

**SENATE**

*Tuesday, June 21, 2022*

The Senate met at 10.00 a.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Madam President:** Hon. Senators, leave of absence has been granted to Sen. The Hon. Dr. Amery Browne and Sen. The Hon. Donna Cox, both of whom are out of the country.

**SENATORS' APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from Her Excellency the President Paula-Mae Weekes O.R.T.T.:

“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: MR. NDALE YOUNG

WHEREAS Senator the Honourable Dr. Amery Browne 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)(a) of the Constitution of the Republic of Trinidad and Tobago,

**UNREVISED**

acting in accordance with the advice of the acting Prime Minister, do hereby appoint you, NDALE YOUNG to be a member of the Senate temporarily, with effect from 21<sup>st</sup> June, 2022 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Dr. Amery Browne.

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 15<sup>th</sup> day of June, 2022.”

“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. YOKYMMA BETHELMY

WHEREAS Senator the Honourable Donna Cox is incapable of performing her duties as a Senator by reason of her 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)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the acting Prime Minister, do hereby appoint you, YOKYMMA BETHELMY to be a member of the Senate temporarily, with effect from the 21<sup>st</sup> June, 2022 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Donna Cox

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and

**UNREVISED**

Tobago at the Office of the President, St. Ann's, this 15<sup>th</sup> day of June, 2022.”

### **AFFIRMATION OF ALLEGIANCE**

*Senator Ndale Young took and subscribed the Affirmation of Allegiance as required by law.*

### **OATH OF ALLEGIANCE**

*Senator Yokymma Bethelmy took and subscribed the Oath of Allegiance as required by law.*

### **ORAL ANSWERS TO QUESTIONS**

**The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):**

Thank you. The Government is in a position to answer all three oral questions on the Order Paper.

**Madam President:** Sen. Mark.

#### **Land Grabbing Scheme at Alenore Gardens, Arima**

#### **(Measures taken to address)**

**104. Sen. Wade Mark** asked the hon. Minister of Agriculture, Land and Fisheries:

Given recent reports of a land grabbing scheme involving State lands located in Alenore Gardens, Arima, can the Minister state what measures will be taken to address this situation?

**Madam President:** Minister in the Ministry of Agriculture, Land and Fisheries.

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

**Minister in the Ministry of Agriculture, Land and Fisheries (Sen. The Hon.**

**Nigel de Freitas:** Thank you, Madam President. The Commissioner of State Lands visited the site of the land in question in February 2022 together with officers from the Ministry's Surveys and Mapping Division, the Land Settlements Agency, the

Trinidad and Tobago Police Service and the Arima Borough Council. Pursuant to the site visit, the Ministry's Surveys and Mapping Division conducted development title searches on the identified parcel, and it was confirmed that the parcel in question is privately owned and is not state land.

The said parcel is contiguous to state land, and the Commissioner of State Lands has been asked to remain vigilant to any adverse possession of the contiguous state land parcel. However, at this time, since this is private land it is not a matter for the Government to resolve, but a private dispute which will have to be settled among the parties involved.

**Sen. Mark:** Madam President, may I ask the hon. Minister whether he can bring this Senate up to speed or up to date with any incursion whatsoever by illegal squatters unto the state lands that is adjacent to the private property that he mentioned? Whether—since this development?

**Madam President:** Sen. Mark, I have heard enough to let you know that that question is not allowed based on the response that was given by the Minister.

**Sen. Mark:** Thank you. Can I go on to question 105, with your leave?

**Madam President:** Sure.

### **Increasing Food and Cooking Oil Prices**

#### **(Steps taken to mitigate)**

**105. Sen. Wade Mark** asked the hon. Minister of Trade and Industry:

In light of recent reports of further increasing food and cooking oil prices, can the Minister state what steps will be taken by the Government to mitigate the resulting increases in the cost of living?

**The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):** The most recent data outlined in the Monetary Policy Report, May 2022, published by the Central Bank of Trinidad and Tobago, revealed that in March 2022, the year-

on-year headlined inflation was 4.1 per cent, core inflation year-on-year was 3.2 per cent, and food inflation year-on-year was 7.9 per cent.

Additionally, monthly headline inflation in March 2022 was recorded at 0 per cent, monthly core inflation was 0 per cent, and monthly food price inflation was minus 0.2 per cent, showing that inflation in Trinidad and Tobago—this is in March 2022—which is basically imported inflation was levelling off in March. However, the effect on inflation of the war in Ukraine and other supply chain disruptions is far-reaching and unpredictable. So we in Trinidad and Tobago would need to be vigilante.

The Central Bank of Trinidad and Tobago in its report indicated that supply side factors such as the acceleration in international food prices, higher shipping cost and logistical delays have notable pass through to domestic prices, hence leading to an increased inflationary environment. Generally, global inflation is on the rise. In the United States of America inflation in May 2022 accelerated to a 40-year high of 8.6 per cent on account of higher energy and food prices. Similarly, in the Euro area, inflation in May 2022 was recorded at 8.1 per cent, largely driven by high energy and food prices, supply bottlenecks and the normalization of demand as economies reopened.

Inflation in Trinidad and Tobago at this time at 4.1 per cent year-on-year is thus well below the USA, but is a cause for concern because we are not immune from global events. Internationally, food prices have been rising. The United Nations' Food and Agricultural Organizations Food Price Index, which tracks the international prices of various food items such as cereals, meat, vegetable oils, dairy products and sugar averaged 98.1 points in 2020, rising to 125.7 points in 2021, accounting for a 28.1 per cent increase over the period. This upward trend continued in 2022, rising to 135.6 points in January, further escalating in March at

a high of 159.7 points, before slightly decreasing in April and May at 158.3 points and 157.4 points respectively.

Overall, the index level in May 2022, 157.4 points, represented an increase of 21.8 points, 16.1 per cent, that is, from January 2022, and surpasses the highest level of the index since 2011, where it valued 131.9 points. In light of the international inflationary environment, Trinidad and Tobago is thus experiencing imported inflation since the country is dependent on imports of food and other consumer products from international trading partners and several supply side factors, which have caused prices to rise internationally.

Factors contributing to rising prices globally: The COVID-19 pandemic has led to increases in food prices internationally, and affected prices of some goods locally on account of the following factors:

- Disruption in supply chains on account of early quarantine and lock-down measures during the pandemic.
- Shortage in shipping containers which has caused an increase in freight shipping rates and transportation cost.

The data from the United Nations Conference on Trade and Development, UNCTAD, April 2021 policy brief, reported that some ocean freight rates have increased by as much as 443 per cent since the start of the pandemic in 2020. Adverse weather conditions such as floods and wild fires in major agriculture and food producing countries, including the United States, Canada, Australia and the European countries. These conditions have negatively affected crops causing a rise in food prices. The food and agricultural organization estimated that international food and feed prices could rise between 8 and 20 per cent—

**Madam President:** Minister. Minister, your time has expired. Sen. Mark.

**Sen. Mark:** Thank you, Madam President. Madam President, in light of what the

hon. Minister has stated, can the Minister indicate what specific measures will the Government be adopting to address rising food prices as have been identified by the hon. Minister to address, you know, the growing human challenges? Can the Minister share with us?

**Sen. The Hon. P. Gopee-Scoon:** So Government has been working proactively to monitor and address rising food prices. During fiscal 2021 the Government implemented several measures to address rising prices. The zero rating of basic food items. VAT was removed from a list of basic food items as announced in the fiscal '22 national budget presentation. The suspension of the CET on basic food items. Government also pursued the suspension of the CET on a list of 20 basic food items. And these initiatives will keep prices and these items affordable for consumers.

Increased supply of forex via EximBank Limited. The Government has increased the supply of foreign exchange under the EximBank to address the financing constraints faced by manufacturers and importers, and there has been an accumulated disbursement of \$650 US made available under two facilities; the forex facility for manufacturers and the forex allocation system for the importation of raw materials, basic food items and essential goods. Also, the Agricultural Stimulus Programme, we are committed to, as a Government, to boosting agricultural output in Trinidad and Tobago. To this end the Government is currently implementing a \$300 million Agricultural Stimulus Programme package, also strengthening the linkages between industry and agriculture, the SME stimulus loan facility, the SME stimulus guarantee loan facilities, the government-based sponsored loan programme of up to 300 million to help micro, small and medium sized businesses impacted by the COVID-19 pandemic to another—and another government guaranteed and long-term SME loan facility of up to \$500 million TT

in SME loan guarantees will soon be launched.

In addition, there is also the export booster initiative where the Government is working in collaboration with the Trinidad and Tobago Manufacturers Association and ExporTT. This export booster initiative a flagship programme was allocated \$37 million in fiscal 2022, and this EBI will assist the TTMA in meeting its goal of doubling the value of non-energy manufacturing exports. And also, of course, the food price monitoring mechanism by the Consumer Affairs Division of the Ministry of Trade and Industry.

**Sen. Mark:** Thank you, Madam President. Madam President, can the Minister share with this Senate how at this time the Government allocation of \$300 million stimulus agricultural package would have contributed higher agricultural production, thereby reducing basic prices of local fruits, vegetables, and maybe root crops? Is the Minister in a position to share with us?

**Sen. The Hon. P. Gopee-Scoon:** Yes, thank you. Whilst Member I do not have the details with me, I can give you the assurance, and this is based on the number of food markets that there are around the country with available fruit and food—agricultural produce in general available at very reasonable prices, and this is all across the country, these food markets. In addition to which during the COVID period there would have been thousands of food hampers, again, consisting of food items—basic vegetable and produce, and also poultry available to consumers. There is every evidence that there is an increase in the levels of production of food items, including fruit and vegetable items.

**Sen. Mark:** Madam President, can I ask the hon. Minister, whether it is the Government's policy to examine the further zero rating of food that fall under, and in fact captures at this time, the 12.5 per cent VAT? Is the Government seeking to examine that element to bring those products more available to the consumers at



this time, Madam President?

**Sen. The Hon. P. Gopee-Scoon:** I said to you before, at the fiscal 2022 national budget presentation, quite a lengthy list of items was on offer for the zero rating of basic food items. It was quite a lengthy list. But I know this Government is quite concerned about the population, the effect of increasing prices. And we will always have in mind the needs of the population, and, of course, these matters will remain before us always.

**Sen. Mark:** Madam President, as the Minister is aware, condensed milk attracts about 30 per cent import duties at this time. Can I ask the Minister, through you, Madam President, whether it is the intention of the Government to look at further suspensions of the CET so that products such as condensed milk can be imported at a reduced price for our consumers?

**Sen. The Hon. P. Gopee-Scoon:** Yes. There is a 30 per cent duty on condensed milk. But that 30 per cent duty is imposed on extra regional condensed milk. At this time condensed milk is available and it is now produced in Jamaica in volumes that can feed the entire region, and therefore no duties are applied on this particular item that is produced within the region, specifically in Jamaica. So there is no duty on condensed milk from Jamaica.

**Madam President:** Next question, Sen. Mark.

### **Former Caroni Workers**

#### **(Residential and Agricultural Plots)**

**106. Sen. Wade Mark** asked the hon. Minister of Agriculture, Land and Fisheries:

In light of protest action taken by former Caroni workers who have not received their residential and agricultural plots, can the Minister state when will these workers receive same?

**Minister in the Ministry of Agriculture, Land and Fisheries (Sen. The Hon. Nigel de Freitas):** Thank you very much, Madam President. I wish to inform the Senate that a similar question to this was answered in the other place, therefore I would be reiterating the same information that was delivered there. A total of 8,855 former employees of Caroni 1975 Limited were entitled to a residential service lot as part of the VSEP packages offered. To date 5,037 beneficiaries have been allocated to various estates and are at different stages in the process of receiving their leases. From this figure, 4,764 leases have been executed. However, 44 of these leases are at Caroni awaiting collection. Madam President, 273 beneficiaries have not yet completed to process at Caroni, or are awaiting letters of administration. The number of persons who remain outstanding for residential leases is 3,818.

With respect to agricultural leases, a total of 7,246 persons were entitled to these parcels of lands. From this figure, 127 persons reached an agreement with the State and were compensated for their land. The majority of the remaining 7,119 agricultural leases have been completed, and the number of agricultural leases outstanding is 577. Madam President, some of the main reasons hindering the completion of agricultural leases include, but are not limited to the following:

- Incorrect contact information for former Caroni VSEP workers;
- Issues relating to estates of deceased former Caroni VSEP workers;
- Persons missing or imprisoned; and
- Awaiting additional information from former Caroni VSEP workers.

In light of the aforementioned, the Ministry of Agriculture, Land and Fisheries through the Office of the Commissioner of State Lands continues to work assiduously with the Caroni 1975 Limited and EMBD to ensure that the proper process is followed, and that all outstanding residential and agricultural lots owing

to former Caroni Limited employees are delivered in the shortest possible time.

**Sen. Mark:** Madam President, can the Minister indicate what specific measures have been taken by the Ministry, through the particular company, to address this huge outstanding number of agricultural plots that are yet to be delivered to these Caroni workers, amounting, according to the Minister, 7,190? Can the Minister specify what measures to address the factors he has outlined, in some way hindering this process? Can he share with us, Madam President, what are—what is being done, rather?

**Sen. The Hon. N. de Freitas:** Thank you very much, Madam President. The Office of the Commissioner of State Lands continues to work with Caroni 1975 Limited and the EMBD Company to address the issues outlined so that we can bring closure to this matter in the shortest possible time.

**Sen. Mark:** Can I ask—Madam President, can I ask?

**Madam President:** Yes.

**Sen. Mark:** Can I ask the hon. Minister whether he would consider incorporating the union, the All Trinidad General and Factory Trade Union that formerly represented the workers of Caroni 1975 Limited to assist in having this matter speeded up, and at least address some of these factors that seem to be giving the agencies of State some challenges? Would you consider that request, Madam President?

**Sen. The Hon. N. de Freitas:** Thank you very much, Madam President. Sen. Mark, thank you very much for the suggestion. As I indicated before, as we work with Caroni 1975 Limited and EMBDC, if this is something that can be taken on board, then we would consider it at that particular point in time. But like I said, we are working with Caroni 1975 Limited, which is the entity, and EMBDC which is the body responsible for assisting with these matters.

**Sen. Mark:** Can I ask, through you, Madam President, if the hon. Minister can explain whether the same factors affecting the distribution of agricultural plots are the same factors impacting on the residential plots, which amounts at this time, according to your information, outstanding, 3,880 residential plots that have not yet been distributed to former Caroni 1975 Limited workers? Can you share with us?

**Madam President:** Sen. Mark, I would not allow that question, based on the response that has been given to the question. You have one more.

**Sen. Mark:** Yes, one more, Madam President. Madam President, can the Minister indicate whether in his discussions with EMBDC as well as Caroni 1975 Limited, have they given him, the hon. Minister that is, any outlined period for the settlement, through the distribution of both agricultural and residential plots to these workers, because, as you are aware, many of them are dying and many of them have died? So, could you tell what time frame you would like to share with us, given your discussion with these agencies, for bringing this thing, this process I should say, to an end, through you, Madam President?

**10.30 a.m.**

**Madam President:** Minister.

**Sen. The Hon. Nigel de Freitas:** Thank you very much, Madam President. Sen. Mark, as indicated in my original answer, given the issues outlined which are not limited here to what I have spoken to today, and the nature of them, a specific time frame would be difficult to lock in. And that is why I have indicated and we continue to work assiduously with these companies to do so, and bring this matter to closure in the shortest possible time that it could be done.

**Madam President:** Minister in the Ministry of Finance.

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

**BILLS OF EXCHANGE (AMDT.) BILL, 2022.**

*Order for second reading read.*

**The Minister in the Ministry of Finance (Hon. Brian Manning):** Thank you, Madam President. Madam President, I beg to move:

That a Bill entitled an Act to amend the Bills of Exchange Act, Chap. 82:31, be now read a second time.

Madam President, the payment system sits at the heart of our economy. It allows money to flow between households and businesses, business to business, and also business to households. Allowing the prompt and proper exchange of goods and services, this Government is committed to ensuring that this twin-island Republic's payment systems are innovative, efficient and effective, and they meet the needs of end-users, taking advantage of technological developments as they arise. Cheques continue to form a vital part of Trinidad and Tobago's payment landscape, accounting for 25 per cent of all payments made by individuals in 2021. That is almost one-fifth of all outgoing payments made by sole traders, other micro-businesses and small businesses.

The Central Bank, in conjunction with commercial banks, is considering the implementation of an electronic cheque clearing system or ECCS in Trinidad and Tobago. This system contemplates fully automated multilateral image and data file exchange among clearing institutions, with electronic multilateral net settlement over the real-time gross settlement, or RTGS system, operated by the Central Bank. The objective would be to clear and settle based on the exchange of cheque images, thereby shortening cheque clearing times.

Madam President, while there is no denying that there has been a decline in their use over the years, cheques are still important for many receivers of grants, payments of income, small charities, voluntary organizations and those members

of our society who are often the most vulnerable. Before I discuss these new proposed amendments, Madam President, I shall briefly explain how the current cheque clearing system works.

Under the current model, cheques deposited into a bank are transported to their associated processing centre known as a clearing house, where the essential details are physically passed to the bank of the customer who originally drew them, and parties agree on the net amounts to be cleared and settled on the basis of the check listings received the previous day. Finally, the cheques are taken to the relevant processing centre of the paying bank which ensures that the cheque is genuine before releasing the funds. Of course, Madam President, this is an archaic system, it is outdated, and usually it takes about six working days for this process to be completed. The proposed new electronic cheque clearing system will reduce that to two working days which is a significant improvement.

The electronic cheque clearing system will also facilitate further innovation in the industry, for example, by enabling customers to pay cheques through their respective mobile banking apps. It would seem a sensible modern improvement to the current system. And, Madam President, we have to remember that this Government has promised from day one that digitization is going to be the heart of what it is we do in terms of improving the ease of doing business in Trinidad and Tobago. And this is but a small part of that.

This Bill before us today seeks to amend and upgrade the legal foundation of payments, particularly cheque payments, and provides for its regulation and oversight. These proposed amendments will work in tandem with the legislation already enacted and proclaimed, such as the Exchange Act, Chap. 82:31, to target, govern, or rather seek to address the loopholes of the payment of money via cheque form so that it not only provides a less time consuming process for persons

to pay by cheque, but to support ongoing innovation in local payments while securing the future of cheques.

It is the hope of this Government that these amendments, along with further measures to be put in place as consultations and discussions continue, will create further safeguards for the electronic cheque clearing system, or not only allow more efficient banking for persons but also that it allows for its occurrence in a safe manner.

Madam President, with the introduction of e-cheque imaging, we will directly address the challenges currently facing the cheque system and continue to enable innovation to deliver wider benefits to consumers, businesses and the banking industry, while ensuring that the electronic clearing of cheques has no detrimental impact on cheque users. It makes provision for measures to achieve this by establishing a framework which will help to protect customers as the image clearing system rolls out.

Through these proposed amendments, Madam President, the Government identified four key benefits that electronic cheque clearing systems will offer to end-users and the banking system. One, as I stated earlier, speeding up clearing times from six working days to two working days. Two, increasing consumer convenience. Three, reducing operational cost. And four, helping challenger banks to compete with incumbents. Of course, with greater competition, we have better services and more efficient services to end-users.

Madam President, under the current legislation, a paying bank has the right to demand that it is presented with the physical cheque before deciding whether to honour the payment. Pursuant to the introduction of the proposed section 89A, clause 5 of the Bill, Madam President, the Government proposes to remove this right of the paying bank and to render the electronic cheque image as equivalent to

the original where a cheque is presented for payment.

The inclusion of section 89B, Madam President, places the obligation on the drawer to present the physical cheque to begin processing of same and eliminates the burden of the drawee having to physically present the cheque to the bank for processing, a means of reducing processing times.

It will be necessary to amend the rights of the paying bank. Without this key legislative reform, financial institutions will be obliged to continue collecting physical cheques from customers and to deliver them through the traditional paper-based infrastructure. The benefits of cheque imaging for the industry and end-users would therefore be largely negated.

Noteworthy, to safeguard this amendment, the framework established by section 89A creates an added layer of protection which will address fraud through robust protections for financial inclusion and security. The paying bank will be able to request the paper instrument in exceptional cases, such as suspected fraud. Whilst you do not have to physically present the cheque to the bank at first instant, should the bank require, based on their internal checks for suspicious activity, there is a requirement of physical proof of the cheque.

These amendments seek to assist citizens to overcome barriers to financial inclusion. These measures in unison, Madam President, would benefit citizens living in areas without ready access to a bank branch, people with limited mobility or people who, due to work or other reasons, find difficulty to visit a branch during banking hours. By enacting these amendments, providing recipients of cheques with greater convenience in how they deposit cheque imaging will cut down the time it takes for a payment to complete.

Madam President, this reminds me of work being done by my colleague in the other place, in La Horquetta/Talparo. The Member, he recently opened the



first, I believe it was ATM, in La Horquetta/Talparo and it was well received. It was a reminder that not everyone in this country has easy access to financial services and the passage of this Bill will assist in many of our citizens to be able to access financial services in an electronic manner and form.

Madam President, as legislators, we on this side believe that these amendments provide a backstop to increasing the efficiency of operating the payment system, will improve the sustainability of the cheque as a payment option that banks and building societies can continue to provide.

Madam President, for types of fraud and error not designated in these amendments, the position will remain as at present. And in the event of the paying bank or drawer suffering a loss, they would not be able to rely on the new legislation to make a claim against the payee's bank. The paying bank would still be able to consider making a common law claim in restitution or conversion subject to the existing defences.

The Central Bank has taken various steps to reduce the use of such inefficient paper-based payment instruments through the introduction of several electronic payment options. However, the use of cheques has only declined marginally over the past five years. In response, the bank has been working with the commercial banks to improve the efficiency of the cheque system and, at the same time, obtained and defined replacement technology for the industry through the introduction of an electronic cheque clearing system or ECCS.

To this end, Central Bank and the Bankers Association of Trinidad and Tobago, or BATT, established a cheque clearing system project review committee or PRC, comprising persons appointed by the Central Bank and the members of the BATT to administer the project. A project manager consultant has also been retained to assist the PRC in deliberations regarding this project. One of the main

requirements for implementation would be eliminating the physical presentment of cheques for payment. This note considers the legal impediments to the implementation of the ECCS and proposes legislative amendments to address such impediments.

Republic Bank Limited submitted a note containing a legislative review, which on April 10, 2018, was confirmed to be BATT's consolidated position. BATT's comments are discussed later.

Legislative consideration: the following statutes were reviewed to ascertain whether they contained any legal impediments to the implementation of the ECCS and needed to be amended: one, Bills of Exchange Act, Chap. 82:31, the main legislation which we discuss here; two, Negotiable Instruments (Dishonored Cheques) Act, Chap. 79:52; the Evidence Act, Chap. 7:02; and four, Electronic Transactions Act, Chap. 22:05.

The Bills of Exchange Act, Chap. 82:31: the Bills of Exchange Act, Chap. 82:31, or BOEA, governs the law pertaining to, inter alia, the drawing, endorsement, negotiation and presentment of cheques. It should be noted here that the Bill of Exchange Act was first enacted in 1884, and is now more than 130 years old. Although the Bill of Exchange Act has been amended on several occasions, it is advised that the law as relating to cheques has evolved dramatically over the last century and as such a comprehensive review of the law relating to the cheques ought to be undertaken. This note will, however, remain focused on facilitating the electronic presentment of cheques.

The Bills of Exchange Act specifically contemplates the physical presentment of cheques. In particular, sections 45(c) and 52(4) provide that in order for a Bill, which includes a cheque—

**Sen. Thompson-Ahye:** Madam President—

**Hon. B. Manning:**—to be duly presented for payment—

**Sen. Thompson-Ahye:** Madam President, if I may. We seem to have a bit of problem with projection reaching down this end. It is a bit late in the day but, you know, people are having problems hearing.

**Madam President:** Minister, I think that you just need to speak up a little.

**Hon. B. Manning:** Little louder. Okay.

**Madam President:** So that your voice can carry across.

**Hon. B. Manning:** Sure.

**Sen. Thompson-Ahye:** Thank you.

**Hon. B. Manning:** Yes. The Bills of Exchange Act, Chap. 82:31, sections 45(c) and 52(4) provide that in order for a bill, which includes a cheque, to be duly presented for payment:

“...presentment must be made by...”

One:

“...by the holder or by some person authorised to receive payment on his behalf...”

Two:

“...at a reasonable hour on a business day...”

And three:

“...at the proper place...either...”—on—“the person designated by the bill as payer, or to some person authorised to pay or refuse payment on his behalf...”

And (b)—section 52(4) of the Bill of Exchange Act also requires that where a bill is presented for payment, the person presenting is required to exhibit and deliver up the bill to the paying party.

And section 45(b) states that:

“a bill is presented at the proper place—

- (i) where a place of payment is specified in the bill and the bill is there presented;
- (ii) ...no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented;
- (iii) ...no place of payment is specified, and no address given, and the bill is presented at the drawee's or acceptor's place of business if known, and if not, at his ordinary residence if known;
- (iv) in any other case, if presented to the drawee or acceptor wherever he can be found, or if presented at his last known place of business or residence;”

These provisions signify that a physical cheque is required to be presented at a physical location for payment. The Bill of Exchange Act would therefore have to be amended to relax this restriction in order to accommodate electronic presentment.

We move onto legislative precedents. In order to determine the appropriate amendments to treat with the legal impediments to implementing the ECCS and eliminating the physical presentment of cheques for payment, a review was conducted of legislation operating in jurisdictions with a similar legal framework to Trinidad and Tobago. Grenada, Canada and the United Kingdom have introduced systems similar to the proposed ECCS and have amended their laws to facilitate same and provide a helpful guide on the required amendments to our BOEA. The legislative review of these jurisdictions are set out in the schedules one to four.

Moving onto part two, Negotiable Instruments (Dishonoured Cheques) Act, Chap. 79:52. The purpose of this Act is to create and set out the essential elements of the offence of obtaining property or services by use of a dishonored cheque. Accordingly, the scope of the NIDCA is narrow. This Act does not contain provisions in relation to what constitutes a cheque or the manner in which a cheque is drawn, endorsed or presented for payment. This Act does not define the term “presentment” or any derivative thereof, nor does it impose any statutory requirements for physical presentment.

In this regard, it is submitted that based on the accepted principles of statutory interpretation, the courts would look at the BOEA for a definition of presentment where the term is used in the NIDCA. As such, it is suggested, subject to the views of the Chief Parliamentary Counsel, that no amendments would be required to the NIDCA to facilitate electronic presentment.

Three, the Evidence Act, Chap. 7:02. There may be instances that evidence concerning the ECCS an electronic image of a cheque may be required in civil or criminal matters being tried in court. In this regard, it is necessary to consider whether the introduction of electronic presentment in the BOEA would require any consequential amendments to the Evidence Act to allow the tendering of evidence in relation to electronic cheque images.

It should be noted that the Evidence Act already contains provisions to allow tendering of computer records. Sections 14B and 40 of the Evidence Act set out the requirements of tendering computer records in criminal and civil proceedings respectively. It is envisaged that computers, along with the requisite peripherals connected thereto, will create, transmit and read electronic images of cheques for the purposes of electronic presentment of items for clearing. However, the operational requirements for the ECCS must meet the preconditions for tendering

of computer records as evidence in both civil and criminal cases. Some of these preconditions are that:

“(a) there are no reasonable grounds for believing that the...”—  
electronic image of the cheque or other information generated by the  
ECCS—“...is inaccurate because of improper use of the computer;

(b) at all material times the computer”—including devices  
connected thereto and required for the ECCS—“was operating properly, or if  
not, that any respect in which it was not operating properly or was out of  
operation was not such as to affect the production of the document or the  
accuracy of its contents...”

A certificate be provided:

“(a) identifying the document containing the statement and describing the  
manner in which it was produced;”

Or:

“(b) giving such particulars of any device involved in the production of  
that document as may be appropriate for the purpose of showing that the  
document was produced by a computer;”

And:

“(d) signed by a person occupying a responsible position in relation to the  
operation of the computer...”

Sections 14B and 40 of the Evidence Act also require the records to meet the standards set out in the relevant rules of court. These requirements for tendering of computer records must therefore be born in mind when designing the ECCS. For example, the Civil Procedure Rules 2008, as amended, CPR, governs procedure in civil matters. Part 30.5 deals with tendering of computer records and provides:

“(1) This rule applies where the statement is admissible under s. 40 of

the Act (admissibility of computer records).

(2) The”—hearsay notice, which is a notice of intention to give hearsay evidence—“must have annexed to it a copy of the document or the relevant part of the document containing the statement.

(3) The”—hearsay—“notice must also contain

(a) particulars of—

(i) a person who had responsible for the management of the relevant actives for which the computer was used during the material period;

(ii) a person who during that period had responsibility for the supply to the computer of the information reproduced in the statement of information from which that information was derived; and

(iii) a person who had responsibility for the operation of the computer during that period; and

(b) a statement whether or not the computer was operating properly throughout the material period and, if not, whether any failure to operate properly might have affected the production of the document containing the statement or the accuracy of its contents.”

Based on the foregoing, the Evidence Act already makes express provisions for the recognition and use of records created by computers. As such, it is suggested, subject to the views of the CPC, that the Evidence Act does not require amendment in order to facilitate the ECCS or the presentment of an electronic image of a cheque. However, an amendment of the Bills of Exchange Act could be made to clarify that an electronic image of a cheque is admissible in evidence.

Madam President, how much time do I have?

**Madam President:** You finish at 17 minutes past 11. Okay?

**Hon. B. Manning:** Thank you.

**Madam President:** Yeah.

**Hon. B. Manning:** Four, the Electronic Transactions Act, Chap. 22:05. The Electronic Transactions Act, or ETA, was passed as omnibus legislation to give legal effect to electronic documents, electronic records, electronic signatures and electronic transactions. It should be noted, however, that section 6 of the ETA expressly provides that:

“Parts II, III and IV of this Act shall not apply to any written law requiring writing, signatures, or original documents for—

- (e) the recognition or endorsement of negotiable instruments.”

Cheques are a subclass of negotiable instruments and as such the aforementioned provisions of the ETA would not apply.

This application of the ETA to the recognition or endorsement of cheques does not appear to operate as a legal impediment to implementing the ECCS. This assertion is based on the fact that the ECCS will not affect the manner in which the cheques are drawn or negotiated but merely the manner in which they are presented by collecting banks to paying banks for encashment.

Notwithstanding this assertion, out of an abundance of caution, a recommendation is made below for the amendment of the Bills of Exchange Act to address the legal recognition of electronic records created in relation to the narrow purpose of presentment of an electronic image of a cheque.

In light of the foregoing, it is advised that no amendments to the ETA would be required but a suitable amendment would be included in the Bill of Exchange Act to allow for the legal recognition of electronic cheque images.



Madam President, at present, it is not necessary to impose additional due diligence obligations as the amendments are designed to be enabling measures and will not compel any financial institutions to start capturing images against their wishes. But the introduction of section 97, clause 6 of the Bill, Madam President, leaves room subject to future collaboration and discussions with the stakeholders for regulations to be drafted to work in tandem with the legislation to strengthen the operations.

Any change to the legislation must not have the unintended consequence of discouraging paying banks from continuing with the rigorous safeguards they currently put in place. There are certain cheques that only a paying bank can currently carry out. Therefore, the new amendments, particularly of that pursuant to the introduction of section 97, clause 6 of the Bill, will grant the Minister and Central Bank authority a power to make regulations to designate for the specific matters as it becomes necessary.

These clauses set out above will amend outdated provisions in the statute that currently prevent the banking industry from digitizing parts of the cheque payment system. Once these legislative measures come into force, all financial institutions providing cheque services will, in effect, need to have facilities or access to facilities allowing them to accept cheque images. Madam President, that concludes my maiden voyage in this House when it comes to piloting this Bill here and I beg to move.

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

*Question proposed.*

**Madam President:** Sen. Mark.

**Sen. Wade Mark:** Thank you, Madam President. Madam President, the Bill before us the Bills of Exchange (Amdt.) Bill, 2022, is as the Minister indicated

over 130 years old, it was last amended in 1979 some 40 years ago. So, Trinidad and Tobago is extremely backward when it comes to modernizing and reforming the State particularly the financial aspects of the State or operations, I should say. The Bill before us seeks to amend the Bills of Exchange Act to facilitate the implementation of an electronic cheque clearing system. As we know Madam President, in Trinidad and Tobago because of the backward nature of the system and particularly, when I talk about the system the public sector has to be the focus of our attention because my understanding is that there is a lot of reformation and new technologies at the level of the private sector and more so, as it relates to the financial sector, Madam President. In Trinidad and Tobago as we speak, the clearance of cheques involves the actual physical cheques being processed—well delivered and later on cleared.

Now, what this Bill is seeking to do and I would say Madam President, it has come 10/15 years too late. The Bill is seeking Madam President, to remove the requirement to use the actual physical cheques and to allow the use of electronic versions of the cheques by banks for these purposes. So, Madam President, these amendments are really aimed at ensuring that when you present your physical cheques at a bank, it can be scanned and there can be an electronic image transmitted to the other bank or banker which would allow, Madam President, to have credit being assigned to your account within 24 hours. Now, that could be perceived as an improvement on what exists today. Madam President, you would know that it takes sometimes between four and seven days to have a physical cheque cleared and monies credited to your account. That is the state of backwardness that we have in the system today and more so, Madam President, when it comes to the public sector, when it comes to the public service.

Madam President, I listened some time ago to the hon. Minister of Finance, when he was presenting, where we were told on average between '17, 2017 and 2021, we had an average of about 10 million physical cheques in the system. And on an annual basis, we are told the value of those 10 million cheques per year tallied at around over \$250 billion—over \$250 billion. And Madam President, why should we in 2022 have such an activity and volume and value of that amount of that quantum in our country. Madam President, I would hope that when the hon. Minister is giving his winding up, or when he is concluding, I should say his contribution he would give this Senate a status report on an IADB loan amounting to US\$40 million which was effected in 2017, to do what Madam President?

Madam President, we borrowed monies from the IADB to seek to bring about what is called an improvement in the system, Madam President, and to grant support or to extend support to establish an electronic payment system for the Government of Trinidad and Tobago, which was aimed at effectively developing, implementing and operating, and operationalizing an electronic payment system within the public service. So, we would like to ask Madam President, the Minister of Finance, or the Minister in the Ministry of Finance to give this Senate a status report on this electronic payment system that was supposed to be implemented since 2017 and we are now in 2022, June, Madam President, and we are being told that 10 million cheques are issued every year at a value of over \$250 billion. And Madam President, the Government of Trinidad and Tobago is the guilty party in this regard. The Government operates mainly a chequing system, a physical chequing system in this country. There are some companies that also engage in that physical chequing system, but they may be in the minority. But the bulk would be coming from the Government and Madam President, if I may give you a slight example, before I move on.

When you see tens—or I should not say tens, Madam President, thousands of pensioners lining up outside of the Treasury to do what Madam President, collect a physical cheque—to collect a physical cheque in the sun, in the rain, when Madam President, modern digital technology provides us with the opportunity to issue a card, a card, to these tens of thousands of pensioners and they can go to the groceries, they can go wherever they want to go, Madam President, and in cash. So, this is what this thing is about, we are trying to move away from the physical encashment although we are being told in the legislation, Madam President, that you still have to walk, you still have to bring your physical cheques to the bank. So the physical chequing system is not being abolished, not in this piece of legislation. So, what are we dealing with in 2022? This is a “dinosaurial” amendment. This is not going to really bring about any rapid modernization of the financial system as we know it today, Madam President.

Madam President, I may not be like you. I may not be techno-savvy as you are but I can tell you based on the research that I have conducted, online banking is a reality in Trinidad and Tobago today, online banking. Where people can stay in their offices and once they have the name of your bank, and they have the name of your bank account, they can transmit to you cash. When I say cash, credit to your account if they owe you. So, if you are a company, you have a company, Madam President, and you have to pay 100 workers, you do not have to give these 100 workers physical cheques to go and encash at a bank. That is something that is of the past, it happens in the Government service. But in the private sector, Madam President, you can simply, online, credit your employees’ accounts, and they can get their salary—

**Sen. Mitchell:** Madam President—

**Sen. W. Mark:**—and wages [*Inaudible*] in a short period of time

**Sen. Mitchell:**—on a point of order, please, 46 (1).

**Madam President:** Sen. Mark, I am going to uphold that objection and invocation of the Standing Order. I would ask you please to treat with what is in the Bill. You have been given a lot of latitude and you have put your presentation in context, I ask you now to be a little more specific to the Bill, please.

**Sen. W. Mark:** Madam President, if you go as my colleague—my colleague is trying to get me to get into the Bill but we are dealing with the policy. It is the policy we are dealing with, you know. So, Madam President, just to satisfy my colleagues here, let us go to clause 5 of the Bill—go to clause 5 of the Bill. Clause 5 introduces Madam President, what is called a new section 89A (1)—and what does that new section seek to accomplish? It really seeks Madam President, to allow for:

“A banker may present a cheque for payment to the banker on whom it is drawn by notifying him of its essential features by means of an electronic image instead of presenting the physical cheque itself.”

That is what this new section is seeking to establish. So, you can go as I said, Madam President, to your banker, you present your physical cheque, and your banker through this amendment section—this new section, he can electronically scan, send an image to the bank that the cheque is made out to, you might be—somebody might make a cheque who has an account with Republic Bank and they make it out in my name, but I bank with Scotia. So, I go to my bank, Scotia, to deposit this cheque. I present that cheque to the banker, what the banker does Madam President, in this 89A (1) of this Bill, that is before us, the banker is able to electronically scan my cheque with all its essential features as outlined in the legislation and have that transmitted to Republic Bank. Republic Bank, where the gentleman has issued a cheque from on my behalf, gets it in a few minutes and

they are now Madam President, able to look at the features, the essential features of the cheque, and they can tell my banker, my Scotia banker, everything is okay. John Brown is in good order. He has money in his account. Everything is great, credit my account, credit my account. And that is what is being attempted in this section 89A, Madam President. And if you go to the language of it that is before us, it tells you that a banker under 89A subsection:

“...(1) A banker may present a cheque for payment to the banker on whom it is drawn by notifying him of its essential features by means of an electronic image instead of presenting the physical cheque itself.”

So, there is no need, Madam President, the reason why I was trying to draw the example which I drew earlier is that, even in the United Kingdom 10 years ago, and places like the Bahamas, you have the capacity, Madam President, to get your cheque, go to your ATM, once the features are outlined, as in the English law and in the Bahamian law, and get your cheque credited to your account. But because of online banking, that, to many people, is no longer necessary. You do have to get involved in this physical exchange. You know, a chequebook costs you and myself \$30?

**Madam President:** Sen. Mark, I am not sure where you are going with this line of how you are proceeding. You know, the Bill is very specific Sen. Mark, you have dealt a lot with policy issues and you need to really treat with what this Bill is dealing with. Okay?

**Sen. W. Mark:** Madam President, [*Inaudible*] doing. I just dealt with section 89A sub section (1).

**Madam President:** You did.

**Sen. W. Mark:** And I am now going to section—

**Madam President:** No, Sen. Mark, hold on, you dealt with 89A (1) and then you have now gone on—

**Sen. W. Mark:** So I am giving an example.

**Madam President:** Okay, but your examples also need to be a little more relevant to what we are treating with.

**Sen. W. Mark:** But Madam President, let me not detain you. Let us go to the new section, another new section called section 89B of the legislation. Are you with me, Madam President, with 89 B?

**Madam President:** Sen. Mark, I think I am the only one with you right now.

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

**Madam President:** So you, you continue.

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

**Sen. W. Mark:** I am happy because everybody else is not with me, I am not interested in anybody else. I am only interested in my President. My President is with me, I am happy. Madam President, let us go to 89B. 89B which is a new section in the Bill, seeks to provide that:

“Provision of the electronic image of the cheque does not constitute presentment of the cheque...unless the banker...first receives the physical cheque from that customer.”

That is what 89B is telling us. And if you look at the provision in the section, the section tells you in 89B, Madam President, that:

“...Provision of an electronic image of a cheque does not constitute presentment of the cheque under”—this particular—“89A, unless the banker authorised to collect payment of the cheque on behalf of a customer, first receives the physical cheque from that customer.”

So, that is what this section is indicating, Madam President.

In effect, Madam President, what this section is saying is it only allows for the presentment of electronic cheques to the other banker for the purposes of clearing the cheques. It, therefore, does not allow for customers to produce electronic cheques to their bankers. Persons would, therefore, as I said, still be required to deposit what is called your physical cheques into their bank accounts.

So, Madam President, in clause 6 of the legislation it provides for a new section 97 which will allow the Minister on the recommendations of the Central Bank to make regulations and it will also, give the Central Bank the power to issue guidelines on any matter it considers necessary for the purposes of the Act. And if you go to this new section 97 it tells you, Madam President, that:

“...The Minister may on the recommendations of the Central Bank and subject to negative resolution, make regulations...for the purposes of this Act.”—and then—

“...The Central Bank may issue Guidelines on any matter it considers necessary for the purposes of this Act.”

Madam President, I want to posit and submit to the hon. Minister that we no longer have what is called Freedom of Information Legislation covering the Central Bank. The Central Bank was removed by a Manning administration back then, from any inquiry from the public. So the Central Bank literally is isolated from the public of T and T. We have no access in terms of information. Now, here we have the Minister, conscious of that is telling our Parliament that on the recommendations of the Central Bank and subject to negative resolution make regulations. Madam President, I would like the hon. Minister, to recognize that this is a Parliament, and we have the responsibility of oversight, we have the responsibility to scrutinize, we have the responsibility to hold the executive to book and to hold them to account. And therefore, we are advancing that this



negative resolution is not adequate for the supervisory function and the oversight responsibility of the Parliament. And therefore, we are going to be proposing an amendment to this legislation to have Madam President, “negative” replaced by the word “affirmative.” We want affirmative resolution in the legislation. We want the Minister and the Government to come to the Parliament and present their arguments as to why they are going to do what they are proposing to do in the instance. And by the way, Madam President, why is this also important? It is because the Central Bank is being given the power—and we know that they got the power under the Securities and Exchange Commission Act. We know that they have the power under the Financial Institution Act, where they can issue guidelines. But all of these things Madam President, may have taken place before the Central Bank was removed from the purview of the Freedom of Information Act. So there is no way for us in the Parliament and the people of this country to be able to access information from the Central Bank. So it is against this background when you give the Central Bank the power to make guidelines, which will not be statutory in terms of an instrument, they do not have the power to make laws that is not their role, it is a Parliament that has that function and that power. But what we are saying, Madam President, is that this negative resolution, we would like the Government to reconsider that position. We know it is in the legislation but times have changed and we are calling for greater scrutiny and accountability in this particular regard, Madam President.

So Madam President, I believe that when we look at what is before us today, may I inform this honourable House that in 2004 Madam President, there was a White Paper entitled “Reform of the Financial System of Trinidad and Tobago.” That was in 2004. And in 2004, the then Government led by Patrick Manning—and may his soul rest in peace—set up a committee of high ranking professionals

in our country, and they brought forward a paper called a “White Paper” on the reform of the financial system, and one of the recommendations they had put into this document was the establishment of a new national payment system in Trinidad and Tobago. That was in 2004, Madam President. Today in 2022, June, we are coming with a piecemeal change to an 1884 piece of legislation—130 years old. And the Government is yet to bring, Madam President, as was proposed in this paper on reforming the financial system, a new national payment system for Trinidad and Tobago.

**11.30 a.m.**

All I ask the Minister of Finance to do is—I have it—go to South Africa. They have done a reaffirmation of their entire financial system in terms of payments, Madam President. They have modernized their operation. We are still in the backwaters in 2022, Madam President.

So, whilst in principle, we are saying that there are some adjustments we are putting forward for the Government’s consideration, we want to let the Government know that the use of cheques, Madam President, is declining everywhere, but we are bringing legislation in 2022, to ensure that we still have physical cheques being presented when, Madam President, that is something that is declining everywhere in the world today.

**Mr. Manning:** Madam President, sorry, 46(6), please. That is the exact opposite to what the Bill is supposed to do.

**Madam President:** Sen. Mark, continue.

**Sen. W. Mark:** So, Madam President, all we are saying is that where physical cheques are used, as I indicated, it takes several days, and the aim as the Minister said earlier is to reduce the period. Nobody can argue with a reduction of the period from seven days to two days or to one day. We have no problem with that,

Madam President. What we are saying, however, is that this matter that we are debating today has to be seen in the context of the State being very tardy in its application and its modernization efforts of their own public sector payment system, which remains largely manual. And we would have thought that the Minister would have brought legislation showing us this loan that they took from the IDB for US \$40 million that they we have reached, Madam President, three-quarters of the way to bringing about an electronic payment system in Trinidad and Tobago, insofar as public service is concerned.

So, Madam President, I think that we have made the point that yes, there will be some increase in efficiency in speeding up the processes—processing, I should say, of cheques and thereby reducing the number of days. Yes, we are recognizing in the legislation the introduction of sharing a digital copy of the cheque to the bank that it is drawn on. Yes, Madam President, it allows for the bank to reserve the right to request the original cheque prior to processing. All of these things are contained in the legislation in order to address matters, I would imagine, of fraud.

Madam President, as we deal with physical cheques, which is the aim of this Bill to try to see how we can reduce their volumes—well, I would not say their volumes. It is really to facilitate a speedier process as it relates to encashment of this particular instrument. Madam President, I would like the hon. Minister, in his closing, to share with this Parliament in terms of fraud—because this is a challenge in the physical chequing system apparatus, where you have fraud involved—I would like the Minister to indicate to us with all these essential features that we have established in the legislation that is outlined in the legislation: What is the current reality in this country as it relates to fraud involving chequing accounts? We need to get a status report on this particular measure as it relates to that

particular situation that I have outlined, Madam President.

Madam President, I think I am going to be bringing my contribution to a close by indicating the following. The Government needs to recognize we live in a world of online banking. We live in a world, Madam President, of credit cards. We live in a world of debit cards—

**Mr. Manning:** Madam President, 46(1), please.

**Sen. W. Mark:**—and, therefore, Madam President, it is necessary for the Government to pay attention to what is taking place in our environment with a view to bringing about radical changes through changes in legislation so that, for instance, we can meet the challenges that we are faced with today from a modern point of view, a modernization point of view.

So, Madam President, with these few words, I would like to thank you for giving me the opportunity to address this issue of the bills of exchange and, as we said, we believe that the Government, whilst they are seeking to bring about some degree of speed and efficiency in accessing your credit, the whole process of physical chequing accounts in our country is extremely “dinosaurial”, and we need to go forward with a modernization of the technology, digitally speaking, and encourage people to become more involved in online banking in our country and remove this physical, manual arrangement that is currently in existence in our country. Madam President, I thank you very much for giving me this opportunity.

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

**Sen. Anthony Vieira:** Thank you, Madam President. Before I begin, I believe I heard the Minister mentioned that this was his maiden Motion, so I would like to offer congratulations.

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

**Sen. A. Vieira:** Let me start off by saying that I agree with Sen. Mark that,

perhaps, this legislation does not go far enough, and I also agree that in this day and age, it is unacceptable for people, especially the elderly, to have to line up to get physical cheques. Nonetheless, this legislation, which provides for an electronic clearing system that will allow banks to transfer funds using digital images of cheques rather than the physical cheque itself, it is a step in the right direction.

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

**Sen. A. Vieira:** In essence, this Bill caters for the changing nature of cheques, which may now be processed as digital images customers can use via Internet and online banking. Now, you know, recently while passing through an airport abroad, the restaurant I chose to have lunch at, they would not, they could not take cash from me. From placement of my order to payment by a credit card, everything had to be done via an iPad, even though I was physically there in the restaurant and wanted to pay.

Again, when I started practise in the early 1980s, I would routinely order stacks of cheque books from my bank to pay expenses and to generally run my practice. Today, I find that one cheque book would probably last me an entire year, because fewer people are taking cheques. I continue paying rent for my chambers using cheques, but that is primarily out of habit and because I like the ritual of writing the cheque and delivering it personally. But my landlord views me with some amusement because, you know, as he reminds me all the time, you know, it is so much easier now to just make your payments automatically via electronic means, and he is right, and his generation is obviously a lot more comfortable with the notion of transitioning towards a cashless society.

Now, there is not much to say about this legislation other than it is an attempt to breathe life, new life into cheques, which to a large extent, would

becoming passé, but which can now be accepted digitally. So this law will allow digital images of cheques to be legitimately used as part of the payment system via Internet and mobile banking. It also caters for the challenges and connotations posed by digital cheques in terms of delivery of a bill of exchange, and the rules regarding presentation for payment and that is the purpose of the new section at part 3(a) to be inserted in the parent Act.

Now, even though the trend internationally and here is towards cashless transactions, and even though some may regard cheques as old-fashioned and costly, we should not be too quick to write them off. They remain an important business tool for persons like me, who have not yet fully bought into the digital payment, and cheques can also serve as a potential back up against cyber-fraud, cyber-attacks and power failures. Nonetheless, one cannot help but recognize that we are today operating in a hybrid system, one that uses cash, cheques and other bills of exchange in tandem. But the reality is that cash and cheques are becoming less used and relevant. Not just today, for but for a while now, outside of the public service, most financial practises and transactions happen without cash, happen without cheques. So this law is playing “ketch up”. And, today, as we transition towards going cashless, we need to be even more vigilant with our hard-earned money, taking steps to guard against hacking, technological dependency and economic inequality.

So, I join with Sen. Mark in ensuring the view that it is our hope that this legislation, which allows for legal recognition of electronic cheque images, will not be brought in isolation, but it is going to form part of a suite dealing with cybercrime, crypto currencies and enhanced data protection. The Government, the Central Bank, the banking sector and this Parliament, we all have to work together in raising consumer awareness and implementation of digital security measures

aimed at ensuring that electronic payments do not wind up in malicious hands. It is our collective responsibility to ensure that no one gets left behind, especially the aged, the computer challenged and the unbanked.

So, as a start, perhaps, customers need to be educated on how to stop a digital cheque. We need to strengthen our institutional systems and safeguards against glitches, outages, malfunctioning systems. We need special outreach efforts to bring those who may not have access to or who may be challenged by these new technologies and payment methods, bring them into the fold. They cannot be left to drift outside, and we need to help soften the impact against the poor and the unbanked and to guard against economic inequality.

Madam President, if you want a glimpse into the future, just look at Sweden, which is gearing up to become the first cashless nation by this time, next year. I thank you.

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

**The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):** Thank you very much, Madam President. And just to answer one question raised by Sen. Mark, the Minister in the Ministry of Finance, hon. Brian Manning, will be winding up. I am here just to deal with some specific issues, and I want to congratulate MP Manning for his maiden contribution, excellent.

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

**Hon. C. Imbert:** Although I did tell him, you have to talk a lil closer into the mike. I have that problem myself. Sen. Ahye, it is easy to kind of drift away from the mike. So, Sen. Mark made some points, not unexpectedly, because Sen. Mark has a habit of rehashing things that have already been dealt with extensively in the other place. Some of the matters he rehashed, the hon. Senator, were the issue of negative resolution, regulations made by negative resolution and guidelines issued

by the Central Bank. Those questions have already been asked and answered comprehensively. But, let me reiterate that the use of negative resolution as opposed to affirmative resolution, is done for a specific purpose, and one usually finds this form of words, this approach to the making of regulations with matters that are highly technical in nature.

Affirmative resolution deals with more substantive policy issues. Negative resolution deals with technical matters, and the parent Act that we are debating today in this Senate, would have already dealt with the policy and, therefore, the regulations can only be administrative in nature and, therefore, there is no requirement to burden this Senate with a debate on such regulations unless the regulations are so offensive that a Senator feels compelled to file a Motion to negative the regulations and then there is a full-fledged debate. So, all bases are covered. So, there is no requirement for affirmative resolution.

Sen. Mark also attempted to speak about the fact that the Central Bank was not covered by the Freedom of Information legislation, and gave that as a reason why the Central Bank should not be allowed to make guidelines, wholly irrelevant, because the issue is regulations are being made by negative resolution. The guidelines that the Central Bank will produce have already been used and done. This has been occurring, as I indicated in the other place, for donkey's years under the Central Bank Act, under the Freedom of Information Act, sorry, Financial Institutions Act. They have no force of law. So that is an incorrect statement made by Sen. Mark that the Central Bank will make law, which the Parliament cannot look at or cannot interrogate, because the Central Bank is a secret organization. That is nonsense. The guidelines would be purely administrative, and it is standard practice. And it is only expected that the regulator—because the Central Bank regulates commercial banking—and, therefore, the regulator must issue guidelines



for the regulation of transaction such as cheques.

I was quite interested in the point that Sen. Vieira made about whether cheques will become a thing of the past, and I pulled up an article in the *Financial Times*, a very recent article, July 2021, and it had this to say.

“Old fashioned and costly”

The title of the article is “Why cheques aren’t quite dead yet” *Financial Times*, July 30, 2021 and it goes like this:

“Old-fashioned and costly, cheques are a remnant of a labour-intensive banking era. But there are strong reasons for keeping them.”

And what I am about to read, I could not have said it better myself.

“Digital payments are not universally trusted and have repeatedly been shown to be vulnerable to fraud, cyber attack and power failures.”

And moving on:

“The vulnerable and elderly, in particular, believe cheques can be more reliable than electronic payments. There are no Pin numbers to remember and no need for 20:20 vision to read numbers on a screen.”

The writer goes on to say:

“A relative of”—hers—“does not trust the internet, after reading so many reports of victims of banking fraud who fail to get their money back.”

So, she insists on using cheques. So, there are many reasons why cheques will remain, but there is no doubt, as the article goes on to say, that the authorities, all over the world, are seeking to phase out the use of paper cheques, because of the cost and the administrative burden in managing cheques.

What this Bill seeks to do is to remove a significant element of that burden. Because, at this point in time, if someone writes a cheque that is not written on the bank of the person receiving the cheque that the payment is made out to— So I

write a Republic Bank cheque but the person I write the cheque to banks with Scotiabank, a process called clearing of the cheque must take place. At the present time, everything is physical. So, the person who writes the cheque, writes the physical paper cheque, gives it to whoever they are making the cheque out to. That person goes into their bank, which is not the same bank, and that physical cheque now has to be transported all around the world, as it were. What this does is removes the transportation of the physical cheque from one bank to another. It also removes the requirement to store these millions of pieces of paper.

So that the Central Bank has asked the banks to introduce this new regime from July. This is why we are here today, and this matter must be settled by the 30<sup>th</sup> of June in order to allow the new system to occur in July of 2022. What this will do, the person writing the cheque still has to use a paper cheque. When they deposit it in their bank, then the electronic imaging takes place and the electronic image is then sent to the other, the Central Bank and so on.

Some of you may have been contacted by your banks and told that you, in due course, will have to get new cheque books, because the Central Bank is standardizing the features on the cheques. In fact, in particular, I got my new cheque books recently, and one of the things I noticed is the way the date is listed. It is done in a particular way. I think it is year, month, day or year, day, month. I am not sure, but it was different to what was on the cheque before. So, the Central Bank is now standardizing all of this. The commercial banks are now standardizing all of this, and putting other security features on the cheques to allow for as much integrity as possible in the electronic imaging that would take place from bank to bank.

I want to stress there is no intention, at this time, to allow cheques to be deposited by electronic means by—I would call them civilians—by ordinary

people, because that is a massive undertaking in terms of dealing with fraud because, at least, the cheque is written out to someone. It has certain distinctive features. There is a signature on it. It can be checked. But if you were to go to digital imaging, you could image with photoshopping and all these other techniques that people have altering images that the cybersecurity controls that banks will have to put in to ensure that they minimize or mitigate against fraud of electronic cheques would be tremendous. So, we need to walk before we could run. This is certainly a step towards that, because it is done in other countries. But we need to beef up our security systems, cybersecurity systems in Trinidad and Tobago, before we can allow persons to use electronic cheques for individual use in the banking system. But this is a first step to allow the banks, because there is control there. Banks are regulated. They are all sort of security systems in place with respect to banks put in by the said Central Bank, which will be issuing the new guidelines.

With respect to electronic payments, I need to explain something, and I will give Sen. Mark probably for the first time in my life, the benefit of the doubt, and even as I say that, I doubt myself. But, I am assuming that Sen. Mark is just simply unaware of the complexities involved in electronic payments. The bulk of the Government's payments is salaries and wages, 60,000, 70,000 or more persons receive their salaries and wages by way of cheques. There are some entities where payments are already digital. URP for example, people are paid, not by cheque, but by way of a debit card. The money goes to their card and they can withdraw from the card. So, there are some elements within the Government system where electronic payment is already taking place. But in terms of converting the payment system for 50,000 or 60,000 civil servants—members of the protected services, the defence force and the teaching service, et cetera—what Sen. Mark may not have

realized is that, as I just said, a cheque is written to a person. So there is a name on it and, therefore, you have the whole question of producing identification, your ID card, your driver's permit. You have the whole question of checking the signature, making sure the words and figures match, all that sort of thing.

If you move now from cheque payments to these 60,000-odd people to electronic, you have to get their bank account numbers. So you run into the first obstacle where people start to complain about personal and private information. So, that is the first challenge that we, as a Government—we are doing it, you know. I just spoke to the head of the Treasury and within the next month or so, the Government will be moving towards a process of making payments to members of the civil service and the other services I spoke about electronically, but we first have to get their bank account numbers. So, we will be having to inform the trade unions about this. We will have to inform the individuals themselves about this. Hopefully, not too many people will object and they will provide their bank account numbers, and then we can start the process of introducing electronic payments for wages and salaries for all these thousands of people.

So the Government is not sitting down. This is a complex issue. We want to do it. So I want to give hon. Senators the assurance that we want to move towards electronic payments as far as is possible. Many Trinidadians and Tobagonians, over the last couple of years, have started to have confidence in electronic payments. I can speak for myself. If I have to hire a tradesman, a plumber, an electrician to do something at my home, in the past, I would have to give that person cash or on some occasions write a cheque for those of them who had bank accounts and were prepared to take a cheque from me. But now, quite a few of these tradesmen are providing me with their banking details, and I can do an electronic transfer out of my personal online account to their personal online

account. So there is definitely a change in the culture in Trinidad and Tobago. People find it easier and they are getting more confidence in it. But understand, within the public service, we will have this tremendous task of getting all these bank account numbers, validating all of them, because it is very easy to make an error with a bank account number. One digit wrong, and that is it, the whole system crashed and, in addition, some banks use different types of digitization with respect to their account numbers.

**12.00 noon**

I remember we had an issue with Scotiabank, where if the person looked at their bank statement they would see a particular series of numbers, but for digital transactions you had to add another three digits to the front of the series of numbers in order for the transaction to go through. Without those additional digits, the transaction was being rejected. So, it is quite a complex exercise but I would like to give hon. Members the assurance—hon. Senators, that this is what we plan to do.

I suspect there will still be people who will want to use cheques. I used the examples of the elderly and the vulnerable who may not trust electronic systems; who may not have computers; who do not trust the Internet; who, as I said, cannot even read the screen, and so on. It may still occur. There will be a gradual phasing out as time goes by. But this Bill, as Sen. Vieira has pointed out, is a significant first step. I thank you, Madam President.

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

**Madam President:** Sen. Welch.

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

**Sen. Evans Welch:** Thank you, Madam President, for the opportunity to speak on the Bills of Exchange (Amdt.) Bill, 2022. Madam President, I propose to be fairly

brief on this Bill and unusually not run out of time as I usually do. However, I feel compelled to make one or two comments on it.

First of all, let me say, I support the intention, the concept and the philosophy behind this Bill. However, I do have some concerns about it, which I shall express, but which does not detract from the advantages which I see are to be derived from it. So, I will speak generally about those advantages first; then, secondly, my concerns about it generally; and then, I propose to look at some of the specific provisions themselves which I think can be tightened up in some respects.

Madam President, many of our banks have attained international standards in terms of their modernization, their use of technology, digitization and the way they do business, and that is to be applauded. However, in this particular realm of clearance of cheques, it is not as a result of lack of initiative that they have not done so, but really they are hampered in some ways by the Bills of Exchange Act and its present provisions. Because section 45 of the Bills of Exchange Act, as it exists, requires that a cheque must be physically presented in order for it to be cleared and it must be physically presented at, what is called in the legislation, the “proper place”. And the “proper place” is defined in section 45 of the Act to be the known address of the banker that has to pay; secondly, the address of the banker that is stated on the cheque on which the bank has drawn. So, these provisions make life somewhat difficult in that they create and mandate that cheques must be dealt with in the particular way that has come to be cumbersome and inconvenient.

So, the present legislation, which allows for clearance by the notification of an electronic image, has its many advantages and some of them are very practical advantages to the small man as well, because we live in a society where it is now known that to go to a bank with a cheque, with a paying cheque—a paying bank

with a cheque, you run the risk of leaving that bank and being robbed. So, generally, the tendency now is for many persons to deposit cheques into their personal account and to wait for the clearing system because it is now risky to go directly to the paying bank. So, you deposit it in your account and you are caught between a rock and a hard place because when it is deposited into the account, by reason of section 45 which I have referred to, you have an agonizing wait of—I heard some people say four days or five days, that is what my bank promises. But in reality, it is an agonizing wait of seven days for that cheque to be taken from your bank to the other bank to ensure that there are sufficient funds and for it to be cleared.

So, clearance by electronic imaging is a serious advantage. It is also a serious advantage, not only to the everyday man but to businesses which still accept cheques because many businesses—the practice—the fact is many businesses deposit their cheques into their account—into their bank account. No business really worth its salt and which has a fair amount of activity sends a whole pile of cheques to the paying bank to be cashed physically. So, this new approach brings advantage to the individual person as well as it brings advantage to businesses which are still prepared to accept cheques. So, in that regard, I commend the initiative. I commend the philosophy behind it, and I support and concur with some of the expressions of the hon. Minister of Finance.

However, there are some limitations to its usefulness. One—and it may be regarded as a necessary limitation but nevertheless it is a limitation, because the bank in which the cheque is deposited “may”, and that is the use of the language in the provisions. It has a discretion, it is not compelled. I can understand the avoidance of compelling a bank to do something but, at the same time, it reduces the effectiveness and efficacy of the legislative measure because the bank “may”

do it, “may” present the cheque by notification of its features to the other bank by electronic image. This legislation does not make it compulsory in any way.

Quite often why this may be irrelevant from a practical perspective is that a bank may feel more safe presenting—sending the physical cheque itself. But this does not only apply to the bank which is presenting but the paying bank is also not compelled to accept notification by electronic imaging. According to the provisions of this proposed Bill, a paying bank has an entire day, 24 hours. After the image is presented to it electronically, that paying bank has 24 hours and after 24 hours it may call for and insist on the presentation of the physical cheque. So, a day is gone and a day is wasted after which the bank may still insist. This legislation in no way mandates the paying bank to accept the electronic image it receives from the bank to which it has to transfer the account.

So, it gives it a discretion to refuse and what I think should happen, with respect to a paying bank under this legislation, is that there should be specified circumstances in which a paying bank may call for the actual physical presentation of the cheque. For instance, if there is some doubt, Madam President, by the paying bank of the electronic image—let us say there is some suggestion that there is a forgery, the electronic image, the handwriting on the cheque is not clear, there is an error with the date, there is something which does not look right, then in those circumstances the paying bank should be given the option to call for the physical presentation of the cheque itself. But it seems to me, Madam President, to simply have a wide open provision which allows a paying bank to say, “No”—without giving a reason or for any reason—“I am not accepting this cheque,” is to defeat the usefulness of this legislation.

The paying bank may just simply say, “Look, I am going to continue to do things the old way of doing them because this is what we are accustomed to.” And



this, as the Minister of Finance himself has pointed out, nothing is better than the physical cheque itself when it comes of the elimination of the risk of fraud and reducing the reduction of fraud. So, it may well be we may be engaging in a legislative exercise here which, in the final analysis, is not to put to use to the full extent that we wish to see because there is all this leeway open to both banks not to be compelled in any way to adopt this legislative measure.

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

The other aspect of this legislation which calls for some critical analysis and which has been touched on, to which, Mr. Vice-President, I would not belabour but nevertheless it, to a large extent, constitutes a modernization of the obsolete because that is where we are heading with a reduction in the use of cheques and that is where we should go. And it is already taking place to a large and significant extent, as already been pointed out, between individuals you have online transfers. Payment of utility bills, you can now do it on a website, as I did yesterday after some frustration. But nevertheless, you can sit at your desk and do it, scream a bit when something goes wrong and you have to do the whole process over or you have to become registered. But nevertheless it is an example of where the world is going and why this legislation might be an exercise in a modernization of the obsolete. So, you can pay utility bills in that way.

And most important of all, nearly every business worth its salt, and from what I have seen, even some parlours—what we call “parlours”, using the old language. Even shops now require—now have LINX machines. Transfer is immediate. You put in a card and the money immediately goes from your account to the recipient’s account. That is what many businesses do. “No personal cheques accepted” is a common sign and therefore, you use your LINX card and the transfer is immediate. If you do not have money in the account then the business

does not have to suffer, wait seven days to find out the cheque is dishonoured and they cannot find the customer who paid it. So hence, the reason this process of cheque issuance has been largely eliminated from day-to-day activity by businesses. And only recently we saw in the newspapers where a young lady was charged with several counts of fraud through dishonoured cheques. When businesses see that they depart from it. So, cheques for these reasons, it is going to become, to some extent, untrustworthy and reduces the usefulness of this exercise.

I am also concerned, Mr. Vice-President, about the possibility of fraud this opens up because, make no mistake, I have confidence in the overwhelming majority of bank employees but there have been cases and it is not an insignificant number in which bank employees have engaged in fraud. Nothing like the real cheque itself when it is presented. You know a bank can see the signature on the real cheque itself, they can hold the texture, they can examine it and they can know for sure, “This is from my bank,” before they pay. An image has many means by which it can be created by dishonesty within the banking system itself and then my concern about that is, how is liability going to be determined? Who suffers the risk of the loss? Does the paying bank who took money out of its customers account, are they to repay the customer or can they say, “I am not liable, I am relying on legislation which I am following, the laws which says, on receipt of this image I should pay”—and therefore the bank may take that position. What is to happen to the customer in those circumstances? And if they reimburse the customer because of such payment, how is the bank itself going to be indemnified? So, it may well be a situation where that is another reason why paying banks may insist on the old system and which can, to some extent, put these legislative measures—make them not reap the full advantage. It is a catch-22 situation.

The electronic imaging system, it creates greater efficiency but the chances

of fraud are increased because the paying bank is not dealing with the cheque itself and therefore, there needs to be some kind of provisions or some kind of legislative measures which can assist in that regard. How are laws to be born—indemnification as opposed to saying—as I heard one of the contributors said, “Well, the common law is there to take action.” That is not an attractive option if one wants to make this legislation friendly and attract banks and customers to fully engage in it. Because any time there are disadvantages, if this legislation is to be useful, the persons who it most affects must have confidence in it when it is implemented. And if they do not, and if empirical evidence and examples emerge which warrant a lack of confidence, then we would have wasted some legislative time here, an agenda which could have been used for something with greater impact and more relevance. So, we need to cater in this process for these measures and think futuristically as to the problems it may give rise to and address them while they can be addressed.

Mr. Vice-President, I would like to look briefly at some of the provisions themselves and I have to confess—I am sure it is going to be explained and perhaps there are some matters which I am overlooking in this regard and therefore which I would welcome the explanation for, because clause 4, in particular 74A, I am not quite sure what is the purpose of it, what it is getting at and how does it fit into this whole Bill regarding notification by electronic image and clearance of cheques by electronic images.

At present, section 45 of the Bills of Exchange Act defines where a cheque is to be presented and it defines it as the “proper place”. The proper place is the known address of the bank or the address stated on the cheque itself. So, “proper place” is legislated by the Bills of Exchange Act and those provisions make sense. However, what section 74 does—this proposed section 74A does, it says—74A(a):

“Notwithstanding section 45—”

So, let us put aside section 45 which explains what is a proper place and where a cheque must be presented. It says:

“Notwithstanding section 45—

(a) a banker may, by notice published in the *Gazette*—

(i) specify an address at which a cheque drawn on the banker may be presented...”

So, by this proposed 74A, it need not be presented at the bank or at the bank’s known address or at the stated address on the cheque because the bank may simply, by notice in the *Gazette*, specify just any place at which it can be presented.

And 74A(b) goes on to say—effectively goes on to say that whatever place the bank specifies is to be regarded as a proper place for presentation:

“a cheque drawn on a banker is presented at a proper place if it is presented at an address specified by the banker under paragraph (a)(i)...”—which I just referred to.

So, this applies to the existing system which will continue after this amendment is in place. It applies to—in its language, it applies to where one is still dealing with physical cheques and presentation of the actual physical cheque. Why is the bank being given authority to change the place that is already prescribed for under section 45? What mischief does this have in mind? What is the objective?

Is a bank now entitled to say, for instance—because this has no restrictions. Is a bank now entitled to say, for instance, “A proper place can be a lotto booth”? Make an arrangement with a lotto booth and say, “That is the proper place,” or the post office, et cetera? Can a bank abuse this provision and seek to distance some of its operating affairs, commission it out to other places? Can it abuse this provision? And therefore, if there is less work at the physical bank itself, it gives rise to the

possibility of the bank using this measure to reduce staff further because we do not need any staff? Let the lotto booth or the post office or wherever it feels to gazette under this proposed section 74 be a place at which cheques can be paid? Perhaps it is an oversight on my part but I think my concerns are warranted on the basis of the provision itself, how it is worded and the effect. It is almost like if the bank is having a legislative power to add to the definition of “proper place” under section 45—under section 45 of the Act as it presently is. So, I would like that to be looked at, explained, and if there is no real explanation for it, for 74A to simply be deleted instead of giving a bank that unrestricted power.

Another concern I have about this same section, 74A, is the second part of it which reads almost in a way—even though I know this is not the effect of it—but the way how it reads, I would be suggesting certain amendments at the committee stage to tighten up its reading because it says the bank may designate anywhere as a proper place:

“Notwithstanding section 45...”

It almost sounds like if the bank may replace what is prescribed for by section 45 with its own designation of places.

So, instead of:

“Notwithstanding section 45...”

—of the Bills of Exchange Act, I would like to see language which reads along the lines of—instead of “notwithstanding”, the opening words should read:

In addition to proper place prescribed under section 45, a bank may designate somewhere else as a proper place.

And I would also like to see—before the new 74A(i) which—I would like to see that begin with the words:

Without prejudice to section 45(d), a bank may designate other places.

So then it is clear that these other places are in addition to what is catered for by section 45, and not a substitution of the proper places already prescribed for by section 45.

**12.30 p.m.**

I agree that on a strict interpretation, it does not have that effect. The Bill does not have that effect, but that is how it comes across, that is how it looks. That is an interpretation one may possibly argue, and for the removal of all doubt and to make it absolutely clear, I would propose an amendment in the way I have just suggested.

Mr. Vice-President, with respect to the provisions with which I agree, I think there can be some tightening. Section 89A(1), which is the main operative provision of this Bill, says:

“A banker may present a cheque for payment to the banker on which it is drawn by notifying him of its essential features by means of an electronic image instead of presenting the physical cheque itself.”

However, nowhere in the proposed interpretation section is electronic image defined. One ought not to leave that for any wide interpretation by anyone, because of the possibility, which I have already alluded to up front. This legislation ought to define what electronic image is, and it ought not to leave it for custom.

Electronic image, if it is to be restricted to a scanned version of the cheque by a scanner, a properly working scanner, then the legislation should say so, the proposed legislation. This is not a matter for regulation. Definition of terms which are used in a Bill or legislation is a matter for the interpretation section of the legislation, and I am not comfortable with legislation which reforms this process of cheque clearance in such a major way, but which nevertheless opens up the possibility of fraud, leaving the driving term in the legislation, the core term

“electronic image”, for interpretation according to custom or whatever.

Is a photograph of it good enough with another camera, or must it be a scanned version? What is the paying bank supposed to be acting on? If only a scanning done at the bank is what is required, then say so, and a scanner on which the image of the bank where it is scanned it is printed or something of that nature. Otherwise you might have photography. Is a photograph good enough? Photographs can lead to the issues of fraud. Bear in mind at all times we are not dealing with the physical cheque, which is the safest thing, and if you are dealing with something less than what is safe, that something less must be properly defined and articulated in the provisions of the legislation.

My other concern is that you communicate to the other bank by notifying that other bank of the essential features of the cheque. How is such notification to be done? If the intention why notifying is not explained here, or the means by which the notification is to be done, if it is because it is contemplated that the regulations would take care of that, then I have no difficulty with that. If, however, it is because there is an oversight, then I have difficulty with it. Because saying that the paying bank is to be notified of the features of the cheque by electronic image, is not to say or explain how the notification is to be done.

Madam President, I make the point because I have been involved in the prosecution of a matter in which there was communication to a bank to transfer funds, and I am talking about major funds in US currency, which was done by fax, and it lead to serious issues as to which bank is going to pay back the customer, et cetera, because it was all a fraud. So if you are introducing this new system of clearance it has to be tightened up, and the provisions cannot simply say by notifying the paying bank of an electronic image without saying how is that bank to be notified, is it by email to the bank's proper address, et cetera, by fax,

whatever, scan and, however, I do not know. I am not a banker and I am not familiar with bank software.

**Madam President:** Sen. Welch, you have five more minutes.

**Sen. E. Welch:** Thank you, Madam President. So I would like to see that dealt with. Also, this says the electronic—I find it startling, 89A(2), which reflects the point I am making. 89A(2) says the electronic image “need not be made at a proper place”. That is the exact provisions of the proposed Bill, it “need not be made at a proper place”. What does that mean? What that provision should be attempting to do is to expand the definition of proper places under section 45, and modify that definition and adapt it to accommodate electronic images, where exactly they must be sent, because a paying bank would say, “We did not receive it in our proper place. We were not aware of it. You sent it to the human resource department and not to the active banking division, et cetera.”

So I think it is erroneous and a major oversight to say that a bank is required to pay on receipt of notification of an electronic image, but the bank that is sending it need not send it to a proper place, because that is what it says here, the proposed 89A(2). I will read it 89A(2):

“Where a cheque is presented for payment under this section, presentment need not be at a proper place or at a reasonable hour on a business day.”

So this bank now, the paying bank, after 24 hours must comply after it is presented. But the paying bank may not be even aware if it is presented, because this provision says it need not be presented at a proper place. That is not, in my perspective, acceptable. Proper place has to be—the definition under section 45 has to be expanded to accommodate the transfer of electronic images, and not make an exception for electronic images. They need not comply with section 45. As I said, there is the potential for too much fraud in the system to allow such a loose



provision to be operative.

So we need to have a specific destination of the paying bank, where it is going to be sent. If the regulations are to require banks to indicate what is their designated place to receive, then the regulations must do that in order to cater for this lacuna, and this provision must be changed to something of the nature, “to a proper place as designated by the bank and informed officially by the bank”.

It also says—89A(3) I have an issue with. It says that even for the purposes where the paying bank is dishonouring a cheque—

**Madam President:** Sen. Welch, your time is expired. Minister of Public Administration.

**The Minister of Public Administration (Sen. The Hon. Allyson West):** Madam President, thank you for giving me the opportunity to contribute briefly to this debate. When in 2020 the Prime Minister, the Hon. Dr. Keith Rowley, reported on the work of the Road Map to Recovery Committee, he indicated that one of the key recommendations of the Committee was for Trinidad and Tobago to rebuild post-COVID on a platform of digital transformation. It was a pillar on which each sector’s growth and development was to be built and developed and to be the underpinning of our recovery and development thrust.

It is for this reason that we created a Ministry dedicated to digitally transforming the public service, but also a Ministry designed to create a platform on which the whole of Trinidad and Tobago, public and private sector, could more fully embrace the utilization. This would become more evident as the work of that Ministry and others is rolled out. It is also evident from the significant measures introduced in our last two national budgets, in which the Minister of Finance announced significant measures to provide relief to and to incentivize entrepreneurs to invest and promote the utilization.

The Bill that is before us today, the Bills of Exchange (Amdt.) Bill, 2022, is consistent with that thrust. It seeks to advance the way our financial institutions conduct what continues to remain a significant part of their daily activity, the cheque clearing system. In essence, what we are focused on is changing the ways cheques are processed to make the process more efficient, and allow the recipients of cheque payments to get earlier access to their funds. That is in a nutshell what the Bill is about.

Cheques are written orders to pay, issued and signed by the person making the payment and given to the person to whom the payment is being made. Via the cheque, the payer instructs his bank to withdraw the money from his account and deposit it into the account of the person to whom the payment is made. The process of reading and transmitting the cheque data to complete the financial transaction is called “cheque clearing”.

To truly understand what is occurring, one has to bear in mind that every day of the week individuals, businesses, NGOs and Government agencies are writing cheques to be paid out of accounts they hold in bank branches located in places spanning the breadth of Trinidad and Tobago, from Parlatuvier to Point Fortin, from Toco to Icacos. These cheques are first deposited by the recipients of the cheques into their bank accounts. How do they get from there to funds being deposited into the account of the recipient?

I will admit that prior to having to prepare for this debate, it is something I gave little thought to. Like so many other things in our lives, I took the process for granted and never focused on everything that the facilitating institutions have to do in order to fulfil that order to pay.

On deposit, all cheques are centralized, meaning each cheque from each branch throughout the country is brought to a central place by each of our banks.

So Republic Bank has a central area, as is First Citizens, as is Scotiabank, as is Republic Bank. At the end of each business day, banks list the cheques they receive and group them by the bank on which the cheque is drawn. They then physically send those cheques to the respective paying banks. The paying banks then have to verify the authenticity of the cheques, largely through signature verification, and must also confirm that there are sufficient funds in those accounts to settle the amounts of the cheques. Then the amounts due by bank A to bank B and vice versa are agreed and settled. This is done through a cheque clearing house.

The cheque clearing house is currently owned and operated by the Central Bank of Trinidad and Tobago. All commercial banks are participants in the cheque clearing house. Representatives of the commercial banks and the Central Bank meet on a daily basis at the clearing house. Fortunately this can be done virtually, where bilateral liabilities are agreed, based on this cheque listing received the previous day. Once there is agreement, the Central Bank computes the multilateral net settlement position of the system, which is processed and settled. The proceeds of these cleared and settled cheques are available to payees four days after the cheque is received by the payer's bank.

The magnitude of that task becomes evident when one considers the number of cheques being processed by the banks. In developing countries—and I would repeat for the benefit of Sen. Mark—in developing countries in general, not in Trinidad and Tobago specifically, cheques continue to be the major payment mode, despite the existence of seemingly more efficient and more secure alternatives.

So let us look at the volumes of cheques we are talking about, that the banks have to process. Admittedly there is reduction, but it is still significant.

In 2015, the volume of cheques written in that year was 8.9million cheques.

By 2019, it had dropped from 8.9 to 7.1. So, obviously, people are adjusting to more electronic payments, but the volume of cheques is still significant.

I have the information for 2022, but I do not think it is relevant to rely on that, or prudent to rely on that, having regard to the significant slowdown in the economy in 2020. But in 2019, we still had \$7.1 million in cheques, which equates to approximately 26,000 cheques written per working day. That is significant when one has to consider they have to be collated, transported, allocated among the banks. Transported to the banks, the banks have to look at them individually, confirm and verify the signature, confirm the availability of cheques, and all of this is done manually. This is what we are trying to move away from.

While we recognize and acknowledge that the numbers of cheques being written, it is still today a significant amount of work for a bank to do manually, and the indications, based on looking at the experience around the world, is that this would continue to be a fairly significant task going forward. So I do not think that we are preparing if for an obsolete system. I think this is the system that would remain with us for some time.

So as a first step in the improvement in the efficiency of the cheque clearing operations in Trinidad and Tobago, and by agreement of the Central Bank and the commercial banks, Infolink Services Limited will be launching an electronic cheque clearing system. The target date is August of 2022, subject to the passage of the Bill.

The system participants will continue to be the commercial banks and the Central Bank. The introduction of the electronic cheque clearing system will facilitate the electronic clearance of cheque images and data among commercial banks and the Central Bank, without the need for the physical exchange of paper instruments.

In the short-term, the cheque clearing system is expected to improve interbank clearing arrangements and reduce the period for returns to two days—although experience throughout the world shows that it can actually be brought down to one day—down from the current holding period of four to seven days. However, we should note that it is anticipated that it would take some time for the system to settle down to the new normal. It is expected that between six and nine months from now the system should be working smoothly from the go light date.

So the electronic cheque clearing system is a critical part of the payment system improvements initiative, a part of a series of initiatives we need to note being pursued by the Central Bank of Trinidad and Tobago in conjunction with the Bankers' Association.

Now, we need to bear in mind that this is an initiative supported, promoted, encouraged by the Bankers' Association because they recognize the implications of the current system on their operations. If it was something that was going to be obsolete tomorrow, they would not have encouraged this move. Obviously it is something that they agree that is needed. So what are the objectives?

The objectives are: To allow automated cheque clearing participants within Trinidad and Tobago to send and receive electronic cheque images and data, to improve efficiency of the existing clearing settlement arrangements by the use of technology, to reduce cheque handling times across participant banks, thereby reducing the time for a cheque beneficiary to access the funds, and we need to remember this important element of what will happen.

This shift from the processing of physical cheques to electronic cheque images will reduce the cost of processing and clearing by eliminating or reducing the time required for the storage and transportation of paper cheques, while increasing the speed of clearing and settlement processing across participants. It

would provide a cost effective method of transferring funds and payments.

What are the expected changes? Some of us who still write cheques, like Sen. Vieira, may have seen their banks changing the format of the cheque, the size of cheques because all cheques have to be standardized to comply with this system. The system they are using to standardize the format and features of the cheques are the Canadian Payments Association format.

There will be a daily exchange of cheque images via electronic file. The replacement of physical cheques—physical cheques will be replaced by the cheque images. There will be a reduction on the whole period for cheques, and there will be an electronic settlement of clearings through the Central Bank. What are the benefits? Greater efficiency, faster availability of funds, reduced cheque processing costs.

All changes will have to be adopted to allow for the digitalization of the cheque clearing system. So all cheques must be standardized, so that participating banks will be able to exchange data electronically instead of physically.

Will there be a change to the required standards for how cheques are written? The answer to that is yes, and people who still treat with cheques need to recognize that. Clients will be required to ensure the use of black coloured inks when writing cheques, and cheques with alterations in material fields, date, payee name, words, figures, signatures will not be affected. So that will automatically be a bad cheque, because one has to acknowledge that these things will now be read by machines, so they have to be perfect documents. Once the legislation is passed, the banks will embark on a comprehensive education and sensitization programme to get their clients ready for the change.

What are the impacts on the customers? There will be a final deadline for presentation of cheques with the old format and an effective date for the

introduction of the new format. The banks, of course, will encourage you to order your cheques in advance so there is no lag period. The amended cheque format will be mandatory. So people need to recognize that.

In a nutshell, Madam President, that is what will happen once we pass this legislation. It is anticipated that once it is passed, things will move fairly quickly and that there will be an obligation on chequing account holders to ensure that they put themselves in a position to comply with the system, or they would have difficulty negotiating.

It has been found that the introduction of fully electronic solutions has helped improve the accuracy of transmitted information through cheques, and reduce their processing time. Clearing of cheques can, as I indicated earlier, be done on a same day basis. The banks in Trinidad and Tobago are not currently prepared to make that commitment, so they are indicating a reduction from four days to two days.

The system is expected to eliminate risk associated with transferring paper cheques, and the risks are significant. Between banks, significantly reduced transportation and manpower costs, as well as cheques lost and fraud risks. This is a logical step in our transition to a digital economy, and will facilitate further developments in evolution in the future, which I have already indicated, the Central Bank with the Bankers' Association are working towards. It is not the end of the road, it is merely a step along the way. It is a positive move fully endorsed by the banks, and there is absolutely no reason not to support this Bill.

Madam President, I thank you.

**Madam President:** Sen. Deyalsingh.

**Sen. Dr. Varma Deyalsingh:** Thank you, Madam. Could you tell me what time I would finish, what time I am carded to finish?

**Madam President:** Let me do some maths here, yes, 138.

**Sen. Dr. V. Deyalsingh:** 1.38, thank you. So, Madam, I thank you, and I thank you for the opportunity to present with this Bill, an Act to amend the Bills of Exchange Act, Chap. 82:31.

First, I might say I welcome hearing the esteemed junior Minister of Finance present for his maiden presentation.

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

**Sen. Dr. V. Deyalsingh:** I must congratulate you. I see shades of your late father, and my heart is warmed. So what are we here to do? Today, we are looking at an old law, 134 years old. I think it was it in 1884 it came to scene, and then there were changes, amendments along the way, 1907, 1920, 1926, 1933, 1934, '42, '79. So it was 20 years ago we actually had our last change in this, so we are revisiting it. So, why are we doing so?

**1.00 p.m.**

Well, technology has changed. Banking globally has evolved. So what we are really trying to do now is to play catch up with technology. And as Sen. Mark did say, you know, we are way back and we are long in coming but we are here today and, at least, I am pleased to say that, you know, even though our—some of our Caribbean countries have already, you know, done what we are attempting to do today, we are here and I am hoping that, at least, we are able to do a proper job of it.

So what is a cheque? A cheque is really a promissory note. And we all know that if we have a cheque, it has to go to the bank to be cleared and to, you know, look at features, to look for any sort of fraud that is occurring. And usually that process, as we know, may take around six to seven days to clear. And with this technology we have seen an advantage where we would now be able to clear



cheques in a quicker manner.

And as some speakers mentioned, there is a declining use of cheques. We heard it from the Minister of information technology and even the Minister of Finance before when he mentioned that. But he did quote that there was an article which says that there is still a mistrust of this electronic banking system from a number of persons. And we heard from the Minister of information technology who says that, cheques will be around for a while. Even in other countries you still have this as a means of payment. So, I have heard about the advantages of electronic bank clearing and it has advantages. As was mentioned, it will speed up clearing times.

And I have an instance where, Madam President, there was an individual actually who got a cheque from someone. He was selling his car. And that cheque came around, I think it was Friday around 3.00 o'clock. So there was no way he was able to carry that to the bank in time and then it was weekend. And when he carried it, it took five days to clear. And by the time he realized—this cheque was actually a cheque that was a rubber cheque. So he actually now would have been at a disadvantage where his car was taken, it was stripped. And if he had known before he would have been able to put things in place to recover that car. So therefore definitely there are some advantages.

There was also, as was mentioned, increased consumer convenience. And this part, you know, and decrease operational costs. So definitely, Madam, the speeding up of clearing time, I acknowledge, would be there. And I acknowledge it has its advantages whereby, you know, you would be able—you know, long ago you go to a bank and if it is one bank like Scotia and your bank is really Republic and you have a Scotia cheque, it would take longer to clear than if it is just a Republic Bank account you have and you get a Republic cheque. So definitely it

will speed up the clearing time. So that is an advantage.

To say that it will—so a consumer convenience was also mentioned as an advantage. And, yes, it will be more convenient to some consumers. It decreases the operational cost. But I ask, Madam President, to whose benefit? Because, you see, in this legislation here, this Bill, it really serves as a bank to bank arrangement. So the banks, you know, and through the Bankers Association and Central Bank did come across with this sort of a measure that they wanted to put in place. As we see we are catching up. But looking at this, the advantage to clear quickly, it really, you know, would not be—I do not see it as an advantage to the normal average citizen. I see it is more an advantage to the banks. Because the banks will have to, as mentioned by the Minister of information technology, there is that clearing house where they would have to actually—the banks will have to go—they will have to go to the Central Bank. They will have to have these cheques in. So the physical problem we have of actually carrying these cheques, yes, there is an advantage of not having that. The advantage is, you are not going to be spending the time of persons to go to drop those cheques. You have the advantage too, less transport wastage, fumes from vehicles. You have the ease of doing business which is certainly something that has been spoken a lot in this Senate that, you know, we need to somehow improve on this. So definitely those are advantages.

And also with the COVID, less exposure for persons to have go to banks, personally drop, courier service, et cetera. All those are advantages and all those I acknowledge. But, Madam, we have to say, this was really brought about as the Minister of Finance stated, the Bankers Association, the Central Bank and, yes, I see the advantages. But what I am saying is, what will happen to those workers who were normally courier servicemen? What will happen to the tellers because most of the banks now are laying off staff and this is my little concern? Will it be

to the benefit of the banks to introduce this system? And they are really tightening their belt, and staff. So I am a bit concerned about if persons will lose their jobs and what guarantee we have that those persons in the banks would not be in any other—put in any other positions.

Again, I mentioned it is definitely to the benefit of the banks. Definitely they would be able to save. And this is where I support this Bill. But I also think we should have gone a stage further. As mentioned by some Members that, you know, if the bank is saving on this, saving in terms of the cost of transporting, you know, the actual cheques, cost of personnel, would those fees, banking fees somehow, you know, that has kept increasing be channelled down to the average citizen?—because if you are going to go in this manner, I would hope that somehow we would have been able to get this.

And again, I mentioned, Madam, that in the US you can take a cheque and you can scan on your phone and it will be honoured. And I think, even though this Bill is commendable, this is where we should have been going because we know we are already lagging behind. But by coming with just this, where to me it serves the interest of the banks and not fully serving the interest of the citizen who would actually would be banking their money, I think this is the ideal situation. I understood what the Minister of Finance was saying that, you know, we have to take little steps, baby steps. But, you see, it looks like we are always lagging behind in legislation. Other countries have it. Other Caribbean countries have it. So you can just scan that cheque and it is not a bank to bank arrangement. It is a person/customer via the bank where you can be able to have greater efficiency.

And why I bring this up, Madam, because you see, recently the Minister of Social Development and Family Services she actually mentioned, the Minister actually mentioned that there is a lot of fraud occurring with the banks and

cheques. And I think there was an instance where a lot of cheques from Tobago came, it was cashed into a grocery in Trinidad. And why I make mention to take, the average poor individual who cannot afford to go to the bank who may be living far from the bank, who may not want to go in that banking institution which, in the past you have to remember, Madam President, you go into the bank and there were no toilet facilities. Why would I go as an elderly pensioner to go in the bank to change my cheque? The easiest thing you would have done, you go to your grocer and the grocery would have given you items and given you change. So that was a community sort of benefit with changing cheques. Yes, fraudulent activities occur. But I was thinking somehow I would appreciate if in the future we could have, you know, if this would have been factored in, not banking to banking but the personal scanning of the cheques what would have benefited our citizens more.

And I am saying that, so I think we should have gone a step further. I am saying that I also understand and appreciate the fact that there is a Ministry that is now giving certificates for elderly persons in computer literacy. This was there under the last administration under social services and I think it was disbanded but it has started back. So if we are going further, if we are going to have this—if we are encouraging persons to go this way, I think that was an excellent venture where it is offered to these individuals. And I see Sen. Mark did mention, he may not be as computer literate—and all these are courses that we could probably on to help us get some more, sort of a comfort in the electronic banking.

So when I looked at the fact that the computer literacy, if our citizens are—a lot of them may not be able because we have an ageing population who may not really learn but the Government is making steps towards that. I have seen that the fact you can still have the opportunity if you carry your cheques in but I must say, I am disappointed that an individual will still have to carry in their cheques to the

bank rather than scan and carry it to the bank and I am hoping that would come to a position we would have soon, you know, because I think we have missed the boat here.

As I look at the Bill, Madam, I must say that I would have looked at the clause 4 of the Bill.

“The Act is amended by inserting after section 74, the following section:”

And in here we look at:

“74A. Notwithstanding section 45—

(a) a banker may, by notice published in the *Gazette*—

(i) specify an address at which a cheque drawn on the banker may be presented;”

And I think that is a good idea because it brings in that level of flexibility. But when I look at part (b) of that. So 74A part (b):

“(b) a cheque drawn on a banker is presented at a proper place if it is presented at an address specified by the banker under paragraph (a)(i) and the banker has not cancelled that address under paragraph (a)(ii).”.

And as mentioned Sen. Welch that he needed some, you know, a little greater, what I am saying, something more definite. And he was asking that, you know, you have to have some—a better way of clarifying these places. And I am saying, the places that you are now going to have should be a place that has the washrooms and proper amenities. So I welcome—I welcome the flexibility. I also looked at the fact that, again, mentioned in 89A:

“(2) Where a cheque is presented for payment under this section,”

It need not be at—it:

“...need not be made at a proper place or at a reasonable hour on a business

day.”

This actually opens up the business world where outside of traditional working hours, outside of the traditional bank you can now start the processing. So this is something I am totally in agreement with. I think this is the way to do because even with the COVID when people were working in the pandemic, outside of working hours they would have been doing business activities. So 79A(2), excellent.

I looked at, also the fact that when we were looking at 89A part (8), looked at the essential features in the cheques. So, again, it gives a safeguard what you are looking for, serial number. Part (8) shows the serial number of the cheque assigned to it by the banker to whom the cheque is drawn.

“(b) the code which identifies the banker on whom the cheque is drawn;”  
 So it gives you—part (c), (d), (e) also gives you these features that you would look for:

- (c) the account number of the drawer of the cheque;
- (d) the amount of the cheque entered by the drawer of the cheque;
- (e) the signature of the drawer...
- (f) the date of the cheque;”

And as mentioned and I also have got my bank to tell me, they are now providing new cheques with the date being—trying to be standardized. So they are already moving into this direction. They are already having these features which may be features that they would have had before when they were checking the verity of a cheque that they would now be looking for. So this actually repeats the safeguards that they look for before. I look at the fact that:

“Where a cheque is presented for payment under this section—

- (a) any banker providing the electronic image;

- (b) any banker to whom the electronic image is provided; and
- (c) any banker making payment of the cheque as a result of the provision of an electronic image...”

Again, all this very well because it is going to help banker to banker not customer to banker and I made that point already. And again it mentioned that they:

“...are subject to the same duties in relation to collection and payment of the cheque as if the physical cheque had been presented.”

So it gives that onus on the bankers to have that responsibility.

Part (10) is where I found was very, in fact, part (10) is something that I must commend the drafters where part (10) shows:

“An electronic image of a cheque presented under this section shall be admissible in evidence for all purposes for which the physical cheque would be admitted as evidence.”

So, I do not know if the AG had a part to play in this, but definitely we have known cases where evidence goes missing. A cheque might be destroyed. Rats may eat evidence, you know, in going to court and definitely this is an advantage especially knowing our system we have here, knowing sometimes DNA evidence may be lost or whatever. This, I think, it is commendable and this, I think, could go towards helping any sort of fraud that can occur because now those, that electronic image would be admissible in evidence in court, so I commend the Government for this however, I just want a little clarification.

You remember, if there is—a case I remember, Madam President, where a cheque was signed and it was fraud case. And it was actually in the ink they got DNA evidence from the person who signed that cheque. DNA evidence. So what I would like—I would like some clarification now. Let us say there is a case where the bank has this cheque. If there is a case that there is some sort of a—a red

herring is raised about that cheque of being a rubber cheque, would they now be able to take that, seal it into an evidence bag and keep it available rather than let it go back to any sort of individual, go back to the system where you may not be able to get that evidence, DNA evidence which may still be available within it. So sometimes for clarity, what will happen to those cheques where we are now looking to see if there is any sort—would it be sealed? Would it be kept in a safe place? And this is something I would like to try to look, to find out more about it because we know in terms of evidence what can happen, will it be admissible, if you can get that DNA, who did sign that fraud cheque, if it is there. I look at section 6, the Act which says:

“The Act is amended by inserting after section 96, the following new section:

97. (1) The Minister may, on the recommendation of the Central Bank and subject to negative resolution of Parliament, make Regulations generally for the purposes of this Act.”

And:

“(2) The Central Bank may issue Guidelines on any matter it considers necessary for the purposes of this Act.”

Now, I know the Minister of Finance did come about and try to, you know, clarify negative resolution, affirmative resolution. And he did say that if something comes, you know, if persons want to question something, they could move a Motion and get that negative resolution, get something heard about any sort of a, you know, concerns they have. But, Madam President, you remember it was this administration who had some problems with a previous Central Bank Governor. So I would have rather if, you know, anything the Central Bank does, not to say, I am now imputing improper motives on the Central Bank. But history would show, if



there were some sort of egregious agreements before, I would have rather that, you know, the— Anything the Central Bank wants to do now, it could come to the Parliament and we could have, you know, look at any sort of guidelines, look at any sort of resolutions that they may want to make and we might be able to question it. And this is only—I make that statement based on the history that went on before, that it would have been probably better to have that oversight that—on the activities.

So, Madam President, as I close I want to say—I would like to say that, it is definitely needed. We are now catching up to what has transpired before and I support this legislation. I think it could have been used to help the common man more than just the banking industry. And I think we need to beef up cyber security and I think we are on the right path but we have to push it more because we could have using this to benefit the ordinary citizen and consumer more. Thank you, Madam President.

**Madam President:** Attorney General.

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

**The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC):** Thank you very much, Madam President. Madam President, I stand today here with pride to support the hon. Minister in the Ministry of Finance in his maiden pilot before this House of the Bills of Exchange (Amdt.) Bill, 2022. I will not trouble this House with recapping much of what has really been said, so that what I am about to say will seek more than anything else to be by way of emphasis in respect of a number of things that have been said. But there are certain things that I would wish to dwell on in addressing certain concerns and in emphasizing certain matters.

We know that the Bill dates back, the original legislation dates back to 1884.

I do not need to repeat that. The point there simply is that, in the year 2022 we have to accept that we are moving into a reality of digital transformation in many respects and therefore, this Bill is seeking to provide for a system of clearing of cheques. And I want to emphasize that which will facilitate the processing and the expedition and security of transactions of bills of exchange of cheques.

The point needs to be emphasized and I say that because I, frankly and I apologize to him, was not entirely clear in some of the submissions which were made by Sen. Mark. The point needs to be emphasized that the Bill before this House this evening is about clearing of cheques with the use of electronic images between banks. It is not about the need for the average man or woman in the street to participate at this point in time in electronic processing of their payment system whether by cheque or otherwise. I think that needs to be emphasized and I think it is sufficiently clear if one takes the time and the trouble to read the proposed Bill that is before this House.

And I want emphasize as well by way of an expression of gratitude on behalf of this Government for the time that has been taken by the Central Bank of Trinidad and Tobago and the Bankers Association of Trinidad and Tobago in producing the work that has resulted in this Government being able to present this Bill today before this House. And I say by way of, first of all, acknowledging the very hard work.

And secondly, addressing another point which, I believe, and again the fault may be mine, I perhaps do not understand the English language well but I get the impression that Sen. Mark was seeking to suggest that there has been significant delay on the part of this Government in bringing this Bill before this House.

The work that has gone into being able to present this Bill with the confidence with which it is presented today stems from work done between the

period of 2017 to now by the Bankers Association and the Central Bank of Trinidad and Tobago. So it is not a condition of stasis. It is not as if we recognized a situation existing in 2017 and stood still. The work has been done and it has been committed to by professionals in every sphere of the commercial industry in banking and otherwise. The Bankers Association and the Central Bank have done considerable work. They have looked at not just the Bills of Exchange Act which this Bill is seeking to amend. They have looked at the Negotiable Instruments (Dishonoured Cheques) Act, Chap, 79:52, the Evidence Act, Chap, 7:02, the Electronic Transactions Act, Chap, 22:05. And in addition to those pieces of legislation which have been examined very carefully to ensure that what we are asking this House to pass today is done with confidence and certainty because those are requirements of proper legislative mandates. They have looked at the legislative precedence which exists in other Commonwealth countries.

So that the Government is today able to bring this Bill before this House knowing that the precedence from Grenada, Canada and United Kingdom have been examined thoroughly and we know that this Bill is patterned in particular off of the United Kingdom Small Business, Enterprise and Employment Act 2015 by which the electronic clearing system was implemented in the United Kingdom. So that the work has been ongoing. I want to emphasize that and it is not as if there has been delay. There has not been delay. It is an ongoing process.

And let me make another point and it is a point to address legitimate concerns that have been raised by other Members of the Senate, that the work in progress continues so that electronic payment systems that will permit people to be paid by electronic transfers while being recognized as a desirable part of our digital conversion and our digital transformation. We are not ready to do that at this stage but it is a work in progress which this Government is working on with the relevant

stakeholders to ensure that in due course we will come back to this Parliament after we pass this legislation today in order to say, we have a further amendment to make to the electronic transactions that are capable of being done under the Bills of Exchange Act and indeed under the Electronic Transaction Act which will permit for the electronic processing of payments in manner that has been spoken today by some of our Independent Senators. But we are not yet ready for that today. We are at the point at which what we are asking this House to approve on a progressive and incremental basis is the system of bank to bank clearing of electronic images of cheques in order to modernize our system to that extent and to speed up, expedite, the process.

And may I address another point that has been made and it is a useful point that has been made by Sen. Welch and that point is that, he looked at section 89A (8) and spoke to the fact that the Government ought in this legislation to provide a definition of “electronic image”. It is a useful point. But, may I reassure Sen. Welch that the definition does not need to be provided for because what is being employed in legislative drafting terminology is what is known as a neutral language. And the reason why the neutral language is simply that of the term “electronic image”, is because electronic image, which is provided for in section 89A(1) of the clause, clause 5 of the Bill has to be read to mean that that image must be understood to be defined by reference to the essential features of a cheque. So if we crossover from section 89A(1) which speaks of by means of an electronic image and we go across to address section 89A (8), we see that:

“(8) For the purposes of this section, the essential features of a cheque are”

And then listed from (a) through to (g) are the essential features of the cheque.

So when the “electronic image” is used, there does not have to be a stand-alone definition of the term because it is understood that the electronic image that

is being captured in the banker to banker transaction is an image of a cheque which satisfies the essential features that are prescribed in the section 89A(8). So, I hope that gives Sen. Welch some reassurance that the term is not undefined and therefore capable of confusion.

I move, Madam President, to say that the Evidence Act has also been looked at. And again, this goes back to the work that was being done by the Central Bank of Trinidad and Tobago and the Bankers Association, professional lawyers and bankers who were working on it. And it was thought at first that perhaps there needed to be amendments to different legislation. Eventually what was decided and we find that in section 89A is a simple amendment in the Bill before this House to provide that:

“An electronic image of a cheque presented under this section shall be admissible in evidence for all purposes for which the physical cheque would be admitted in evidence.”

That end result was the process of a very deliberate system of examination undertaken by the professionals who have supported this work that we come to this House with today.

Clause 6 of the Bill inserts a new section, Madam President, permitting:

“The Minister...”—of Finance—“...on the recommendation...”—by—  
“...the Central Bank...”—to—“...make Regulations...for the purposes of this Act.”

And:

“The Central Bank...to “...issue Guidelines on any matter it considers necessary...”

**1.30 p.m.**

I pause for a moment to dwell on this because I was concerned in the other

place, Madam President, at the fact that a concern was raised by the other side which suggested that the reliance on the use of regulations and the reliance on guidelines coming out of the Central Bank of Trinidad and Tobago and/or the Minister, somehow or the other, provide for a negative situation which provides uncertainty. The point is that one would not have thought it necessary to have to address this because we understand as legislators that when one is looking at legislation, you have to look at legislation holistically.

So, when we are looking at the Bills of Exchange Act and we are looking at a role prescribed under the Bills of Exchange (Amdt.) Act, which has come in before this House today, we understand that we must look at other legislation. So that, for instance, there is a piece of legislation known as the Financial Institutions Act, and the Financial Institutions Act, which is law in this Republic, gives a significant role to the Central Bank of Trinidad and Tobago as a regulator. It provides for oversight. The word “oversight” on the part of the Central Bank is defined in the Financial Institutions Act. One only has to go to the Act as a legislator to understand that.

Section 5 of the Financial Institutions Act goes on to provide that:

“(1) The Central Bank shall be responsible for the general administration of this”—Financial Institution—“Act, the supervision of licensees...”

Licensees under the Financial Institutions Act, Madam President, are banks, commercial banks. And this legislation, this amendment is about allowing banker to banker presentation of electronic images. So that the activities of the bankers, that are being provided for under this legislation, fall under the regulatory oversight of the Central Bank as provided for in the Financial Institutions Act.

And then section 10 of the Financial Institutions Act tells us:

“The Central Bank may issue guidelines on any matter it considers

necessary...”

And it goes from (a) through to (d), and (d) says to:

“regulate the market conduct of licensees.”

Those licensees are banks.

So, the simple truth which emerges for any legislator’s understanding of the overarching regulatory framework of the Central Bank Act and the Financial Institutions Act, that simple truth is that commercial banks which issue cheques for ordinary commercial usage are licensees within the meaning of the FIA and are subject to the control of the Central Bank which may issue guidelines for their regulation as provided for by clause 6 of the Bill before you. So that, for the record of this House, I wish to put on record the fact that the concern that was raised in the other place by the Opposition to suggest that the use of regulation and guideline is somehow an arbitrary phrase that defies explanation or definition just cannot stand in the context of the law that already exists in relation to the oversight role of the Central Bank.

Madam President, I also touch very briefly on Sen. Mark’s criticism of the use of the word “negative resolution” and that he wishes to bring an amendment to this House to provide for affirmative resolution. That has been dealt with already by the substantive Minister of Finance in the other House and it has been dealt with here before again. And I just wish to underline and underscore the fact that as legislators we understand and we know the difference between negative resolution and affirmative, and to suggest that the use of the procedure, the modality of a negative resolution somehow or the other allows for arbitrariness just cannot fly, it does not get off the ground, it does not get off first base with the greatest of respect.

And it reminds me—and I would touch very briefly on the point. It reminds

me to remind this House that only yesterday the Privy Council produced a very significant decision in the jurisdiction—for the jurisdiction of Trinidad and Tobago. That is a decision that came out of the challenge to the Public Health Regulations. How is that relevant to this debate? It is relevant in this respect. What the Privy Council has reminded us of in that decision yesterday is that there is significance—working practical significance to be derived from the fact that a government is elected with a simple majority and governments have to be permitted to function by use of their simple majorities in order to provide for effective governance in the public interest. And there is nothing illegal or wrong about a piece of legislation, such as this piece of legislation coming to this House by a simple majority, being passed to allow for banks between themselves to permit electronic images of cheques, notwithstanding the fact that the original Act back in 2018 was passed by a three-fifths majority. Otherwise the system becomes unworkable and when one reads the Privy Council decision from yesterday in the Suraj and Maharaj matter, one appreciates how far reaching that decision is.

So, I want to reassure Sen. Mark, when he speaks to the need for affirmative resolution that it is not necessary and indeed it is going beyond what is necessary by providing for unworkable realities in the context of legislation for the public good and in the public interest.

May it please this honourable House, Madam President, I do not have very much more to say. I say that I am pleased to be able to stand here today and to contribute to this debate and therefore, without any further ado, I say thank you very much and I am happy to be associated with this legislation.

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

**Madam President:** Minister in the Ministry of Finance.

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



**Madam President:** Before I call on the Minister in the Ministry of Finance to present his winding up, I remind Members who have spoken and who have indicated that there are amendments to be circulated, that those amendments have to be in writing and have to be ready for when we begin the committee deliberations. Minister in the Ministry of Finance.

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

**The Minister in the Ministry of Finance (Hon. Brian Manning):** Madam President, thank you. I know we have a very packed legislative agenda today so I would not be too long. I listened closely to Sen. Mark and, you know, sadly I would I have to say I think he missed the crux of this legislation and the point of it all. Let me remind everyone, all those listening, that this is the implementation of an electronic cheque clearing system for Trinidad and Tobago. It is a cheque clearing system, nothing to do with online banking or some of the other points that I have heard coming from Sen. Mark.

The Central Bank, in conjunction with commercial banks, is considering the implementation of an electronic cheque clearing system in Trinidad and Tobago. This is an attempt to digitize the back end of our banking system. Of course, we should all know by now that online banking is quite prevalent here in Trinidad and Tobago. We have a very strong banking system, very competitive. Many of us pay our bills online at this point in time. So, there is not much to worry about on that end. This is simply trying to improve the back end so that there is better efficiency moving the period it takes for cheques to be processed from six working days to two working days which we expect to vastly improve the process.

I would like to thank the Minister of Finance, also our hon. Attorney General for supporting me and working out some of the legal aspects of this Bill today. Both spoke already about the negative and affirmative resolutions and that there is

more than adequate oversight in terms of dealing with the Central Bank and how the Central Bank is allowed to regulate the banking system in Trinidad and Tobago. Sen. Mark repeated many of his examples over and over, but I hope that what has come out of today's legislation has assisted him or will assist him in understanding better what it is we are attempting to do.

I have been in contact with some of our legal persons at the Ministry in terms of some of questions asked and, of course, we have been in constant discussions with the Central Bank. I believe it was Sen. Welch—sorry, Sen. Mark who spoke about paying banks in one day in terms of the request of the original instrument. It is a necessary step to verify the cheque if there is doubt. This will exist regardless of what is going on because there is always an element of fraud even in terms of electronic use of a back end, in terms of digitizing things. And, of course, we know that we are moving in this world from an industrial age to a digital age. More and more things are moving from atoms to bits. But, of course, there is always still that element of fraud even if things are being brought into an electronic age. It does not eliminate the opportunities for fraud, it just calls for a different type of fraud. So, safeguards are in place. I believe I had mentioned that when I piloted the motion to begin with, so I would not go over that again.

Sen. Welch also introduced some interesting points and I will address those here now. In terms of fraud, regarding signatures, banks will employ systems to verify the veracity of cheques. Fraud would be addressed under the current rules of the cheque clearing system and the common law, in the same manner as with fraud on the physical instruments. There are fraud-mitigating technologies available to commercial banks, such as positive pay.

“Positive pay is a fraud-prevention system used by commercial banks internationally...”—for—“companies to protect...”—themselves—“against

forged, altered, and counterfeit checks.”

The company provides—“...a list to the bank of the check number, dollar amount, and account number of each check.

The bank compares the list to the actual checks, flags any that do not match, and notifies the company.”

So, because we are moving more to digitize everything, it does not mean that everything completely has become digital. We still have some human hands involved in the process.

Sen. Welch also spoke of the purpose of section 74A, similar to section 44A of Grenada’s Bills of Exchange Act and modelled after section 74A of the UK’s Bills of the Exchange Act, also recommended by BATT. Section 45(d) currently provides that a banker may specify the proper place for presentment in the cheque and as such has the discretion to specify the proper place for the presentment of cheques drawn on it.

Section 74A will allow a banker to specify a place of presentment by notice in the *Gazette* as an alternative to specifying in the instrument itself. Under section 45(d)(i), the bank can already in the cheque itself specify a place of presentment. Section 74A of the Bill extends this discretion to the bank and allows it the flexibility to indicate a place for presentment other than in the cheque itself. The locations for electronic presentment would also be agreed by the system’s participants, that is commercial banks and the Central Bank of Trinidad and Tobago. So, I hope I have alleviated some of Sen. Welch’s fears with that.

Clause 89A, there is concern about the wording there. Clause 89A(1) is worded as a discretion and not mandating commercial banks to present cheques electronically. Sen. Welch asserts that the discretion on presenting electronically may undermine the purpose of the legislation. The Central Bank has been in

discussion with commercial banks and the Bill represents the agreed position between the commercial bank and commercial banks. And all commercial banks have indicated that they would take part in electronic presentment and have begun to transition their customers to checks that comply with a new electronic cheque clearing system and can facilitate electronic presentments.

Clause 89A(1), electronic image. All jurisdictions that have utilized electronic image, UK; electronic means, Grenada; or electronic form, Barbados. None of these jurisdictions have provided definitions of any of those terms in the parent legislation.

So, Madam President, this simple piece of legislation, as I said earlier, is meant to really digitize the back end of our cheque clearing system as monitored and managed by the Central Bank of Trinidad and Tobago which is the authorized regulator of the banking system of this country. We expect that it will provide more efficiency, more transparency and also shorter clearing times for the people of Trinidad and Tobago.

Madam President, thank you for that and I beg to move.

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

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

**Madam Chairman:** Hon. Senators, I remind everyone that there are six clauses to this Bill and we have amendments circulated by Sen. Mark and Sen. Deonarine. Minister, you are ready? Yes?

*Clauses 1 to 4 ordered to stand part of the Bill.*

*Clause 5.*

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

**Madam Chairman:** Sen. Deonarine.

**Sen. Deonarine:** Thank you, Madam Chairman. Madam Chairman, this proposed amendment is with respect to the features of the cheque and having the Minister with responsibility of finance to prescribe any other additional features by order.

Now, it may be an oversight on my part but as far as I understand, with respect to the Financial Institutions Act, the Central Bank of Trinidad and Tobago is the one that regulates all commercial banks and is the one responsible for regulating and having oversight over all interbank payment systems. Hence, for that reason, I would recommend that we insert that this—any change to the features of the cheque that will be brought to in this legislation, that would be done by the Minister of Finance, be done upon the recommendation of the Central Bank of Trinidad and Tobago.

**Madam Chairman:** Minister. “Oh”, Attorney General.

**Sen. Armour SC:** Yes. Thank you very much, Madam Chairman. We appreciate the concern that is expressed by Sen. Deonarine and, of course, it is a concern that would ordinarily persuade us in different circumstances. But going back to what I have earlier said, Madam Chairman, the fact of matter is that we have different functions prescribed under these amendments.

In fact, we note for the first time that the Minister of Finance has been recognized as an entity in its own right in this amendment dating back to 1884, not having previously existed. And the amendment is also prescribing a role for the Central Bank of Trinidad and Tobago. Two separate bodies, two separate constitutional functionaries which have their specific roles to play.

And the point that I would make to explain why I do not accept the recommendation for the amendment coming from Sen. Deonarine is there has to be

allowed the Minister performing functions in his own right that does not depend on or to be second-guessed by the Central Bank. So that, if we were to look, for instance, at section 26 of the Central Bank Act, that already states:

“Notes and coins issued by the Bank—

- (a) shall be in such denominations of the dollar or fractions thereof as may be approved by the Minister;
- (b) shall be of such forms and designs and bear such devices as may be approved by the Minister.”

The point there being that the Central Bank Act already recognizes a specific function regulated by the Minister in his own right. And what is therefore in (g) of section 89A(8)(g) is consistent with the fact that the Minister has his own function and it does not have oversight over its shoulders on the recommendations of the Central Bank. And for that reason while we appreciate the comments, while we appreciate the thinking that goes behind the suggestion for amendment, we do not think it is necessary in those circumstances.

**Madam Chairman:** Senator.

**Sen. Deonarine:** Madam Chairman, I understand the explanation and I would withdraw.

*Amendment withdrawn.*

**Madam Chairman:** All right. Thank you very much.

**Sen. Armour SC:** Thank you.

*Question put and agreed to.*

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

*Clause 6.*

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

**Madam Chairman:** Sen. Mark.

**Sen. Mark:** Yes. Madam Chair, having regard to what is taking place at the Central Bank of our country today, and as I did indicate earlier, there is no freedom of information coverage and therefore, there is need for greater accountability by this institution to this Parliament. We cannot be giving powers as a legislature to the Central Bank, through the Minister of Finance, via regulations to make guidelines and we as the legislature and the people's representatives do not have any supervision or oversight of this institution and its operations. And therefore, I think it is incumbent upon us to have some degree of checks and balances.

And, Madam Chair, may I say, I do not buy the argument submitted by the Attorney General and the Minister of Finance that anybody could just find a resolution, negative, and a debate will take place. That is after the fact. If the Government is going to take action, we want to know what action the Government will take and that will come in the form of an affirmative resolution. And that therefore, Madam Chair, we are respectfully suggesting that we delete "negative", where it appears in clause 6, and have it replaced with the word "affirmative".

**Sen. Thompson-Ahye:** If I may, Madam Chair.

**Madam Chairman:** Sen. Thompson-Ahye.

**Sen. Thompson-Ahye:** Yes. I would like to support Sen. Mark on this issue. I heard the Minister—the Acting Prime Minister and Minister of Finance say this morning that the use of negative resolution for specific purpose is for highly technical matters. And I have been sitting in this Parliament for a few years now and what I have observed, and I have raised it on more than one occasion, that where in other jurisdictions, especially like Jamaica or Barbados and they call for affirmative resolution for the same type of legislation, we are calling for negative resolution.

As a matter of fact, I said once that we seem to have a predilection for

negative resolution rather than affirmative resolution. And when one looks at what is happening—even in Britain, they say that you must have parliamentary oversight and that it strengthens the whole scrutiny process and they actually recommended that there should be a committee for sitting—to be used as a sitting mechanism.

So, I would recommend that parliamentary scrutiny be used by saying that we should have affirmative resolution rather than negative resolution, which I find we use too many times in this Parliament.

**Madam Chairman:** Attorney General.

**Sen. Armour SC:** Thank you very much, Madam Chair. And with respect to the amendment sought by Sen. Mark and supported by my good and learned friend, Sen. Thompson-Ahye, we have to accept and not lose sight of the fact that the process of negative resolution and affirmative resolution both require parliamentary oversight. And it would be to misinform ourselves to suggest that the process of negative resolution does not include and inherently involve parliamentary oversight.

The point is that a matter comes before the Parliament and is laid on the table and after a certain period of time will fall away unless the Members of Parliament decide that they want to address that which is on the table. So that the fact that the resolution is subject to negative resolution provides the option for Members of Parliament to say we wish to be heard on this and then it comes for the scrutiny. And therefore, I do not accept that the use of negative resolution deprives the Parliament of the parliamentary oversight that is prescribed under the Constitution.

And I said earlier when I was making my contribution, my few words, that we should take some lessons from the decision in Suraj. And I will read one



passage out of the decision of the Privy Council which was handed down only yesterday, paragraph 68 of the decision of the judicial committee:

“A very large part of ordinary legislation, passed by Parliament for good reasons of the public interest, must inevitably interfere with or operate as restrictions on...rights. In the Board’s view it is not plausible to suppose that the framers of the 1962 Constitution and the current Constitution intended to disable Parliament from taking ordinary legislative action in the public interest.”

The point there is that if, as is this case, this amendment and the Minister’s order lays on the table by way of negative resolution, the ordinary course of the passage of legislation, in this case subsidiary legislation and order, will take its course, will be subjected negative resolution as opposed to an affirmative resolution which requires coming to the Parliament and having to get into a long debate that opposes and denies the very reason why we are passing this legislation to expedite the process in the commercial sector. And therefore, there is good reason to use negative resolution as opposed to affirmative resolution and we therefore do not accept the recommendation of Sen. Mark, supported by Sen. Thompson-Ahye. Thank you.

**Sen. Mark:** Madam Chairman—

**Madam Chairman:** Sen. Mark.

**Sen. Mark:** If you would allow me, it is precisely for that reason we submitted that we should have affirmative.

**2.00 p.m.**

I think the Attorney General has made my case. The Attorney General is saying that to avoid long discussion and debate on matters that ought to be expedited he is prepared—that is the hon. Attorney General—to bypass this very

important organ of the State, called the Parliament, that is established to scrutinize the executive, and the Attorney General is saying, “No, no, no, no. If you want to debate the matter, we will lay the regulations and then you can take action.” It is precisely why, Madam President, we are saying before you take the action you bring the regulations here and let us debate the regulations. I see nothing wrong with that approach and, therefore, we are insisting that this attempt by the executive to under—well I will not say undermine, Madam President, but to, in a way, handcuff the legislature is unacceptable, indefensible, inexcusable, and we reject completely and comprehensively the argument being advanced by the Attorney General on this matter.

**Madam Chairman:** Sen. Vieira.

**Sen. Vieira:** Thank you. While I understand Sen. Mark’s position, I want to just go to the deeper issue, which is really he wants to move Central Bank out of the shadows of secrecy by bringing it into the Parliament. But there has been a lot of studies all over the world with central banks which show that the nature of the work they do requires a high degree of autonomy and secrecy—a certain degree of secrecy especially when addressing monetary policy and monetary policy actions. And, in fact, Trinidad and Tobago is not unique in questioning central banks, but those studies can of show that in places where there is a lot of transparency with monetary policy it has provoked a certain degree of instability. So I tend not to support Sen. Mark here. I think leave it as is. Leave the negative resolution and, of course, as I think Minister Imbert had said, if is it so egregious he could always move a Motion to have a full debate.

**Madam Chairman:** Minister in the Ministry of Finance.

**Mr. Manning:** Yes, thank you. You have to recognize that the Central Bank, the reason that it is not under the Freedom of Information Act is because of the highly

sensitive information contained within. It is not trying to be secretive, or trying to hide anything from the population. Is that for it to follow its mandate and to function properly, there are some things that cannot be forecasted to the population. Certain information can cause run on banks, they can cause upheaval within the banking system, and that is why certain information is kept quiet. The Central Bank is already the natural regulator of the banking system and they should be allowed to implement those regulations as they have already been mandated to do.

**Sen. Mark:** Madam Chair, is my honourable friend aware that the Freedom of Information Act of United Kingdom, the Bank of the United Kingdom, the Central Bank, falls under that? Are you aware of that?

**Madam Chairman:** Sen. Mark, no. I am not going to—I am going to ask the Minister not to respond to that. I think that we are going a little outside the remit of this particular amendment, and I am now therefore going to put the amendment to the Committee. The question is that clause 6 be amended as circulated.

*Question put.*

**Sen. Mark:** Division.

*The Committee divided: Ayes 10 Noes 19*

**Sen. Armour SC:** Aye.

**Madam Chairman:** May I just remind Members on what we are voting on. The question is that clause be amended as circulated, by Sen. Mark.

**Sen. Armour SC:** Thank you, Chair. I withdraw.

*Division continued.*

NOES

Armour SC, R.

**Sen. Mark:** You see that is the second time you confuse yourself—

**Hon. Senators:** [*Laughter*]

**Sen. Mark:**—because you know you want to come on my side a—

**Madam Chairman:** Sen. Mark?

**Sen. Mark:**—long time.

**Madam Chairman:** Sen. Mark?

**Sen. Mark:** But we reject you.

**Madam Chairman:** Sen. Mark, please!

**Sen. Mark:** Sorry about that.

*Division continued.*

Gopee-Scoon, Mrs. P.

Sinanan, R.

Hosein, K.

Mitchell, R.

Bacchus, H.

Ibrahim, Dr. M.

**Hon. Senators:** [*Crosstalk*]

**Madam Chairman:** Just one second. Sen. Mark—

**Sen. Mark:** Sorry. Sorry Ma'am. My apologies.

**Madam Chairman:**—I do hope that you are interested in the outcome of this.

This is your amendment that the Committee is deliberating on.

*Division continued.*

Sagransingh-Sooklall, Mrs. R.

Singh, A.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Young, N.

Bethelmy, Ms. Y.

West, Ms. A.

Richards, P.

Vieira, A.

Deonarine, Ms. A.

Dillon-Remy, Dr. M.

De Freitas, N.

AYES

Mark, W.

John, Ms. J.

Lutchmedial, Ms. J.

Nakhid, D.

Roberts, A.

Deyalsingh, Dr. V.

Seepersad, Ms. C.

Teemal, D.

Thompson-Ahye, Mrs. H.

Welch, E.

*Amendment negatived.*

**Madam Chairman:** Hon. Members, is that clause 6 now stand part of the Bill.

*Question agreed to.*

*Clause 6 ordered to stand part of the Bill.*

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

*Senate resumed.*

**Madam Chairman:** Minister in the Ministry of Finance.

**Hon. B. Manning:** Madam President, I wish to report that the Bills of Exchange

(Amdt.) Bill, 2022, was considered in committee of the whole and approved without amendments. I now beg to move that the Senate agree with the committee's report.

*Question put and agreed to.*

*Bill reported, without amendment, read the third time and passed.*

### **INSURANCE (AMDT.) BILL, 2022**

*Order for second reading read.*

**The Minister in the Ministry of Finance (Hon. Brian Manning):** Thank you, Madam President. Madam President, I beg to move:

That a Bill to amend the Insurance Act, 2018, be now read a second time.

Madam President, thank you. This is extending the reorganization period under the Insurance Act, 2018. An extension of time is required for foreign or international branches of insurance companies operating in Trinidad and Tobago to be reorganized into subsidiaries and operate as separate legal entities or local companies. This will require an extension of the reorganization period in section 281 from the statutory period of 18 months, from the commencement of the Insurance Act which expires on June 30<sup>th</sup>, 2022. Madam President, this Bill amends section 281 of the Insurance Act, 2018, to extend the operation of the repealed Insurance Act, Chap, 84:01, and regulations made pursuant to the Act in order to facilitate the reorganization of international insurers.

Madam President, this Bill amends section 281(1) and (2) which affects the transitional and saving provisions of section 281 of the Insurance Act. The purpose of this Bill is to extend the period of time by which foreign insurers would become compliant with the Insurance Act, 2018 and its regulations, and it also spells out the extension prescribed by the Minister of Finance. As such, in clause 2(a) this proposed Bill seeks to extend the reorganization period in section the 281(1),

which will extend the operations of the repealed Insurance Act and regulations created pursuant to it with respect to foreign insurers. Currently, the reorganization period is 18 months from the commencement of the Act which would expire on July 1<sup>st</sup>, 2022.

However, this Bill extends—this seeks to extend the period until the 30<sup>th</sup> of June, 2023, or such later date as maybe prescribed by the Minister of Finance. Madam President, this allows the continued regulation of international insurers while they become compliant with the requirement to register under the Companies Act, Chap. 81:01 and the new Insurance Act. This amendment will allow for the country to continue to obtain the financial contributions by the international insurers under the Insurance Act and the amendments proposed, while also allowing foreign insurers to continue getting their affairs in order to become more compliant with the requirements under the amended Insurance Act.

Additionally, Madam President, in clause 2(c) of the Bill it introduces a new subsection 281(2A), which spells out the procedure by which the Minister of Finance is able to prescribed a date for the conclusion of the reorganization period. The Minister is also empowered to extend the reorganization period beyond June 30<sup>th</sup>, 2023 based on the recommendation of the Central Bank of Trinidad and Tobago, by Order, subject to the negative resolution of Parliament. It is our hope that the proposed amendments will facilitate and continue to attract continued business endeavours with these international entities.

Madam President, I know when we had debated this Bill in the other place, there was some talk coming from the other side about preferential treatment to certain entities that would fall under this amendment. I want to allay their affairs and also that of the population, all this amendment seeks to do is to extend the period that the international insurance companies have in order to bring their

affairs up to speed, and they were delayed in their efforts. It was a pretty onerous process required for these financial institutions to go through to become compliant and, of course, they were heavily restricted by the COVID pandemic. Eighteen months proved to be not long enough for the agencies to do the needful, and that is why the Ministry of Finance is asking for—well they came to the Ministry of Finance and the Central Bank and asking for an extension so that they can do what it is they are required to do.

Now let me give some insight in terms of exactly what is involved in this reorganization process—it is quite lengthy, it is bureaucratic, and it would take some time—so that you could understand that while many of our institutions were shut down during COVID why they did not achieve the task at hand during the prescribed period of time. Reorganization process, it involves:

- (a) Incorporation of a local company by the international insurer;
- (b) The application to the Central Bank for approval of the registration of the local company as an insurer. The Central Bank must ensure all the requirements for the registration of an insurer as laid out in sections 22, 24 and 28 of the Insurance Act are properly met prior to the issuance of the approval which includes inter alia, a fully constituted board of directors, the members of which must meet fit and proper requirements; evidence of requisite policies and procedures; sound business plan projections and capital adequacy requirements; controlling and significant shareholders and if applicable acquirers which who must meet fit and proper requirements; restructuring of group where entities are engaged in both financial and non-financial activities; permits for acquirers, significant shareholders and controlling shareholders as applicable which who must meet fit and



proper requirements. After being satisfied that all requirements or registrations are met, the Central Bank is required to consult with the Minister of Finance prior to registration of the local company;

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

Mr. Vice-President, I have not even gotten through half of the requirements in terms of the reorganization process, so you can have a fair idea of how onerous this process really is.

- (c) Where the local insurer will own subsidiaries or ownership in entities, the approval of the Central Bank is required;
- (d) The application of the Central Bank for the approval of a scheme of transfer to facilitate the transfer of all the assets and liabilities of the branch operations into the registered local company. The Central Bank must review and access the scheme which includes the transfer agreement and relevant documents to ensure that policyholders' interest are not prejudiced subsequent to the transfer, and that the assets and liabilities transferred into the new local company will not result in the new company in a lesser financial condition than existed in the branch operations prior to the transfer;
- (e) The transfer of all assets and liabilities of the international insurer to the newly registered local company. This may be done by way of a Vesting Order issued by the Minister of Finance;

And finally,

- (f) The application for the Minister of Finance to issue the Vesting Order to transfer the business to the new company. The newly registered local company can apply to the Minister of Finance for a Vesting Order pursuant to section 263 of the Act. The Central Bank will

review the draft of the Vesting Order prior to the company's submission to the Minister of Finance to ensure that the Vesting Order is consistent with the scheme of transfer at all the assets and liabilities of the branch of being transferred as per the scheme of transfer. Upon the Minister of Finance's making of the Vesting Order, the transfer of the assets and liabilities will be effective on the appointed day specified in the Order.

Mr. Vice-President, as you can see, that is a long bureaucratic process. This simple amendment is designed to maintain the status quo in the insurance industry to ensure that this vibrant and competitive industry does not suffer any upheaval, and so that the people of Trinidad and Tobago can continue to access their insurance services unabated. I know you are probably going to hear from some on the other side that there was some preferential treatment taking place or that this is designed to help one over the other. Clearly from what I have stated and shown, that is not the case. It is simply to maintain what we have so far and also to ensure that the international insurance companies can meet the requirements under the reorganization process, and I beg to move. Thank you.

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

*Question proposed.*

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

**Sen. Wade Mark:** Thank you, Mr. Vice-President. Mr. Vice-President, the Bill before us seeks to amend section 281 of the Insurance Act to extend the time under section 281 for a period of one year, and to give to the Minister the power to further extend that time by Order subject to negative resolution of the Parliament. Now, Mr. Vice-President, if you go to section 281 of this 2018 Act it reads as follows:

- “(1) Notwithstanding section 280, the former Act and the Regulations made thereunder shall apply to a foreign insurer for a period of eighteen months from the commencement of this Act in order to facilitate a reorganization of the foreign insurer’s business, such that the foreign insurers can comply with the requirement of section 21(1) of this Act.
- (2) A foreign insurers can reorganize its business pursuant to subsection (1) within a period of eighteen months from the commencement of this Act or within such shorter period as the Central Bank may direct.”

And prior to this section, section 280 reads of the 2018 Act:

“The Insurance Act is repealed.”

Mr. Vice-President, for the sake of completion I refer to section 21(1), and section 21(1) refer to in 281 provides and I quote:

“Except as otherwise expressly provided in this Act, no person may carry on any type of insurance business or reinsurance business in, or from Trinidad and Tobago unless that person is a company that is registered under the Companies Act and this Part, as an insurer.”

Mr. Vice-President, it is very, very clear to all of us that the Government recognized the importance of this Act of 2018 which was amended further in 2020, and which came into effect in January of 2021. Now this Act of 2021 sought to address an extension as the Minister said of the business of four companies of, I should say not four, but foreign companies for a period of 18 months so they can reorganize themselves to satisfy what is called the June 30<sup>th</sup>, 2022 period which is the deadline. Why have these foreign companies not been able to satisfy this aspect of our law? Why? The Minister said to us COVID, but he did not go on to indicate what aspects of COVID affected these foreign insurers.

Mr. Vice-President, my honourable friend did not share with us what the hon. Minister of Finance shared with the country when he wound up his debate in the other place. And I can tell you, the Minister of Finance is on record as telling Trinidad and Tobago the same point, COVID caused the problem, and the four companies that he is on record in the *Hansard* of telling Trinidad and Tobago did not meet the criteria or did not satisfy the law, and I want to tell you, Mr. Vice-President, there are severe consequences under the law for any entity that did not satisfy this law, jail and fine, or both. Hear the four companies that did not meet our deadline, said by our Parliament:

- Massy United Insurance Limited;
- The Insurance Company of the West Indies Limited;
- Sagicor General Insurance Incorporated; and
- Sagicor Life Incorporated.

**2.30 p.m.**

These are the four companies, foreign companies according to the Minister of Finance in the *Hansard* that did not meet the deadline but what is absolutely astonishing is for the Minister in the Ministry of Finance to tell this honourable Senate today as his counterpart or his senior or the Minister of Finance told the other place and he, the hon. Minister that is, repeated it a short while ago, COVID. COVID caused that.

So I want to know, Mr. Vice-President, if COVID caused these companies not to meet the criteria set out in the law, then the Minister ought to have informed this Senate what aspects of COVID were responsible for these companies not meeting their deadlines. But I think you know sometimes it is important for all of us to at least do our research or do not be economical with the truth. We need to be very clear. When we come to this Parliament, we must be truthful. Do not come to

this Parliament and seek to tell us what does not exist.

There are three companies involved in this matter that COVID did not affect and I want the hon. Minister who had his maiden contribution today and I forgot to congratulate him and I want to congratulate you on your maiden contribution like my colleague Sen. Varma, he did it earlier. But I want to also say that my honourable colleague should be either doing his research properly or do not present. Mr. Vice-President, I mentioned four companies. One is called the Massy United Insurance Company Limited.

Mr. Vice-President, do you know that Massy company sold Massy United Insurance Company Limited to a group called Coralisle located in Bermuda and the actual sale purchase agreement was wrapped up on the 2<sup>nd</sup> of September 2021? And do you know that the regulatory authorities, in this instance, the Central Bank, is yet, according to my research—and I ask the Minister in the Ministry of Finance to correct me if I am wrong. The approval that is required for this transaction to be completed is still ongoing. The last time I checked, this company called Coralisle Group of Bermuda is yet to conclude and get the approval of the Central Bank. Is that right? Is that right?

**Mr. Manning:** Mr. Vice-President, 46(1) please.

**Sen. W. Mark:** No, no, no, you have to clear the air on this. “Doh stand up and talk anything else.”

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

**Sen. W. Mark:** [*Inaudible*]

**Mr. Vice-President:** If it is, make it as relevant as possible to matter—

**Sen. W. Mark:** It is relevant.

**Mr. Vice-President:** Well, proceed.

**Sen. W. Mark:** Well it is relevant. I am asking, Mr. Vice-President, through you,

when the Minister is wrapping up to tell this Parliament if the four companies that are involved in this particular measure that you want us to approve today whether one of them sold out to a company called Coralisle, sold their assets.

**Mr. Manning:** Mr. Vice-President, 46(1). The amendment is for international firms to reorganize themselves and register locally despite what is being said here.

**Sen. W. Mark:** Mr. Vice-President, I am quoting from the—

**Mr. Vice-President:** Sen. Mark, Sen. Mark.

**Sen. W. Mark:** “Yep.”

**Mr. Vice-President:** You have asked the question twice. If it is relevant, the Minister will respond in his wind up. Can you move on to something else? Thank you.

**Sen. W. Mark:** Mr. Vice-President, I am saying to this honourable Senate that it is wrong for anyone to come and tell this Parliament COVID cause the problem. COVID did not cause the problem, there were other matters.

**Mr. Vice-President:** Sen. Mark, once again, once it is relevant, it will be addressed in the wind up.

**Sen. W. Mark:** I am hoping that he does that.

**Mr. Vice-President:** You have asked the question three times.

**Sen. W. Mark:** Right. Mr. Vice-President, so that is one. Massy United Insurance Company Limited is now sold to another company.

So the second question we have to ask is this. And Mr. Vice-President, I do not know if you are aware but we all should be aware that there is a report that is tabled in this Parliament ever so often. It is called a report submitted to the High Court and Parliament pursuant to section 44E (7) of the Central Bank Act, Chap. 79:02 for the quarter ended June 30<sup>th</sup>, 2021. I have the latest quarter, September of 2021. And you know what it tells us on page 8, Mr. Vice-President? It tells us—

you see, Mr. Vice-President, not you, the Government is asking us to give an extension of one year to four companies and they are not telling us why. I have to go and do some research to found out why because “I aint get the answer yet”, Mr. Vice-President.

I want to tell you on page 8 of this report and I quote for you:

On September 30<sup>th</sup>, 2019, the relevant sale purchase agreement were executed. In accordance with the sales purchase agreement, the nominee company of the transferee for the transfer of the respective traditional insurance portfolios of Clico and BAT was approved in March 2020 and would be bound by the terms of the relevant SPAs. The next statutory requirement in the sale process is the submission of schemes of transfer relevant to both BAT and Clico portfolios for confirmation by the Central Bank. Progress on this matter has been impacted by on-going court proceedings in the context of a challenge by one of the bidders for the portfolio.

So here it is, Mr. Vice-President, we are being told in this document that two of the companies here that we have been asked to give an extension of one year, the Central Bank is reporting that the takeover bid of Clico and BAT portfolios by a company called Sagicor is caught up in court proceedings. So how can you come here and tell the country it is COVID? Let us be serious, Mr. Vice-President. It is not COVID, it is court proceedings that has held back this, Mr. Vice-President. So I want the Minister when he is winding up to tell the country what is the real situation and “doh come” and tell us to extend the time when you know the reason why you are seeking this has nothing to do with COVID. But I am hoping that the hon. Minister will clear the air for us.

Mr. Vice-President, let me make it very clear. I want to know in this matter

that we have before us, whether the Central Bank of Trinidad and Tobago broke the law when it sold Clico and BAT insurance portfolio to a company called Sagicor because that was done in 2019 and the law was passed in 2021 that we are now dealing with. So we need to get answers from the Government of this country and we need to get answers from the Central Bank of this country, because we cannot come here and tell us to extend Sagicor by one year and Sagicor is caught up in court proceedings at this time with another company who I will not name at this time.

**Mr. Manning:** Why not?

**Sen. W. Mark:** Maritime, Maritime. Mr. Vice-President, I have, “yuh see me”, nothing to hide, “we coming clean” because this is a matter that we need to get answers on today. So when the Minister is addressing us later on this evening, let the Minister tell us what is the real story behind this amendment here today. What is the real story?

And, Mr. Vice-President, you know what is absolutely stunning and alarming is that the Minister of Finance, not the Minister in the Ministry of Finance, but the Minister of Finance is seeking for this Parliament to give these four foreign companies “ah bligh” for one year and we do not know why. We have not gotten any proper justification as to why and we must give another year, and it does not end there. Mr. Vice-President, it does not end there. What this Government is asking this honourable Senate to do is not only to give this “bligh” as I call it for one year, the Minister is asking us to allow the Minister of Finance on the recommendation of the Central Bank to give him through negative resolution the power to extend the date. Could you imagine that? So you want this Parliament to give one year extension to these four companies and COVID had nothing to do with that. Give them one year and then give the Minister of Finance



power in perpetuity to extend.

So, Mr. Vice-President, you know what? If next year after you grant these companies one year and they do not fulfill their obligations, the Minister has the power not to come to the Parliament to justify it, not to amend the primary legislation as is being done now so we can debate it properly, “nooo”. The Minister wants to have the power via negative resolution which the Attorney General is supporting to come and just lay in this Parliament regulations to extend and then I or Sen. Vieira or Sen. Varma Deyalsingh will have to file a motion to negative the regulations. But that is after the fact, Mr. Vice-President, so we cannot support the Central Bank having this kinda power.

If the Central Bank, according to what I am seeing before me and I need to get the Minister to tell the country: Did the Central Bank and the Ministry of Finance and the Government of Trinidad and Tobago sell Clico and BAT insurance portfolio to a company that was not incorporated, was not capitalized in Trinidad and Tobago when they did in 2019? And if they did that, is that not unlawful? Is that not illegal? The Attorney General must get involved in this debate on this matter and to clear the air for Trinidad and Tobago. This is a very serious matter and you cannot come here and play footsie with the people’s interest, “cyah do that”.

Mr. Vice-President, I have in my possession the actual statements made by the hon. Minister when this thing was being debated in Parliament. Right. The Minister was so strong on this thing. On the 31<sup>st</sup> of January, 2020, when we amended the Insurance Act of 2018 with this amendment in 2019 to deal with exactly what we are dealing with here. You know why? Let me tell you why. We sold our insurance portfolio belonging to BAT and Clico to companies that were branches, Mr. Vice-President, branches of the parent company. Could you believe

that?

The parent company of Sagicor is not located in Trinidad and Tobago. They are located in Barbados and the law that we passed in 2018 and we come and we amended it in 2020 made it very clear, that if you have to sell your insurance portfolio to any company in Trinidad and Tobago and especially it is a foreign company, that company was incorporated, registered and fully capitalized. And you know, Mr. Vice-President, why that is necessary? So that when you and I and the citizens buy policies from that company, they do not run away because it is “ah branch” and when we go to cash or to get some benefit, “dey cyah pay”. You know why, Mr. Vice-President? Because the assets of the company are not located in the branch, the assets are located in the parent company and the parent company is not located in Trinidad and Tobago, it is in Barbados. That is what we are dealing with here. This is a most serious matter and the Minister comes here and tells us it is a simple matter, it is a simple amendment. How this could be a simple amendment? This cannot be a simple amendment.

Mr. Vice-President, I want to tell you how serious this was. I have on page 43 of the *Hansard* report on the debate on the Insurance (Amdt.) Bill 2019 and this is coming from the Minister of Finance’s contribution to tell you how the Minister of Finance felt so seriously about this matter, of having a branch buy over. I think Clico portfolio, Mr. Vice-President, if I am not mistaken, when you combine BAT and Clico, it was over \$6 to \$8 billion. And you sell that to “ah branch”, ah Sagicor branch” and then you discovered later that that is wrong?

**Mr. Vice-President:** Sen. Mark, you are dealing with sale as opposed to extension of a deadline.

**Sen. W. Mark:** But, Mr. Vice-President—

**Mr. Vice-President:** I am invoking 46(1).

**Sen. W. Mark:** I am dealing with—

**Mr. Vice-President:** No, you went on for the last four to five minutes on sale as opposed to the extension of the deadline.

**Sen. W. Mark:** Yes, but I am dealing with the deadline now.

**Mr. Vice-President:** So I want you to keep your arguments and your points relevant to the conversation.

**Sen. W. Mark:** Yes, Sir. Try to follow what I am saying too, “Mr. Vice-President na”.

**Mr. Vice-President:** I am with you, Sen. Mark, but “yuh straying”.

**Sen. W. Mark:** Mr. Vice-President, I am [*Inaudible*] with your direction, directive rather and guidance which I always appreciate. In the *Hansard* report on page 43, hear our Minister of Finance to tell you how serious this thing is:

“Clause 76 which amends section 281”—that is in the amended Act of 2019 debated in 2020 on the 31<sup>st</sup> of January—“refines and makes clearer how branches of foreign insurers are expected to reorganize their business to come into compliance with the requirements of the 2018 Act.”

He goes on and I quote:

“Let me emphasize what will happen is that foreign insurance companies will now be required as of law to incorporate a company in Trinidad and Tobago, and that is to protect our citizens.”

And I am there with the Minister of Finance, you have to protect our citizens who go and take out policies with these foreign branches of these companies that “have dey headquarters” in Barbados or in Jamaica or in Bermuda. We have to protect our citizens and he is correct.

“So that if policyholders find themselves at risk, at least, the assets are here and not elsewhere as has happened with British American and some other

examples I can give.”

This is the Minister of Finance, hon. Minister, through the Mr. Vice-President, Colm Imbert, Member of Parliament for Diego Martin North/East indicating why this must be done. This was on the 31<sup>st</sup> of January 2020. This thing became law in January of 2021. June 30<sup>th</sup>, a couple days from now will make it 18 months, Mr. Vice-President, 18 months and we are being told that none of those foreign companies who have branches here have been able to put their house in order to safeguard the interest of policyholders in Trinidad and Tobago. And, in order to maintain what the Minister has said, stability, Mr. Vice-President, financial stability, the Government has taken a decision to give these companies “ah bligh” for one year and not satisfied with that, the Minister arrogates onto himself like an oligarch, a new Tzar, the Tzar of finance, total power at the expense of the Parliament. So the Parliament of Trinidad and Tobago has now become the play thing of the Government. So we must give to the Minister of Finance the power to do whatever he wants when he wants to do it. When he wants to extend, he extends, when he does not want to extend, he does not extend. And we must give the Minister that power?

“Look na man, when UNC comes into power” and we will come into power shortly because the days of this Government are numbered. These kinds of amendments that we have here have to be rejected. I have no problem if the Minister says, listen, one year. You want to give these people “ah year”, tell us the truth. Why? I understand, Mr. Vice-President and the Minister could tell me that when he is speaking, the Privy Council on the 20<sup>th</sup> of this month will give a decision on a matter involving Sagikor and Maritime and we do not know if that is why this has been extended. We do not know. So, Mr. Vice-President, we would like to make it very clear to this Government, this is an outgoing Government eh.

We want to make it very clear to this Government that we will never, we will not support the Minister of Finance having this kinda power in a matter like this. We will not give him that support.

So this section of the legislation, if you go to the Bill, you go to clause 2 of the Bill, you go to subsection (c) and you go to (2A). You know what it says? Let me read it for the records. It says that:

“The Minister, on the recommendation of the Central Bank”—the same bank that we want clarification on—“may by Order, subject to negative resolution of Parliament, extend the date referred to in subsections (1) and (2).”

And what does subsections (1) and (2) say? Firstly, we are going to—the Government that is, going to extend the time until the 30<sup>th</sup> of June 2023 or such later date as may be prescribed by the Minister under the section that I just read. Where the Minister gets all that power from? Where the power wants to get all that power? Why do you want all this power? This is “ah democracy eh”, this is not an autocracy. And if go to 2(b):

“in subsection (2)...”

It says:

“...by deleting the words ‘within a period of eighteen months from the commencement of this Act or within such shorter period as the Central Bank may direct’...”

We need to get accountability here. Did the Central Bank fall down on the job? Why did these companies not put their houses in order? Do not tell me COVID. That is an excuse. But you are telling me, Mr. Vice-President, if the Central Bank is at fault or if the Central Bank played a role in this matter, you are asking us to give the Central Bank “ah blank cheque” and you are telling us further the Minister

who is responsible for the Central Bank and if the Central Bank fell down on the job, the Minister would have also fallen down on the job. And the Minister wants to get what? Total power, again, through negative resolution.

**3.00 p.m.**

Every time the PNM brings a matter of accountability and transparency into this House, Mr. Vice-President, they are not interested in debating and accounting. So, they want negative resolution all the time. We just dealt with it. We are dealing with it now again, Mr. Vice-President.

**Mr. Vice-President:** Sen. Mark, you have—Sen. Mark?

**Sen. W. Mark:** Yes, Sir.

**Mr. Vice-President:** You have two more minutes.

**Sen. W. Mark:** Thank you, Sir. So, Mr. Vice-President, we want to say completely we are going to make amendments. We are going to propose amendments to this piece of legislation. We are going to put forward our amendments for the consideration of this Senate and we want to get answers from this Government. We do not want excuses. We want answers. And tell the country the truth. Do not be economical with the truth when it comes the matters that we are dealing with here today.

So, Mr. Vice-President, we await the Minister's response. We await the Government's response. And we will deal with the committee stage where we put forward our amendments to give the Parliament the kind of oversight and responsibility to keep this runaway Executive in check and to keep the Executive arm of the State—bring them to book and bring them to account by the Legislature and the Parliament of the Republic of Trinidad and Tobago. I thank you, Mr. Vice-President.

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

**Mr. Vice-President:** Acting Prime Minister and Minister of Finance.

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

**The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):**

Thank you very much, Mr. Vice-President. Mr. Vice-President, the definition of hyperbole is an:

“Exaggerated statements or claims that is not meant to be taken literally.”

Sen. Mark is such a proponent of hyperboles that I think he expects his wild statements to be taken literally. And I have noticed one or two people do take his wild statements literally. For what reason, I do not understand.

What we are doing here is the exact opposite of what Sen. Mark has been shouting about for the last 40 minutes or so. The new Insurance Act, which has been in the making in this Parliament for more than 10 years, has a provision requiring foreign insurance companies that are doing business in Trinidad and Tobago to incorporate a local subsidiary. That is a transformative move that is designed to allow the Central Bank to have more control over foreign companies, in terms of these companies’ responsibilities, in the case of insurance companies, to their clients.

By incorporating a local company, these foreign companies will now be required to submit to all of the regulations within this jurisdiction which was not the case before. It is designed to protect people in Trinidad and Tobago who do business with these insurance companies. So, the new Insurance Act is groundbreaking because prior to this, foreign companies could operate in Trinidad and Tobago without the same level of scrutiny—foreign insurance companies as local companies.

In the Insurance Act, a provision was inserted because it was recognized that in order to incorporate a local subsidiary, a local company, to do the business of

these foreign companies, that significant reorganization would have to be done; significant. And the Central Bank recommended—because the Central Bank has been the main driver of the new Insurance Act over the last 10 years or more. I personally have been in two joint select committees with respect to the new Insurance Act, one, which was chaired by my predecessor, Mr. Howai, and one that I chaired. And we went through the entire 2010 to 2015 period in a joint select committee looking at the new Insurance Act which eventually replaced a very outdated piece of insurance legislation that did not provide the required protection to policyholders, particularly in the aftermath of the Clico debacle.

And then, when we came into office and I was appointed the Minister of Finance, I too—because that Bill lapsed. Even though it was in committee, under the former UNC administration, it never saw the light of day, even though they had 28 seats in the Parliament. They simply did not complete it. So, when we came in and I was made Minister of Finance, one of my assignments was to complete that and to bring the insurance industry in Trinidad and Tobago into the 21<sup>st</sup> Century.

The Central Bank estimated that it would take these foreign companies approximately 18 months to reorganize themselves and establish the local subsidiary and ensure that the directors of this insurance company and its senior managers were fit and proper persons, and all of the other requirements for local insurance companies were complied with. They estimated it would take 18 months. We proclaimed the law on the 01 January, 2021. But, Mr. Vice-President, one gets the impression that Sen. Mark does not live in Trinidad and Tobago. We had something called a curfew in 2021, public health restrictions, closure of a number of sectors of the economy. Work at home was commonplace. And it is only somebody who lives in Mars or in some other universe could come into this Parliament and say that COVID had no effect on the operations of business in



Trinidad and Tobago in 2021. You have to be living in Mars. You are not living in earth or Trinidad and Tobago. It had a profoundly adverse effect on the operations of business entities, COVID, all over the world, not just Trinidad and Tobago. And I repeat, we had a curfew.

But coming back now, Mr. Vice-President, to the issue at hand, the Central Bank has advised me that all four companies, Massy United, Sagicor Life, Sagicor General and the Insurance Company of the West Indies, all four have completed the reorganization of their business for the establishment of the local subsidiaries, which I want to repeat, is designed to protect citizens of Trinidad and Tobago. Because what has to happen, and this is the most important part of it all, the assets of these companies must be vested in the local company in Trinidad and Tobago, and that is the protection that the new Insurance Act gives to citizens of Trinidad and Tobago policyholders. That was not there before.

So that, Central Bank has advised that the four companies have completed their reorganization. And what is remaining to be done—and this legislation is here at the request of the Central Bank. It is not the Government that came up with this. It is the Central Bank. Because when it estimated 18 months in 2020, because the date of January 2021 was established in 2020, when that was established, no one would have known what would have been happening in terms of public health restrictions and in terms of COVID. No one knows.

**Sen. Vieira:** Thank you, Minister. Just a question: If these foreign companies are not given the opportunity to regularize their position, what happens? Is it that they would not be able to operate in Trinidad and Tobago? And then, who would lose?

**Hon. C. Imbert:** That is such an important point. As Sen. Mark knows, and I said in the other place to another Member of the UNC who was trying to torpedo this legislation, hon. David Lee, chaos will ensue because Sagicor Life and Sagicor

General will—and the other two, Massy United and Insurance Company of the West Indies—no longer be able to operate. And who will get hurt? That is obvious, the little man, the policyholders.

And therefore, I told the hon. David Lee in the other place, that I will not allow myself to fall into the trap and the Government will not fall into the trap of rhetoric and cause thousands of policyholders to suffer because come the 1<sup>st</sup> of July, these companies would no longer be able to operate. There would be mass chaos, weeping and gnashing of teeth.

But let me continue. So, apart from the fact that the world knows that COVID had a profound effect on business operations, the world knows this, apart from that fact—I mean, if one reads the international news, one sees that in China they are having wave after wave, after wave, after wave of COVID. They thought they had handled it. No, they are going into lockdowns, and so on, in China of all places where persons thought it was under control. But I do not need to dwell on that. As I said, you have to be living in outer space. You have to be living in Mars in order to make a statement that COVID could have had no effect on business. You have to be living in Mars.

But what is left to be done is the most important aspect of the establishment of these local companies, and that is something called a vesting order. So, all of the assets, policyholders' money, and all of the liabilities, the insurance plans and insurance policies, have to be vested in the local companies. It takes about six months based on other experience. It takes about six months, at minimum, with everything working perfectly, for a vesting order—vesting orders of this magnitude—because these are not little companies. Massy United has a small presence but the others are not small. You are talking about thousands and thousands of policyholders. It takes at least six months to finalize a vesting order

because you have to vest all the assets, you have to vest all the liabilities. And this is for the protection of Trinidad and Tobago citizens.

We are now at the stage where the companies have reorganized and now the vesting orders are being prepared. When the vesting orders are prepared by the Central Bank—and I want to reiterate, it is the Central Bank that has asked for this legislation, and for good reason, because you do not want these thousands of little people to be thrown into agony on the 1<sup>st</sup> of July. They will have to draft the vesting order. They are now in the process of doing so. They will have to check all of the assets and liabilities. They then send it to the Ministry of Finance. I will have to engage auditors to review the assets and liabilities. We will have to send it to the Attorney General's Office, the Chief Parliamentary Counsel, to make sure that the vesting order is done properly. And when that is all said and done, then the vesting order can be implemented. It usually takes about six months. The Central Bank has erred on the side of caution and said they want an additional 12 months to complete that process.

With respect to the allegations about Massy United, they are preposterous, typical Wade Mark, preposterous. It does not matter who owns Massy United. Whether Massy United is owned—it was a Barbados company—by people in Barbados or Trinidad; or because there are foreigners involved—it is a foreign registered company—whether it is owned by people in Barbados or people in Miami is irrelevant.

What is relevant is whoever owns it, it is a foreign company and it must establish a local company. So that assertion that the sale of Massy United to some other foreign company is causing problems and this is why we are coming now, this is preposterous. Because it does not matter who owns it. Once it is foreign, they must establish a local company. And they could sell it later on. Massy United

could be sold three years from now to another foreign company, but citizens of Trinidad and Tobago will be protected because the local subsidiary will have been established.

And I want to report contrary to the misleading allegations of Sen. Mark, the regulator in Barbados has approved the sale of the shares in Massy United to another entity and so has the regulator in Trinidad and Tobago, so has the Central Bank. So, this assertion about Massy United somehow being the reason for this is nonsense. I want to repeat. Whoever owns that company, has to establish a local subsidiary for the protection of people in Trinidad and Tobago.

Similarly, Sen. Mark has a habit of speaking about matters that are sub judice. The Central Bank went through a tender process and decided to sell because the Colonial Life Insurance Company is under the supervision of the Central Bank, by virtue of section 44D of the Central Bank Act, which we took a lot of time in this Parliament to deal with. And the Central Bank is not an insurance company. Central Bank has no interest in running an insurance company. This thing has been going on forever.

The takeover of Clico took place over 10 years ago. So, a while back, the Central Bank decided it will dispose of the existing portfolio of insurance policies that are held by Colonial Life and disposed of it by public tender. They went through the process. They invited proposals. They evaluated proposals. They took a long time and eventually, at the end of the day, they selected Sagicor. One of the other bidders was unhappy about that, so that other bidder has filed for judicial review. The matter has gone from the High Court to the Court of Appeal and is now before the Privy Council and it comes up for hearing before the Privy Council next month. Sen. Mark knows that and yet he wants to comment on a matter that is sub judice.

Again, it does not matter whether Sagicor acquires the policies, traditional policies, of Clico or not. It is irrelevant whether they get through or they do not get through. Whatever the Privy Council rules with respect to that judicial review application is irrelevant. We are talking about Sagicor proper, in its existing condition, where you have thousands of policyholders. So, again, that was a preposterous, misleading, egregious allegation from Sen. Mark.

With respect to the last point—well, that was the most ridiculous of all. In this Chamber today, I have heard a whole set of arguments about the Minister requiring some sort of control, that Ministers should not be allowed to go off on their own and do things. We just had a matter dealt with, with respect to the power of the Minister to make a ministerial order with respect to bills of exchange, the features on the cheques. If one were to listen to Sen. Mark, if you do not know what is going, he could send you off, not just on a wild goose chase, but a whole flock of seagulls. Because what does the amendment say? The Minister, on the recommendation of the Central Bank, which is a suggested amendment from Sen. Amrita Deonarine, just a little while ago. It is on the recommendation of the Central Bank. The Minister cannot extend the date for the completion of the establishment of the local company until and unless it is recommended by the Central Bank. So, the Minister is simply a facilitator. The Minister is not an autocrat, or a dictator, or on an escapade.

I do wish the level of debate in this Senate, especially when it comes to Sen. Mark, could rise to an acceptable standard. There is nothing he said that has any basis in reality. I reject it all. I thank you, Mr. Vice-President.

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

**Mr. Vice-President:** Attorney General.

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

**The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC):** Thank you, Mr. Vice-President. There is little for me to say, Mr. Vice-President, having listened to the speakers on this side who have preceded me. But I thought I would rise to add substance so as to enable us to understand that the concept of playing to the gallery ought not to be visited on this august House.

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

**Sen. The Hon. R. Armour SC:** I have arrived here lately. I consider this House a most solemn, dignified place in which we are all sworn to do the people's business. And I would implore the Members on the other side, led by Sen. Mark, to subscribe to the wisdom and dignity of this House in being relevant with which that which they bring to the public gallery.

So, I thought I would rise against the background of the most remarkable submission made by Sen. Mark, to suggest—and I took a note of it. He said in the context of a Bill, which is before this House, to extend the time for branches of foreign insurers to be allowed to register in order that they may be brought under the control of the Central Bank and the Minister of Finance; to protect the people, the man and woman in the street, of Trinidad and Tobago; when he said COVID is not the reason why, and he named, and I not going to name them, the insurance companies that this legislation is seeking to bring under regulatory control, according to the laws of Trinidad and Tobago. He said COVID is not the reason why.

And I thought I would rise to read, as I have done earlier today in the debate on the other legislation that we have passed here today, once more, to put on the record of this august House the remarks of the Judicial Committee of the Privy Council, on the significance, if Sen. Mark did not appreciate it, of the pandemic that we are still in the throes of. And I will read from paragraphs 100 and 103 of

the judgment of the Privy Council which upheld the Public Health Regulations passed by this Government from since early 2000, in order to protect the lives of the citizens of this country who were severely impacted by none other than the COVID-19 pandemic. This is what the Privy Council said in a 53-page judgment upholding the regulations:

“...the Board is satisfied that the interference with the appellant's rights was proportionate and hence consistent with those rights and involved no violation of them. The Rules”—referring to the rules promulgated by the Minister of Health—“were promulgated on the basis of expert scientific advice against a background of considerable uncertainty about how the disease was transmitted and how best to counter its spread. The public interest in issue, the protection of the right to life and the health of the whole population, was an especially important one. In the Board’s view, the Rules struck a fair balance between the rights of the appellants and the general interest of the community and were plainly a proportionate means of protecting the public interest in the circumstances.”

Paragraph 101:

“On this aspect of the case the Board endorses the reasoning of”—Mr. Justice—“Boodoosingh...”—of the High Court of Trinidad and Tobago—“at first instance. If his judgment had depended on this point, he would have found that the Rules were a proportionate response to the management of the pandemic in the circumstances which applied when they were promulgated and during the period they were maintained in place. As he explained in his judgment, the spread of Covid-19...”

I pause, (that which Sen. Mark today has suggested is not relevant to the consideration of that which we are about), and I continue:

“As he explained in his judgment, the spread of Covid-19 had been ‘rapid and pervasive’ with the result that healthcare systems were placed under great strain and many people lost their lives. Based on scientific advice, governments around the world, including in Trinidad and Tobago, felt the need to act quickly by implementing restrictions on rights and freedoms that would previously have been unthinkable. There was a need to respond urgently in the face of the pandemic, which called for consideration of a range of economic, social and political factors in relation to which a significant measure of respect was to be accorded to the judgment of the executive and the legislature. The uncontradicted evidence of the Minister of Health, Mr. Terrance Deyalsingh, and the Chief Medical Officer, Dr. Roshan Parasram, was to the effect that the Rules were introduced on the basis of expert scientific advice which indicated that severe impacts would be likely to result if no action was taken.”

Thank you very much, Mr. Vice-President.

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

**Mr. Vice-President:** Minister in the Ministry of Finance.

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

**The Minister in the Ministry of Finance (Hon. Brian Manning):** Mr. Vice-President, thank you. Mr. Vice President, I sat here in complete amazement listening to Sen. Mark on the other side. And Sen. Mark made so many inflammatory statements. Mr. Vice-President, Sen. Mark has made a career of being the poster child for abuse of parliamentary privilege—

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

**Hon. B. Manning:**—but he will sit here and accuse others of being economical with the truth, which I cannot believe he would do. And to make it worse, after



asking all of these inflammatory questions and saying all of these things and inserting an level of chaos and bacchanal into a simple issue, a time extension, while the Minister of Finance and Acting Prime Minister was answering his questions, Sen. Mark unbelievably left the Chamber. He did not even care to listen to the response which tells you the level of gravity that we should all give the questions that were asked in the first place.

**3.30 p.m.**

Mr. Vice-President, let me remind everyone why we are here. It is a simple time extension meant to maintain the status quo within the insurance industry, so that people are not harmed. We are extending the reorganization period under the Insurance Act 2018, that is all. And the reason for doing that is because as I read out earlier, the long labourious process was hampered by the COVID crisis. Sen. Mark stands in this House, still, still denying that COVID ever existed.

**Sen. Thompson-Ahye:** Mr. Vice-President, perhaps we could ask the hon. Minister to raise the microphone a bit. A bit challenged on this side.

**Mr. Vice-President:** Sure.

**Hon. B. Manning:** Can you hear me?

**Mr. Vice-President:** Loud and clear.

**Hon. B. Manning:** Yeah. Sorry about that. Yes. So, this is the same Sen. Mark that stood in this House and spoke to the people of Trinidad and Tobago and said that the solution for COVID was sunlight and puncheon, while people were dying all over the world and especially right here in Trinidad and Tobago. Right in the Ministry of Finance, the offices could not function for periods of time. We had—as Minister of Finance said, people could not come to the office, could not work, could not—we had a curfew. All of this was happening. Of course, all of that would have hampered the process. Sen. Mark somehow missed all of that and

came up with some conspiracy theory that we were trying to prefer this one over that one because of some purchases or whatever.

It does not matter who purchased what. If you are not a registered local entity in Trinidad and Tobago in the insurance industry, you had a period of time to get your house in order. That is all that is being done here. Simple. Some mundane time extension, Sen. Mark used his gifts to insert a level of mystery and bacchanalia to something that I thought could not be done. But let me move on.

Yes, the extension of one year. Is it required? This is recommended based on the complex process involved in the reorganization and the impact of COVID-19 as indicated before. What aspects of Government prevented insurance completing the deadline? A question asked by Sen. Mark is one that I did not think required any really response, because anyone who was alive would have known what was happening last year. But I will go into it just for Sen. Mark's sake.

Aspects of COVID-19 which impacted on insurers meeting the deadline, limited operations at the Company's Registry appointment systems et cetera. This would have particularly impacted the cooperation of the local insurance companies and submission of evidence of appointment of directors and other officers to the Central Bank, lockdown requirements and limited staff availability. Staff of insurers had to deal with urgent operational matters. Many companies had to update their IT systems to operate effectively during COVID-19, which required additional time and attention.

[MADAM PRESIDENT in the Chair]

Also, the Central Bank had to give extensions to the banking and insurance industry for certain critical deadlines. For example, the submission of regulatory returns and audited financial statements. This was due to the impact of COVID-19 on the resources of the sector. These relief measures were standard among

regulators in other jurisdictions due to the impact of the COVID-19 pandemic. Audited financial statements and regulatory returns are required as part of the process for reorganization. However, the operations of auditors were impacted by COVID-19. Other professional advisors to the insurers were impacted by the COVID-19 pandemic, example, legal advisors and so on. I can go on and on. The entire operations of this country both private and public sector were severely affected by the COVID-19 virus.

Why did the acquisition of the Massy Group by Coralisle take so long? The Senator referred to a sale agreement since 2021. The regulatory approvals were not issued until May 2022, nine months later, due to the impact of COVID-19 on the process. The concern is that branches do not have assets in Trinidad and Tobago and citizens are thus exposed to risk just as the Minister of Finance and Acting Prime Minister said earlier. The assets supporting the liabilities to policy holders in respect to a branch are held in the Statutory Fund on trust with a local licensee. The Statutory Fund does not reside in the jurisdictions of the parent. Also, foreign insurers must hold a statutory deposit with the Central Bank to protect Trinidad and Tobago policy holders.

Madam President, it is that simple of a matter and I hope that I have answered or that Sen. Mark's questions have been answered here today. Even though he decided not to stick around to listen to those answers. But as I say to you and the national community, this is a simple time extension to maintain the status quo in the very competitive insurance industry to ensure that the people of this country are not harmed. The rules are put in place for reorganization to ensure that if anything goes wrong, local policyholders are protected, even if those policies are with international firms. It is that simple.

And Madam President, with those few words I beg to move.

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

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

**Madam Chairman:** Members, there are two clauses in this Bill, but I should add that I think some amendments are being circulated as we speak by Sen. Mark. So it should be e-mailed to you at this stage. So can you just check please? So just to make sure, I am being told that you should be receiving it, it should be there. But—yes?

**Hon. Senator:** [*Inaudible*]

**Madam Chairman:** Yes. Okay. Minister you are ready? Yes, Attorney General.

*Clause 1 ordered to stand part of the Bill.*

*Clause 2.*

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

**Madam Chairman:** Sen. Mark.

**Sen. Mark:** Yes. Madam Chair, I have a very simple and straightforward amendment. Whilst I am reluctant but I have to support it, meaning that the Minister will have to extend the time for this body, foreign branches of insurance companies until the 30<sup>th</sup> of June 2023. I would say we are in support of that given the circumstance. However, we are suggesting and recommending that in clause 2C, subsection (2)(a) that any recommendation coming from the Central Bank on any further matters surrounding this issue must be subject to an affirmative resolution, and it must end there.

And further, Madam Chair, we do not believe the Minister should be given the power to extend the date referred to in subsection (1) and (2) at this time. We

believe affirmative resolution for any further engagement is sufficient at this time.

**Madam Chairman:** Attorney General.

**Sen. Armour SC:** Thank you. Thank you very much, Madam Chair. We do not accept the proposal for the amendment to substitute “affirmative” for “negative”. As Sen. Mark is well aware, that is a procedure. That is to say the procedure for negative and affirmative resolution that is well ensconced in the procedures of this Parliament. And I would add additionally, and again, as Sen. Mark is well aware, each House of Parliament has a Statutory Instruments Committee and it is the duty of such committees to carefully examine all instruments which are subject to the negative procedure. So that, it is not correct to suggest as he has done in earlier comments today or now, that the negative procedure of parliamentary process is to bypass the parliamentary procedure. We therefore do not accept the proposal for “affirmative” to replace “negative”. Thank you.

**Madam Chairman:** Sen. Mark.

**Sen. Mark:** Madam Chair. It is not a question only of the affirmative, Madam Chair. It is giving the Minister the power to further extend the date whenever it suits him and the Central Bank. And what saying is that that is unacceptable. We are saying that if the Government wishes to extend the time as they are proposing here, no problem. But any further extension must be subject to an affirmative resolution and it must be debated in the Parliament. So that is our position, Madam Chair.

**Madam Chairman:** Sen. Vieira.

**Sen. Vieira:** Thank you Chair. Just to point out that under the Insurance Act, the parent legislation at section 214, it is provided that:

“The Minister may, on the recommendation of the Central Bank, make Regulations for the purpose of giving effect to this Act...”

So this is entirely consistent with the parent Act and I think we need to keep it that way.

**Madam Chairman:** Attorney General, anything?

**Sen. Armour SC:** I agree, Sen. Vieira. Thank you.

*Question put.*

**Sen. Mark:** Division.

*The Committee divided:* Ayes 5 Noes 22

AYES

Mark, W.

John, Ms. J.

Nakhid, D.

Roberts, A.

Deyalsingh, Dr. V.

NOES

Armour, R.SC.

Gopee-Scoon, Mrs. P.

Sinanan, R.

Hosein, K.

West, Ms. A.

Mitchell, R.

Ibrahim, Dr. M.

Bacchus, H.

De Freitas, N.

Sagramsingh-Sooklal, Mrs. R.

Singh, A.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Young, N.

Bethelmy, Ms. Y.

Richards, P.

Vieira, A.

Deonarine, Ms. A.

Seepersad, Ms. C.

Teemal, D.

Dillon-Remy, Dr. M.

Welch, E.

*Mrs. H. Thompson-Ahye abstained.*

*Amendment negatived.*

*Clause 2 ordered to stand part of the Bill.*

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

*Senate resumed.*

*Bill reported, without amendment, read the third time and passed.*

### **ADJOURNMENT**

**Madam President:** Acting Leader of Government Business.

**The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):**

Thank you Madam President. I beg to move that this Senate do now adjourn to Thursday, June 23, 2022, at 2.30 p.m. when we will debate, an Act to amend the Sexual Offences Act, Chap. 11:28 and for other related matters. And time permitting, we would then move to the Motion to adopt the report of the Special Select Committee established to consider and report on the Sexual Offences (Amdt) No. 3 Bill, 2021. Thank you.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 3.50 p.m.0*