated to all stakeholders.

Sen. Mark: Madam President, can the hon. Attorney General indicate when would be the earliest opportunity for officials, lawyers and other search clerks, to access manually the searches that they have to engage in for land titles? Could you identify the earliest possible time?

Hon. F. Al-Rawi: The earliest opportunity, as I indicated, in phases, will start with RPO, Real Property Ordinance titles. We have moved those as of today. We are unpacking it as we speak. I just left the registry. I anticipate in a couple of days' time that RPO manual searches would be permitted. The old law searches, the country books, et cetera, those will follow in short time after that.

I want to take this opportunity to sincerely thank, from the bottom of the hearts of every citizen of Trinidad and Tobago, the Registrar General, the Permanent Secretary of the Ministry of the Attorney General, the hard-working staff that have worked all weekend long, days and nights. Very importantly, the members of the Trinidad and Tobago Defence Force, that have turned up in their numbers in disciplined ranks to move millions of documents from one location to another location, so far, without incident. [*Desk thumping*]

Flood Victims in South Trinidad

(Assistance to)

Sen. Wade Mark: Thank you Madam President. To the hon. Minister of Rural Development and Local Government: In light of reports of flooding in South Trinidad on September 16, 2018, can the Minister inform the Senate of the measures being taken to render assistance to affected residents?

The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein): Thank you very much, Madam President. I want to thank Sen. Mark for the question.

The Disaster Management Unit of the 14 municipal corporations continue to conduct damage assessments following the inclement weather experienced on Sunday 16th and Monday 17th of September, which occurred as a result of an active intertropical convergence zone. All Disaster Management Units have reported that flood waters have receded at this time.

However, it should be noted that there were more occurrences of street flooding as opposed to flooding in homes of residents in Central and South regions. For instance, street flooding occurred in St. Mary's Village, Moruga and other surrounding areas. In Couva/Tabaquite/Talparo regions, reports of flooding were mainly in roadways and streets.

Prior to the adverse weather, sandbags were delivered to many flood-prone households in South Trinidad as a preventative measure. One hundred sandbags were distributed in the Pluck Road area, in the Siparia Regional Corporation and 35 sandbags were distributed in low-lying areas of the Chaguanas Borough Corporation.

The Disaster Management Units are preparing for referral letters to the families that have been affected so that they may be able to seek assistance to restore lost appliances and furnishes through the appropriate welfare agencies. Thank you very much.

Sheenece Jackson

(Government's Assistance)

Sen. Wade Mark: To the hon. Minister of Health: Can the Minister advise what is being done to assist Sheenece Jackson?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam President. Madam President, I join with the rest of the country in empathizing with Sheenece and her parents, and I think we all want a resolution to this very complex, complicated issue.

Madam President, the final solution to Sheenece's problems lie in the family—a member of her close family, coming forward, volunteering to be a living donor to donate a part of their liver to this child. I want to make the appeal to those family members. We are not asking for your entire liver. Your liver regenerates. We take a portion of your liver, transplant it to Sheenece and both donor and donee will live happily ever after. The problem is the family has yet been unable to come up with a compatible, willing donor.

1.45 p.m.

We are making arrangements with hospitals who may be interested in doing an incompatible donor, but those hospitals are loathe to take on that extra responsibility. I see in the media ETHE from Argentina is mentioned, they are a broker. The hospital that they use and we use is Hospital Privado. They have done this in the past but only for compatible donors, and they have indicated they are not willing to take the risk for an incompatible donor.

For any South American hospital to do this with an incompatible donor, their domestic law states that they must have judicial authorization once it is a non-family member coming to South America. That is a further complication. Colombia does not do this type of surgery with incompatible donors. Brazil does not do it. We have gone to the World Pediatric Project to find a hospital, we have gone to the United Kingdom, United States, Germany, France, we have gone all over the world and we cannot find one for an incompatible donor as yet. Thank you.

Madam President: Hon. Senators, the time for urgent questions has now expired.

ORAL ANSWERS TO QUESTIONS

Madam President: Leader of Government Business.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. The Government is pleased to announce that it will be answering questions numbers 180, 181 and 182.

La Seiva, Maraval

(Cleaning of River)

180. Sen. Wade Mark asked the hon. Minister of Works and Transport:

Given the recent calls from residents of La Seiva, Maraval indicating that the river is in need of urgent cleaning, can the Minister advise would said river be cleaned given the imminent rainy season?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you very much, Madam President. [*Desk thumping*] Based on the current flood alleviation and monitoring system in the Drainage Division and at the request of the Member of Parliament for Diego Martin North East, the La Seiva river and silt trap in Maraval are cleared on a regular basis and was most recently cleared on August 21, 2018. This work has alleviated flooding in the area to the extent that there has been no serious events of flooding in the area during the year 2018.

Further, the river and silt traps are being monitored consistently as the Ministry is aware of the land and building development in the area, causing silt and debris to be deposited frequently. The river and silt trap are scheduled to be cleaned again in November 2018, and will be cleared before if necessary. I thank you.

Sen Mark: Madam President, can I ask the hon. Minister, whether there is a time frame for the clearing of this particular river or is it dependent on circumstances?

Sen. The Hon. R. Sinanan: Madam President, a couple months ago, Cabinet approved a budget for the Ministry's Drainage Division to increase its capacity and its maintenance of the cleaning of rivers and water courses. The cleaning of rivers and water courses is done under our recurrent maintenance programme, and there is a schedule for all rivers in Trinidad and Tobago, based on the availability of funding, the programme continues. Thank you.

Sen Mark: Can the hon. Minister share with us, the value of that budget that was allocated for the cleaning and clearing of drains and rivers?

Sen. The Hon. R. Sinanan: Madam President, that budget allocated was \$32 million, it entails 298 projects throughout Trinidad and Tobago, and I am pleased to announce that the Ministry has completed and is in the process of completing over 260 of those projects. I thank you. [*Desk thumping*]

Sen. W. Mark: Madam President, could the hon. Minister indicate whether the \$32 million allocated, has been exhausted, or do you still have funds remaining?

Sen. The Hon. R. Sinanan: Madam President, we got an allocation, and based on the releases, we still do have some releases, and we are expecting that those releases will allow the programme to continue. However, if the releases are not given on time based on the factor of the budget, the programme will continue in the next fiscal year. I thank you.

Member of the Trinidad and Tobago Police Service

(Alleged Arrest)

181. Sen. Wade Mark asked the hon. Minister of National Security:

Can the Minister advise whether reports alleging that a member of the Trinidad and Tobago Police Service was recently arrested in London for possession of cocaine are true?

The Minister of National Security, Minister of Communications and Minister

in the Office of the Prime Minister (Hon. Stuart Young): [*Desk thumping*]

Thank you very much Madam President. Madam President, based on information provided by the Trinidad and Tobago Police Service, on Tuesday 15th of May, 2018, a Special Reserve Police Officer, attached to the Trinidad and Tobago Police Service, was questioned by Border Force Officers at Gatwick International Airport in the United Kingdom. It was reported that the officer retrieved a suitcase belonging to him from the baggage belt, and was asked whether he was aware that it is illegal to import drugs into the United Kingdom, to which he answered "Yes". Further, the Trinidad and Tobago Police Service has indicated that no official report has been received concerning the officer's arrest in London for possession of cocaine or any other illegal substance. However, this matter is being pursued and investigated with our foreign counterparts.

Sen. Mark: Madam President, is the Minister confirming that a police officer attached to the Trinidad Police Service was arrested in London for possession of cocaine?

Madam President: Sen. Mark, you are just re-asking the question. Put your question a little differently.

Sen Mark: Can I ask the hon. Minister whether the Government is pursuing measures to address the recent arrest of a police officer in London, on charges of being in possession of cocaine?

Hon. S. Young: Ma'am, with the greatest of respect, Madam President, that is asking the exact same question, and no point in time in my response did I say that any Trinidad and Tobago police officer was arrested in London, according to what my learned colleague has said on the other side.

Sen Mark: Can the Minister therefore confirm, whether a special reserve police officer was interrogated in London on this matter?

Madam President: Sen. Mark, the original response of the Minister took that into account and set out what happened. So you have one more question, supplementary. Next question.

**Escaped Prisoners
(Preventative Measures)**

182. Sen. Wade Mark asked the hon. Minister of National Security:

In light of recent reports that prisoners have escaped custody from the nation's Magistrates' Courts, what measures are being taken to prevent such escapes from occurring?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. The Commissioner of Prisons has indicated that prisoners are escorted to the courts by the Trinidad and Tobago Police Service and transported by Amalgamated Security Services. Additionally, video footage viewed by the Trinidad and Tobago Prison Service revealed that inmates are searched and placed in handcuffs before being handed over to the TTPS. Furthermore, all inmates are handcuffed and only released when in front of a magistrate prior to entering the docks. The use of leg cuffs on the feet of the prisoners are also utilized to assist in controlling inmates' mobility. Police officers are also assigned to supervise inmates when they arrive at court.

Furthermore, the Commissioner of Police has indicated that there are well-established protocols and procedures to treat with the escort and security of prisoners. These protocols and procedures are contained in the police Standing Orders and the Police Service Regulations. Police officers are reminded of the need to perform their duties in a very professional manner and in keeping with the rules and regulations governing the security and escort of prisoners.

It is regrettable whenever there are occasions of prisoners escaping from custody and this is something that is being monitored by both the Trinidad and Tobago Police Service, Amalgamated Security Services and the Trinidad and Tobago Prison service.

Sen Mark: Can the Minister indicate, Madam President, in light of all the stringent measures being undertaken as well as protocols, what specific initiatives apart from monitoring are being undertaken by the police to avoid this situation where prisoners are still being allowed to secure their freedom in this country? What other measures apart from monitoring?

Hon. S. Young: Thank you very much, Madam President. Madam President, it is regrettable that once again the language being used by Sen. Mark is a criticism of the Trinidad and Tobago Police Service, and for him to say that they are being allowed to secure their escape. As I have said, the police service is working with the prison service and Amalgamated Security Services. There is no instance where they are intentionally allowing anyone to escape, and this is not something that is usual, so it should not be sold as though it is something that is usual and they will continue to work assiduously to ensure that no one escapes.

Sen. Ramdeen: Thank you, Madam President. Madam President, through you to the hon. Minister. Minister, is there a protocol in place where when these situations occur, for example, these escapes in the different Magistrates' Courts, that a report is generated and sent to the Ministry of National Security so that steps could be taken by the Ministry to ensure that these things do not reoccur, and whatever has been the shortfall in the system that it has been stamped out?

Hon. S. Young: Madam President, it is quite ironic that those in the Opposition are now suggesting that the Ministry of National Security should get involved in the securing of prisoners, but when conducting work on other occasions, Ministry

of National Security is being criticized as to why it is present.

Reports would come to the Ministry of National Security if so requested. The Ministry of National Security at this time is not playing any role in policy governing the escape and the securing of prisoners beyond what exists in the law. As I just said, this is not a usual occurrence, there is no crisis, and at this time there is no need for the Ministry of National Security to intervene in these very, very, very limited circumstances.

Sen. Obika: Madam President, I would like to invoke Standing Order 27(15) regarding question 187.

Madam President: Standing Order 27(15) will be invoked in respect of question 187.

**MISCELLANEOUS PROVISIONS (SUPREME COURT OF
JUDICATURE AND CHILDREN) BILL, 2018**

[Fourth Day]

Order read for resuming adjourned debate on question [July 02, 2018]:

That the Bill be now read a second time.

Question again proposed.

Madam President: Those who have spoken on this Bill are as follows: the hon. Attorney General, who moved the Motion; Sen. Gerald Ramdeen; Sen. Elton Prescott SC; Sen. The Hon. Jennifer Baptiste Primus; Sen. Khadijah Ameen; Mr. Paul Richards; Sen. Pastor Clive Dottin; Sen. Garvin Simonette and Sen. Anita Haynes.

Sen. Sophia Chote SC: [*Desk thumping*] Thank you very much, Madam President, for the opportunity to make my contribution to this Bill. There is just one aspect of this Bill that concerns me. I think other aspects of the Bill which deal with the regulations of the authorities which govern children's homes and so

on, I can say that those matters have been adequately addressed by speakers before me, in particular, Sen. Ameen and Sen. Richards. So I will confine my contribution to that proposed amendment of the Supreme Court of Judicature Act which purports to do two things. One, it purports to increase the number of judges and two it purports to permit any member of the Bar of any Commonwealth country to become a Judge of the Supreme Court of Trinidad and Tobago.

Now, I have heard some of the concerns initially raised by Sen. Prescott when he spoke on this matter. But I do have some additional points to make. Now, let me start by building blocks, using blocks to build my argument.. In 2017 when Justice of Appeal Jamadar was giving the speech to Dr. the hon. Lloyd Barnett at the Hilton Conference Centre on the 7th of September, 2017, I think he put it very succinctly. He said judges were first lawyers and both were once law students.

Now, this legislation essentially creates a sort of odd situation, because what it does is that it says that not every person from a Commonwealth country may practise at the Bar of Trinidad and Tobago unless you follow certain procedures and you get the accreditation of a Caribbean law school. But this legislation purports to say that any citizen of a Commonwealth country or any member of the Bar of a Commonwealth country may sit as a judge. So it means that you cannot practise as an attorney, unless you are accredited by a Caribbean institution but you can sit as a judge of the Supreme Court, and something about that simply does not make sense to me.

So I decided to look at the topic a little more deeply and when Sen. Simonette made his contribution, he had mentioned in particular I believe Justice Telford Georges and his contribution, Sir Hugh Wooding and so on. So I looked

back to see what these legal luminaries had said about our Caribbean education and our system of justice.

I did not have to look too far because when the Judiciary celebrated 50 years of an independent Court of Appeal in Trinidad and Tobago, there was a document prepared by historian Bridget Brereton and in that document, which is on the website, there is a reference to a speech given by Sir Hugh Wooding in 1966, this is just after Independence, where he said what we wanted on the Bench were lawyers who belonged; because we as a colonial society had gone through centuries of having persons sitting as judges who were not part of the society of Trinidad first and then Trinidad and Tobago.

So, Sir Hugh Wooding said we wanted as an independent nation, we wanted on the bench lawyers who belonged and he went on to say:

“Lawyers who understood our people, our ways of speaking and our habits of thought; lawyers who knew and could comprehend our emotions and motivations. It was frustrating to cross-examine a witness and get an answer which had subtle overtones which were lost upon the ear of the presiding judge.”—He—“proudly noted in 1966”—that all the judges—“were West Indian.”

And I think philosophically that is why we have been able to build a Caribbean jurisprudence, and to a large extent we have been able to meld strong ties amongst our Bar Associations and amongst the judges of the Caribbean to create a Caribbean jurisprudence, which eventually led to the creation the Caribbean Court of Justice. So you had developed legally and in terms of the justice that we offer to our citizens in the Caribbean in a certain way.

I start with that. Justice Jamadar, in the same speech to which I had referred,

said that:

What we need to do is to ensure the Caribbeanization of legal education which must include specific and coherent skills based training that incorporates the historical, social, political, economic and cultural lived experiences of our peoples in the reading, interpretation and application of the law.

Now I know, I am perhaps sounding a little esoteric, but to some extent this is a philosophical point that I am taking which pertains to our sovereignty as a nation and our independence as a Bar and our independence as a judiciary. [*Desk thumping*]

Now what Justice of Appeal Jamadar had to say, really after several decades was something which had formed the basis of considerable deliberation since the 1960s and resulted in the opening of two law schools in the Caribbean; the Hugh Wooding Law School and the Norman Manley Law School, I believe it was in 1970. It was a recognition by the leaders of Caribbean nations, now I suppose how I should put it now, the Anglophone Caribbean nations that we needed to have a legal education system of our own to reflect the identity of our Caribbean peoples. And, of course, that meant that those attorneys who were so qualified would then become the judges who would adjudicate on cases with the social and cultural sensitivity which was expected of them.

So there was an agreement establishing what we now know as the Council of Legal Education and I think we need to remind ourselves of what the contracting parties agreed to. I am referring to the actual agreement establishing the Council of Legal Education. And it says:

“The contracting parties sharing a common determination to establish

without delay a scheme for legal education and training that is suited to the needs of the Caribbean;

Aware that the objectives of such a scheme of education and training should be to provide teaching in legal skills and techniques as well as to pay due regard to the impact of law as an instrument of orderly social economic change;

Convinced that such a scheme of education and training can best be achieved by—

Firstly, a University course of academic training”—and so on. But it continues, the training must be—“designed to give not only a background of general legal principles and techniques but an appreciation”—and I emphasize these words—“of relevant social science subjects including Caribbean history and contemporary Caribbean affairs;”

So since 1970 we have been producing attorneys-at-law and as a result judges who have gone through this system one way or the other whether they entered the law school via the UWI, the Faculty of Law or whether they did their degrees abroad and had the conversion courses done at one of the law schools. The fact is their legal education was required by this agreement to be streamlined to suit the needs of the people of the Caribbean, of the Anglophone Caribbean.

Now, what we are doing here is we are blowing the door wide open. We are not just opening it slightly. We are blowing the door wide open, to any member of the Bar of a Commonwealth country to, not practise in Trinidad and Tobago, you know, but to jump ahead of the practitioners in Trinidad and Tobago and to sit and adjudicate as a judge of the Supreme Court. [*Desk thumping*] Now to me it is true that I am not as young as I used to be, but there are young attorneys who on their

career path look forward to achievements, you do not qualify as a lawyer and you say, “Okay I am going to be a lawyer for the rest of my life” many of them aspire one day to become a judge of the Supreme Court and when they become a judge they aspire to go further to the Court of Appeal.

So, we are saying to our young practitioners who have gone to the trouble of making sure that they have obtained a legal education which is suitable for our nation, we are saying to them well when it comes to the Judiciary you are now going to have to compete with people who did not have to go through that process. Now, I think that is grossly unfair. Even if there is some sort of examination or testing process, I think it is grossly unfair that having set up a system of legal education along the lines of what was decided since we became an independent nation to permit that our courts be filled by persons educated with our cultural and social sensitivities to now say, so many fifty-something years later—I do not know if my math is right, but fifty-something years later to say that we are going to have this big change in who will adjudicate.

Now, I would like to make the point something struck me as other presentations were being made. Sen. Simonette when he spoke, out of all the Commonwealth nations that there are and even if we look at the ones only referred to in the Constitution, out of all the Commonwealth nations, chose to refer to Ghana and Nigeria as being potential resources for Justices of the Supreme Court of Trinidad and Tobago. And the hon. Attorney General in a not so sotto voce comment during the contribution of one of the senators referred to financial crimes. So perhaps I am being a bit of a Nancy Drew in this, but if it is that it is being contemplated that two Commonwealth jurisdictions have been identified as potential sources for judges of the Supreme Court, I think in all fairness we need to

look at whether their jurisprudential development is in line with ours.

2.15 p.m.

I think that I will have to say that they are not, because starting with their independence, they are in the same position as India and Pakistan, for the same reason that a judge—with all due respect—or a practitioner from India or Pakistan would not be a good fit for our country, I respectfully say the same thing is true for someone from Ghana or Nigeria, and the reason is this.

What happened is when many Commonwealth countries got their independence, there was some talk of wanting to have a sort of regional Commonwealth court. That was immediately set aside because it was recognized that people from within the Commonwealth had so many diverse backgrounds for various reasons. Some people, some Commonwealth nations, decided to stick with the Judicial Committee of the Privy Council as we in the Anglophone Caribbean did. A few countries—India, Pakistan, Ghana and Nigeria, being four out of six, I think—decided—and Guyana, if I may add that in—they decided that they were not going to have the Privy Council as their highest Court of Appeal.

So their jurisprudence developed in a manner which was unique to them, and unlike our highest court, the Privy Council—because when it sits on an appeal from Trinidad and Tobago, it treats itself as the highest court for Trinidad and Tobago, and if it sits on an appeal from Barbados, it treats itself as the highest Court of Appeal for Barbados, but what happens is that the Privy Council tends to maintain a commonality of jurisprudence or jurisprudential ideas, because our Caribbean Constitutions are not that different to begin with and, secondly, also because much of the legislation which we have or which we have developed, they have come from England, and we have developed more or less at the same pace as

we go along because of the tightness of the attorneys practising within the Caribbean and the Judiciary practising within the Caribbean.

So there is immediately, I would say—how should I put it—there is a disparity between the jurisprudential knowledge, let us say, of someone who has practised at the Bar in Ghana, Nigeria, India, Pakistan and Guyana, from an attorney who has come through our system and has practised in our court and has practised in Caribbean jurisdictions. Now, I feel as though I may be speaking to deaf ears, but I think it is absolutely crucial for me to make this point in defence of our Bar, in defence of our independence as a Bar in this country. [*Desk thumping*]

Now, I went further to see well—and I only used those two examples because of what Sen. Simonnette said, otherwise I had not really looked at the issue of which Commonwealth countries might make or produce judges which would be a good fit for us in Trinidad and Tobago. So, in a sense, I have to be grateful to Sen. Simonnette because he sort of made my job a bit easier by directing me as to how my research on this matter could go.

Now, the other point that I want to make is this. When the Council of Legal Education was formed, things went along fairly well until around the 1990s, when people wanted to change the method by which persons were admitted to the Bar in Trinidad and Tobago. Trinidad and Tobago got itself into some trouble because it amended the Legal Profession Act to allow for certain persons to be admitted to the Bar of Trinidad and Tobago contrary to the agreement which set up the Council of Legal Education. And the reason Trinidad and Tobago said that it had done that, was because it said that so many people were becoming lawyers and there were not enough spaces at the law school to accommodate them and so on, so they had to amend the law. Well, that is gone but we have seen the impact of that.

One of the good things though, that came out of that, was Dr. Barnett, who as we know is a legend in the law—he is a Constitution Law icon among other things. He is a legal education icon among other things—he was tasked to chair a review committee which produced a report in 1996, which was called: “Report of the Review Committee on Legal Education in the Caribbean”. Now, this is 1996, and by this time, the law schools had been set up for a considerable period of time. So the significance of this report is to give us an indication of whether contrary to what I am saying, that the legal educators in the Caribbean and the judges and so on, were starting to think or rethink the philosophical position which had informed the legal education in the 1960s, but what I realized is that was not the case.

Dr. Barnett was making it quite clear that our Caribbean legal education was something that we needed to protect, we needed to develop and, in fact, the report chastised the Government of Trinidad and Tobago at the time for passing legislation of that kind. And Dr. Barnett, in his report, referred to that portion of the agreement to which I had referred to earlier in my contribution.

But during the course of the report, when he was speaking about alternative solutions to deal with the issues not only of increasing numbers of persons seeking admission to the Bar, but also there was a difficult situation with respect to The Bahamas and also with respect to the quality of the degree being offered by the University of Guyana. So, this is what the report said. At paragraph 3.1.2:

“We are convinced that the Faculty of Law of the University of the West Indies and the Council’s Law Schools have in a relatively short time made considerable progress towards the attainment of these ideals and objectives. We are concerned that some of the recent developments and proposals threaten to undermine the foundations which have been so well

established and to retard further progress. We are opposed to unrestricted admission of non-nationals to the Bars of the Caribbean countries or to nationals being given a means of circumventing the essential requirements of our system by obtaining legal education and training provided by other agencies within or without the Region.”

I do not think it could have been put better than that, and this was signed—Dr. Barnett was the chairman. It was signed by—I think it was our then Attorney General, Mr. Keith Sobion, the late Mr. Keith Sobion, Andrew Burgess, Austin Davis, who at the time had been the principal of the Hugh Wooding Law School, Maurice King QC, Christopher Blackman QC, Philip Davis and William Roper, and those names should give you an indication of the strength of the committee and the strength of the intellectual contributions made by those persons. So I will take it a little further.

If we are looking at persons outside of the Anglophone Caribbean, and we are saying that members of the Bar may be admitted to the bench, let us look, let us go through it by stages, and let us see whether a member of the Bar from a country such as—what was it?—Ghana or Nigeria, may be admitted to the Bar here without more. The answer is no.

When you look at the agreement of the Council for Legal Education, first of all, there are only three universities from those territories which provide an acceptable or an equally good degree as the University of the West Indies. There are three universities identified, and if someone from those universities, a graduate of those universities, wants to be admitted to the Bar here, in addition to going through our law schools, what they must do, is they must do courses in constitutional law and law and legal systems. So it means to say that requirement

by itself, Madam President, means that the degrees offered in those universities to those students do not provide them with the grounding in constitutional law and law and legal systems which you need to practise at the Bar here and, ultimately, to become a judge if you do well.

Now, how can you be unfamiliar with these two subjects, because these two subjects form the basis of all law and practise. And I suspect—now, do not get me wrong, I know that there are people listening out there who will say, “Oh, Chote, it must be an ethnic reason that she is referring to Ghana and Nigeria.” I know that there are small-minded people out there who would think that. So, just to deal with anybody who might be thinking so, anybody coming from Canada also has the same problem. They also have to be certified that they know about our constitutional law and our law and legal system, and I am talking about the top Canadian law schools. We are talking about McGill, we are talking about Osgoode Hall and so on. So, it is not to say that I am suggesting that only countries from a certain part of the world ought not to be eligible to have their citizens come here to sit as members of our Supreme Court, but what I am saying is that there is a good reason for that not to happen.

Now, when I did my research even further, something struck me. Before we took the break, I remember we were dealing with a particular piece of legislation which referred to special offences. And as a criminal practitioner, I thought to myself, what are special offences? And I believe I may have even asked the hon. Attorney General, at some stage, what that meant, and I do not think that it was categorized further. But in my research, you know what I found? Again, like Nancy Drew, I found that in Nigeria, a special court has been set up to deal with special offences, and those courts deal with financial crimes which the hon.

Attorney General had spoken about, not so sotto voce and sexual offences, because apparently sexual offences are a big problem in Nigeria, and there was a huge backlog in sexual offences cases and financial crimes cases.

So, essentially, if I put this all together, I think the purpose of this proposed amendment is to draw upon the experiences, perhaps of Ghana and Nigeria in dealing with financial crimes and possibly sexual offences. For the reasons that I have identified earlier, I would respectfully submit that I cannot support this legislation for all that I have said before. Now—

Hon. Al-Rawi: Sen. Chote?

Sen. S. Chote SC: Sure.

Hon. Al-Rawi: Much obliged. If I could just categorically say at this point, because it may affect your thinking, the experience in Nigeria and Ghana has never once come into the contemplation of the Executive in any form or fashion at all. I noticed you spent quite a lot of time, and you explained why, from a Commonwealth perspective, but I just wanted to make that absolutely clear in case it affected some of your contribution. Thank you.

Sen. S. Chote SC: Thank you, Attorney General, but I think I made it quite clear, that the only reason I referred to these two countries as examples is because they were identified by Sen. Simonette. So, I do not know if this was just two examples picked up by Sen. Simonette, but because he used them as two examples, I thought, why not? Out of all of the Commonwealth countries—

Hon. Al-Rawi: But he was talking about our nationals who are there.

Sen. S. Chote SC: Again, the hon. Attorney General, not so sotto voce, speaks about our nationals who went there, but the hon. Telfer Georges, I believe, had gone to Zimbabwe and Tanzania. So, if it is—you know, the point I am making is

that, not only is it a bad idea, because we have developed our own unique Caribbean jurisprudence and our own unique Caribbean legal and judicial ties which have pushed us towards the creation of a Caribbean Court of Justice, which I hope that we at some point might be able to accede to, but it seems as though we are taking a step back, because now we are bringing in people who are not qualified in the way in which we want them to be. We are not saying that you have to even have practised at the Bar here, we are saying, “Hear what, could you come in and you go straight to the Supreme Court of Judicature.” What does that say to Caribbean practitioners? Quite frankly, I think that is an insult, with all due respect, especially when we look at who we have on the Bench here.

We have on the Bench here, judges who have held the office of acting DPP or DPP in other jurisdictions. They have prosecuted financial crimes, they have given directions for financial crimes to be prosecuted. In addition to that, since about 2001, we have had members of the private Bar engaged in the prosecution and defence of financial crimes. We are here 17 years later—off the top of my head, I can think of at least 10 people who might be considered, if there were a need for judges to deal with financial crimes. Some of them are already sitting on the Bench. So it is simply a matter of assigning those cases to them. I do not like it when as a Parliament we come and we make as if we do not have the quality, and we do not have the depth of learning and knowledge to do things which we have been doing for many years.

Now, I agree that very often practitioners from the United Kingdom, at all levels, they come and they practise in Trinidad and Tobago, but they are only able to do so if they are able to obtain a certificate from the Attorney General, which allows them to practise at the Bar and that certificate is not just across the board,

usually it is for a case. So you are permitted to use that process to come and do a case if you are a practitioner in a foreign country. It does not mean to say that you could go and sit as a judge. Even the most eminent QCs do not have that liberty, because they have not gone through the Council of Legal Education requirements. So a special process had to be put in place for them to be able to come here to do cases. So I would respectfully suggest that this is not—

Madam President: Sen. Chote, you have five more minutes.

Sen. S. Chote SC: Thank you very much. This is not something as easy as increasing the number of judges. If that was so, I would say yes. I know the judges do not have the resources and so on, but I am hoping that one day, you know, we will have extra judges and we will have extra place to put them and so on. So that is not my problem. My problem is that we are creating an unequal system. We are creating a system which is going to foster inequity between our own people, our own citizens, our own attorneys at law [*Desk thumping*] and their capacity to ambitiously look towards one day, sitting as a member of the Supreme Court, and we are treating them with less generosity than we are treating citizens of Commonwealth countries who have simply been admitted to the Bar in their countries regardless of which university they came through.

So, Madam President, I do not want to go on too much about it, but I will end on a note of levity or at least what I think is levity. We had the experience of an English judge sitting as an acting judge here, and he was never confirmed and he acted on two occasions, but the whole situation became very replete with contention, and it was because the judge did not appreciate the language that the practitioners were using in court. The judge was not sensitive to the players in the courtroom. The judge pontificated about, well, in England we do this and we do

that, seeking to humiliate our practitioners with respect to things which we had learnt. It became so bad that a young woman was cross-examining a witness who was from Chaguanas who was talking about a wounding. And she says, “Oh, so you sat on the ‘peerha’ and you say that you saw this.” Now, in rural communities, a “peerha” is just a low stool that you sit on to shell corn and husk rice and that kind of thing. The witness had to be spoken to in that manner, because that is the kind of language she understood, and counsel was asking, quite properly, the witness a question in the language she understood.

The judge took grave offence to this, and counsel is trying to explain, “Well, if I ask her if she was sitting on a low stool, she will have no idea what I am talking about it.” And it came to a very unpleasant end where the attorney was chastised for not speaking the Queen’s English in Trinidad and Tobago—independent since 1962—but also for not using a phrase to be found in *Cote Ce Cote La*, and I hope that that by itself demonstrates how absurd this can easily get, and I am speaking about an actual experience which we had in this jurisdiction.

So, Madam President, I thank you for the opportunity to contribute. [*Desk thumping*]

Sen. Saddam Hosein: Thank you very much, Madam President, and I would also like to join in welcoming you back to this honourable House. Madam President, before us, we have the Miscellaneous Provisions (Supreme Court of Judicature and Children) Bill, 2018, and this Bill seeks to amend 13 pieces of legislation in an ominous Bill, and most of the laws that are contained within this Bill, Madam President, touch and concern the criminal justice system in Trinidad and Tobago.

When I read the Bill, it sought in an attempt to address some of the issues that currently plague the current situation of the criminal justice system. And if you

would allow me to quote, Madam President, just to give a context of my contribution, from the First Report of the Joint Select Committee on Finance and Legal Affairs on an Inquiry into the Criminal Case Flow Management in the Judicial System, at page 13, Attorney at law, Travers Sinanan, in a submission to the committee said:

“...the large number of cases before the courts every day is a reflection of the very high level of criminality in society. Society is plagued with delinquency and disregard for the Rule of Law as evidenced by the level of violence in certain secondary schools.”

And, Madam President, when I look at this Bill, I wonder whether or not this Bill will be able to adequately address even one of those issues facing the criminal justice system.

What we have to do, Madam President, is address the root causes of criminality and crime in Trinidad and Tobago [*Desk thumping*] because if we fail, and if the Government fails to address the current crime situation, the courts are only going to be more and more filled with matters before it to adjudicate on and there will be endless backlog and, Madam President, this year is one drop in the bucket.

What the Bill sought to do, as Sen. Chote would have indicated, is that it now increased the number of judges and also increased the pool of judges from which the JLSC, which is the constitutional body, would be selecting judges for appointment by Her Excellency. And, we are going to now increase the number of judges, but populate our Judiciary with foreign judges, and Sen. Chote would have raised several issues regarding the foreign judges. Now, I do not wish to go into all of the issues that Sen. Chote would have mentioned, but I will attempt to raise

my own issues, Madam President.

And while I agree that it is noble that if we appoint more judges that we can actually see some more production within the Criminal Assizes in the Judiciary, we must be cognizant of the current state of the Judiciary as it stands. And the Attorney General will continuously bring legislation to this Parliament on a piecemeal basis that we amend certain pieces of legislation as we go along. But, Madam President, had we not all sat around the same table and joined our voices so that we could have a map, we could all have one solid policy on how we are going to address the criminal justice system, so that when we come to the Parliament we will know that these are the building blocks that we need to include or these are the pieces that we need to include or the fixes that we need to make in order for the criminal justice system to run smoothly. But what we are doing is amending laws in a piecemeal basis, and I think that is very counterproductive.

But recently, in this very Parliament, the Family and Children Division Bill was passed, now an Act of Parliament, and in Schedule 5 of that we saw the Supreme Court of Judicature Act was, in fact, amended. So in 2016, this exact provision that we are amending today was already amended to move the number of judges from 36 to 49, and today we are amending the legislation to move it from now, 49 to 64; 15 more judges we are going to be including in our Judiciary.

When we look at the current state of the backlog—and I had the benefit of reading the 2017/2018 Annual Report of the Judiciary—I would like to read into the record what the backlog is currently, according to that report. At the Port of Spain Court Registry, there are 459 cases currently at that criminal registry; at the San Fernando Assizes, there are 236; at the Tobago Assizes, there are 14. The number of courts in Port of Spain are six Assizes, in San Fernando there are three

and in Tobago there is one.

2.45 p.m.

And, Madam President, this is wholly inadequate in order to address the criminal case flow that comes within the Judiciary every single year, because on one hand you have more cases coming, and on the other hand you have less cases being dealt with and adjudicated upon. When we look at the current state of the Director of Public Prosecutions office, in that case, according to the JSC report that I quoted from earlier, it indicated that the average workload of prosecutors at the Port of Spain Assizes are 66 matters in 2010—this is per prosecutor—78 matters in 2012, 84 matters in 2014, and 150 matters in 2016. And you expect these prosecutors to now come—we are going to establish more courts, more judges, but the Director of Public Prosecutions office is clearly inadequate to deal with this situation. There is a severe human resource deficit currently at the Director's office, and I think in order for us to move the wheels of the criminal justice system forward we should also address these issues. We cannot just simply come to this Parliament and say that we are going to increase the number of judges and that will assist, Madam President.

Now, another interesting point that Sen. Ramdeen would have dealt with also was that of the appointment of judges, and this has been a very contentious issue in this country, Madam President. If there is so much to say and so much contention by members of the public regarding the appointment of judges, then what confidence does the regular man on the street who places their confidence in this independent judicial system to protect their rights, their privileges and their freedoms, have in the Judiciary if there are so many internal problems within that institution. The Law Association compiled a report—this report—on the

Committee on Judicial Appointments, June 2018, and according to the Constitution of Trinidad and Tobago, section 105 of the Constitution indicates the criteria and the qualifications in which a person shall have with regard to—when read with the Supreme Court of Judicature Act for being appointed as a judge in Trinidad and Tobago. And judges of the High Court, they are interviewed. They are selected by the Judicial and Legal Service Commission who would then recommend to the President, Her Excellency, the persons who they would like to be appointed as judges.

In this same report, Madam President, they spoke of the history of judicial appointments, and the reason I am raising this point is that if we are going to increase the complement of judges, we must get the process in which these judges are appointed right first. The pre-2000 position would have been that you tap someone on the shoulder and give them the indication, well, you can apply to be a judge. Then it developed after 2000 with more transparency with regard to public advertisement in terms of persons who are appointing judges. Then there is a post-2009 position, Madam President, which currently exists, where a person who is to be selected as a judge will apply through, after public advertisement, in the newspapers. But according to the report, Madam President, it says this on page 26:

“The actual process of selecting the persons to be offered judgeships is opaque. Based on submissions of recent applicants, the JLSC conducts an interview with the applicant which may last about one hour and which touches on their previous legal practice experience, awareness of current developments in the Judiciary, work habits and interests.”

When you look at the appointments of these persons it indicated that these persons—on assuming duty there is no proper protocol with respect to their

orientation, with respect to their appointments. And if we are going to include foreign—

Madam President: Sen. Hosein, may I ask you, are you referring to a report and all your commentary is based on that report or are you referring to the report and then you are adding your commentary? In other words, when you are talking about the report, I want you to just be specific if you are quoting from the report. Okay?

Sen. S. Hosein: Thank you very much, Madam President. My earlier comments were based on a quote, and I would now give my commentary on what I have quoted. If I was not clear, I apologize to you, Madam President.

The point that I was making is that from the report, currently, the selection process for judges is quite unclear, and the report gave some guidelines to the Chief Justice, to the JLSC, who is the chairman of the JLSC, in terms of some of the observations that they would have from this report. Madam President, it shocked me to know that there is no documented job description for a High Court judge in Trinidad and Tobago. So it really leaves a very subjective test or a subjective criteria within the JLSC in order to appoint someone as a judge. One other observation that was made is that not many persons who sat as magistrates were able to elevate themselves to a judgeship. There is a lot to say about this, Madam President, but this matter is before a court. Also, there are issues with respect to confidentiality in terms of some of the practitioners complaining that their information is finding its way into the public domain after an interview with the Judicial and Legal Service Commission. These are all issues that we must be cognizant of because which senior practitioner would want to subject themselves to this interview and then the next day on the newspaper you hear that, for example, if Sen. Chote would allow me, that Sen. Chote applies to be a judge. Now. this will

cause some sort of embarrassment if this practitioner is not in fact selected to be a judge, and there must be strict confidentiality with respect to the selection and appointment of judges in this country.

That brings a very important point, Madam President, that is, I do not know how transparent or how accountable this JLSC process is. Because recently there was an article from the *Saturday Express*, 29 April, 2017, and this was an interview with Senior Counsel Martin Daly, and he said that the Chief Justice is wrong to tout his successor. Madam President, if you would allow me to quote from this article, it says Daly also took issue with the Chief Justice's statement on another matter, and he quotes:

“ This is also an appropriate occasion to ask how could the Chairman of the Commission tout someone (however meritorious that candidate might be) as a future Chief Justice, as was recently reportedly done on a social occasion.

No candidate for judicial office should be perceived to have an inside track with the commission or with persons in a position lobby the President of the republic in respect of any appointment of a Chief Justice that he might be called upon to make after appropriate consultation”

Madam President, the article goes on to say:

“ Speaking at a function on April 13 at Queen's Hall, St. Ann's, Archie, in paying tribute to Industrial Court President Deborah Thomas-Felix, stated: 'She has all these firsts. I am getting a little nervous. It may be there is a first female chief justice, and, if it ever happens, I will be willing to give more than proxy to Debbie.

Debbie has become an outstanding president. She is way too bright.

She has gone to the United Nations Appeal Tribunal.”

Madam President: Sen. Hosein, I encourage you to make short—you refer to something. You do not have to read an entire article to make your point. Okay? So try and abbreviate some of the references. Okay?

Sen. S. Hosein: Madam President, I do apologize. The only reason I quoted extensively is because—

Madam President: I do not need the explanation. Sen. Hosein, please, I do not need an explanation, I am just giving you some guidance as you proceed with your contribution.

Sen. S. Hosein: I appreciate your guidance, please, Madam President, and it is that I am a very young practitioner and I would not like to misquote any Senior Counsel, so I would like to read verbatim from what a Senior Counsel will have to say.

One other startling issue or concern that came out from this report was that the committee found that the JSLC does not consult with other judges or senior practitioners with respect to the appointment of judges, but rather they defer it to the Director of Personnel Administration. Madam President, these persons are not as qualified or may not be as competent in order to make solid recommendations with respect to the appointment and selection of judges. This report—the Chief Justice yesterday at his opening address to the Law Term 2018/2019, would have given his own remarks with regard to his position on this report, Madam President. I would not go on to what the Chief Justice would have said, but all I would like to say is that we cannot support this process right now in terms of appointing 15 new judges without the appointment system or the selection criteria being properly

transparent, [*Desk thumping*] being accountable and being fair. Because there are several practitioners, whom I know myself—I may not be qualified to say that they are competent to be judges, but there are others who have that view, and, Madam President, on application to be a judge, they were all turned down without any explanation given or any feedback in terms of why they were turned down.

Madam President, imagine that the JLSC requires senior practitioners, be it of the lower Bar and also Senior Counsel, to subject themselves to a written examination. You require Senior Counsels to go and write a law school exam, Madam President, in order to be a judge in this country? Is it that is why we are going to bring foreign judges because they are willing to subject themselves to writing an exam? Is this the reason for this legislation? When you look at the condition of the Judiciary there are complaints about lack of resources, photocopying, stationery. Some have to buy their own tea and coffee in the Judiciary, Madam President. These establishments of all these new courts, the judicial support officers, they are taken away from the Hall of Justice and they are placed in all of these other courts, and they are not replacing JSOs in the Hall of Justice, secretaries, and yet you expect court to run as normal? Imagine you have a former Chief Justice, Chief Justice Clinton Bernard, having to go in a public forum and cry, cry for his pension, Madam President.

Is this country in a sufficient position financially to hire 15 judges and when those judges retire to pay their pensions, Madam President? Because if over 5,000 persons could be fired in this country, and you have the Chairman of Petrotrin bawling, all, all, all, then, Madam President, what does this say? [*Desk thumping*] Madam President, you have a Minister of Government who is saying that he wants a pay increase, yet so many are losing their lives and their jobs in this country.

Madam President: Sen. Hosein, I am not sure where you are going with this argument in respect of the matter at hand. Okay?

Sen. S. Hosein: Yes. Madam President, and the point I am making is that when there are so many unemployed persons in this country, you know what goes up? The crime rate, Madam President. And when the crime rate—

Madam President: Sen. Hosein, please, take your seat. I was trying to tell you, in a subtle way, that you were now going into some irrelevance, and now you are continuing on that path, so I will ask you now, not so subtly, to please be relevant to the matter at hand.

Sen. S. Hosein: Madam President, it will only escalate the current state of the judicial system with respect to backlogs in this country. While I accept that we need more judges to deal with them, where are we going to put these judges? Are there any plans currently afoot in order to house these judges, because currently the Hall of Justice, there are six Assizes? The San Fernando High Court has three Assizes that work on a shift basis with the Magistrate's Court next door. I even read an article where the Mayor of San Fernando—a PNM Mayor—wants to sue the Judiciary because of the condition of the Magistrate's Court. Madam President, how are you really going to address the criminal justice system by putting these judges here and they have no way to go?

Sen. Ramdeen was right, because I remember an article also, last week I believe, in a daily papers where the Princes Town court was being heard at the Rio Claro Police Station. Imagine that. That is an embarrassment to our Judiciary in this country. After 56 years of independence we are now having a Magistrates' Court being held in a police station, Madam President. That is totally, totally unacceptable in this country. When we look at the other point that this Bill is

trying to address, which is to open up the pool of candidates with respect to judgeship, I want to ask the Attorney General: Was a study done to determine whether or not we need to do this? Who made this recommendation? Why 15? Why not more? Why not less? Are there already 15 who will benefit from this amendment? Is there any study to show the unsuitability of local persons? When advertisements go out for judgeship is there a lack of applications, Madam President? Has the JLSC reported that they are having problems finding suitable candidates for the bench?—because, as I said earlier on, Madam President, there are floods of application for persons who would like to be selected as judges, and, Trinidad and Tobago, we are one of the most, the foremost jurisdictions in the Commonwealth in terms of litigating matters in public law, in constitutional law, commercial law, and family law.

Other countries, Madam President, borrow from our jurisprudence; others. Madam President, we in Trinidad and Tobago, we are pioneers in some of the issues with regard to litigation in this country, [*Desk thumping*] and all of these matters have been decided by local judges. I would like to know whether or not there were any concerns with the Criminal Bar Association with regard to these local judges, because these 15 judges, they are not going to decide on relief from sanctions or payment into court, or any claims, you know, Madam President. They are coming here to decide criminal matters. Those 15 judges are coming to address criminal matters in is this country. I want to know who has requested this change, because the Law Association, in their comments, Madam President, they indicated that they have significant reservations with respect to including foreign judges in our local courts. Sen. Chote hit the nail on the head, that these judges will not at all be able to understand our local circumstances. I do not know if this was really a

well thought-out policy by this Government, because we cannot support this.

Madam President, the other issue that comes up is that one of—these criminal matters that these judges will sit upon there will be a jury, and in capital cases there would be 12 ordinary members of Trinidad and Tobago, and in non-capital matters, nine members, Madam President. And in a criminal trial, for those who are listening outside of this Chamber, there is a judge and a jury. The judge is the arbiter of the law, the jury is the arbiter of the facts. But at the end of the criminal trial this judge now has to speak to these 12 ordinary men and women, and they have to sum up this case to them. Will this judge, foreign judge, be able to sufficiently communicate with this jury in order to properly sum up this case so that they can understand the application of the law to the facts? The answer to that, Madam President, has to be no. Because when somebody—let us just say, for example, there is an issue, let us say there is a fight or a stabbing close to a standpipe, do you think a judge from England or a judge from Canada, or one from Nigeria will understand what a standpipe is, Madam President? These are local things, local circumstances that one has to take into account when making these recommendations. Judges need to understand how the society operates, because they are not making laws; they are deciding on cases in a local circumstance, Madam President. That is a very important point because recently in this Parliament a Judge Alone Bill was passed. Then you have another trend of special offences and special courts being set up under the Criminal Division Bill. So what does that leave room for, Madam President? And we have a very opaque selection process of judges?

Now this can clearly undermine the independence of a Judiciary and target certain persons in the society, and we cannot allow this because there is a trend

developing in the types of legislation that this Government is bringing to this Parliament. But I would like to quote, Madam President, from the Chief Justice, because I do not know if he supports whether or not there should be local judges or foreign judges in Trinidad and Tobago. And this was an address by the hon. Chief Justice at the 2010/2011 opening of the Law Term. He says—Madam President, if you would allow me to quote, it is a very short quotation:

“After 48 years of supposed independence, it astonishes me that there is even a debate about whether the...CCJ—should be our final Appellate Court. If we have the moral and intellectual capacity to run our own countries in the region, why can we not judge ourselves? This region has produced many intellectual giants including world-class legal luminaries who sit on international courts, so the notion that somehow we will receive a superior form of justice from London bespeaks a self-doubt and an unwillingness to take responsibility for our jurisprudential self-determination.”

So I do not know, Madam President, if the Judiciary, if the Chief Justice, if the JLSC was in fact properly consulted before this Bill was laid in this honourable Parliament, [*Desk thumping*] because it seems that the Chief Justice agrees that we should judge ourselves because it clearly determines our jurisprudential self-determination. [*Crosstalk*] Madam President, I am being disturbed.

Madam President: All right. Senator, just take your seat. Well, you know, Members, please, let us listen to Sen. Hosein. Those who do not want to listen to him you have the option of leaving the Chamber. Sen. Hosein, please continue.

Sen. S. Hosein: Madam President, how much time I have again before I end?

Madam President: You have until 19 minutes past three.

Sen. S. Hosein: Thank you. Madam President, with regard to how the local—let us look at the Privy Council and what they think of our local jurisprudence. There is a case of *Terrence Calix v Attorney General of Trinidad and Tobago*, and, Madam President, the Privy Council said that—you know what they did? They reverted that case to the local Court of Appeal, because they said that we are the better body in order to determine that matter. Now, I do not want to quote again very extensively, but this was also in another case of Privy Council Appeal No. 17 of 2010, *Ian Seepersad and Roodal Panchoo v Attorney General of Trinidad and Tobago*. And, Madam President, all of these cases were remitted to our local courts simply because our local courts were more competent, and they knew the local circumstances in order to properly adjudicate and determine our cases. These are some of the issues in which we have to address.

When these foreign judges sit in our local courts to determine my rights and your rights, and your freedoms and your privileges, Madam President, are we truly being independent or are we going back to a state of pre-independence? We must also examine what confidence the Bar will have in these judges, and the confidence that the Bench, their own colleagues will have in them. These are all issues, Madam President, that raised so many concerns with regard to the population, the Bar on whether or not we should actually employ foreign judges in our jurisdiction. One person I did not hear, or one body of people I did not hear the Attorney General indicate that he consulted with was the public on this matter, because the public is the end-user—is the user of the Judiciary. It is not the lawyers. We simply facilitate the matters into court, but the general man on the street is the one who will be using the courts in order for protection from some deviance of their rights or their freedoms. So I wonder whether or not the Attorney

General has in fact consulted with the public, because I believe that such a drastic move requires the public's input. [*Desk thumping*]

This, again, is a piecemeal basis in which the legislation is continuously brought into this Parliament. But the Bill also, Madam President, addresses another concern, and that concern is that of children. Sen. Ameen, and I believe one other Senator, raised the issue of why it is the Commissioner of Prisons who is in charge of these rehabilitation centres. Madam President, we must examine the children that we are placing in these centres. There are two types of children who exhibit juvenile delinquency behaviour, those are life-course-persistent offenders and adolescent-limited offenders. The life-course-persistent offenders are persons who inherited or acquired some neuropsychological deficit leading to an antisocial personality, whereas those adolescent-limited offenders consist of normal offenders whose delinquency has social causes. So now I wonder whether or not we have systems or programmes being put in place into these rehabilitation centres in order for these children to be properly rehabilitated. Because you have to have separate and different treatment plans for each category of offenders, because on one hand the adolescent-limited offenders, their delinquency is constrained to their period of adolescence, whereas, the life-course-persistent offenders, theirs extend for the duration of their lives in some instances. It is more difficult to have them rehabilitated, and there must be some system being placed in these rehabilitation centres where they are kept separate from each other.

One other Bill in which this omnibus Bill touches and concerns is that of legal aid representation, and it now expands legal aid representation to children who have committed motor vehicle offences. I do not know if the Legal Aid and Advisory Authority has the capacity in order to properly manage this new

workload that they will have, because I know the Attorney General would have mentioned that he is going to set up the public defenders system, but I do not know how much different that is from the Legal Aid and Advisory Authority. So I am very hopeful that in the upcoming budget that is going to be read soon that we see some increase in terms of the allocations for that Department, the Legal Aid Department, so that they can hire more lawyers, so also the DPP's office can hire more lawyers so that we can properly treat with our criminal justice system. I am hopeful that this Government has two years into Government again, so maybe you can build one court or fix the existing ones you have before you employ 15 foreign judges in Trinidad and Tobago. I thank you very much, Madam President. [*Desk thumping*]

Madam President: Sen. Mahabir. [*Desk thumping*]

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Madam President. Madam President, before I begin my contribution today I would like deviate a little bit and make a point that is not strictly within the keeping of Bill, and that is, on the 31st of July, 2017, I applied for a driver's licence and I had to pay cash, and since then I have been behind the Minister of Works and Transport to ensure that there is a LINX machine at the Caroni station, and today the Minister of Works and Transport has advised me that a LINX machine, a year and two months later, has finally been installed in the Caroni station. I do not know what the hon. Minister had to do to get traction with the public service, and I do not know how complicit the Attorney General was in this particular process, but I want to commend the Government, Madam President, [*Desk thumping*] because it may be one small LINX machine—it is a

massive change in payments in Trinidad and Tobago. And since that Caroni problem has been sorted out, I feel convinced that by Old Year's Day, 2018, every single Government department in Trinidad and Tobago will now be on a system of electronics payment. So we are making progress on that particular front, and I commend the Attorney General and the Minister of Works and Transport, and I hope they will continue to encourage other Ministries to become electronic. We did pass the Payments into Court Bill last week. The only issue I had with that was the fee that was charged for payments, which was a \$5 fee and a \$6 fee; I understand LINX payments are now \$.75 cents. So that is certainly a move in the right direction. Madam President, this Bill before us is an omnibus Bill. I have counted some 10 pieces of legislation, and I have another recommendation to make.

3.15 p.m.

Madam President, the recommendation is this. When I read the Bill I saw nine pieces of legislation that to my mind were relatively non-contentious. If I were to recommend—I know the Senate will consider it—that the Bills which are non-contentious be sent to the Statutory Instruments Committee. So the Committee becomes Statutory Instruments and the Omnibus Bill Committee, and they simply report on all those Bills—a committee made up of Members from each Bench—and they will report to us on the non-contentious Bills, so that it is not subject to a full debate because Chamber time is relatively limited, and we focus on the Bill before us that is due for a debate. So that is for efficiency in the Chamber, because Chamber time is relatively limited.

The omnibus Bill, you see, puts me in a difficult position. If I were to disagree with one Bill, it means in effect I disagree with all of them, and I agree

with nine of them and I have concerns with one. So I think we ought to be looking at that, and we have not been using our Statutory Instruments Committee effectively in my mind in the Senate. This is something to consider in the Fourth Session of the Parliament.

Madam President, like most colleagues in the Chamber, I too have a concern. I accept all of the others. They are relatively consequential, administrative in my mind. But in the Explanatory Notes:

“Clause 3 would amend the Supreme Court of Judicature Act, Chap. 4:01 to provide for an increase in the number of Puisne Judges from forty-nine to sixty-four as is required to facilitate the implementation of the increased judicial responsibilities prescribed by these amendments. It would also provide for a person who is a member of the Bar of a Commonwealth country to be appointed as a Judge.”

This is a contentious issue. There are two issues here. One is in relation to expanding the number, and the other is to expand the locale. We are expanding a number from 49 to 64. Let me focus on the number.

The hon. Attorney General I am sure is of the view, having done the due diligence, that he requires that number to sit on the Bench so that the legislative agenda of the Government and the amendments being proposed today can, in fact, be properly acted upon, and we will improve the state of the Judiciary in Trinidad and Tobago. But, Madam President, we know that numbers in the Judiciary will not simply be expanded with ease. One simply does not go out and get a judge just like that. A judge has to have certain qualifications. Sen. Chote and Sen. Prescott prior, and Sen. Ramdeen, made some valuable points on the requirements of the judge in Trinidad and Tobago. Let me, not repeating what they have to say, but

analysing the situation from my own perspective, indicate what I consider to be the important points of issue.

We know there is a major difference between law and justice. Law is what exists in those big, red binders that we have in Parliament. Now it is in an electronic format. It is the word. What is justice? I always look at John 8:7 which says, "He amongst you who is without sin". So it required that the judge put himself in the position of the accused so that he will make a determination. In fact, if adultery is a crime in Trinidad and Tobago, as it was in that holy book, and we were subject to the penalty of stoning, I suspected that the Contractors' Association may complain that we have exhausted the supplies of gravel in Trinidad and Tobago. So, fortunately it is not a crime punishable by stoning in Trinidad and Tobago. But there is that difference between law and justice.

Justice is the interpretation of the law, having understood the perspective, the experiences, the historical context of the person who is accused. And similar to Sen. Chote's position, I too am in agreement that a judge must understand local conditions. And I will come to the hon. Attorney General's point with respect to special tribunals, et cetera. But should the judge not understand the history of Trinidad and Tobago or the country in which he is sitting in determination?

Take for example, Madam President, this issue of marijuana, cannabis, ganja. I was told by Mr. Mahabir, that is my father, that when he was 10 years old, he would ride from Cunupia to Chaguanas to the Lion store of House for Mr. Biswas fame, with five cents given to him by the pundits in Cunupia to buy five cents worth of ganja, so he could take it back to the mandir, and they had their ganja before they did their puja. He told me that two weeks ago.

I was told by a retired judge, a very close friend of mine, that when she

started practice she actually saw a licence to sell ganja. Subsequently marijuana became illegal. At one time it was legal. Now it is illegal, and we may come to the time, sometime in the future, when it is decriminalized. We need to understand why at certain times certain things are criminal offences, and at certain times, they are not. The law is a living organism, and we need to understand the historical context in which people break the law. Because, Madam President, I could imagine someone accustomed to smoking his ganja in 1935 being told afterwards, you cannot do it. He might be in a little state of a panic here, because if that is what he needed then it meant that he was breaking the law at one time subsequent to his practice. Now, we are told maybe he could do it. So we need to understand the history.

We need to understand the society in which we live. Certain societies have different mores and cultural norms. Recently, I saw on the news in the State of Florida, one guy harassing the wife of another man. The man whose wife was harassed comes up, pushes the other guy down. The man who is on the ground takes out a gun, shoots the guy who simply pushes him, kills him. And what was the determination by the police in Florida? They said it was a stand your ground law. Once you are in that kind of action, it is okay to kill a man. That is okay there. In certain parts of that jurisdiction, you will find it is okay, Madam President, to accuse someone of murder. That is okay. But do not accuse them of theft. These are honour societies. The cultural context in which crimes are committed must be understood if there is to be a fair determination. It is true I know that if we have judges who err in the lower courts, the cases can be appealed to in the higher courts, but the objective of passing law is to ensure that there is little by way of appeal. You want the determination to be swift.

Madam President, one final point. A judge—any judge in Trinidad and Tobago, in my mind must know whether “lagahoos” have rights. You must know that because in my mind, a “lagahoo” is a person by day and he simply changes his costume by night. He puts on bling, and by day he is guaranteed by sections 4 and 5 in the Constitution, and by night he is entitled to privacy. But, Madam President, there was a case in Trinidad and Tobago. Sen. Chote perhaps knows that case. It should be in a textbook, because one citizen—and this is a capital case, not a magistrates case—was accused of killing another man and in his defence, Senior Counsel Israel Khan I recall, argued that the accused genuinely felt that he was killing a “lagahoo”, and that this man genuinely believed that there was a “lagahoo”, and he murdered him—and there are no laws against harming “lagahoos” still on the books in Trinidad and Tobago; was acquitted. This can happen only in Trinidad and Tobago, and cultural contexts are therefore very important.

Madam President, I think that when we are looking at the Judiciary, because we are dealing with justice and not law, we are dealing with justice—justice, a sense of fairness, equity. Because the determination of the courts have a great deal to do with the stability of the society. I will come back to that later on. We need, if there is a lack of confidence everywhere in Trinidad and Tobago, we must never have a lack of confidence in our judicial system, amongst our judges. It must always be that if I have my day in court I will be fairly heard, and I will be treated fairly, regardless of whether I am with stature or without means.

So that local conditions in my mind are important, and I think we have in Trinidad and Tobago, consistent with what hon. Sen. Chote has indicated, and Sen. Prescott, we have had a long tradition of legal training. And the Supreme Court of

Judicature Act has indicated that someone has to have 10 years of experience—I would have imagined he must have distinguished himself during at least 10 years of service. Individuals would know—and it is important for him to have distinguished himself so that when attorneys appear before him it is with a measure of respect knowing that the judge at issue is someone who has worked on the ground and he understands. It is not as if I have no confidence in his technical ability. I know he has had the experience, so I feel confident that his rulings would be fair.

So I am of the view that as far as it is practicable we recruit in all arms of the Judiciary, citizens of Trinidad and Tobago, simply because of history, the historical context. And I think that judges should have training in the history of the country and in sociology. In fact those two disciplines, history and sociology, seem to be important for us in this legislative Chamber as well.

Madam President, that point has been made adequately, and I want to persuade the hon. Attorney General that as a matter of policy, it should be that the options are given to the citizens of Trinidad and Tobago because they would have the requisite other qualities, the qualities of understanding the society and the context and the history in which they are called upon to adjudicate.

Let me focus on the extension of clause 3, which says that it would also provide for a person who is a member of the Bar of a Commonwealth country to be appointed as a judge. Well, the Commonwealth is made up of some 53 countries, all of us at one time under British rule, all of us now—well, practically all of us, in the Commonwealth now independent. But I want to refer, and I am sure the hon. Attorney General is quite aware of the Defence Act, 14:01. The Defence Act, 14:01 was amended in 1970. So I did my little bit of Nancy Drew as well as Sen.

Chote. Sen. Chote, I only read one Nancy Drew in my life, because I could not afford others. It was the *Mystery of Larkspur Lane*; I think I read that. So having read that I am able to do a little investigation, Madam President.

When I investigated the Defence Act of 1970, I saw there was an amendment. What was the amendment in 1970 of the Defence Act, 14:01? It was exactly what we are doing today with the Supreme Court of Judicature Act. We amended the Act so that officers of the Commonwealth could sit on a military tribunal in Trinidad and Tobago. Let me mention from that experience—so we have the experience and it is true it is not a High Court. It is a military tribunal, it is a court martial. But, Madam President, I sat on a tribunal as Chairman as well. The Attorney General appeared before me, so we go back a long way, I think some 22 years ago. The powers that you have, even in an administrative tribunal are very similar to what you have as a judge. You are going to be called upon to the same strictures and so on. And I am very pleased that the AG was a shining star then and he has become even a bigger star now. That was 1996 to now. I am also happy to see him in the Chamber today, because it will complete for me a span of an association with the AG. And AG, I know you know where I am going, because AG I will mention a few names.

Madam President, the Senators in this Chamber who are age 50 and above may be familiar with the following names: Obitre Gama, Acheampong(A-C-H-E-A-M-P-O-N-G), and Danjuma. Those over 50 will know. For the benefit of the younger Senators, let us see who they were. We have experience with the Commonwealth, you know, in Trinidad and Tobago. It is not as if we must learn from history.

Col. Danjuma hailed from Nigeria. Major General Obitre Gama hailed from

Uganda. Col. Acheampong hailed from Ghana, of which I would have more to say. These men, based upon the amend—and the Attorney General knows exactly that Defence Act, and he knows where I am going with it too, because these were men who came to adjudicate the sensitive trial of the mutineers, Raffique Shah and Lassalle. They found Shah and Lassalle, of course, guilty of mutiny shortly thereafter; these men from the Commonwealth. And I am going somewhere, Madam President, I want to assure you.

Colonel Danjuma went to Nigeria and participated in two coups which are acts of treason. Obitre Gama was summoned, as soon as the trial in Teteron came to an end by Idi Amin to ensure that the administration in Uganda could become efficient, because apparently he was very talented. Idi Amin who shortly before had, in an act of treason, deposed Dr. Milton Obote, the legally constituted Government of Uganda. What about Acheampong? These were the men we selected from the Commonwealth, and they were officers of the military with full powers of a High Court.

Acheampong from Ghana—Ghana is a country that is close to me. I went to school with a colleague who became—we were in grad school together—he became the Governor of the Central Bank of Ghana in 2012 to 2016. His name is Kofi Wampah, both of us did our doctorals together; brilliant guy. When Kofi became Governor of the Central Bank of Ghana, I said Ghana is going to go places. He was a bright man. I looked at Ghana more than most. Madam President, who was the first President—I am coming to Acheampong, and I am coming to our policy here that we are advocating, after amending the military Act.

Madam President, Kwame Nkrumah, the star of Sub-Saharan Africa. Who was Kwame Nkrumah? He was the one who led Ghana to independence. He in

the late fifties and early sixties sided with Nehru and Tito and all those other guys to form—

Madam President: Sen. Mahabir, I have to first tell you that I am thoroughly enjoying your contribution, but I need you to come to the point of the Bill a little faster.

Sen. Dr. D. Mahabir: Thank you very much. Madam President, since I have a lot to say, I will get to the point. The point is Kwame Nkrumah founded a non-aligned movement, but the point is we have had an experience with Commonwealth administrative—with judges before, and it was not a good experience. What did Acheampong do? A year later he went and he overthrew the Government of Ghana. And so what can I conclude with that?—in a military coup, and he was then deposed in 1975.

What is the point I am making here with respect to the Commonwealth? With respect to the Commonwealth, is this: for the people who participated in that military tribunal, it was okay to condemn someone for mutiny, but an act of treason was quite acceptable. They conducted treason as acts in their country. Those acts of overthrowing a government are acts of treason. So when we say we are going to the Commonwealth, we want to make sure that we understand what we are talking about. Sen. Chote alluded to the point. The Commonwealth is simply a group of countries which happen to have been colonized by England. But to think that we have the same culture, the point I related earlier, to think that we have the same culture is not at all judicious. We differ radically.

Madam President, when we look at the practices I would like to ask myself some questions. I do not know where this came from. I know why in 1970 we would want to expand the military Act. Why would we want now, to get to your

point of relevance, why we would want at this point in our history—it has to be made abundantly clear why we would to expand the pool of judges to the Commonwealth, not the pool of lawyers. Is there any agreement—and the Minister of Foreign and Caricom Affairs is here—is there any agreement amongst Commonwealth countries, international agreements that we are signatory too, that says that the judges of one Commonwealth country should be free to practise in another? Or is it, Madam President, we are making a concession for judges from other Commonwealth countries, and there is no reciprocity? This is a concern that I have.

Whenever we enter into these agreements, is it that judges from Trinidad and Tobago can then go and practise in New Zealand? Is it that there is an international agreement that judges from Trinidad and Tobago or Caricom, let us say, can practice in Australia? I am not seeing reciprocity, and this concerns me because as someone defending the public interest, I can tell you, Madam President, Commonwealth countries do not treat each other equally. Why are we making this concession? And I am not sure what I, as a representative of the people of Trinidad and Tobago, am getting for the people of Trinidad and Tobago.

Take a simple example—and so the hon. Attorney General in his winding up, I am sure will let us know where there is reciprocity. You see, the issues are as follows, and I am coming now to another point which might be, because there was no explanation as to why we are spreading to the Commonwealth. Madam President, we need to understand certain things. The Commonwealth is made up of a large number of countries at different stages of development. Whenever I travel to Canada I need a visa. Canadians do not need a visa to enter Trinidad and Tobago. You see, this is the lack of reciprocity to which I am talking about. So if

we are going to say the Commonwealth is one family of nations in which all of us have a common kind of pool with respect to international law, we are misplaced. We cannot get into their system easily. Why should they come to us with ease?

I understand the hon. Attorney General's position. The hon. Attorney General, I know, is of the view that there might be certain cases where there would be a need for specialized judges, and these specialized judges may have to be recruited outside the Caricom region. After all, Turks and Caicos and Nevis and St. Kitts, and Montserrat do, I understand, have a need to rely on Trinidad and Tobago to assist with its own administration of justice, and the reason for that is they are very small jurisdictions. What about Trinidad and Tobago? We seem to be very self-sufficient. We seem to have adequate skills, but I understand there is one class of crime that we may not have the expertise. Take the case of financial crimes.

When I look at Trinidad and Tobago on the prosecution of white-collar crime—and I see that the SEC, the Securities and Exchange Commission, has not been able to bring a case to prosecution since it was created in 1996. So that 22 years later, I am still waiting for a case to be prepared, for a binder to be sent to the DPP for financial crimes which have been committed. Where is the FCB IPO, Clico and HCU? We are having difficulties prosecuting these crimes. I am of view that when I look at the Commonwealth I see the expertise does not lie there. It may very well be that the hon. Attorney General may have to call upon judges from the United States of America, a completely different jurisdiction, to prosecute some white collar crime here, because you see our SEC law is very similar to the law that they have there, and they seem to be doing very well with respect to prosecuting white collar criminals.

So I do not know if the Commonwealth itself has any particular unique talent in these special areas. Certainly I have not seen the white collar crimes of the type of Madoff and Stanford being prosecuted in other countries, even developed ones like New Zealand and Australia and Canada. I certainly see the prosecutions in the United States. So there is certainly a case for getting specialized judges but not necessarily from the Commonwealth. The fact that we share the same legal system does not mean that only judges there will understand financial crime in Trinidad and Tobago. The reason is that financial crimes are now global. We are in a global arena. The crimes—computer fraud is widespread and we need people with the technical expertise who may not reside in the Commonwealth.

So, Madam President, I have a proposal to the hon. Attorney General. Unless he is able to convince me that there are good, clear and cogent reasons for expanding to the Commonwealth, my reading of the Commonwealth is that they did not give a good lasting impression here. Our culture is different, and that we happen to have had the same colonizer, that is all we have. If we were all colonized by the French, and in France they do have their similar grouping, and we could have been colonized by the Dutch as well, the fact that you have a common colonizer does not mean that you have a common culture. This is something we need to be very cognizant about.

We need to expand the number of judges. We need to expand the number of qualified people. We need to get the best of the legal profession in the Judiciary. How do we do that? Given the salaries which are paid—let me get now into labour market economics. The salaries which are paid will, to a large extent, determine who you attract. We have a constraint in Trinidad and Tobago. This is the

Salaries Review Commission. Well, the Salaries Review Commission is enshrined in the Constitution. I cannot say yea or nay on their rulings. I must live with them.

But there is a particular piece of legislation that is well within our control, and that piece of legislation is Act 6:02. Let me spend a bit—and I want to solve the problem. If it is that we want to get the best and the brightest in the Judiciary, we cannot amend the Supreme Court of Judicature Act and not in my mind—and we have amended nine other pieces, and we have left 6:02 untouched. Madam President, 6:02 is the Judges Salaries and Pensions Act. Pensions—let me spend a few seconds on pensions.

Compensation is made up of two forms, and we want to get the best in the Judiciary and I am saying that going to the Commonwealth is not the way to go. The AG knows when I criticize I have a solution. Going to the Commonwealth will not get you what you want to get. The AG and the Opposition and the Independents would all like to get the finest legal minds in the Judiciary of the Republic of Trinidad and Tobago. We need to build the institution. We need to ensure that an institution which has been under attack over the last little while can move on and we continue to attract the best of the legal profession.

I tell you, Madam President, when I interact with the members of the legal profession I am convinced that Trinidad and Tobago has the finest minds anywhere you will find in the law, the administration of law, the understanding of law and on rights in Trinidad and Tobago.

3.45 p.m.

So the problem is this: What does 6:02 have to do with the Supreme Court of Judicature Act amendment? I cannot see how you could amend one and not the other, it is inconsistent; inconsistent because, if you want to expand to 60-plus

judges, you need to know what you are going to do to attract the best 60-plus you can get.

This is a unique labour market, it is not each and everybody who could become a judge. You need to have mind, head, you need to have the heart, you need to have analytical skills, you need to have the temperament for the business.

But, Madam President, what is the economics of the matter? This is the reality. If as a judge you must retire at 65, it is my understanding, that for a period of 10 years afterwards you cannot practice, so you can take your case, first case, after you have left the Judiciary at age 75 and usually, given medical advances, someone, a professional, can live for 20 years post retirement.

We need to look at retirement. Retirement has two issues, one is longevity, we are living longer now, and the other is inflation. Inflation means, and I have heard the cries of the Judiciary, and I am going somewhere and the AG knows where I am going. We have heard a Chief Justice retired in the public domain who is retired on full pension, indicating that he cannot make ends meet.

Madam President, it is understandable that if you cannot make ends meet on a full pension, then clearly the bulk of the members of the Judiciary are experiencing—the retired Judiciary, are experiencing grave difficulties in managing and paying their bills.

Now, tell me something, you want to get the finest in the legal profession, and the finest in the legal profession will ask themselves the following: Why should I give up a lucrative practice which is paying me a decent sum from which I can save a more decent sum and make provisions for my retirement, to join the Judiciary which pays me a lower salary, and when I retire no one is—

Madam President: Sen. Mahabir, you five more minutes.

Sen. Dr. D. Mahabir: Thank you very much, Madam President. When I retire no one is there to look after me. So that the logic of the situation is that we will not look only at salaries, we will look at the retirement of judges. And, Madam President, this is a problem which should not have arisen, because if I were a young lawyer, and I am a bright lawyer and I heard a Chief Justice say that he cannot make ends meet on his full pension that he had, I know immediately that, you see that part of the legal profession?—I want to stay out from, and we have immediately killed the intent of this Bill.

So let us be sensible, and let us be fair, and let us understand, Madam President, that we need, it is within our power—live with the Salaries Review Commission, I never quarrel with them—enshrined in the Constitution. But, Madam President, in the Tenth Parliament there was an agreement. Government, well, now in Opposition, Opposition who was in Government then, I was in Parliament, I was in the Joint Select Committee, we had agreed to revise this particular Bill with the Judges Salaries and Pensions Act. And I simply will recommend to the hon. Attorney General, hon. Attorney General, in the Fourth Session, simply implement that which was agreed upon on this judges retirement Bill, and you could see the quality of people you will have entering the Judiciary. Just implement—you agreed to it, I agreed to it, Sen Mark's party agreed, there was an agreement.

But you know, Madam President, important matters need not be lumped together. We lumped the judges' business, that is an important matter, deal with it. If we do not deal with it, everything will collapse, deal with it. I have a few more minutes, and this is going to be my last Session AG, so please forgive me. This is the last contribution that I am making, you know. Madam President, there was a

problem, we lumped that and it got lost; deal with the Judges Salaries and Pensions (Amdt.) Bill.

Madam President, there was an agreement for Senators to join the pension plan. I was shocked when the Government voted against me on that. I am leaving and I want the Government and the Opposition—and the Opposition abstained on a critical matter of having all Members of the Senate join the pension plan. What will it cost the Government, Madam President, for the Judges Salaries and Pensions (Amdt.) Bill?—\$1 million a month. What will it cost to build the institution of Parliament?—\$50,000 a month; a used, foreign-used Tiida.
[*Laughter*]

Madam President, this is my last contribution in the Senate of the Republic of Trinidad and Tobago. Come next week when Parliament is prorogued, my resignation takes effect.

Madam President, if you will permit me 30 seconds to engage in some evaluation. If I were to evaluate my own performance, I have to say one thing: I hardly ever won, but I think observers on the outside would say, at least he always fought. Thank you very much, Madam President. [*Desk thumping*]

Madam President: Sen. Obika.

Sen. Taharqa Obika: Thank you very much, Madam President. And as my professor has taken his seat, I would like to say that I enjoyed his company and I also welcome you back as well.

So, Madam President, I want to begin where professor Mahabir left off, but I want to start by speaking to one key issue that this Bill really seeks to address which is, the psychological development and protection of children in Trinidad and Tobago.

And in preparation for this debate, I took a departure from my usual focus on

the numbers and tried to get to the story behind the children and the persons who our children would be in the care of regarding when they are offenders.

Now, whilst I can say that I cannot say who I spoke to, because, of course, those persons may have some challenges explaining themselves, but one document that was passed to me is the Erik Erikson 8 Stages of Psychological Development. And they wanted me to focus on adolescents, 12 to 18 years, regarding the themes and the need for developing a sense of self and personal identity, you know?

And, what this person who is basically involved in the protective environment of our children who become offenders, stated, Madam President, is that children do not have coping mechanisms to deal with adolescence, all right?—and mentioned looking-glass theory and so. But what that individual drove at was the requirement for peer mentorship programmes, all right?

Now, whilst the Bill in clause 11, I believe it is—let me just make sure that I am correct—clause 11 really encompasses what I am going to focus on in its entirety, I want to just take a departure from that just to deal with clause 3, in reference to what Dr. Mahabir commented on at length.

Now, Dr. Mahabir reminded Trinidad and Tobago of the debacle that was the military tribunal involving Acheampong, Danjuma and the other military top brass, where they found Raffique Shah, Lasalle and many others guilty of mutiny.

But what I want to also remind Trinidad and Tobago of, and it is captured in an article titled “Three eminent jurists” by Raffique Shah of January 25, 2014, where he stated that three eminent judges, Chief Justice Clement Phillips, or:

“...acting Chief Justice Clement Phillips, and Aubrey Fraser and Telford Georges...at the time...three of the most eminent jurists in the country.”

They having heard their appeal, they quashed the decision of the military tribunal.

So here we have it, a perfect example of where you have three foreigners who are convinced, and foreigners who are not from the Caribbean, who are convinced and were handed down a conviction of mutiny, albeit going back to their own countries and overthrowing the governments. But when you put it in the hands of local judges, they quashed that decision.

So, Madam President, if there are other examples that run against this, they may not be as scandalous or as prominent as this case. I just want to share a simple story that was given to me by one of those soldiers. And he said that one of the persons in the military tribunal, I will not say who, told him that if he were to be in his country, he would have been killed already. And that soldier reminded the senior officer who was a foreigner, that this is Trinidad and Tobago.

And I want the hon. Attorney General to always to be reminded of that fact, that this is Trinidad and Tobago and we have to be careful as to who we bring here to decide on matters that are important to us.

So, Madam President, that will be the end of my sojourn into clause 3, and I will focus on clause 11, because really and truly, this Bill has so many parts that each part on its own could be the subject of a full debate. Okay? And because we do not have that luxury, I want to focus on a narrow aspect of it.

Now, I want to turn our attention to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, that is, the Havana Rules and in particular rule 67, where it states—and I will just read the first sentence:

“All disciplinary measures...”—and I quote, sorry:

“All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other

punishment that may compromise the physical or mental health of the juvenile concerned.”

They also went on to state:

“The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose.”

Now, Madam President, if we were to examine this which really is something that is agreed to by the nations of the world, all humanity, okay?—that “placement in a dark cell...solitary confinement...reduction of diet” should not, must not at any time for any purpose be punishment meted out to young offenders who are classified as “children”, and given that the hon. Attorney General in piloting the Bill referenced the age of 18 years and under, under 18 years that is.

I want to turn our attention to the fact that new section 17A prohibits certain forms of punishment to a child placed in a children’s home and makes it any offence to perform such forms of punishment.

And if we were to visit page 37, Madam President, of the Bill before us and we look at what those prohibited forms of punishment are, Madam President, and for the purpose of the listening public I wish to just read those four bullet points (a) to (d) into the record:

“A child placed at a Children’s Home shall not be subjected to—

- (a) corporal punishment;
- (b) restraint or force as a form of punishment;
- (c) the reduction or change of diet as a form of punishment; or
- (d) the restriction or denial of contact with family as a form of punishment.”

Now, that mirrors closely what I quoted from the Havana Rules, that is rule

67. However, I am not seeing “placement in a dark cell”, I am not seeing “closed or solitary confinement”, Madam President.

Hon. Al-Rawi: It is in the regs.

Sen. T. Obika: It is in the Regulations. Okay. So the Attorney General is indicating that that would be found in the Regulations, and I am very happy to hear that because that would have been something that I felt should be focused on. So given that it is in the Regulations, I would happily move on and focus the rest of my time on other things.

Now, Madam President, if we were to look at what obtains, and I sought guidance from counsels to my left and right regarding what I should say that could compromise the process of apprehending or protecting young offenders in the system. But if I run afoul of anything, I beg of the hon. Attorney General or your good self, to stop me so that I do not prejudice any systems that are in place for the administration of justice at our nation’s schools, et cetera. Okay?

So, Madam President, one of the things in my interviews that I conducted before coming, was the issue of holding parents accountable. Now, I am not sure if it is captured in this or other forms of legislation, but the person who is involved in that process of apprehending young offenders and trying to reform them, stated that there should be some mechanism for holding parents accountable.

And one of the recommendations that they made, that the person made, was even beyond holding them accountable, there should be training for young parents. In fact, they went further to state that there should be training for parents who are teenage parents or they became parents in certain circumstances that we do not want to mention here that may have affected their ability to be good parents going forward. So, in that way you basically attack the problem from the root so that you

protect the family situation of the children. Okay?

Now, Madam President, the individual also went on to talk about the—and this is where I request your guidance regarding caution, the juvenile holding cells in Trinidad and Tobago, and indicated that there are two—that the system requires more attention to this. The relatively new police stations have juvenile holding cells. I will not state which stations because I do not want if a child goes to a particular station, other children will know that they are being held there, and that can cause a stain on that child's reputation going forward.

But what in essence they are saying is that we need to retrofit or improve the police stations across the country, so that they can accommodate juveniles in a manner that is in accordance with modern and best practice. So, I move on to another point.

The person also indicated that officers cannot approach schools, for example, in marked police vehicles if they have to apprehend a young offender. And the reason for that, is that it would affect the psychosocial make up of the child, and they would not want to run afoul of that, and they pleaded for more un-marked vehicles for the police service in that regard.

In addition, Madam President, they raised some issues regarding the child court in Fyzabad, but I will raise those quietly to the Attorney General because I think I will run afoul of what I forewarned.

The other issue is regarding social workers. So in terms of protecting and preventing youths from “falling through the cracks”, as we say, what they indicated is that there are two social—there should be one social worker per school, and at the moment the ratio is roughly two social workers per school. And that, given that some schools have relatively large student populations, 700 to 900-

plus students as you may have it, that it should be really be one social worker operating per school, so that they can develop a better appreciation for the personal and the individual nuances of the children in the student population. Okay?

Another point that was raised was regarding the Victim Support Unit of the police service, and there was a plea for more personnel to be offered in terms of police officers who are trained, of course, to be offered to the Victim Support Units across the country in the various policing divisions.

Regarding young parents or parents who are—in the whole vein of preventing young offenders from emerging, what they also mentioned was the whole issue of the paternity test, for example, which helps in bringing the biological parents together and at least, identifying them in the interest of the child. They indicated that the cost of the paternity test tends to be a barrier whereby you have to pay \$2,400. That is the charge that I was informed of, \$2,400, and it is conventionally paid half by the male and half by the female. Okay?

And what the person indicated is that, can you imagine a situation where you have teenage parents or a teenage parent, let us say in the case of a female, who already has to stand the societal impact—which most times is negative from family and community—of being a teenage mother, and now having to find milk and sugar and so on, and on top of that, having to find \$1,200 to go and secure this paternity test?

So, for the social services of the Government at least, the Minister of Social Development and Family Services, we want to take a look at this issue because this is a complaint coming to me that I am sharing with the nation regarding the inability of persons to participate in paternity tests for children because of their financial situation.

So in all, in terms of persons who are involved, this individual who is involved in the sector of reforming children, rehabilitating children who are young offenders, they want to remind the nation that parenting workshops can be something that can be looked at by the Government. A peer mentorship programme, and also more psychosocial—

Madam President: Sen. Obika, I am understanding your contribution, but I think that you are going very wide, even though it is an omnibus Bill and it is dealing with several pieces of legislation that treat with children, I need you to be a little more specific to the clauses in the Bill, and to the specific measures being introduced in the Bill, okay?

Sen. T. Obika: Madam President, I am basically, as I said, I am anchoring most of my contribution to clause 11, which basically speaks to the way in which children are treated in terms of rehabilitating them. I know sometimes I may go a little wider, it is only because I really just wanted to bring this reportage to the House. And this is actually the end of this point, so it is a summary.

The point they wanted to bring was in the DipEd in education, to place greater emphasis on child psychology because many of the teachers complain that they do not have the tools. Myself, being a secondary school teacher at some point in time, you recognize that many teachers do not have the tools required to deal with the psychosocial fallout of young offenders.

So, I want to move on, Madam President, and to really look at some aspects of Bill essentials that I felt—if you look at new section 11A, let me just refer to the proper part of the Bill, this the Children’s Community Residences, Foster Care and Nurseries Act. So it says at subsection (1) is amended to ensure that:

“The Authority...”—when serving a notice of revocation to a licensee do so

in no less than—“fourteen days prior to the date of revocation.”

Now, I want to ask a question to the Government, that given moving house for anyone, far less a child, tends to be a traumatic experience, how will the children be so impacted, if in effect you only give them, you only afford them, in some instances, 14 days? And therefore, whilst there may be need to extract them with haste, then we would also want to consider protecting them mentally in that process. So that is one issue I want to raise there.

Also, regarding the fine, the fine that is attached to punishment, \$50,000. I think no amount of money can correct the issues. So persons who are involved in the business of child rehabilitation, I think at this point in time, that particular clause in the Bill should be promoted nationally in terms of a nationwide education campaign so that all and sundry can be aware of what the fines would be if they run afoul of the law. All right? Because many times these things get lost in translation for persons who are not inclined to understand the law.

Regarding other measures that are recommended, I want to step aside from the Bill and promote an example that I came across just today, Madam President. And this example is actually from an organization that has their work in the Laventille community and they are focusing on reforming children, but more or less giving them a leadership platform. So they—I guess I can mention the name of the organization, it is the Black Agenda Project, all right?

And one of the focuses that they have is agriculture, and they are using positive examples from professionals to come into the communities to give basically a sense of an outlet, as many of them may not feel that they have, that they are in close proximity or that they can touch persons who have success stories. So that programme, I want to promote, and I believe that maybe the Government,

whilst protection of the wider society is important by housing children in rehabilitation centres, may want to look at also investing in these types projects that can do more in the community.

Now, Madam President, there was a joint select committee report that is available online at the Human Rights, Equality and Diversity Committee, the Third Report on it, and this was in 2016, I believe, the Second Session of the Eleventh Parliament 2016/2017, on the Treatment of Child Offenders at the Youth Training Centre, St. Michael's Rehabilitation Centre and St. Jude's. So, I just want to point to some recommendations there and probably ask some questions regarding where we are, and hopefully in his wrap up, if the Attorney General can answer some, it would be of interest to me.

Now, one of the first recommendations that they made was that strategic plans be drafted for those three institutions mentioned. And it would be good to know how far along we are, and of course, what is required to get that done.

Another was the implementation of a children's registry to track the progression of children in conflict with the law after they exit the rehabilitation centres. And this is a main concern for persons who are not even involved in the rehabilitation centres, but simply children's residences. And there is one such place in Point Fortin, that receives children from court orders, and what the main concern of the administrator of that children's home in Point Fortin is, is that when the children leave the home, there is no mechanism and there is no process to protect and guide them.

When most of us turn the age of 18, we still have the opportunity to benefit from the protection and guidance of our parents, our grandparents, our aunts and uncles, et cetera, because we may reside at those places. But those children are

thrust basically onto the streets in the hope that they can find a long, lost family member who may be willing to cooperate with them and so on. And I feel that there should be some focus on transition, greater focus on transition homes for young adults. All right?

Another recommendation was collaborating with the Ministry of Community Development, Culture and the Arts. And I want to know if this has in fact been done, because of the lack of cultural programmes at the St. Michael's School for Boys. And to me, seeing this in 2016/2017, is very worrying for me because I can clearly remember when I was at the age of 15/16, involved in youth calypso organizing, we, every year carried a cultural troupe to St. Jude's and to St. Michael's. And those children there actually became—some of them became calypsonians themselves or musicians themselves, you know? So, I think that this is a project I would want to support, and definitely we can benefit from that.

Now, it also goes on to talk about twinning YTC with YTEP and CEPEP and so on, but I was a little disappointed, Madam President, that they did not say UTT and COSTAATT, you know, because yes, we know that there may be—there are different academic inclinations of persons, some may be more vocational, focused on a vocation, a tech-voc line, but however, we do not want to limit the opportunities to tech-voc, but we want to make it as broad as possible so that maybe someone can be a medical doctor if they so choose. All right? So that is one of the conflicts that I have with the recommendations of the committee, I believe that it should be broad.

4.15 p.m.

And I want to just say why I believe so. I was teaching a young student mathematics, and she attended a school in—it is Mucurapo—and I asked her,

“What you want to be when you grow up?”—and she said, “A doctor”. And in the child’s presence the mother laughed, and the mother said, she cannot be a doctor because the school that she goes to does not prepare children for that. She has to limit her expectations in life. So, I think if we take the moral of that story, we should not be preparing our children for anything less than their fullest potential. And whilst a career in tech/voc is great, we want to make sure that those who want to go beyond tech/voc education, that they have the access to do so. And also those who want to be excellent at plumbing and so on, because they can match that with entrepreneurship and be their own businessman or businesswoman as the case may be. So that is where that is concerned.

Now, Madam President, on this Bill much has been said regarding the requirement of foreigners to be aware of our local scenario and conditions, so I do not need to go there. I simply wanted to point to the Government that there are alternatives to what the public still perceives to be incarceration of children, and that we need to take a holistic approach to development of our nation's youth from the school, kindergarten, tech/voc, at the centres of learning, so that all children have the opportunity to be the best that they can be, and I thank you. [*Desk thumping*]

Sen. H. R. Ian Roach: Thank you, Madam President. [*Desk thumping*] Madam President, this debate has produced very able and informative contributions from Members of this Senate, and which I commend and appreciate very much.

This debate, which basically proposes to the purpose of the Miscellaneous Provisions (Supreme Court of Judicature and Children) Bill, 2018, is to amend 13 pieces of legislation and to allow the streaming of the process as it relates to the treatment of children and children matters.

Madam President, my approach to this is somewhat very dispassionate in this instance. I think I am not so emotionally charged about what is being debated here today. Not that it is not important, but because I think it requires a certain measure of objectivity and impartiality in dealing with this. And like in many of the other contributions I would have made, and coming at this point in time a lot has been said, and my focus more or less would be along the lines of the amendments of the judicature Act, which seems to be very emotional and very intensely debated here today.

Before coming here, I also have had the opportunity of conferring with a number of my colleagues in the legal fraternity, some members of the ordinary public, who, of course are, at the end of the day have an investment in what type of judicial and legal system we are promoting. I will commend immediately the efforts of the Government, of the Attorney General and his staff in trying to continue to bring before us legislation to help in advancing the administration of justice, which we all will agree, is, for the last couple of years, unfortunately, has been taking some beating publicly, for efficiency, for a number of other ills which I am not about to engage in.

But to logically approach this thing, I mean, the section seems to—clause 3—seems to ask us to extend the number of judges in both the High Court and the Court of Appeal. That is one of the issues. And my immediate response to that would be, as it has been raised by a number of the Senators—is there really a need for such an increase at this point in time? That is a very basic and logical question in either supporting or not supporting a measure of this nature.

If there is a need based on what basis, is it based on analysis, empirical evidence as opposed to antidotal type of concerns, and if so, the second issue

would be then therefore where do we get these judges? Trinidad and Tobago is a population of 1.3 million people. I am not as emotionally sensitive—and I am trying to choose my words carefully—as my other colleagues would have been in terms of where judges come from. Because I have had the privilege—I would say a “privilege”, not an entitlement—to have practised in a number of jurisdictions internationally, and I have been welcomed here and I have benefited from here, and I have returned where I have contributed, and I believe I am making an able contribution in my society in the legal fraternity and in other aspects of everyday life.

And I will pretend to be at this point in time the devil’s advocate. Because, as we look at technology, the world is becoming more and more a global village where there is a lot of cross-pollination in terms of culture, socio-economic exchanges and as well as legal. Trinidad Carnival is promoted in many other significant metropolitan societies right now. Why I am saying that?—because there is the concern that if you bring judges from wherever that they may not necessarily understand the nuances of our culture. Technology is quickly putting that to be something not of a significant concern, because we watch all type of information which is instantaneously brought in our homes without us leaving. We sit inside of here, we can pull out our laptops, our smartphones and get any type of information on anybody anywhere at the tip of our fingers. And that in itself influences culture. It influences how people think, it influences how people behave, and therefore it would seem kind of bipolar—in one instance you are saying that you do not want these outside influences because they would not understand, but at the same time you can speak—many of us, or many young people can speak at length with authority with the cultures in other countries

because of the advent and the increasing role that technology is playing in our society to evaporate and make us more and more a global village.

So, there is the concern I understand, and as a practitioner myself, the concern that when you are before your lordship that what you are presenting in the context of your peculiar domestic circumstances would be fully appreciated. But, by and large as I am saying, that because of this global way and because of technology, that is not that severe as it would have been in years gone by, even when I first came out to practise, almost 29 years ago.

What I will certainly have an open mind with the Attorney General, because he has a lot on his plate, it came out from the debate from eminent senior counsels on the Independent Bench as well as counsels in the Opposition Bench, that if he can lend and inform, not only us, but the public who at the end of the day are the beneficiaries, are supposed to be the main beneficiaries of any improvement in the administration of justice to understand why it is at this point in time we are seeking to increase the number of judges.

Now, we know, and I think common sense will lend itself, the fact that you will increase the number of judges, because you have a large volume of cases coming before the court may not necessarily be the answer to it. It may inform the slow pace of the wheels of justice turning. It may not necessarily be because of an insufficiency of the number of judges. It may be because of the system itself. If we look within here, I have read the commentary and the contribution made by LATT, the Law Association of Trinidad and Tobago, and they say basically that in principle they have no problem with the increase of judges, but their concern seems more to rest on the second issue, which is where they are coming from.

So, I would not want to get to that at this point in time. What I want to look

at, I mean—as much as the Law Association focused its attention on this piece of legislation and made their contribution—is that when we really look at our judicial system, the insufficiency of judges per se does not of its own either advance or retard the system of justice. A critical role in the machinery and the space at which justice is dispensed in this country has to do with the very members of LATT, their efficiency; people take on in the Law Association more cases than they can competently deal with. I have been in court many, many of times and I have heard, “this lawyer is not available because he or she is in another case” and so forth, and sometimes you will know. It is a very common practice to hear one lawyer involved in about five cases in one day before five different judges. That in itself leads to a clogged and a sort of retarding of the dispensation of justice, and it is something that the LATT should look at as well—should be in those instances curtailed or set up being innovative.

I do not know of any other jurisdiction where it is done, but we could be innovative and be leaders, instead of lawyers just being able to take any amount of cases on a regular basis in any term, limit them because due to the number of years—seniors have a certain, over 10 years, under 10 years, and so on—take a number of cases that you can only deal with within that period of time. Once you have completed whatever amount, you have a maximum that you can take. And in that way too, what you would do is to free up more work for other lawyers who are under-employed to be employed, who will never see this work because work sometimes circulate around a certain clique of people, because of contact or other reasons. So that could be another way. But that, as much as it may seem, as I said I am being the devil's advocate, that is a critical concern in the efficiency of dispensation of justice in our country, the availability of lawyers to do what they

take on.

We have heard when we were piloting some other Bill through this Chambers where they were saying there was a paucity of criminal attorneys because there are insufficient lawyers that are going into the criminal arena, and therefore it is difficult to get representation. So there are a number of reasons that can cause to retard, and also that can be corrected, looked at, that could help to speed up the efficiency of our judicial system.

So, I am just inviting the hon. Attorney General in his winding-up and his response to a number of the issues which have been raised—and this has not been raised by me alone—what is the basis and what at the end of the day, if these judges were to increase, or exactly why is it, because just numbers, or is it part of a compendium of other measures that are being compiled and being promoted that would ultimately lead to an improvement in the system at the end of the day. So, this is just one of a continuation of what is going on.

Now, as I said, in terms of judges coming from elsewhere, I have heard member Senators, the Law Association as well, speak about, you know, first preference should be given to the locals who have trained, who have practised here. One cannot argue with that. I mean, as I said, we have a small pool of talent of people here, just like when I was advocating sometime, many years ago, before being in chambers, that we should have a fixed term for prime-ministership, and it was pointed out to me by members of the same association, saying that, you know our pool is too small to have limitation of office for the Prime Minister—1.3 million people is a small group.

So, similarly, in terms of enhancing the quality of judges, that may help, if we realize there is a need for judges that we can access to assist in making our

system more efficient, I really have no problem if we start, as you say, you start at home, it is not available, you look to the region, and you look elsewhere. The Commonwealth, we engage in interchanging, in cross-pollination in many things. In laws we use cases from Australia, from India, from Pakistan, from South Africa, from many places, from Canada, from New Zealand, you know.

So, to inform our laws, we still continue to take laws from international jurisprudence to help us to move forward in what we are doing. So, the world is becoming more and more homogenous as opposed to this distant, ancient, alienated type of world that we once lived in, that was difficult to understand what is going on here or there. Information is more rapidly available to us, and our movement has become much more significant and increased, and easy. So, people like easy accessing cultures and in and out of cultures on a regular basis. We do business, we do all kinds of things.

We have practitioners here who work up and down the islands, sometimes go to England. I practise in the United States of America, I have practised in South Africa, I have practised in Congo and so forth, and you come back here and you fit in. You fit into these places because essentially most of the time you are dealing with the law, with the rule of law. And culture can be influenced, yes. But I am saying, that is not to be, to me, the—that should not be a significant obstacle if there in fact there is a need to increase the pool of judges in our jurisdiction at this point in time

So I would ask the Attorney General that in his winding-up, I mean, I would appreciate some further enlightenment of why it is we are looking to increase, whether it is by two or one as the case may be, and if so, if that is the case, then if he would give consideration to having his amendment to take care of the concerns

that in some instances—first preference should be given to locals, Caribbean people, and then by extension the wider Commonwealth as the case may be. And that is what I see is the crux of the—*[Interruption]*—that is, Sen. Mahabir is trying to tell me I must not talk so much. I mean, I do not know why.

Madam President: Sen. Roach, I think actually this is now the time for the tea break, so if it is that you are finishing—

Sen. HRI Roach: I am going to finish.

Madam President: Okay. All right.

Sen. HRI Roach: Much has been said. Madam President, I just want to petition the Attorney General that much has been said, which I can associate myself with objectively in terms of querying whether or not there is really a need for the increase in the complement of judges, and if so, I can associate myself with the fact that without being too antsy and emotional about the wider Commonwealth, you can have a tier, you start locally, regionally, and then you go internationally. It still will have access to competent people as the case may be in those circumstances.

Madam, with that, I thank you very much. *[Desk thumping]*

Madam President: Sen. Creese, you will when we resume, I will recognize you. So, hon Senators, at this stage we will suspend and we will return at five minutes past five. So we are suspended until five past five.

4.33 p.m.: *Sitting suspended.*

5.15 p.m.: *Sitting resumed.*

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

ARRANGEMENT OF BUSINESS

Mr. Vice-President: Hon. Senators, before we continue debate, I crave your indulgence to revert to Item 3 on the Order Paper, Announcements by the President.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, the following is the correspondence from Her Excellency the President Paula-Mae Weekes, ORTT.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES,
O.R.T.T. President of the Republic of
Trinidad and Tobago and Commander-in-
Chief of the Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MS. ZOLA L. PHILLIPS

WHEREAS Senator DAVID SMALL is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ZOLA L. PHILLIPS, to be temporarily a member of the Senate with effect from 18th September, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator David Small.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 18th day of September, 2018.”

OATH OF ALLEGIANCE

Senator Zola L. Phillips took and subscribed the Oath of Allegiance as required by law.

UNREVISED

**MISCELLANEOUS PROVISIONS (SUPREME COURT OF
JUDICATURE AND CHILDREN) BILL, 2018**

Mr. Vice-President: Sen. Creese.

Sen. Stephen Creese: Thank you, Mr. Vice-President. [*Desk thumping*] Coming late down in the batting order, actually it is really just three things I want to focus on. The first, of course, has to do with the question first initiated by Sen. Prescott, responded to by Sen. Simonette, and further elaborated on by Sen. Chote, and it has to do, of course, with the provision which this Bill makes for recruitment of judges outside of the jurisdiction.

I think there is a tendency to overreact to this provision in the Bill. I see it as a catch-all so that there is no need to return this to the other House in case the occasion arises where there are problems with recruitment of judges. I take it that the AG would have had some level of consultation with the commission or members thereof, and the question of whether there are issues around the pool, or the availability, or the willingness to serve on the part of private practitioners in positions available under the jurisdiction of the Judicial and Legal Service Commission.

So I do not have a problem with the provision. I take the point that Sen. Chote is making if we went to the trouble of establishing that council of education focusing on the commonalities of Caribbean jurisprudence that we should not take action that would appear to close the door to Caribbean aspirants. So that perchance an amendment could be to have a pecking order, so that the issue could be that in the first instance we would survey, we would advertise the positions within the totally local jurisdiction of Trinidad and Tobago, and if that does not turn up, you know, prospective candidates then we go to the Commonwealth Caribbean, the Anglophone Caribbean, and then the third level could possibly be

the Commonwealth, and then beyond that the wider world.

But there are some false assumptions, or there is a tendency to make some false assumptions on those of us who are wont to critique this provision. And it has to do with whether we think there may be a bias on the part of the commission to automatically go international or to automatically go to whatever level this provision in the Bill allows them to go. And I think that is a false assumption, for two reasons: One, in the past we have not heard in their reporting any quest to go in that direction. But two, even if any commission, any employer for that matter, not just in the public sector, wants to go outside of the jurisdiction of Trinidad and Tobago, I am sure the Minister with responsibility for labour would tell us that there are laws, and I am sure—and this is the part that has puzzled me whole evening, all during this debate I am wondering: But, are there not laws, are there not provisions regulating the recruitment of non-nationals? Is there not a requirement for a work permit and so on? And would this not automatically apply whatever the position you are applying for in Trinidad and Tobago?

And if such a framework exists then why are we acting as if this provision automatically means any lawyer anywhere or any lawyer in the Commonwealth could automatically turn up as a judge in Trinidad and Tobago. That is not an automatic process.

5.15 p.m.

So that is why I cannot understand why there seems to be a tendency to push a panic button over this provision. I see it as a catch-all since we are here, just provide for it and leave it to the competent authorities to perform independently. Because there is nothing that has been said thus far that has indicated to me that the Judicial and Legal Service Commission or any of the service commissions are

functioning below par, that we have good cause to question whether their judgment, whether their processes, whether their methodologies, you know, are wanting in some form or fashion. Nothing has been stated in the arguments to and for that in any way indicates that, and therefore I am at a loss to understand why there is this sense of panic, sense of fear that, you know, we are about to recruit judges all over the place willy-nilly.

As a matter of fact, if I have a bias in this matter it would be in respecting the commissions for, over the past decade, upping their game in terms [*Desk thumping*] of the methods of recruitment and selection. And I am referring to things like psychometric testing. That is par for the course in our commissions.

So the question raised by Sen. Prescott, responded to by Sen. Simonette, and added on by Sen. Chote, over the question of culture and assimilation and whether prospective candidates would have the kind of cultural fit, as it were, that would allow them to dispense justice with an even hand, I find this indicates the extent to which many of us do not have a sense of the level to which our IR and HR people, the people in the field of human resource management, the levels to which they have upped their game across this country. And I have been fortunate to represent the commission as part of a recruiting mechanism.

I myself have appeared before the commission seeking elevation within the service at various points. And I remember at the point in which I sought to transit, from the Office of the Ombudsman to the wider public service, particularly the local government area. And the vacancy for which I was being interviewed at the time was Deputy Town Clerk, Point Fortin. And the question put to me by a member of the Statutory Authorities Service Commission was: "If yuh get this job as Deputy Town Clerk and somebody come and tell yuh this is not the Congo, how

would you interpret that? How would you understand that?” “This is not the Congo”—that was a commission member saying that to me. This would have been somewhere between 1985 and 1987. “This is not the Congo”—in a reference to the Point Fortin Borough, between 1985 and 1987; that is a number of years ago.

That was the kind of perspective members of the service commissions could bring to bear in an interview to see whether you are grounded, whether you understand where it is you want to go. And I understood back then what he was talking about because I understood the history of local government even though I had not entered it at that stage, but I had studied public administration. I understood what he was saying, is that there is a little racial brouhaha going on. Good? And that the compilation of the newly formed Point Fortin Borough would have utilized workers from the old St. Patrick County Council from that end of the region. And that many of them were of a particular racial background and this newly formed borough had a particular ethnic composition and the process of settling in and settling down in this new entity was still ongoing. And anyone functioning at the administrative level had to have a sense of that and how to balance those forces, how to satisfy the competing interests in that situation. And this was between 1985 and 1987. And this is how the commission put it to me back then.

So I have had over the years a sense of that. I have had to function on behalf of the commission as part of the recruitment process as a Deputy PS, deputizing for the commission and interviewing people to become CEOs in corporations and faced allegations of, “ey”, given the particular party that was in power at the time that we were doing the bidding of the party, given the number of people we appointed where. Without people having the information that, given the number of

people who applied, whatever we did, the shortlist would have had to be skewed a certain way because X did not apply but more of Y applied.

So once you have that shortlist and you have nine people interviewed and you have seven vacancies and you have a majority from one ethnic group, “it have no way” you can end up with more from the other if you do not have them to interview. And that was the bottom line. So a lot of time there is misinformation out there that has to do with people not knowing and assuming. So I want to say that not knowing the processes that our service commissions employ, a lot of us are misguided. And therefore, we assume the wrong things.

But also, on this issue of culture and the role of culture in the whole management processes including, within the judicial and legal services, sometimes we mistake elitism for a cultural factor. In other words, in a colonial era the question as to a judgment by your peers could be a function of the elites, especially if the elites would have originated from England or some, you know, European “mother country”, and there is an extent to which a lot of us do not realize that in the postcolonial order that elitism really could now be the question of what we would like to call “the 1 per cent”, the question of class divisions, good? And whether class divisions are just as bad as ethnic or cultural divisions of the old postcolonial order.

In other words, could I be from an ivory tower in this society and be appointed to become a judge with consequences, whether, in the instance that Sen. Chote gave us, whether all Afro-Trinidadians would have understood the cultural reference the attorney used that “it referred to a stool or a bench”. Clearly, we know that the foreigner who was presiding in that particular matter did not pick it up, good? But that does not mean he alone would have been guilty of that you

know. Good?

I have been fortunate in that I was born in Fyzabad which is a corruption of the name of a state in India and are now farmlands in “Deli Road”, Fyzabad, which properly pronounced should be Delhi Road, Fyzabad, and the lands I owned were Crown grant lands originally given to East Indian indentured people which I was able to buy over the years. So I have been fortunate to be exposed to that, but that does not apply to every last Trinidadian of Afro-Trinidadian descent. So we need to understand that right here, inside this society, is the potential for not being fully assimilated and understanding all the nuances of the culture.

So therefore, we have to understand that at the end of the day, and this is as far as I will take this discussion, that I think we can trust the commissions, utilizing all the modern tools at their disposal to be able, if the need arises—and the provision is really if the need arises. This does not mean the commission is going off in the morning to only look for foreign judges. The Police Service Commission did not do that with policemen. It is the political elites who sent them down that track when they rejected the local offerings. Remember?

So we need to be fair and not to assume the worst. I see this as a provision catering for a worst-case scenario so we would have to come back to the Parliament and any good Legislature would provide for all the possibilities in a given situation. So I see this as merely a provision for all the possibilities. And that our service commission will exercise its jurisdiction in a sensible manner as it has in the past. But I want to assure people that there is a continuum and we could always swing from the old elitism to the new, and the more pertinent question is whether there is any danger that we swung from the old colonial order, sitting on the benches, and so on, to the new elites sitting on the benches. And there is

possibly more danger there than the question of any foreigners coming to preside in our courts.

The other issue that I feel called for some concern is that, again, and another aspect to this, we assume that all the other institutions are going to turn a blind eye, going to fall dead, and stop functioning. So that is why I mention the role of the Ministry of Labour and Small Enterprise Development, the role of the Work Permits Committee and so on. We are assuming just because there is a provision that you could recruit a board, instantly, the Ministry of Labour and Small Enterprise Development or whichever Ministry has responsibility for adjudicating over that would instantly issue work permits. There is a process by which you have to go through to demonstrate that there is the need to go beyond these shores.

So in that context, again, we keep taking the worst-case perspective and there is really no need for that. But it would help, of course, if a national policy with regard to recruitment would be elaborated so that people can be assured, fears could be allayed, that listen, nationals first, Commonwealth/Caribbean second, wider Commonwealth third—you know, some pecking order set up as a policy so that our commissions or any prospective employer, private or public sector, would be clear, this is the route to be followed, this is what you have to do if you are having a problem recruiting locally. And that recruitment policy should speak to all the professionals: doctors, lawyers, police, teachers, whatever the nature of the profession, that policy should say how we would move through the system when we are doing recruitment.

The thing about all of this, at the end of the day, there are two things which have emerged to me at the broader level. One is the need, the constant and overriding need, for a clear consultation policy with respect to legislation. Because

much of what the fears, the concerns, that are being aired here could have taken place elsewhere. And I feel omnibus legislation, where you are going to touch 10 or 11 basic Acts, requires that in the approach. Because you are going to be stepping on corns, you are going to be stepping across these various jurisdictions on key issues of philosophy.

The concerns from Sen. Paul Richards as an educationist, the concerns of Sen. Chote, Senior Counsel, we need to understand that this requires of us at all times that there must be some amount of time for people to step back and take a second look. And there is a need within our, in terms of our political parties, within their manifesto to cater for these issues. This should not come as a surprise, this should have been in the relevant parties' manifesto. This is what we stand for, this is what we advocated for the country, this is what you could look forward to as part of Government's policy, and in keeping with that, we are taking steps X and steps Y in the pursuit of that. And the wider discourse takes place before we come to this place. Far too often we have arrived here without that pre-discussion in the wider society and then we try to substitute this for meaningful national consensus. This cannot be the place for that. This must come at the end of that.

And finally, Mr. Vice-President, I think that at the end of the day, the method informs, the mechanism informs the tendency for acceptance and goodwill. If these consultations were to be part of the normal course of things, and I do not mean "by consultation" writing a letter to the Law Association, because, yes, they are a relevant, you know, interest body, but laws are not passed for the Law Association, they are passed for the citizens of Trinidad and Tobago. And therefore they ought to have some fora in which they can participate. And I think it is in the act of participation, it is in our commitment to that democratic process

that buy-in, even if people do not agree with what we are doing in the end, that buy-in in the process is meaningful and that is where I find far too often these legislative attempts run into problems, because we could have covered this ground outside of this Parliament and come here just to do the fine-tuning, good? I thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Wade Mark: [*Desk thumping*] Thank you very much, Mr. Vice-President. Mr. Vice-President, I rise to make my contribution on a Bill which is designed to amend 13 pieces of legislation in order to allow, according to the Explanatory Note:

“...for the streamlining of the processes as it relates to the treatment of children and children matters.”

Now, what we have before us, very early, is the injection of a provision in these 13 pieces of legislation aimed at amending, in the first instance, the Supreme Court of Judicature Act and of course several other pieces of legislation related to children and the treatment of children.

Mr. Vice-President, we on this side have concerns about several provisions or several sections, or clauses I should say, in the legislation. I will seek to focus my contribution on a few of them, time permitting. One of those sections, or clauses I should say, is clause 3. We have some concern with clause 12. There is clause 8 where we need some further clarification and, of course, Mr. Vice-President, there is also clause 14.

So when we look at, Mr. Vice-President, clause 3 of the legislation no one can argue because it was done before, where in 2016 through a particular piece of legislation this Senate increased the number of judges from 36, as you recall, Mr. Vice-President, to 49. That was just roughly less than two years ago. There were

other Bills that were brought aimed at increasing—Family and Criminal Divisions, Civil Divisions, several divisions were established. So we need to populate those divisions with more judges. So I do not think that one can argue against increasing the number of judges in our country.

What I would like to posit is that when we are increasing the number of judges we have to examine that in the context of the reality. And the reality is, some of the key stakeholders, one of them wrote to the Attorney General, that is, the Law Association outlining some of the association's concerns as it relates to the implications of this provision along with others for the legal profession, as well as, for the administration of justice. And they advance the need for us and the need for the Government to pay attention to the method of appointment of judges in this country. Because as you know, Mr. Vice-President, we have had some challenges in our society over the whole process involving the appointment of judges. And in this regard I want to ask the Attorney General, I want to allay his fears, because when he spoke to this Parliament on the 2nd of July, 2018, on this very Bill he stated and I quote:

“Then I prefer, most respectfully, to err on the side of the provision of a greater judicial complement, because Trinidad and Tobago must be aware that improving, by way of legislation or reform, the Judicial and Legal Service method of appointing judges will require us to amend the Constitution. Dare I say I am not confident that the UNC in its current inclination...”

Hon. Senators: Incarnation.

Sen. W. Mark: Well it said, “inclination”, you said here. Not incarnation. [*Crosstalk and laughter*]

“...in its current inclination”—that he said. Maybe he has to correct that to say incarnation—“is prepared to accept anything that requires a three-fifths majority.”

That is what my hon. colleague had said.

So I wanted, in my contribution, Mr. Vice-President, to allay his fear. If it is that you are using the fear of the UNC in order not to proceed with amendments to the Constitution as it relates to a new method of appointment of judges to the Supreme Court of our country, I would like to advise my hon. colleague that that is a matter that he can discuss with us. Because we too in the United National Congress, like the Law Association, we have an interest in promoting democracy, transparency, accountability and more openness [*Desk thumping*] and we believe that the method of appointment of judges is very critical in this particular regard.

And I would say, Mr. Vice-President, that if it is that the Attorney General was a bit concerned about getting our support for an amendment to the Constitution as it relates to this question of looking at a new method of appointing judges I would ask him to withdraw this provision and hold consultation with the Opposition with a view to dealing with this same question of having a new method of appointing judges to our courts.

Because, Mr. Vice-President, there are concerns, not only by myself, but, you know, I listened very attentively, not fully I must say, but I listened somewhat attentively to many commentators when this matter of the law term opened and I must share with you—I want to tell you first of all we identify with the Law Association in its call for a new method of appointment of judges in our country.

5.45 p.m.

And I want to quote from the *Guardian* of Monday, September 17, 2018. It

is on page 3, and it is a quotation from one Judge Frank Seepersad, in which, as a sitting judge, which is very—a bit unusual—as you would imagine, but you know we live in unusual times because the PNM is in power, so we have extraordinary decisions and actions taking place.

So, Mr. Vice-President, hear what the judge is saying and which, if you listen carefully, he is reflecting the thinking in terms of a modern Judiciary. He said, and I quote:

“Conversations are taking place about the need for more judges, but no focus is placed on the method of appointments. If one truly understands the important and critical role that a judge plays in a democratic society, the need for increased numbers must be reviewed against considerations of competency, credibility, cultural and socio-economic concerns.”

And within this context, he mentioned the need for us to look at reforms of the Judicial and Legal Service Commission.

Mr. Vice-President, there is a report that was mentioned earlier in this debate. It is a report by the Rt. Hon. Mr. Justice P. T. Georges. It is entitled “Independence of the Judiciary”. It is dated February 16, 2000. And I go to page 4 of this report. And what is being said here is very, very important. He is talking about the independence and he is defining the independence of the Judiciary. And he was saying that:

To ensure that the Supreme Court, which is the institution ultimately charged with the protection of the fundamental human rights and freedoms of all persons in Trinidad and Tobago, can fearlessly enforce those rights when called upon to do so.

So he is talking about the independence of the Judiciary and the importance of the

Supreme Court. Now, Mr. Vice-President, you are a young man and you have a long way to go. I want to tell you, Mr. Vice-President, that if you are not aware, let me inform you. When you appoint a judge to the Bench, it is like you are appointing somebody for life. It is not for life. I am saying it is like you are appointing the person for life. That person, whether he is a puisne judge or a member of the Court of Appeal, he has until 65 years to sit as a judge—

Hon. Senator: Or maybe longer.

Sen. W. Mark: Or even longer, as my good friend is saying. So what we are saying, Mr. Vice-President, is that my colleague Sen. Saddam Hosein was indicating earlier in his contribution how we have gone from one level, or one phase, to another phase. It was a tap on the shoulder when you met in secret circles. “You want to be a judge? Okay, you will be a judge.” And you are a judge after that. And then it went up to another level, and we have a level now where we are told by the hon. Chief Justice, there is rigorous process that is involved in this whole exercise today.

Hon. Senator: Rigorous?

Sen. W. Mark: Very, very rigorous and that could be compared to anyone, any similar process, or even superior to many in the Commonwealth. But you know what? We are saying that in a modern democracy, in an era of accountability, openness and transparency, we need to have a more open approach to the appointment of judges. Mr. Vice-President, we are going from what?—49, you know. Mr. Vice-President, in 2016 we had 36. We went from 36 to 49. So we increased the number of judges by 13, and that is less than two years. It came here in 2016. In two years, eh, we increased the number of judges by close to 16, almost: 36; 49—13 judges. And here we are today with another major leap into

the future. And we are appointing how many? We are asking to approve how many? We want to go from 49 to 64. Fifteen more judges, which would mean that in less than two years this Parliament would have approved 28 new appointments in the area of puisne judges in the Supreme Court. [*Desk thumping*]

Now, that might be a good thing to clap for because I think that it is a good thing to have plenty judges, but what we are asking here, Mr. Vice-President, is the appointment process. How are you going to appoint these judges? Who is going to appoint these judges? Is it the same process we are going to use that threw up a judge today who is before the courts? Is it the same process we are going to throw up today where, for instance, when you appoint a judge, as I said earlier, he or she is there until the age of 65?

So, Mr. Vice-President, what the Government is doing—and if they do not know it, let me tell them what they are doing. They are saddling the next generation, or two, with judges who will be appointed to the Bench by a current administration where the whole process has been brought into question. And we are asking, and advancing, that there is need for a rethink on this matter. We need a new appointment process where we will feel confident, as a population, that when you appoint a judge to sit—Mr. Vice-President, may I remind you, Justice Telesford Georges indicated that when you put a person to sit on the Bench in the Supreme Court, that person is the guardian and the protector of our fundamental human rights and freedoms. [*Desk thumping*] So a judge is a serious position. It is a very, very serious position.

This is why we are suggesting that the Government must “mash brakes” here—“mash brakes”. If the Government is interested in increasing the number of judges, you do not have to come and amend the law now, because there can be

many assumptions that I could put on the table for your—I am saying “assumptions”, eh—for your consumption that will deal with some of the dangers that we can face as a nation, and the dangers that our democracy can face as a nation in the future.

I have been in the Parliament for several years and I have never seen a government in three years—about to demit office next year—[*Desk thumping*] moving so rapidly to appoint. Listen “nuh”, you are talking about 16 plus 13, almost 30. Mr. Vice-President, what is the objective behind that? What is the thinking behind that? Why is the Government moving in that direction? Who called for all those judges? Was it the Chief Justice who called for more judges? Was it the Law Association who called for more judges? Was it, for instance, the Southern Lawyers Association—who called for these judges?

We did not call for it. I do not know the ordinary people have said they need more judges in this country. But all of a sudden we have more judges. And then we have this talk about Ghana and we have Nigeria that they already line up judges. I am telling you what I am hearing, that they have already lined up judges to come here when this Bill becomes law, to become judges. Let the Attorney General deny that. Are there judges lined up from Ghana and Nigeria to come to the Bar when this Bill becomes law? And why are you bringing judges from Ghana and from Nigeria? I am an African, so “doh come and tell me bout no race”. [*Desk thumping*] “Doh come and tell meh” about, as somebody was saying in a speech yesterday, about ethnicity and all “kyna nonsense”. I am saying, Mr. Vice-President, when you are talking about justice: no race; no class; no colour. You want to make sure that we, as Parliamentarians, uphold our Constitution. That is what we want to ensure.

So I would like to advise the Government, if they are interested in extending and expanding the pool of judges, they do not have to go the route of amending the law for the first time since our independence to bring any member of the Bar from the Commonwealth who has practised for whatever period of time, to apply here in Trinidad and Tobago to become a judge. “Look nah man, if you in France, you ha tuh be a citizen of France to be a judge.” In America, you think any stranger could go in America and become a judge? You have to be an American citizen to become a judge. So why are we watering down the brandy here? What is the objective? Is there an ulterior motive behind this move to increase the number of judges from 49 to 64? Is there an ulterior motive? I “doh know”. I am just putting that out. I am asking questions.

Hon. Senator: Backlog.

Sen. W. Mark: Backlog? “Yuh doh have no courthouse, boy. Wha yuh going and do wit backlog?” [*Desk thumping*] I mean to say, I know you are becoming the new General Secretary and “yuh” very anxious to take that post and occupy that office, but, Mr. Vice-President, we have no courts. You know what is interesting? We have no courts. You know it will take almost about five years to complete a proper judicial complex in this country, given how we operate in this country, the bureaucracy. Yet still, the Government, in two years, is moving towards engaging over 20-something judges? What is the purpose? And as I told you, “yuh hearing all kynna talk that they have people line up from Nigeria, from Ghana”, and so on. Let us know if that is not true. We would like to know that.

Mr. Vice-President, I would like to tell you, if you do not know, there is a book I would like to recommend for reading. It is entitled: *How Democracies Die*. [*Desk thumping*] I think that is a seminal piece of work.

Hon. Senator: “Who write dat”, the PNM?

Sen. W. Mark: No. It is written by a fella called Steven Levitsky and Daniel Ziblatt. [*Crosstalk*] And, Mr. Vice-President, you know the essence of that book? They are talking about Trump in the United States, how he is undermining the American democracy. And, Mr. Vice-President, you know what is their thesis and their theme, and the most important part—the essence of that piece of work? Hear what these writers are saying, Mr. Vice-President. They say:

No longer are democracies overthrown by generals and guns. Democracies are no longer overthrown by generals. They are overthrown and subverted by the very people who were elected democratically by the citizens.

That is what this book is saying, Mr. Vice-President.

So what we are advancing to the hon. Attorney General for his consideration is the following: We want him to delete clause 3. We want it to be removed completely from the legislation. [*Desk thumping*] We are proposing to the Government, engage us, the Opposition, in serious discussions on a new method of appointment of judges before you appoint any new judge—or judge—in this country. [*Desk thumping*] And because of the very controversies that surround the current holder in that office—I am not casting any aspersions, I am simply saying, because of current controversies embroiling that Judiciary—it is not appropriate to allow the Judicial and Legal Service Commission to be given the power to appoint these 16 new judges. [*Desk thumping*] That is what we are advancing here. So we are saying delete, remove completely that provision and we say, “mash brakes” there. I have alternatives for the Government’s consideration.

Whilst we hold up on these appointments, we are asking the Government to consider the following: Mr. Vice-President, retired judges who leave the Bench at

65, you can bring them back on contract for five years, as they did with Deyalsingh and Ibrahim, who has now passed on. There are many brilliant judges who can be brought back onto the benches of the Supreme Court and Court of Appeal and you bring them on a five-year contract. Mr. Vice-President, we do not need foreigners in our country to tell us how to make decisions as it relates to people's guilt or innocence. We do not need that. That is neo-colonialism. We do not want to be part of that any longer. [*Desk thumping*] We are a sovereign, independent State. We have 1.5 million people in this country. We have outstanding citizens in this land. We have brilliant sons and daughters. And you want to bring people from where? Turks and Caicos? No, no, Mr. Vice-President. The Government "cyar" be serious. The Government has an ulterior motive for wanting to do that.

Mr. Vice-President: Senator, no. The suggestion—

Sen. W. Mark: All right, I withdraw that. Mr. Vice-President, may I go on? Because I do not want you to get up again, although I know it is good for your legs, eh, because "yuh" need that exercise. [*Laughter*]

Mr. Vice-President, let me indicate as well, to you, there is need for us to consider raising the retirement age for judges in this country. You do not have to go at the age of 65. Sen. Mahabir made the point that when you leave at the age of 65 you cannot practise law as a lawyer for 10 years. By that time, Mr. Vice-President, you pass your three score and 10 and Almighty call "yuh" home. So what I am suggesting to the Government is that you could increase the retirement age to 75 years or 70 years.

I am saying, Mr. Vice-President, whilst we are seeking—[*Crosstalk*] Mr. Vice-President, like my colleague who likes to interrupt, that is Sen. Paula Gopee-Scoon I am talking to, through you, Mr. Vice-President, I am not saying

this is a permanent solution. I am saying it is an interim measure as we seek to put in place a permanent system by amending the Constitution as it relates to the appointment of judges in the country. [*Desk thumping*] That is the point I am making. So I am saying, in the meantime, what we do, we hire retirees, give them a five-year contract. And, secondly, we extend the age, temporarily, to retire from the Bench, from 65 to 70. We believe that you would be able to attract quality people to the Bench. So that is a proposal that we would like the Government to consider.

Mr. Vice-President, I was doing a piece of research as well, on what happens in France. They have a different culture, a different system, but I am dealing with the principles. They have what is called, the National School for the Judiciary. You cannot become a judge or a prosecutor in that place called France until you go through that school that is established for you. And you have three levels, eh—three entry levels—in terms of examination that you have to take and you must pass in order to practise as a judge in France and in order to become a prosecutor in France.

And not only that, there is a continuous programme of training for the French judges and prosecutors. So that is something that if the Government is serious about improving the quality of judges in our country, the Government should give to the Judiciary the kind of resources, or the Government can, in fact, provide them with the resources in order to do what?—establish a national school—

[MADAM PRESIDENT *in the Chair*]

Madam President, I am so happy that you are back. That does not mean to say that my friend gave me trouble, eh. [*Crosstalk and laughter*] So, Madam

President, I was saying that in doing my research here I was reading about this very important school in France and it is called, the French School for the Judiciary, and I would recommend that the Government invest resources in such a school. Attorney General, I am sure that you are familiar because you are a widely-read individual and you must be aware—I am not dealing with the cultural context; I am just dealing with the principle of having a school established for judicial officers in our country. And this is a very good suggestion, or a very good thing that they have in France and I would like to suggest that it be considered by the Government, Madam President.

So, Madam President, this is one of the areas that, as I said, we have some concern with. And I want to serve notice on the Government that we are going to be proposing several amendments to the legislation because there are several areas that we have discerned as very, very weak and we intend to strengthen those areas, and we intend to serve notice on the Government of those amendments that we would like to advance.

Madam President, I would like you to also look briefly at clause—I think it is clause 7, if I am not mistaken—clause 12, Madam President. And that clause 12—

Madam President: Sen. Mark, you have five more minutes.

Sen. W. Mark: Yes, thank you, Madam President. Clause 12 deals with the family law guardianship of minors and maintenance. We have an amendment here where, for instance, this body, under the auspices of the Judiciary and in the name—this bank account, I should say, is going to be in the name of the Registrar General, but under the broad rubric of the Judiciary, and they will have the power to impose fees. We would like to insert a clause here, indicating that the Rules

Committee, which is going to impose those fees, that all rules made under this section shall be subject to an affirmative resolution of Parliament. So we want to ask the Government that before you impose fees, you get the permission of the Parliament to do so, or the approval of the Parliament to do so.

Madam President, there is a provision in clause 14 which deals with Family and Children Division. And, Madam President, I want to tell you that there is a lot of disquiet. Attorney General, through you, Madam President, there is a lot of disquiet at the Children's Authority. There appears to be a loose cannon at work. His name is Hanif Benjamin. He said he is from the United States.

Hon. Al-Rawi: Sitting right here.

Sen. W. Mark: Hanif? Well, wherever he is, that is not my interest. My interest right now is that we have done some research on this gentleman and as far as we are concerned, Madam President, we need the Attorney General to conduct an enquiry into the operations of that Children's Authority. We understand we have a dictator in the making there.

Madam President: Sen. Mark, please take your seat. I have repeatedly cautioned Members of this Chamber. You have freedom of speech, but I ask you, please, when you are speaking about persons who are not Members of this Chamber, to really, you know, show some restraint. You can make your points but you do not need to do it in the way that you are doing it. Okay, Sen. Mark?

Sen. W. Mark: Well, you know me.

Sen. Baptiste-Primus: No, no, no.

Sen. W. Mark: But I understand your point. Madam—

Sen. Gopee-Scoon: No, no, no. It is not acceptable.

Sen. W. Mark: Listen. I am speaking to the Chair—[*Crosstalk*] You are “tiefing”

my time. Madam President, can I address you? And protect me from this. I am guided by the President, not by you. The President has ruled. I am following the orders of the President, not those orders there.

Sen. Baptiste-Primus: Be respectful.

Sen. W. Mark: This is not PNM, “yuh” know. Madam President, I also want to bring to your attention a matter—[*Crosstalk*] Madam President, may I? [*Crosstalk*]

Madam President: Please—

Sen. Baptiste-Primus: Sorry, Madam President. Selective amnesia.

Madam President: Please, Members. I do not know. You all greeted me so happily, but now I am getting a little concerned. I just want to say, please, let us remain on the straight and narrow. I would ask Members to listen to Sen. Mark in silence, please. Sen. Mark, continue. [*Desk thumping*]

Sen. W. Mark: Thank you. Madam President, thank you very much. Madam President, I wish to bring to your attention another matter that was drawn to my attention. It deals with a form that was issued by the Ministry of Education to all maxi-taxi drivers who pick up children under the age of 18 to take them from one point to another, that is, from the point where they pick them up, drop them to school; pick them from school; drop them back. And this form is asking the drivers to get the names of the children—

Sen. Gopee-Scoon: What is the relevance of this?

Sen. W. Mark: No, I am talking about, Madam President—[*Crosstalk*] Madam President, may I seek your protection?

Madam President: If any Senator wishes to rise on a Standing Order on the point of relevance, do it in the proper manner, please. Continue, Sen. Mark.

Sen. W. Mark: Thank you for your protection. [*Desk thumping*] Madam

President, we are dealing with confidential information on children who are being collected and transported by maxi-taxi drivers and the Ministry of Education, in a form I can pass on to you, Madam President, is asking—

Sen. Gopee-Scoon: Point of order, 46(1).

Sen. Ameen: “Oh gosh, wait nah man.”

Madam President: Sen. Mark, I did give you the five-minute warning and your time is up.

Sen. W. Mark: Okay, thank you very much, Madam President.

6.15 p.m.

Sen. Melissa Ramkissoon: Thank you, Madam President. Thank you for giving me the opportunity to speak on this omnibus Bill 2018, and also referred to as the Miscellaneous Provisions (Supreme Court of Judicature and Children) Bill, 2018. This debate has been going on for almost three days which is a good opportunity because I have been given the opportunity to hear from multiple Senators and their different views from all sides. It really was an informative debate on the different pieces because there are 13 pieces—well, I have counted 12 pieces of legislation that we are looking to amend through this omnibus Bill. And it is something that I can agree with the Attorney General that it is an important Bill because it deals with family and children matters and actually having that uniform across-the-board approach to aligning what we have passed in this Eleventh Parliament in relation to the Family and Children Division Act.

So we did lump a lot of pieces of legislation in one. I am not always in favour of that because I always believe we could easily miss something, but in this lump sum we also have the DNA legislation and the Supreme Court of the Judicature Act. I am not certain why we did that approach to lump everything in, but I am happy to

join in this debate. At the last sitting, Sen. Haynes ended and she did raise a very intriguing point: Why is it that after having all of these legislation debated in the Eleventh Parliament, that now we are bringing this approach or these pieces of legislation back before us, but not taking up the recommendations that we as Senators would have laid before this Senate. And a simple example is the DNA legislation. When we looked at it, it is clause 6 of the Bill; 5:34, DNA. The only amendment I saw here that we are changing is the change from the “juvenile residential facility” to the “rehabilitation centre”, and I was a bit taken aback because I was thinking this was the perfect opportunity to raise other points of the Act that we would have raised when we debated it on the 29th of May, 2018. So I do agree with Sen. Haynes’ point that this was an opportune time that we could have taken. We are all sitting here, we have used three days of debating time that we could have dealt with many important things that dealt with in the parent Act that we did not have the opportunity to amend for time constraints, and this was the opportunity we have and now we are missing it. So I am very displeased with that approach to how we have laid this piece of legislation. But nevertheless, we are here to debate and to amend issues or matters with the courts and as well as the Family and Children Division Act.

Madam President, there was a lot that was said by different Senators and I do not want to repeat any of it. I just want to build on the points that I thought were very important and we need to pay particular attention to and not let it pass by. We are always reminded that we are legislators, Senators without the portfolio of Ministers. So we always pray, and we plea, and we speak through our words hoping that the policymakers and the Ministers before us would hear and take heed to what we say because we do not have the authority to protect and serve. There

are different agencies to do such. We are here to legislate and only influence those who present Bills before us to make amendments or changes, or to take heed of what we are saying. That is the only opportunity we have here in this Senate. I take that position very seriously and I do plea, and the point that I raised is just to ensure that when we have laws that we take heed of what exists in our country and how it will affect those when it is operationalized.

So, Madam President, I want to just touch on a point that Sen. Ramdeen had raised in his debate. He was addressing—and I hope I do not misquote him in any way—the point on the limited resources in the courts and the number of unsolved cases. And he was speaking about all the victims in our country, our kidnap victims, who are still outstanding unsolved cases and he did highlight the successful case or the successful extraction of Mrs. Pollonais—and I thank God for that success of the TTPS to return Mrs. Pollonais to her family. I want to raise or reiterate a point that I have raised in this Parliament before and it is in relation to the TTPS. There is a system that they are involved in. I have not read about it in any of the laws before us and I am not sure if this is a legal process. It is called the “traffic stop” and it is called a “database”. I asked them to look at the form because I have been stopped three times. I am not sure if as a female driver, driving alone, that I pose a threat, that I have been stopped three times for the same reason. It is a handwritten form that they ask me my name, my address, where I work, my eye colour, my hair colour—

Sen. Baptiste-Primus: By the same officer?

Sen. M. Ramkissoon: By three different officers. This last time I asked for the officer’s name because I was a little bit concerned, and at three different points too—one at Oropouche Junction, Rousillac, and Guapo—and I am not sure what is

being done with the information because immediately, Madam President, if on the third attempt you should know that you stopped me twice before. So after learning of the recent developments in our country with Mrs. Pollonais' case, I would like to plead to the Attorney General and to his Cabinet, to relook at this TTPS traffic stop and what is the purpose of stopping people at different times of the day to ask them questions which—I do not know if they know if I am telling the truth, but they are asking me to answer questions and it is very personal questions too, like where I live. *[Interruption]* If I—?

Hon. Senator: Report it to Gary Griffith.

Sen. M. Ramkissoon: Oh gosh, well, this is my way of raising it because, Madam President, after learning this, if I am stopped for the fourth time what do I do? Do I drive? Do I continue? So this is all I want to raise with that.

Madam President: Sen. Ramkissoon—Members—I need to just caution you. I know it is early on in your contribution, but all that you just said I am not too sure how it ties in to what we are dealing with right now, okay?

Sen. M. Ramkissoon: Thank you, Madam President. Well, that was just the end of that actually. I was moving on to my other point. I just wanted to raise it at this time since it was raised earlier in the debate on the first day of the debate.

I want also to raise or actually support the comments that were raised on the rehabilitation centres by Sen. Jennifer Baptiste-Primus, and I do support the Government's initiatives to focus on the rehabilitation of children and to reduce children crimes through focusing on programmes for them. My only concern or question is: How are these children aware of the programmes that are available to them? Because these children are placed in areas or in homes that—they are not aware of anything other than a life of crime or a life of darkness, and we have to be

mindful of that because these children, the only fear they know is returning from school to go to home, they know the fear of seeing gang members at blocks and that is the fear. I have heard many of these from the Ministry of Education, principals, and there is a clause that deals with that where:

“The Minister with responsibility for education shall, after consultation with the Commissioner of Prisons, appoint educational instructors...”

I do not know if these educational instructors can now empower these children by sharing the initiatives that the Government has in place to keep them out of a life of crime and out of having to rely on rehabilitation centres, because you are trying to get them before they reach there.

I have not heard about the educational instructors before. I am not sure if this is a new creation or a new job portfolio that has been created for the Ministry of Education, but it really does need to support the present day principals and teachers that struggle with these things, especially with schools in rural areas. Madam President, I actually had a principal that told me that a young child brought weed to plant in the school and they did not know it was a crime. So, we see these things, they do not know they are doing criminal offences or activities and we have to be mindful of those things because we need to protect the innocence of our children. We are seeing that social issues continue to plague our country and as legislators we must be mindful of such because we just cannot speak here and not understand that the country needs to trust that we have the best interests at heart, and trust that when we sit here and agree on pieces of legislation that it will help them and serve them and have a better tomorrow, a better future.

I was listening to Diana Mahabir-Wyatt's speech at the law term opening and she was sharing her experience dealing with children, and children court, and

children family matters, where it was from when she started to where we are now, and definitely we have grown and we have successful pieces of legislation which we are trying to amend to give more empowerment. But she also raised a case where an 11-year-old girl was sentenced to prison and when they checked they had more than one young adolescent in our prison which is deemed unlawful, and how is this happening? She shared how magistrates would be seeing a child, maybe more than once and this makes a child's voice not be heard, and we tend to ignore sometimes that a child will not listen to an adult if they do not feel that they can trust, or hear, or take heed and that is something that I want us to just be mindful of.

Another point that was raised—oh, another point that I have seen here in this Bill and that is with 13:05, the Child Rehabilitation Centre Act. When I did look up the Act though, it had stated “Young Offenders Detention Act”. So, is it that we are changing the long text title of the Bill from “Young Offenders Detention Act” to “Child Rehabilitation Centre Act” and that— [*Interruption*] Okay, sure.

Hon. Al-Rawi: Much obliged. Hon. Senator, we did that in 2016 by Act No. 6 of 2016, but I appreciate because Sen. Ramdeen raised the same question of access to the updated version of the laws which I know the Law Revision Committee is working on as we speak.

Sen. M. Ramkissoon: Thank you, Attorney General, through Madam President, and I did go on the website of the Ministry of the Attorney General and Legal Affairs, and that was the latest one I saw. So if the revised edition will be further amended or circulated through the online versions, we would like that information to please be circulated when it will be updated on the online system. So when we do pull it up—because that is what we always compare our legislation or the Bills

before us, we always compare it to the online version or the Ministry of the Attorney General and Legal Affairs website. So that is why I raised it because I did compare it to that.

Another issue or a concern that was raised during this debate that had very strong merits to me, is the issue of the psychological trauma that is faced, and a *Guardian* article by Camille Clarke on March 25, 2015, “Single parent link to poverty”, gave some statistics that:

“Children of single parents are six times more likely to be poor....” Edward Clarke did research and he said that it was noted that the absence of fathers in families leads to tremendous consequences. It even went on to say that the findings are:

“...60 per cent of the women”—that were—“incarcerated at the Golden Grove Prison and 60 per cent of boys at the Youth Training Centre were single mothers and had...”—absent fathers.

And that for me stood out.

Sen. Pastor Dottin, when he was here as a temporary Senator, he raised the point of the link of single parents and how it impacted on the growth of the children homes and the institutions, and I would like for the administration to look at this seriously because it now dampens or put a damper on our public sector and our budget because now we have to look at social services and money for such. So I want us to be mindful because if you look at Chap. 13:05, new section 2A(d), it has an application for children to get permission, who have reached the age of 16, to enter on-the-job training, and this is in the rehabilitation of children who have offences against them.

All of this would play a key role in how we will be addressing issues facing

our youths or our youth offenders in our country. And this one of the clauses that I would like to commend, which is the 13:05, new section 2A(d), which gives these children an opportunity because they may not have that opportunity before, but after being treated differently—because if you can see the home is damaged, they are looking for it on the outside and this is an opportunity that we could really embrace and really have, because you have to do it through a court order to allow the child to get a job outside for training, and this is something that I would not want to see falling short but actually have the provisions enforced in different homes and centres.

Madam President, while I was reading the different pieces of the Bill, I did see a concern to me, and that is 4:20, Summary Courts Act, section 2, in the definition of the “guardian”. We are asking here to delete and substitute the word “child” with “younger child” which we have defined as someone who is seven years to 14 years. And my question to the Attorney General, through you, Madam President: What about children who are 14 to 17? [*Interruption*] So we do not need a guardian for those children, they can represent themselves. Okay. Well, no problem. That was my only concern in that. For younger children we are only catering for them in the “guardian” definition. Well, Sen. Chote is now telling me that they may not need it.

Sen. Chote SC: They separate it.

Sen. M. Ramkissoon: Okay, let me see if I could clear it up better. So in the 4:20, Summary Courts Act, we are being asked to alter the definition for “guardian”, for a child to be—for the “younger child” only take into consideration ages seven to 14 and my concern was, what about children who are 14 to 17? Because I was looking at other pieces of legislation that we are amending and

when you need legal aid and legal advice you would need a guardian. So that is why I wanted to know why we did not just leave it as child and have all persons seven to 18 included. That was my question in relation to that.

Madam President, throughout this omnibus Bill we have seen the reference to “children’s probation officer” and this is truly something that we want functioning. My question which I hope can be answered is: How many children’s probation officers do we have in Trinidad and Tobago; and have we related it to a ratio—one probation officer to two children homes, or 10 recreational—and how do we have it now? And really—because, Madam President, when you visit children homes and you hear their stories, it seems like this position does not exist. So that is why I am asking, if when the Attorney General is giving his wrap up, that he can share with us the numbers of how many and how many do they intend to employ if there are vacancies within the system because this role is something quite critical for the survival of these children in these systems or these institutions.

Madam President, another point that I wanted to just raise, and that is in relation to the Commissioner of Prisons. Many Senators have raised it and made their pleas at different lengths to the Attorney General, to reconsider the additional portfolio. And my concern was based on the response given by the AG during the debate which was related to, that the Children’s Authority will have the authority to enter centres and homes unless it is with the commissions or Commissioner of Prisons authority or their powers, and when I read the pieces of legislation before us this is not what I interrupt it to be. So the Commissioner of Prisons has the sole authority.

We have heard many Senators ask that it not be under the remit of the Commissioner of Prisons but it be under a different division, and when the

response was given, it is that the Children's Authority would have a greater involvement, but this is not what I have seen. Because if we look in section 3(1) of the Child Rehabilitation Centre Act, we see that we are asking that the control and management of the rehabilitation centre be given to the Commissioner of Prisons and it is subject to the Children's Authority Act and the Children's Community Residences, Foster Care and Nurseries Act. Madam President, when we even look at Children's Authority Act, section 5 and 5A, it does not show any additional powers that these Children's Authority Act other than to provide care and protection, investigate and make recommendations, investigate complaints, investigate, investigate, investigate. But if you look at another option here, it says that the Authority will have the opportunity to consult with the Commissioner of Prisons.

Now, we have learnt that consultation does not mean accept. It just means advice given. It does not have to be taken at any point of time. So we are thinking that the Children's Authority has a lot of power given to them, but really and truly that is not the case. We are just asking them for advice or consultation, and this I think, is a step that we should really reconsider if we want to give them more authority, then give them it. Do not put in the words "consult" or "subject to" because then you are taking away their powers that you really would like to secure. If, that is, the powers that you would like to give them because that is what I had interpreted from the AG's response that that is where we would like to head. But, I could have been misunderstanding what the good AG had said.

Madam President, another point that I wanted to raise is something that I did not see—and if it is in the parent Act, that is great, but I was unable to find it—and that is in relation to 12D, subsection (2), and this deals with fines or:

“...liable on summary conviction to a fine of five thousand dollars and imprisonment”—for—“...three years.”

—if a host, or a parent, or person is unable to present a child to the rehabilitation centre at the said time. And my question here is: Why did we want to go that way?—which is great. We want to give the opportunity to a child to have the opportunity to visit their parents or a responsible host after submitting information, but what if the child runs away from this host environment or this address, what happens? I did not see that for the Child Rehabilitation Centre Act, but I did see it for the Act—hon. AG, I was hoping you would have the consolidated form here. It is very difficult to thumb through the different Bills, but in relation to the Children’s Community Residences, Foster Care and Nurseries Act, there is a provision for children if:

“...a child runs away from the”—home or from the—“person with whom he has been temporarily placed...the Authority shall apply to the Court for a Recovery Order and the child shall be brought to the Authority which shall investigate...”

So that is my question.

We have put in provisions in the Children’s Community Residences, Foster Care and Nurseries Act to allow if a child has run away from the temporary host, but what about for the temporary host for the child who has an offence against them, what will happen? Because the only thing I am seeing here is that the parent or the host provider would be charged, fined or imprisoned, and I think that is a loophole that we need to address because we do not want that to be a case.

Madam President, another case that I wanted to raise is 46:01, the Children Act, the “Child in Need of Supervision”, 50A. I really like this new section

actually—and the wording, if I could ever find it—but it gives the powers to children who need supervision in our country and the parent is unable to control their children, and this is why I want to highlight this at this point. It is that many times in Trinidad and Tobago we have the saying that we make the child but we do not make the mind. We always hear that and they put their hands up and they allow the child to do as they please. But here we are putting in a provision in the Bill or the law that says that if you cannot perform your duties as a parent or a guardian, now you can ask the court to provide legal aid, to provide counselling, and they have given three options that can be given to you to allow you, to assist you in your guardian or parental duties. I thought this was great, that is the 50A of the Children Act, that we would give that power or empowerment to parents.

Madam President, there is another section that came up, which is page 24, (e):

“order that the parent, guardian or person with responsibility for the child be referred for counselling;”

And I wanted to know if this counselling would be offered by the State; would it be paid for by the State; who would be allowed this cost or who would hold this cost to the parent or a guardian who has a child who has an offence; who would offer this counselling? We have it in our Bill that we will be giving them counselling, but who would be doing this? Is it at the children home, at the rehabilitation centre? What is this? Madam President, if you visit any of the children homes they would say one of their shortcomings is that the counsellor does not come every week, and that is something that is concerning and alarming, and when we want to put provisions to protect children and we do not have the systems working, then we are also making it a failed attempt at what we are doing

here today.

Another point or maybe my last point that I want to raise, is new section 75 and section 83(2)(a), and this deals with placement for a child convicted of murder. We are asking that:

“Where a child has been convicted of murder and the Court is of the opinion that no punishment which, under the provisions of this Act, it is authorised to impose is appropriate, the Court may sentence the offender to be placed at a Community Residence for such period...”

And if you read on, Madam President, you will see that there is also the option to transfer a child from a community residence to a children home. I have a big option that I would like that not to be there because I would not like because of space, that these children just not be put into the rehabilitation centre, but police into the children's home.

And that is why when we were listening to Sen. Pastor Dottin, he said that the homes are asking for psychometric testing of these children, and that is because all types of children enter into these children homes and they are unable to address their needs because they do not know their wants. It is very sad because the counsellors or the persons from the State take really long to come to the homes. Well, I could speak for the ones in South. I do not know about the ones in North Trinidad, Tobago, or Central. But that is the feedback we get and that is why I would not like that provision to be placed into the law where the transferring or movement is so easy, especially for children who have committed murder or have serious offences against them. We do not want it to be the case where you are just waiting for them to age out to 18 and over so you can actually make a conviction which is what happens in most of the cases because it takes so long to be heard,

these cases to be heard.

So, Madam President, that is not a good way to deal with it, or even to put the priorities or the concerns of children into our law books. We are not going to say, okay, we are just going to leave you there, it is somebody else's problem until you reach 18 and then we will do a judgment call against you. No, because if somebody else's problem is unable to handle it and one child teaches the tricks of the trade to the others. The smaller children always love the bigger children, and you do not want these influences to be happening into our children homes, even our rehabilitation centres because they cannot be looked at 24 hours a day. They will have play time, they will have areas where they will be talking. Children have their own language of communication and we do not want to fail them continuously by leaving out these gaps or these areas that really impact them in a big way.

Madam President, I have read this Bill. It is a little bit tedious to go through all the clauses because there are so many things that impact another point. But I just want to close on an example that is very real in our country.

6.45 p.m.

We all celebrated with our cricketers at the CPL final for 2018 on Sunday. After the game finished at 10.00 p.m., at 11.30 p.m., I am driving through Marabella to escape the traffic to go home and while I am passing through Marabella at half past eleven in the night on a Sunday, I am seeing children—male and female—playing football on the street. It is a Sunday, are they going to school? Well, they are not working. It is a work day, sort of like—and I cannot understand why. And this is what we have been—well, we would say why is the police allowing this, why they are not doing patrols?

But again, Madam President, if we are not letting the administration initiatives be known to all of these areas, then the system will continue to repeat, the growth of this wastage of our nation's youth will continue and the fight—they say in every dunghill, there is a rose, but I would not want just one rose, I would like a field of roses and it will be unfortunate for me not to raise these things as a young person in our country. Yes, the fight is real but we have to remember them and not only think about the law books and how we are continuously trying to amend the laws to fix it but implementing systems to make sure the social issues do not continue to grow in our country.

And I thank you. [*Desk thumping*]

Sen. Zola Phillips: Good evening all. Thank you, Madam President, for recognizing me and affording me the opportunity to join this debate. Also, it would be remiss of me not to thank Her Excellency the President for reposing her confidence in me to represent the people of Trinidad and Tobago. [*Desk thumping*] It is indeed an honour to be here in this august House. The Bill before us is:

“An Act to amend the Interpretation Act, Chap. 3:01, the Supreme Court of Judicature Act, Chap. 4:01, the Summary Courts Act, Chap. 4:20, the Bail Act, the DNA Act, Chap. 5:34, the Legal Aid and Advice Act, Chap. 7:07, the Child Rehabilitation Centre Act, Chap. 13:05, the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, the Children Act, Chap. 46:01, the Children's Community Residences, Foster Care and Nurseries Act, Chap. 46:04, the Children's Authority Act, Chap. 46:10 and the Family and Children Division Act, 2016”

I would like to begin by firstly congratulating the hon. Attorney General and

the Government on their effort to move legislation forward especially as it relates to the Judiciary and our children. I took this opportunity to make my maiden contribution [*Desk thumping*] because the topic is near and dear to me as my background is in psychology, forensic psychology, criminology and criminal justice. In fact, I am a lecturer with the University of the Southern Caribbean and this semester—[*Desk thumping*] thank you. And this semester, I am specifically lecturing on juvenile delinquency. It is with this in mind that I would like to touch on clause 8 by making two short points.

Firstly, Sen. Hosein mentioned, in his contribution, the fact that theories suggest that juveniles who commit delinquent and deviant acts can be categorized in two ways: either as adolescent-limited or life-course- persistent. It is in this same vein that I mention that the adolescent period is not only a significant and life-changing period of every person's life but it can also be confusing and scary even if that young person does not have the tools, the environment or the persons—all known as protective factors—to guide them through this period safely. During this adolescent phase, especially in the middle to late adolescence, persons are not young enough to be deemed incapable of being held responsible for his or her actions but yet they are still not old enough to make decisions on their own.

Adolescence is there for a period of rehabilitation. It can be a period of rebellion, exploration and risk taking, all of which, if you understand adolescent psychology, is normal. More often than not, our adolescents age out of committing any crimes or any deviant acts or delinquent acts during that period known as ageing out. This is when they cross from 18 into 19 to 20, those ages as they approach adulthood, by achieving behavioural, emotional and psychological

autonomy. This means that they are capable of providing for themselves through holding down a steady job or taking responsibility for their actions and also entering into meaningful relationships.

At this phase of adolescent life, especially, as I mentioned, middle to late adolescence, it is important for us that are in charge of the rehabilitation of these young persons that we, one, provide qualified and specifically trained persons who understand the psychology of adolescents and who can contribute to their rehabilitation in a significant way; and, two, that we protect their privacy through discreet rehabilitation allowing for these young persons who committed acts that are against our laws or the laws of our land, so that upon release, they can be successfully reintegrated into a community. This transitional period is a process that should also involve the family and community of the individual.

Now, the legislation does not speak to this but it is prudent that it be noted that several times, young persons who offend are placed in these rehabilitation centres and then released back into the community and not afforded any process or guide or programme that allows them to be welcomed back into their communities. A case that I was involved in would be a young boy, let us call him Joe, and he murdered his neighbour. Young boys, they got into a fight, it did not end so well. He was 16 at the time. He was placed in YTC and upon his release due to good behaviour, reformation, he went through the process of counselling and therapy, et cetera.

Upon his release, he was released back into the care of his mother, into the home where he was neighbours to the persons that were the parents of the person that was murdered. What happened in that situation was that Joe felt that he did not feel welcomed back into that community and his parents could not provide the

environment and assistance he would need, both psychologically and emotionally, to dealing with all those things. In the end, he was moved from that area and needless to say, he got back into a life of crime unfortunately.

All right, so it is in this vein that I suggest that we not only ensure that our adolescents are met with the rehabilitation and specifically trained persons that they need, but that also the family and community are engaged in a process of rehabilitation. All right, where they are sensitized to understand the process of going through adolescence where persons take risks and sometimes engage in behaviours that may be deemed delinquent or deviant and that they can change and make a change and it should not be held over their heads for the rest of their life. The stigma of committing a crime in your adolescence can really ruin your future.

My second and final point is that in these new and improved rehabilitation centres, it would be so economic and resourceful to use our graduates, especially from our undergraduate programmes in criminology and psychology. These students, after three to five years, would have gained a wealth of knowledge and then they spend three, sometimes more months in training—just during their practicum. If we can somehow integrate the academic programme in the universities with the needs of our country and the policies of our Government, then we can find a solution that ends up being standardized. So the rehabilitation process, from end to end, is one that we can track, that we can monitor, that we can evaluate, and so that the end result then would be one that is more positive.

I deal with students daily and when they graduate university, they are so excited to get into the field and show and contribute to their country, but when they cannot find employment, it can be a very disheartening process. So I suggest, you know, maybe when these laws are made, that the academics, the universities, are

informed as to where the needs are, so that we can then inform the students and change our programmes to specifically guide and train our graduates, so that upon their graduation, they can find work and make a contribution that is significant. I thank you. [*Desk thumping*]

Madam President: Hon. Senators, permit me to congratulate Sen. Phillips on her maiden contribution. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you very much, Madam President. Madam President, may I thank all hon. Senators for very, very useful and constructive contributions, and I genuinely mean that, of all persons into this Chamber as they came. Our debate has taken us into many places. We have entered into the realm of the esoteric, the philosophical and then the granular, and I dare say that all of those perspectives have been welcomed and I think are important, because law is never constructed or intended to exist in a vacuum. In fact, our Interpretation Act says that it must always continue to speak. Having vibrant law is quite critical for the benefit of the people of Trinidad and Tobago. After all, we make laws for good governance.

Sen. Hosein made a rather interesting submission. He said that the piecemeal approach to the development of law is never to be preferred and he said instead that we ought to go to the root-cause analysis and address those things. But dare I say that I hold an entirely different point of view and I want to say that the view that is held is based upon success. We have spent many a year developing laws in this country and we have taken the approach where we have to have perfect law. We go for that perfect Bill, that structured analysis which takes us sometimes up to 20, 25 years. Sen. Mahabir, who has said that he has given us his swansong in the Senate, having spent eight years in this Parliament, was witness to an

attempt to create the Motor Vehicle Authority, and instead we took a slivered approach of constructing amendments to the laws in relation to motor vehicle and road traffic matters. But in relation to this Bill, we are amending 12 Acts, one general reference to law—that is all written laws—and so we cover 13 general areas of law, but this is the second round of development of the law that we are achieving.

The first round came in Act No. 6 of 2016, which was the Family and Children Division Act and in that Act, we amended 19 laws. So we did 19 passes, we have done 13 passes on this Bill here now, but that came as well with the entire suite of development that we did in the criminal justice system, and that came as well with the entire suite of development that we did in the Ministry of Works and Transport, and that came with the entire suite of development that we did in the children's package. Because we brought to life, the Child Rehabilitation Centre Regulations, the Children's Home Regulations and the Order issued under the hand of the Minister of National Security. And that came along with the improvements in the TTPS where we created a Child Protection Unit comprised of 169 policemen and women, and that came along with UN protocols and that came along with tracking matters at the charge room, anonymizing them, making sure that we could protect our children from the minute matters are logged into the system. So it is true, this is not simple law.

But every Member of this Senate who has had the privilege in the last three years of participating in debate, I want to ask you all, genuinely, to download from the Judiciary's website, the Annual Report of the Judiciary of 2017/2018 entitled "Improving Court Services". It was issued last night. When we traverse that, and in answer to submissions made by my learned colleagues, it will show:

“Reforming Processes Towards Court Excellence

Case and Trial Management Reform

Initiatives to Address the Criminal Backlog

Improvements in Court Reporting...

Process Reform and Reengineering Through E-Strategies”

And listen to what has come to life:

“Criminal Procedure Rules (2016) and its Implementation”

Criminal backlog, analysis and positioning;

“Improvements in Court Reporting: Digital Voice Transcription

Drug Treatment Court

Modernization of the Petty Civil Court and Related Systems...a Small

Claims Court,

Development and Operationalisation of a New Court Case Management

System, Branded as TT.jim

Transforming the Traffic Courts through a Collaborative Caseflow

Initiative

Re-engineering Probate: The E-Registry

CourtPay: Making Payments Into and Out of Court Easier

CourtMail: Improving Communications...

Strengthening Internal Organisational Management”

Inside of this, Madam President, we have a complete analysis of the successful implementation of the vast majority of what we have done.

And when we go to page 28, Madam President, of this particular report, I want to point out that the traffic division, which is an element of the Criminal Division, is going to remove approximately 65,000 to 75,000 matters per year in

the Magistracy, out of 143,000 to 150,000 cases per year. More than half, approximately 62 per cent of the caseload in the Magistracy, will move into violations. And in doing the strengthened understanding of systemic case flow, the Judiciary had this to say—and I want to put it in answer to some of the arguments as to why we should do this.

Criminal matters have—and the Judiciary has introduced a new column called, the Probability of disposing of a matter under one year”. Listen to this one. We have disaggregated Civil, Non-contentious Probate, Family and Criminal matters. This is the chance as we have now captured the data to have your matter concluded inside of one year. Listen to this. Family, Non-Contentious Probate, with the introduction of e-filing, e-searching, we now have a 92 per cent chance that your non-contentious probate would be done inside of one year.

Civil, we have a 63 per cent chance of your civil matters being concluded inside of one year. And listen to this one. Criminal matters, there is an 11 per cent chance of your matter being concluded inside of one year. Now, what does that mean? In the civil arena, we have a larger population of judges built on the operation since 2005 of the introduction of the Civil Proceedings Rules, case management structures, computerized environment, use of a judicial support officer, use of judicial research assistants. In the criminal arena, we did not have any of that. It was with the introduction of the Criminal Procedure Rules, the introduction of a greater complement of staff inside of the respective divisions that we began to de-bottleneck these courts.

But, Madam President, the reason for clause 3 of this Bill, the reason for the request of greater number of judges which has occupied the greatest majority of time in this Senate—because that seems to be the one that causes everybody deep

concern—the simple reason is that with the creation of the Family and Children Division and with the move in criminal Masters and judges in the Criminal Division upward, we need more judges. And the data and statistics set out in the annual report of the Judiciary demonstrate that if you want to keep everything the same, if you want an 11 per cent chance of having your matter done inside of one year, if you want to maintain a 40 per cent disposition rate of new matters filing every year—so every year, you take 60 per cent of what you have and you throw it in backlog, every single year. If you want to maintain the law and order and democracy in this country that way, “doh appoint any more judges”. Accept the advice of the Opposition. Rely upon Sen. Mark’s exhortation to come and talk to us in the Opposition, “We will consult with you on the amendments to the Constitution”, the hon. Senator says. But dare I say, the evidence demonstrated by the Opposition does not warm me that that will in fact be successful. We are still waiting on the CCJ to become the final Court of Appeal and we have so many others.

So the point is, Sen. Chote put it this way. The hon. Senator said something which caused me some concern but I think she was not addressing it to me that perhaps you said that you were talking to “deaf ears”. My ears are not deaf, hon. Senator, and I know that you were perhaps talking to society itself saying that, maybe people are frustrated and the focus was on the esoteric and philosophical, which I think is very, very important, but I am now balancing it with the other bit: the practicality. That is why I started with the numbers. That is why I started with disposition rates. That is why I am telling you about the 11 per cent chance versus the 93 per cent chance in other areas in the Judiciary. So let us deal with this allegation, this submission, this necessary focus upon the philosophical side:

Should we allow more judges under the current system and should those judges come from the Commonwealth? That is it stripped down as bare bones as you can get.

Mr.—Madam President, forgive me, I sometimes forget which House I am in, having the obligation to sit in both so frequently. Let us start with the supreme law of the Republic of Trinidad and Tobago, the Constitution. Section 2 of the Constitution says the supreme law is the Constitution. Number one—What does the Constitution say?—the Constitution says in relation to the Judiciary that we should have a Judiciary. It also prescribes the need for a Judicial and Legal Service Commission. Chapter 7 of the Constitution, the Judicature, Part I, the Supreme Court, sections 99, 100; Court of Appeal in sections 101, 102, 103; 104, Appointment of Judges. We go into the Appointment of Judges and 105 very specifically says this:

“A person shall not be appointed as a Judge or to act as a Judge unless he has such qualifications for appointment as may be prescribed.”

What does that mean? Another law, regulations are going to tell you how you are going to appoint judges.

Let us go to the other articulating law. The other articulating law is the Supreme Court of Judicature Act. This is an Act of Parliament, No. 12 of 1962. In other words then, of our institution as an independent republic, as an independent country. Let us look to this. The relevant sections which we are asking to be amended are sections 5 and 6 where we move up from 49 judges to 64; that is in the High Court. Section 6 says we move from 12 to 15 in the Court of Appeal but listen to this. Section 7:

“A person shall not be appointed to be a Judge of the High Court unless he

is...”

Firstly:

“a member of the Bar of England...”

That is the one category.

“or is an Attorney-at-law within the meaning of the Legal Profession Act and is of not less than ten years standing.”

So there are two categories in the existing law. Either you are a member of the Bar of England—and I will explain that in a second—or you are an attorney-at-law in Trinidad and Tobago within the meaning of our Legal Profession Act. The existing law says that you can be a member of the Bar of England. Now, what does that mean?

Sen. Prescott accepted what I said and retreated from his argument and apologized for misunderstanding it on the last day, but I pointed out to Sen. Prescott a very important thing. Because Sen. Prescott went to section 14 of the Constitution and pretty much said, let us not appoint people from the Commonwealth and when the hon. Senator referenced the Constitution and when he went to section 14 of the Constitution, the hon. Senator was saying this—forgive me, it is not section 14, it is section 18—he read subsection (3). He said countries in reference to the Commonwealth are:

“...Australia...Bahamas, Bangladesh, Barbados, Botswana, Canada, Cyprus, Fiji, ...Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Lesotho, Malawi, Malaysia, Malta, Mauritius, Nauru, New Zealand, Nigeria, Sierra Leone, Singapore, Sri Lanka, Swaziland, Tanzania, Tonga, Uganda, United Kingdom and Colonies, Western Samoa and Zambia.”

And he went through a list of why all of those countries could not apply. He said

Barbados, not Barbados; he said Zambia and then he focused upon these things, and then when I pointed out to Sen. Prescott that the Bar of England meant that anybody from any country anywhere in the world who had spent their entire life in Zambia, their entire life in Lesotho, who managed to get a qualification at the Bar of England, were qualified, he said “Oh, I understand the difference”. Because we are not talking about people that come from other countries, it is the Bar of England and anybody could go to law school in England if they enter and do the Bar examinations, if they pass and be qualified at the Bar of England.

Sen. Chote SC: May I ask a question?

Hon. F. Al-Rawi: Yes, please.

Sen. Chote SC: I appreciate that what you are doing is looking at the section but is it not also the case that you can practise at the Bar only if you go through the Council of Legal Education’s law schools or you are given a certificate by the Attorney General in the jurisdiction to practise? So you might be qualified but whether you can practise is another issue.

Hon. F. Al-Rawi: Sure. No, the answer is no because we are not talking about practise at the Bar, we are talking about qualification to be a judge. There is no requirement in the existing law that you need to be able to practise law in Trinidad and Tobago. And in fact, judges do not have to gain admission to the Bar because they are not practising at the Bar, they are practising in front of the Bar on the bench. So there is a material distinction—yes. We are not talking about a practice at the Bar. A judge can come into our jurisdiction by qualification in two things. One, you are qualified at the Bar of England, meaning that you can be anywhere in the world and qualified at the Bar of England. And two, you come as an attorney-at-law under our Legal Profession Act with minimum 10 years’ experience. That

is what this says. So the slingshotting was always the position. The junior lawyers who would be guilty of a miscarriage of justice, a gross inequity, as Sen. Chote put it, always had the same position because you can incorporate anybody to come.

Now, Sen. Chote referenced the speeches on our 50th anniversary of independence and in that speech, the point-out was that in 1962, all of our people at the bench were locals but they were all called to the Bar of England, more importantly. And the fact is that this position of the Bar is important.

Now, let us go to the other prescription. The other prescription which I mentioned a second ago is section 105 of the Constitution; 105 of the Constitution says you cannot be a judge unless you meet the criteria prescribed. Do we have criteria prescribed in Trinidad and Tobago? Yes, we do. That criteria were prescribed and gazetted in Vol. 39 at No. 68, and this is in the year 2000, and specifically on April 13th in the year 2000, “Appointments to the Office of Judge of the Supreme Court” was gazetted.

7.15 p.m.

And here is what it says:

“The Judicial and Legal Service Commission wishes to advise that the matters hereunder constitute its general policies and procedures relating to the above.

Puisne Judges—Qualification for Appointment

Puisne Judges are appointed by the President acting in accordance with the advice of the Judicial and Legal Service Commission. They are selected from suitably qualified persons who have been admitted to practice as Attorneys-at-law in Trinidad and Tobago, or called to the Bar of England”—note the distinction there as I just said—“and are not of less than ten years

standing.

“Nature of the Post

Appointment...”

And here is what you must have:

<i>Professional competence</i>	<i>Integrity</i>	<i>Temperament</i>	<i>Experience</i>
Legal knowledge and training	Honesty Fairness	Courtesy Humility Emotional Balance	Length and nature of law practice Length and nature of exposure to court practice and procedure
Intellectual and analytical ability	Ethical standards Independence	Decisiveness	
Mature and objective judgment Communication skills Organisational skills	Commitment to Public Service	Authority Social awareness Receptivity to ideas	Understanding of people and society Public and community service Previous service in a judicial or quasi-judicial capacity
Interest in developing the law		Ability to listen Reliability	Specialization Publications (if any)

Section 105 of the Constitution, by prescriptions, gazetted 18 years ago, telling us what the prescriptive elements are have now satisfied the fact that we can treat with anybody admitted to the Bar who is not admitted to the Bar of Trinidad and Tobago, anybody admitted to the Bar of England.

Let us go further. The argument put out to us, and it is an important one, and I accept the philosophical underpinnings that must be examined as Sen. Chote has invited us to look at them and every other Senator has. Madam President, what time do I end, precisely?

Madam President: You end at nineteen minutes to eight.

Hon. F. Al-Rawi: Thank you. So let us deal with the Commonwealth character. I wholeheartedly agree with the submissions made by Sen. Creese. And I do so on the basis of the existing law, the existing practice. The Judicial and Legal Service Commission have been with us since the Independence Constitution. That is point one.

In the submissions made, we had the submission about the Commonwealth and the fact that we should not be looking at people from the Commonwealth. Sen. Roach reflected upon Commonwealth practice elsewhere. Sen. Simonette reflected upon Commonwealth practice. There was the question asked about reciprocity. Sen. Mahabir, you raised the question of reciprocity. So let us deal with the Commonwealth. So No. 1, let us go back to the Constitution in this concept of Commonwealth.

What does the Constitution of the Republic of Trinidad and Tobago, the supreme law, say? Section 109 of the Constitution says that the right of appeal to the final Court of Appeal in Trinidad and Tobago is the Privy Council. The Privy Council is the final Court of Appeal in Trinidad and Tobago. Who sits on the

Privy Council? The entire Commonwealth sits, in terms of eligibility, on the Privy Council. So our highest Court of Appeal is populated with persons who can come from the Commonwealth. So let us start with our constitutional final Court of Appeal.

But let us go further. Let us go to the CCJ. Because Sen. Prescott raised it. Sen. Prescott raised the eligibility requirements. I have just reflected upon the fact that we have eligibility requirements so gazetted 18 years ago, as I have just read out into the record.

But let us go further. Who sits in the CCJ? President of the CCJ is from St. Vincent. We have a Trinidadian, someone from England, someone from Jamaica, someone from Belize and someone from the Netherlands. And specifically, let us go to some of the jurisdictions that I pulled up. Because we received a letter under the hand of the President of the Law Association, my dear friend, I say openly, but now I am going to address what he has recommended to us. The hon. President of the Law Association said that we should treat with the capacity of the Judicial and Legal Service Commission, we should amend those things, et cetera, and ask that we do not broaden, in the strictest and most wide sense, the move to Commonwealth lawyers.

The hon. President of the Law Association, as a matter of fact, sits as a judge of the Court of Appeal of Belize; he himself. In Belize the qualification is: Justice of a Supreme Court, a minimum of five years standing as an attorney-at-law. The qualification for appointment as a Justice of the Court of Appeal is 15 years standing, attorney-at-law holding office as a judge of a court of unlimited jurisdiction in civil and criminal law matters. In Belize, one person in the Court of Appeal out of four comes from Belize. The other three are Commonwealth

lawyers. So that is Belize.

Eastern Caribbean Supreme Court comprising the following courts—six independent courts: Antigua and Barbuda, Commonwealth of Dominica, Grenada, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines and the three British overseas territories, that is Anguilla, British Virgin Islands and Montserrat. Who sits there? To be a judge or master of the Eastern Supreme Court, a person must have served as a judge in the Commonwealth jurisdiction or be qualified to act as a lawyer in a Commonwealth jurisdiction. So that is right here in the Commonwealth. We are talking about reciprocity. We are talking about Commonwealth Caribbean.

Let us go further. Bahamas, Chapter 53 of the Supreme Court of the Bahamas:

“A person shall be qualified to be a judge of the Court—

- (a) If such person is a counsel and attorney who is a member of the Bar of the Bahamas and has practiced...” for “ten years;”

Et cetera. Hear this one:

“...counsel who is a member of the Bar of a Commonwealth country...”

That is The Bahamas.

Let us look at the Legal Profession Act of Trinidad and Tobago. Because we are saying, if we want to err that the person must be admitted to the Bar of Trinidad and Tobago, which is not the case, judges who are elected from outside of Trinidad and Tobago need only have the qualification of being called to the Bar of England and Wales. That is it.

Section 15 of the Legal Profession Act says this:

“(1) Subject to this Act a person who makes application to the High Court

and satisfies the Court that he—

- (a) is a Commonwealth citizen or a CARICOM national;
- (b) has good character;” —prescribed qualifications, et cetera,
he may be admitted.

So commonwealthers can come through the Legal Profession Act.

Let us deal with the Caribbean Court of Justice. The Caribbean Court of Justice, I gave you the nationalities of people sitting there. Listen to this. Section 10 of the Agreement Establishing the Caribbean Court of Justice:

“A person shall not be qualified to be appointed to hold or to act in the office of Judge of the Court, unless that person satisfies the criteria mentioned in paragraph 11 and—”

Listen to this one. Basically, a person from

- “(a) ...a Contracting Party or in some part of the Commonwealth.
- (b) is or has been engaged in practice...”et cetera... “in a Member State...” et cetera...or is “a Member State...in some part of the Commonwealth...”

So hon. Senators where are we going with this argument? Our Constitution permits people to slingshot, dance, enter, manoeuvre, regardless of citizenship, coming in via called to the Bar in England, sit on our courts, have the capacity to do so since 1962, certainly.

CCJ has a model. I have just identified the criterion in keeping with section 105 of the Constitution, our Legal Profession Act; Commonwealth person to be found. All of the nine territories I just mentioned in the Eastern Caribbean, all have Commonwealth. The Bahamas has the Commonwealth. The Treaty that established the Caribbean Court of Justice has the Commonwealth, and even goes

further. It has civil law jurisdictions. So, Madam President, let me just say this. Esoteric, philosophical, understood. Facts, Commonwealth is permitted. Reciprocity in other jurisdictions, yes.

Now, is it true that we need more judges? Has that not been the case in terms of argument for umpteen years? Look, the Government has addressed systemic issues, de-bottlenecking, divisions of court, creation of new court, rules of court, all of these things, [*Desk thumping*], the creation of a public defender system, which will be up very shortly, the addition of rules of court.

But where are we going with an 11 per cent disposition in one year in the criminal jurisdiction if we do not have more judges? And you know what? To someone who is a rape victim or a family member, traipsing up and down for 11 and 12 years in court to face an accuser because you do not have a judge ready because your indictments cannot be dealt with.

Madam President, I would like to read something. I received a letter as Attorney General. I get them all the time. It is a green piece of paper. It is written from the prisons. And this person from the prisons is writing to me as Attorney General and saying:

My name is X. I was born at so and so. I was charged for committing a sexual offence upon my step-daughter, taken to the Arima Court. I am desirous of pleading guilty for this offence for which I am charged. I have no intention of wasting the court's time and I am very anxious to get the matter dealt with as soon as possible.

Here is a man, in his own handwriting, writing to me as Attorney General telling me: "I accept the charge of guilt for raping my step-daughter. I want to plead guilty." And he cannot get before a judge because the judicial docket is so blocked

that we cannot get somebody into the court for this to happen. [*Interruption*]
Shhhhhh. Do you have something to say Sen. Ameen?

Sen. Ameen: Madam President, I just want to ask the Attorney General, I thought he was going into addressing the shortage, the issue with the courtrooms, the fact that courtrooms are closed down, and so on.

Hon. F. Al Rawi: Sure. Thank you. That is a very important point. Thank you, Sen. Ameen. Yes, under our laws, any court can be appointed anywhere, any time. Is there a precedent for that? Yes. Who recalls Dole Chadee? Where was that court? We did not build a new court. We went to Chaguaramas. We took the hangar and we had a court.

This summer, the court vacation, the long vacation, 156 inmates went before a specialist court which was comprised by the Chief Justice, and had their maximum sentence indications done. Why? Because we did the analysis in the prison system. We got the rooting up of the court. We managed to clean up the lists. We went into the Judiciary backlog statistics. We said: “Your statistics have got to be wrong. Maybe you have misfiled. Maybe you have done things.” But Madam President, the law is beginning to churn right now in a way that has never happened before. [*Desk thumping*].

And I would like to say, as this letter from this prisoner—and there are many of them you know, people that have said: “I committed murder. I want to be sentenced”; people who say: “I have raped my child. I want to be sentenced.” These are real examples, Madam President, of why our system requires more judges.

Now, is it true that the Judicial and Legal Service Commission could do with an amendment? Yes. Do we have the time right now to do that? That will require

more than a three-fifths majority, possibly, depending upon how we look at it. It is constitutionally entrenched. Do we have the luxury to wait on this system? Dare I say the Government's position on this is that we need to press on, and we are pressing on, not in a cavalier fashion, but on the basis that we are relying upon the existing law that has prevailed since 1962.

Now, Sen. Mark read a newspaper article concerning Justice Frank Seepersad, who again, I went to law school with, I have a lot of like for. I know Justice Seepersad well. But let me just make a very simple point. *[Interruption]*

Madam President: Attorney General, Sen. Mark made a reference to an article involving—*[Interruption]*

Hon. F. Al Rawi: You wish me to move on? I will.

Madam President: I do.

Hon. F. Al Rawi: Thank you.

Madam President: Because I do not want you to talk about judges.

Hon. F. Al Rawi: Yes. Thank you, Madam President. I thought you had allowed him. But if you asked him to move on and he did, I will happily leave the point alone.

I will put it this way. Criticisms coming from within certain quarters are criticisms coming from people appointed by the same system. In other words then, the democracy of these people appointed is preserved. The very people that complain and that have gone public in the fashion that they have, were appointed by the same system that they are pouring scorn on now—*[Desk thumping]*—without indictment and without ridicule. In other words then, our democracy is live and well, and that is the point I will make Madam President. Thank you for your guidance and caution.

Madam President, that was the core argument of 90 per cent of the several days that we have spent on this Bill. Everybody spoke on that. It falls down to philosophical and esoteric, which is genuinely important, and I thank Sen. Chote for reminding us of that, together with the practical.

The number one issue in our country, as Sen. Ramdeen was reflecting upon, is crime. The consequence is not met quickly enough. We know of the backlogs and statistics. I have come to this Senate on umpteen occasions over three years to read them out chapter and verse. We have been participants in the advocacy and in the theory that let us just start. We have done that, and when you read, hon. Senators, the Judiciary's annual report, you will pat yourselves on the back and say: "I am grateful, that I, Senator as I stood, was part of history in making the system wake up", because it has.

Let us deal with a few of the other points. I do propose to circulate amendments to hon. Senators. They would have been circulated already. I have circulated a list which has a rationale for the amendments as well. I have also circulated a marked-up version of the Bill. And coming out of Sen. Ramdeen pointing out to me, and Sen. Ramkissoon as well, that some of the laws are not fully up-to-date on the online version, I will circulate some of the consolidated remodeled versions of the laws that we are now choosing to remodel, in particular that which was called the Young Offenders Detention Act (YODA), and now coming to Child Rehabilitation Centre. So that will allow Senators to see the amendments in context.

In the 12 specific Acts that we are amending, the Interpretation Act is easy. We have dealt with judicial appointment. With the Summary Courts Act, Sen. Ramkissoon asked a very important question about the difference between "child"

and “young person” and “older person”, effectively, as we have sought to amend the definition. I want to say Sen. Ramkissoon, we are preserving the existing law. All that we did is to harmonize “child” to mean a person under 18. It falls into consideration under section 99 and section 63A of the Summary Courts Act, when they are called upon to receive an indication of where they stand, how they may plead, or how it may dealt, or who supervises, or who does not deal with it. But we are preserving the existing law.

The one that was important really came up in the context of, and I am just looking for that particular amendment, Madam President, we came to the amendments in the Child Rehabilitation Centre Act, as an important one because the question about the capacity of the Commissioner of Prisons operating arose in several contributions. And permit me to just explain that. The Child Rehabilitation Centre Act is Chap. 13:05. We renamed that in 2016 when we moved away from “youth offender” to “child rehabilitation” instead.

Hon. Senators, were asking the question, or raising the caution—Sen. Richards raised it, a couple Senators raised it well, about the Commissioner of Prisons involvement. Let me explain why the Commissioner of Prisons is there. This Child Rehabilitation Centre Act is to provide for the detention of child offenders and children charged with criminal offences. This is, if you want to put it in simple terms, child jail.

Any incarceration facility that we are treating with must be under the hand of the Commissioner of Prisons, because it is a detention center within the prison’s concept. What we are doing here, very importantly, in section 2A, is we are adding in that:

A rehabilitation centre shall be under the management and control of the

Commissioner of Prisons, subject to—listen to that—the Children’s Authority Act and the Children’s Community Residences, Foster Care and Nurseries Act.

In other words, for the first time, we are making sure that the Commissioner of Prisons must act with the Children’s Authority and must act with the rules and regulations that have been pronounced.

And on behalf of defenseless people in this country, I want to address the Children’s Authority for a second. I have had the privilege of working with the Children’s Authority, its Chairman, its board members, for the entire time that I have been in the position that I currently hold, both with Stephanie Daly SC, as she was the last chair, and with Hanif Benjamin. And I want to tell you, Madam President, this country owes a debt of gratitude to people like Mr. Hanif Benjamin—[*Desk thumping*]*—*who stepped out of their way, who worked day and night on all of the positions that they do. And I take umbrage to Sen. Mark having made reflections as he did, because I certainly do not share them, and I think that they are definitely not grounded at all, and I will just stop there. Madam President, that is the position of the child offender and the Commissioner of Prisons.

Some of our hon. Senators also raised issues which fall for consideration under the remaining pieces of law as they arise, in particular, clauses 10, 11, 12, 13. And when we treat with those particular clauses, I will just remind that what we are doing is to harmonize the law in keeping with the amendments that we have made, up to recently with the Children Regulations, both for children community centres, child rehabilitation centres, and children’s homes, and also the regulations under the Children Rehabilitation Centres Act. [*Interruption*] I have five minutes. Thank you.

Madam President: Attorney General, you have five more minutes.

Hon. F. Al Rawi: I have five minutes? Thank you. Madam President, let us deal with the need for proposed amendments. I do propose that the Long Title be amended, largely because we in fact do not amend the Indictable Offences (Preliminary Enquiry) Act. That was an inadvertent inclusion. We are really amending the family law Act instead. So I regret that insertion.

We proposed that the Child Rehabilitation Centre Act be amended specifically to harmonize it with the Children's Community Residences (Rehabilitation Centres) Regulations, 2018, and we are proposing specifically that we deal with the prohibited punishment and restraint issues which are set out in the circulated amendments that I have asked to now sit on your respective desks.

We had proposed that clause 8(l) be amended in section 12D, again with marginal note. This is to harmonize the fact that we had omitted to put the person with control or responsibility for the child.

Similarly in clause 9, we are just tightening up the drafting there. We propose, in keeping with an undertaking that I gave in the CourtPay Bill, that we introduce the definition of "a Collecting Officer". I gave that undertaking on the last Bill that we piloted, and we propose that we now define "a Collecting Officer" in the context of the family law Act and the Attachment of Earnings (Maintenance) Act.

Madam President, we also propose to harmonize in clause 10(a)(i) the definition of "appropriate adult". In the Children Community Residences, Foster Care and Nurseries Act, in clause 11 onward, we are proposing that we bring these in tandem with legislation that we have done recently. So we had the opportunity to tighten this up because between laying these in the House, as it came up, we then

went through the two regulations as the Senate will remember. We did the publication of the other regulations under the hand of the Minister of National Security and, therefore, the law has marched on since then. Similarly for 11(ca), 11(e), 11(f), 11(g), 11(h), we are harmonizing again with the amendments that we have made as a Senate coming forward.

Very importantly, in the family law Act, clause 12(a), we are proposing to put in what we passed in the CourtPay Bill, which was approved by the House of Representatives yesterday, and that is Custodial Trust Bank Account, Financial Intermediary, Magistracy Registrar, and Clerk of the Court. We are also next proposing that we treat with further amendments in clause 12(b)(iii), where we again dealt with the CourtPay system.

We are very importantly proposing a further tightening up of the Family and Children Division Act in how we deal with the anonymizing of records. We felt that the anonymizing of records to protect the identity of children and the individuals in the court process was a critically important issue and we have taken the opportunity to trawl over that some more and to come up with some tighter and better definitions.

That in the round, Madam President, is the crux of this legislation. Dare I say it is critically important? May I urge hon. Senators, as I have in sittings prior, to commit to the reform of the law as best as we can. I reject Sen. Hosein's recommendation that we ought not to carve up the law into small pieces and move it forward. Sometimes that is the best way to do it. We have been achieving result. The large Bills, the perfect product, they go nowhere quickly, as we saw with preliminary enquiries, as we saw with Motor Vehicle Authority, as we are wrestling through with our reform in the financial system. This is the approach

that is making a difference. Do not rely upon my word, read “Improving Court Services”, publication of the Judiciary, its annual report 2017/2018, and I beg to move. [*Desk thumping*] *Question put and agreed to.*

Bill accordingly read a second time.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, I now beg to move that this Senate do now adjourn to Friday, 21st September, 2018 at 1.30 p.m. During that Sitting we will complete the Committee Stage of this Bill and carry it through its final stages.

Madam President: Hon. Senators, before I put the question on the Adjournment, leave has been granted for two matters to be raised on the Motion for the Adjournment of the Senate.

Ministry of Education

(Non-Reopening of Schools)

Sen. Saddam Hosein: Thank you very much, Madam President. I am sure the Members on the other side would have thought that Sen. Mark would have been the one rising, [*Laughter*] but, Madam President, this Motion is being brought on education. The PNM is a brand of incompetence, mismanagement and corruption in every sector of governance. They have now taken that brand over to the Ministry of Education. And ever since the appointment of the Member for Arima as the Minister of Education—[*Interruption*]

Hon. Al-Rawi: Standing Order 46(4), Madam President. The PNM is a brand of corruption? That is an offence to everybody here. [*Crosstalk*]

Madam President: Sen. Hosein, it is your matter. I would ask you though, as

you present it, to be aware of the Standing Orders. Okay?

Sen. S. Hosein: And ever since the appointment of the Member for Arima as the Minister of Education, the education sector has been in shambles. [*Desk thumping*]It is a habitual failure on the part of the Ministry of Education to have schools closed at the opening of the new school year. It shows that after three years in governance, the Minister has failed to have all schools opened at the beginning of the school year. It seems that this is not a priority of the Government to properly educate our young children. The school is the institution in which our young people have to be educated, which should be provided for, guarded and protected by the Government. But this Government has not done so. And, Madam President, Dr. Eric Williams is rolling in his graves that this current reincarnation of the PNM—[*Interruption*]

Hon. Senators: His graves?

Sen. S. Hosein:—has deviated from his doctrine that the future of the nation is in the school bags of the children. What this PNM Government has done is continue to close schools. It is a crying shame that over 27 schools were closed when the school year resumed earlier this month on the 3rd of September, 2018.

Madam President, I am going to quote from a media release by TUTTA dated 3rd of September, 2018.

Santa Maria RC Primary, structural integrity of the building compromised by earthquake.

Madam President, I am constantly being disturbed by the Minister of Trade.

Sen. Mark: I “doh” know what is wrong with “dis” lady.

7.45p.m.

Madam President: Sen. Hosein, continue please.

Ministry of Education (Non-Reopening
of Schools
Sen. Hosein (cont'd)

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Sen. S. Hosein: Nipal Presbyterian Primary, Guayaguayare RC Primary, Barrackpore East Secondary, Barrackpore West Secondary, La Romaine Secondary, St. Paul's AC Primary, Marabella Boys' AC Primary, Marabella Girls' AC Primary, Debe Hindu Primary, Preysal Government Primary, Aranguez North Secondary, Diego Martin Girls' RC Primary, Point Cumana Government Primary, Diego Martin North Secondary, Our Lady of Laventille RC Primary, St. Phillip's Government Primary, Mucurapo East Secondary, Matelot Community College, Mt. D'or Government Primary, Curepe AC Primary, St. Benedict's College, Dayanand Memorial Vedic, Forestry Reserve AC Primary, San Fernando Girls' AC Primary. That is TTUTA's list.

It has been brought to my attention that also San Juan North Secondary and the Milton Presbyterian Primary School are also closed, Madam President.

Sen. Obika: What about the one the MP's office.

Sen. S. Hosein: Madam President, they have failed to educate our children. This PNM Government is jeopardizing the future of our nation's children due to incompetence in having these schools fully functional. [*Desk thumping*]

Sen. Obika: "What going on in the MP's Office?"

Sen. S. Hosein: There are hundreds of students who are home and not able to access an education due to these schools being closed. And this falls directly to the feet of this Government. Madam President, the Minister has no excuse for the closure of these schools as his Ministry has received the largest chunk of the national budget, \$7.29 billion. The Minister has the resources but this Government lacks the willpower. [*Desk thumping*]

What this Government needs and this Ministry needs, Madam President, is

vibrancy, exuberance and energy. And while I appreciate that some of these schools have been closed as a result of the earthquake I now wonder if or when an inspection was done on these schools or any at all to determine whether or not they are structurally sound. And, Madam President, I even understand that some parents are not sending their children to these schools because no assessment has been done with respect to the structure.

And, Madam President, I also saw an article in the *Guardian* and the Minister in the Ministry of Education indicated that the Forest Reserve Anglican School, which has about a hundred pupils, they were in the process of housing them elsewhere. Then the Santa Maria RC School will temporarily be moved to the constituency office of the Minister in the Ministry of Education. Madam President, this is inadequate and unsuitable for any school to be housed in a parliamentary office. [*Desk thumping*] I do not know if the Parliament of the Republic of Trinidad and Tobago is aware of this situation.

And according to a *Guardian* article dated the 15th of September written by Shaliza Hassanali: “Minister: 27 Schools still closed”. That is the name of the article. It stated in that article and I quote:

“Garcia is yet to take a note to Cabinet for repair works to be done on the schools.”

Madam President, this demonstrates an overall lack of caring by the Government towards the educational needs of our citizens through its continued failure after three years. I plead with the Minister of Education, if there are any schools that are still closed, please reopen these schools so that these children can be properly educated there are the SEA exams, the SBAs that they have to do and the up-coming CXC exams.

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And, Madam President, if I was a teacher and I had to grade the performance of this Minister I would give him an F and send him home.

Sen. Obika: Oh gosh.

Sen. S. Hosein: Thank you, Madam President. [*Desk thumping*]

The Minister of Education (Hon. Anthony Garcia): [*Desk thumping*] Thank you very much, Madam President. I smile as I stand to respond to the goodly Senator. Because his last words were “if I was a teacher”. He could never be a teacher, using such bad language. [*Desk thumping and laughter*]

Sen. Ameen: Talk about the schools “nah man”.

Hon. A. Garcia: If I was a teacher. Sad. Madam President, it is really disconcerting to hear Sen. Hosein spew inaccuracies, falsehoods and quote from newspaper articles that did not carry the correct information.

Sen. Obika: Everything is fake news.

Hon. A. Garcia: Sen. Hosein quoted an article from the *Guardian* on Saturday which stated: “27 schools still closed”. Sen. Hosein did not take the time to read the entire article because if he had read the entire article he would have seen where I reported that five schools have remained closed, not 27. [*Desk thumping and crosstalk*]

Madam President, Sen. Hosein, again in his efforts to spread inaccuracies said that he does not know whether an inspection or an assessment was done. Madam President, the whole country knows that the Chief Design Officer, accompanied by other senior officials from the Ministry of Works and Transport and the Ministry of Education and the EFCL visited in excess of 66 schools. This was done and I can name the Chief Design Officer of the Ministry of Works, Mr. Febeck and he conducted a survey of 66 schools that were affected by the

earthquake. Of those, 13 schools were deemed to have suffered some type of damage and of which five were serious. Madam President, I am happy to know today that the five schools that suffered serious damage, the students who occupied those five schools previously have all been safely housed in other schools or other locations. And let me name them for the information of the Sen. Hosein, so that he can know what is what is truth and what is fact.

The Forest Reserve Anglican School—I just want to make sure that my information is correct. The Standard 5 students are accommodated at the Siparia Road Presbyterian School, and there is an effort to relocate the others at the community centre and at a Petrotrin bungalow. The Santa Maria RC School, arrangements are being made to house the children at the Office of the Member of Parliament. Now, Sen. Hosein said with scorn that he never heard of a school being housed in an MP Office. I think we should congratulate the MP for Moruga for his efforts at ensuring that our children receive an education. [*Desk thumping*] That is the important thing, Madam President, because in some countries—

Sen. Obika: That is a disrespect.

Hon. A. Garcia:—children do not have the luxury of being educated not even in a building. In some countries children have to educate under trees. [*Crosstalk*] The fact that the—

Sen. Obika: Under trees? You should be ashamed.

Madam President: Sen. Obika, you have a choice. You either listen in silence or you will leave the Chamber. Okay? And for all other Members, let us listen to the Minister in silence, please. Continue Minister.

Hon. A. Garcia: Thank you very much, Madam President. The Curepe Anglican School, Standards 4 and 5 are at present at the original school in a safe site.

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Standards 1 to 3 are at the St. Augustine Government Primary School, and the Infant Department, that department is housed at the St. Mary's Anglican Home. Diego Martin Girls' RC School, the Infants and Standards 3 and 4 are housed at a safe portion of the school block. Standards 1 and 2 at the Parish Hall and Standard 5 at the St. Joseph Hall.

Sen. Obika: You should be ashamed.

Hon. A. Garcia: The Guayaguayare RC School—

Madam President: Minister. Sen. Obika, please leave the Chamber at this stage. Please leave the Chamber in silence, Sen. Obika! Continue, Minister of Education.

Hon. A. Garcia: Thank you very much. The Guayaguayare RC School, infants and Standard 1, are now housed at the Open Bible Church Hall. Standards 2, 3 and 4 are housed at the Community Centre, and Standard 5 at the Catholic Church.

Madam President, I used the opportunity to explain that the five schools that were severely affected, every effort has been made to ensure that those children receive an education. The other schools that are in various stages of dislocation, and I can safely say that every effort is being made to ensure that those children receive an education.

Mention was made of the Barrackpore East and West Secondary Schools, Madam President, I have in my possession here a report from OSH which states that there are no structural defects of that school, and therefore those teachers can come to school, and the students can attend school in relative safety. These two schools—this is a document that is dated 18th of September, 2018: “Report on refusal to work: An investigation at the Barrackpore West Secondary School”. I have a copy of this, and therefore those two schools will open tomorrow.

Another mention was made of the Milton Presbyterian School. Again, the

County Medical Officer of Health visited the school and he reported that there are no issues at that school that will affect the opening of the school. There are no sewer issues and there are no health issues. The principal therefore will be directed to open the school from tomorrow.

Madam President, there are a few schools that are still in some stage of worry or bother. The Diego Martin North Secondary School. When school reopened on the 3rd of September, the school was ready to accept its students, however, on examination further, it was found that there were two walls that were insecure. As a result of this, the school was closed, but those two walls, we have appointed a contractor and work is going on, and those walls will be reconstructed, and I have been assured that that school will be opened on Tuesday.

The La Romaine Secondary School is a school that suffered an electrical fire. The contractor was working assiduously, and he has informed us, again, that that school will be ready for opening on Tuesday next week. The San Juan North Secondary School suffered electrical problems—

Madam President: Minister, you have one more minute.

Hon. A. Garcia: Thank you very much, and that school also will be reopened on Tuesday. Of all the schools, we have three schools which will be reopened immediately, and that is, tomorrow, and we have seven schools that will be reopened on Tuesday. In other words, all the schools that were affected by the earthquake and by other circumstances, will be in readiness to accept all our students by next week Tuesday. Thank you very much. [*Desk thumping*]

Petrotrin Refinery
(Details of Shutdown)

Sen. Wade Mark: Thank you very much, Madam President. In this anti-worker,

anti-people and anti-Trinidad and Tobago Government's haste to crush, destroy and break the powerful Oilfield Workers' Trade Union which recently celebrated 81 years of existence in this country, this Government has spared no effort in misleading the country, in pedaling misinformation, half-truths and literal innuendoes and what people would call terminologically inexactitudes.

Madam President, would you believe that the Government has taken a decision to shut down not only the refinery, but the whole of Petrotrin. Some people are predicting that the whole of the south land from which you are from, Madam President, is going to be decimated by this decision.

Madam President, some nine to 10,000 workers are going to be affected directly as a result of this callous and brutal and reckless decision taken by this administration. [*Desk thumping*] Madam President, it is estimated that close to 100,000 citizens are going to be indirectly affected by this move. But you know what is worst, Madam President? I do not believe the Government has thought this thing through properly. Because, Madam President, what is the state of supply of LPG for the consumers of this country?

The Government has made no statement as to what will happen when the Petrotrin refinery shuts down, because they have been supplying LPG to this country at a subsidized price. We do not know if the price will increase. We do not know where the supply will come from, because the Government has not told the country, Madam President, what will happen to LPG supplies in this country. We are in the dark; the people are in the dark.

Madam President, there is a bi-product that is derived from crude oil when it is refined at the refinery. It is called "bitumen". It is an essential ingredient for road paving in our country. Madam President, that is a product that is given free by Petrotrin to Lake Asphalt. What will happen when you sell out our patrimony

to Sinopec and Perenco? [*Desk thumping*] What will happen?

Madam President, what is even more alarming is that the Government has not indicated to this country what will happen when this event takes place in terms of the supply of bitumen to our country to the Ministry of Works and Transport and to other agencies that engage in road construction.

Madam President, we learned today, this evening, that is—I think you would not want me to say that—this heartless and reckless and irresponsible Government has now deployed—and I call on the Ministry to deny this, this evening, that they have deployed the army, and the army has now moved into Petrotrin to secure the assets of Petrotrin. I want the Minister to deny that this evening. We have seen evidence of that where the army is moving into Petrotrin this evening. And this is the callous behaviour of this Government.

This Government is courting revolution. They are playing with fire in this country if you continue along that line. [*Desk thumping*] Madam President, what is even more alarming is this Minister, the hon. Minister of Energy and Energy Industries, gave an undertaking to our Caricom colleagues. He said “Do not worry, when we shut down the refinery everything will be okay”.

Madam President, that is not so. Grenada is in panic. St. Vincent is in panic. Barbados is in panic, and Dominica is in panic. You know why? Because the Minister simply was not telling the truth when he said that everything is going to be all right with our Caricom friends. Madam President, I quote from the newspaper Saturday September 15, 2018, *Newsday* page 20. The headline is “Barbados finds new supplier”, and it reads, Madam President, if you would allow me.

“Barbados has found a new supplier for petrol now that the”—
Trinidad and Tobago—“Government is planning to shut down its oil

refinery.”

It goes on to say that:

“While the Government will try for a cheaper deal, it certainly has no plans to pay more for the refined fuel and there will be enough stocks from the old supplier to last until a new import deal is in place, Abrahams told...”—online news.

This is the Minister of Energy, Wilfred Abrahams.

Madam President, so who are we to believe? On the one-hand the Minister and the hon. Prime Minister says to this country, “Only 1,700 workers are to go home”. Madam President, we come and hear from the Chairman of Petrotrin, Wilfred Espinet, 3,700. We got from hon. Minister Khan in the other place yesterday it is over 4,700. Madam President, we are now hearing from the OWTU it is the whole company going to be shut down and you are talking about over 5,000 workers and another 5,000 belonging to contractors, that is workers, so you are talking about 10,000 workers or there about. And then we are talking about people who are going to be indirectly affected.

Madam President, we are hearing from this Government that they are going to be importing petroleum products. They do not have foreign exchange to buy the oil, Madam President, for the refinery, but they are shutting down the refinery and they are going to find money to import oil. [*Desk thumping*] Madam President, this is something unbelievable. You want to know if you are spinning out of control, Madam President? Is this Government for real? What is this Government doing to our beautiful country? They have wrecked the Tobago economy and they are now trying to wreck the Trinidad economy. What is the objective of the PNM?

So, Madam President, the Minister must get up this evening and tell this country, one: What is the state of play with LPG? What is the state of play with

bitumen? What is state of play with petroleum products to our Caricom market and our partners in Caricom? He must also clear the air on the invasion of the army at Petrotrin as we speak today, and what is the purpose of invading Petrotrin at this time? You must tell the country these things because, Madam President, it is unacceptable, it is indefensible, it is a legacy, it is a dark day in our history and this country—I heard the Prime Minister say that “history will absolve them”. Madam President, will history absolve you for closing down the flagship company of our nation called Petrotrin? I do not believe so, Madam President. I think it is a matter of time before the dustbin of history sweeps this Government completely out of history because, Madam President, we cannot continue to allow a Government to be so insensitive to the needs of the people.

Madam President, I am predicting that if the Government does not reverse that decision and do it quickly, sit down with the OWTU, sit down with—the Government, OWTU and all the major stakeholders and put their heads together and find a solution, Trinidad and Tobago is going to be going through a period of permanent instability for the next few months until they have elections and until the people have chance to kick out the PNM and get rid of them once and for all.

I thank you very much, Madam President. [*Desk thumping*]

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): [*Desk thumping*] Thank you very much, Madam President. Madam President, my only regret tonight is that this was not a full debate so I would have had 40 minutes reply to Sen. Mark.

I have gone on record, the Prime Minister has gone on record, the Board of Petrotrin has gone on record outlining the challenges that this company faces, the serious systemic risk it has posed to the economy. Okay? We have explained in no uncertain terms why we had to take the decision we took. As hard as it is, it is a

reality that this nation has to accept. I say no more on that.

But in taking the decision—granted I am aware, as I said publically, I am aware of some of the grave consequences of this action. But as leaders, sometimes you have to take difficult decisions.

The first thing the UNC is trying to do, is spread panic to the country. Gas prices going up. There will be a shortage of gasoline. They say “we gone back to the days of Muscovado sugar” because you stop a refinery and you exporting crude, even though there is greater value in that thing based on the configuration of the refinery.

But let me deal specifically with the three points that Sen. Mark was making; LPG, bitumen, and fuels to the Caricom market. Madam President, the demand for LPG, which is liquefied petroleum gas, which is propane basically and butane that we cook with. It is 2,400 barrels per day, and it peaks around Christmas time to 2,800 barrels a day. One hundred per cent of that market was supplied by the Petrotrin refinery. But what is not known to this population and I will bring it to their attention today, that there are two other producers of LPG in Trinidad. PPGPL which is Phoenix Park Gas Processing Limited, which produces 6,500 barrels of LPG per-day, and Atlantic LNG which PPGPL markets their product: 6,200 barrels per-day. So, the total local production apart from Petrotrin is 12,700 barrels per day. The local demand is 2,400 barrels a day. It could easily be supplied by PPGPL and the rest is exported largely to Caricom and the Americas. All we have to do now—we are working out the logistic of a seamless transition from Petrotrin providing the LPG to PPGPL providing the LPG. Because the LPG is a function of the refinery process. From crude you take the light end of the gases. But in gas there is also the heavy end of gas, which is called wet gas where you strip the liquids from it and that is the role of the most

profitable downstream company to the State in Point Lisas, PPGPL. So they have a tremendous supply of LPG and they will supply the market. Seamless transition; there is absolutely nothing to worry about.

On the bitumen side, the average consumption of bitumen in Trinidad is 9,000 barrels per month. That bitumen was supplied as what you call a bottom end barrel product, not a high value product. You cannot run a refinery to make bitumen. It would be the maddest investment and economic decision on the planet. So, you cannot run a refinery just to supply a bitumen market. Bitumen is virtually a bi-product; he is right. So, the fact of getting a supplier of bitumen for the local market has nothing to do with the shutting down of the refinery.

Over the years, Lake Asphalt Trinidad Limited has been marketing the bitumen on behalf of Petrotrin. The Prime Minister has gone on record to say that Lake Asphalt is a PO Box for Petrotrin. What will happen now is that the 9,000 barrels a day will be imported by Lake Asphalt for distribution into the local market. We are now working out a seamless transition from getting this product and sending it out to the market.

The difference is the marketing arrangements, the supply chain that reaches the customer. Seamless. There will be no difference. The only difference is that the source supply will no longer be the refinery. The source of supply will be the very tanks that the refinery was using. It is just that the source of supply will now be imported produces for that stream. The consumer does not see the source of supply, you know. The consumer sees the supply. There is no colour code for foreign gasoline or a colour code for foreign LPG. It will be a seamless—so in terms of the consumer there will absolutely no difference.

Let me deal with this third point, the Caricom market. The same philosophy applies. We will be honouring our supply contracts to Caricom. We will be

importing crude. We will now become a trader and a terminalling facility for crude supplies for onward shipment to Caricom markets. One of the advantages that Trinidad had all along was that the Caricom market “eh no big market”, you know. No tanker “ent” going to pull up in Dominica to drop 3,000 barrels of fuel. It is totally uneconomical. The world today is about trading and large tankers on the major shipping routes of the world. So that niche market was handled by Petrotrin in small packages. The only difference would be the packages will be packaged—just to be redundant—from products that you import and terminal at Pointe-a-Pierre for onward shipment into Caricom.

8.15 p.m.

So, again, it is seamless. Whether it is in Barbados, whether it is in Grenada, in St. Vincent, St. Lucia or Dominica, they do not say, it is red colour for Trinidad; refinery, gasoline and a blue colour for imported gasoline. No. And what we have to understand now is that Petrotrin will be involved in trading, because trading is where the money is. There is money in refining, you know, if you have an efficient, well-run and optimized refinery. We do not have that, and there was no chance, like a snowball in hell, for that to ever happen, that is why we had to take the decision that we have.

There is one issue with the importation of finished products for re-export into the Caricom market, is the issue of the CET. It will now be determined to be foreign products subject to CET. However, I think there will be a case to be made to COTED to lift and suspend the CET on petroleum products, and once that is done at a reasonable time at the headquarters in Georgetown, I think all will be well.

And the whole issue of Petrotrin shutting down has nothing to do with the supply or the fuels market to Caricom, the bitumen market locally nor the LPG

market. It is far more fundamental than that, Madam President, but I just want to put the nation in a comfort zone that there will be absolutely no shortage, no lack of supply, no break in supply for LPG, bitumen and the Caricom market.

With those words, Madam President, I thank you. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.17 p.m.