

SENATE

Thursday, June 23, 2022

The Senate met at 2.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

Madam President: Hon. Senators, leave of absence has been granted to Sen. The Hon. Allyson West who is out of the country. Hon. Senators, I will revert to this item on the Order Paper later in the proceedings.

NATIONAL INSURANCE (AMDT.) BILL, 2022

A Bill to amend the National Insurance Act Chap. 32:01 to provide for the waiver of penalties and interest, to increase the penalty for the provision of false information, to increase the statutory limitation for the commencement of summary proceedings and other related matters, brought from the House of Representatives [*The Minister of Finance*]; read the first time.

PAPERS LAID

1. Annual Audited Financial Statements of the Water and Sewerage Authority for the financial year ended September 30, 2017. [*The Minister in the Ministry of Agriculture, Lands and Fisheries (Sen. The Hon. Nigel de Freitas)*]
2. Annual Audited Unconsolidated Financial Statements of the Trinidad and Tobago Electricity Commission for the year ended December 31, 2019. [*Sen. The Hon. N. de Freitas*]

URGENT QUESTION

Monkeypox Outbreak Globally

(Immediate Travel Restrictions)

Sen. Paul Richards: Good afternoon, colleagues. Thank you Madam President.

UNREVISED

To the Minister of National Security. To the Minister of National Security: In light of the recent warnings issued by the Minister of Health regarding a Monkeypox outbreak globally, can the Minister indicate whether the Government intends to institute immediate travel restrictions to countries where the virus has been detected?

Madam President: Minister of Health.

The Minister of Health (Hon. Terrence Deyalsingh): Yes. Thank you very much, Madam President. Good afternoon to you. Good afternoon to Members of this honourable Chamber. This really falls in the garden of the Minister of Health so I will be answering it.

Madam President, we at the Ministry of Health took note of the Monkeypox outbreak since it started in May 2022. On May 20th we called a meeting between the Ministry of Health, CARPHA and PAHO where we alerted the population to the issue. We established a hyperlink so that anyone can go to that and see the countries affected.

We also alerted health care workers and the public to signs and symptoms. We sensitized the local media fraternity as to the case definition of Monkeypox, the clinical practice guidelines, the protocols for testing and we put our ports of entry our Port Health officers on high alert with both training of all Port Health officers. From that time to now, we have given weekly updates.

Today, 23rd June, 2022, I as Minister of Health took a note to Cabinet and the Cabinet approved and confirmed a note where we have added Monkeypox to the list of dangerous infectious diseases as we did for COVID. This will allow us to, if necessary, invoke the powers under the Public Health Ordinance and the Quarantine Act to isolate and treat suspected and confirmed cases of Monkeypox.

In light of these proactive measures and the known epidemiological

differences between COVID and Monkeypox inter alia, one, Monkeypox has a much lower rate of spread. In countries where the Monkeypox has been detected, the 42 countries, there is no overwhelming of the health care systems as we saw with COVID.

Madam President: Minister, your time has expired.

Hon. T. Deyalsingh: Thank you.

Madam President: Sen. Richards.

Sen. Richards: Thank you, Madam President. Thank you for the response. Minister, given your response and including training of port staff and the other measures, you indicated including the Cabinet approval and what we have experienced and learned from COVID, though they be different, can the Minister indicate what other mechanisms may be in place or being considered to protect the population at the ports of entry for Monkeypox?

Madam President: Minister.

Hon. T. Deyalsingh: Yes. So as I was saying, because the mode of spread is significantly different, the Cabinet note speaks to that. And on all ports of entry, whether they are ports at the airport or sea ports, the Public Health Ordinance measures will kick in.

Also, as a matter of protocol whether it is COVID or Monkeypox, captains of all vessels, and vessels include sea-going and air-going vessels, always sign a declaration that there is no infectious disease on board circulating in either their crews or passengers. This is international protocol for all sea-going vessels and also all airlines. And that is what we doing. We are heightening our response.

It is because of this different epidemiological profile where the mode of spread is significantly different, and on June 17th WHO said the risk to the general public is low. Also, it must be noted that the case fatality ratio of this current strain

or this clad which seems to be the lineage out of the West African clad has a case fatality ratio of less than one per cent. So for those reasons and more, we are not at this time contemplating closure of borders.

Madam President: Sen. Richards.

Sen. Richards: Thank you, Madam President. Can the Minister then indicate, though as you have indicated, the rate of spread is much lower, minimal compared to COVID—if I can use that phrase?—and the death rate may be lower, has the Ministry of Health prepped the hospital system and hospital health care workers in terms of preparation for treatment of Monkeypox if and when it should become present in the country?

Madam President: Minister.

Hon. T. Deyalsingh: So as I said, on May 20th after that meeting we had with the Ministry of Health, CARPHA and PAHO, I will repeat, we sensitized the local medical fraternity as to the case definition so they will know what they are looking for.

We also trained them on the clinical practice guidelines and protocols for testing. How to take an exudate sample for testing. Also, similar protocols as to their safety with the provision of high-level PPE will be done. So all of that has been done for both physicians and nurses in the private sector and the public sector.

Sen. Richards: This all, Madam President?

Madam President: No. That is it.

Sen. Richards: Thank you.

Hon. Senators: [*Crosstalk*]

ORAL ANSWERS TO QUESTIONS

Madam President: Acting Leader of Government Business.

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

Madam President, I am pleased to say that the Government is in a position to answer all three oral questions on the Order Paper. Thank you.

Online Classes Due to the Increase in COVID-19 Cases

(Resumption of)

114. Sen. Wade Mark asked the hon. Minister of Education:

Given the resumption of face to face classes, can the Minister state whether online classes will still be utilized to address the concerns of parents not wanting to send their children to school in light of the high number of COVID-19 cases?

Madam President: Sen. Mark.

Sen. Mark: Madam President, before I pose my question, I do not know if you are feeling an extra heat in the Chamber? I do not know if the Attorney General has anything to do with it but there is some heat here and I am a bit uncomfortable. So, I would seek your guidance, Madam President.

Madam President: Sen. Mark, yes. It is a little—it is much warmer than it normally is but the issue is being addressed. Okay?

Sen. Mark: Thank you, Madam President.

Madam President: Sen. Mark.

Sen. Mark: Yes. Thanks, Madam President.

Madam President: Minister of Education.

Hon. Senators: [*Desk thumping*]

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly: Thank you, Madam President. Madam President, the Minister of Education fully understands the concerns parent may have with respect to the health and safety of their children in light of the COVID-19 pandemic.

The Ministry of Education is first and foremost guided by the directives, that is the legal notices of the Ministry of Health and staff, students and visitors to school compounds therefore have the assurance that all required health and safety protocols, equipment and resources are in place to mitigate the spread of the virus.

Indeed, the data collected weekly shows a decrease in the number of COVID-19 cases reported at schools since the full reopening of physical school on April 19th, 2022. With the resumption of face to face school as discussed with stakeholders, schools have reverted to the principles that guide the provision of educational material to absent students by principals and teachers. That is, principals will make decisions about this on a case by case basis depending on the circumstances. Illness or unavoidable absence being usual factors which would lead teachers to make the decision to provide educational materials to students not in physical attendance.

However, no teacher is mandated at this time to deliver synchronous online sessions to students with the resumption of face to face classes. All students are expected to attend the school physically unless excused by their principals based on the usual circumstances which guide such excuses.

Madam President: Sen. Mark.

Sen. Mark: Yes. Thank you, Madam President. Madam President, may I ask through you to the hon Minister, whether the Ministry of Education can share with this honourable Senate any data relevant or related to students' absences, pupils absences, from school as a result of this reaction or—I would not say reaction, Madam President, but given the initial outrage by parents not to allow their children to participate in these classes, right, at the same time when the COVID-19 pandemic—

Madam President: Sen. Mark—

Sen. Mark:—was in existence—

Madam President: Sen. Mark, can you crystalize what you are saying into a question please? Please.

Sen. Mark: Yeah. Madam President, I am just asking the hon. Minister, whether she can share any data with this honourable Senate as it relates to students' absences during the period of full resumption of classes given the COVID-19 pandemic and the demand of parents not to participate?

Madam President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam President. Madam President, the students attendance has averaged from the time of full school reopening has averaged around 70 per cent and teacher attendance has averaged around 90 per cent for primary and secondary schools. Data is not collected specifically on absence of students based on COVID-19 related matters.

Madam President: Sen. Mark.

Sen. Mark: Yeah. Madam President, through you, can the Minister indicate to this Senate whether the attendance of students and pupils normally would have averaged around 70 per cent given the full resumption of school? Or is this figure cause for some worry for the Ministry of Education?

Madam President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam President. The figure is comparable to pre-COVID times. Given the reality that there were students, there were teachers, there were staff members who would have been experiencing the COVID virus or would have been in quarantine on the basis family members and so on and therefore would have had absences from school.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister whether this 70 per cent attendance by

students should generate some concern to the Ministry of Education?—having regard to the fact that there is 30 per cent, if I may say so, absence of students at the primary and secondary schools at this time and even in the past. Can you indicate or share with us, Madam President?

Madam President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam President. Bearing in mind that this is term three and therefore the Form 5 students are away from school because they have examinations, the Form 6 students are away from school, the Standard 5 students, on a large basis, also stay away from school during this term having completed the SEA. So as I said, this attendance is comparable to pre-COVID times, taking into consideration also the fact that we are in a pandemic and the fact there are teachers and students would be experiencing COVID and quarantine orders and would have to stay away from school at this time.

Sen. Mark: Thank you, Madam President.

Madam President: Next question, Sen. Mark.

Psychological Impacts on Students of the Online Learning (Measures to Address)

115. Sen. Wade Mark asked the hon. Minister of Education:

In light of the negative psychological impacts of the online learning experience on some students, such as fatigue, social isolation, anxiety and stress, can the Minister indicate whether the Government will implement any measures to address these negative impacts?

Madam President: Minister of Education.

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam President. Madam President, the Ministry of Education has a well-established students' support system staffed by over 300 school social workers and guidance

councillors. And they have seen success in treating with students displaying psychological issues such as, but not limited to, fatigue, social isolation, anxiety and stress. The Ministry, of course, recognizes the importance of addressing mental health issues by utilizing a variety of strategies for providing mental health, psychosocial support.

At the onset of the pandemic, the Student Support Services Division continued its multidisciplinary approach to student intervention by transforming its processes to an online modality. These systems include referral and critical incident reporting and the school-based intervention process that leads to the identification of mentally-distressed students and the development of individualized intervention strategies as required.

Other remote services provided by the s Student Support Services Division to support students experiencing varying degrees of mental distress include, hotline call-in facilities, tele-mental health support, online mental health support groups, online therapeutic support and online psycho-education sessions.

Furthermore, the Ministry understand that parental support plays a major role in student recovery and as such parents and guardians are sensitized to the ways and means of providing support to their children or charges. This comes in a form of the parenting and education sessions that focus on coping with online learning in a pandemic; positive parenting; dealing with grief and loss; coping and resilience; mental health and your child; understanding and treating with non-suicidal self-injury and suicide; identifying mental health challenges and ways to help your child to cope with anxiety; nurturing children's mental health; substance use and abuse, and depression. It should be noted that these student support services have and will continue to be physically available to all students.

Additionally, students participated in a two-week orientation at the start of

the upcoming third term or the third term that has started now specifically targeting mental health issues observed during the COVID-19 pandemic. Additional sessions are being conducted during the term. Thank you, Madam President.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can I ask the hon. Minister whether the Ministry has conducted any studies on the experiences psychological, mental and the symptoms that I have outlined in this question since the resumption of full-time classes? Can the Minister share with us, Madam President?

Madam President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam President. This data is collected by the Student Support Services Division in the different schools. Yes.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister whether the Ministry is contemplating or has effected a mechanism to have a small team of your social interventionists unit visit these schools whether it be primary or secondary to conduct on the spot assessment and evaluation of students since the resumption of full-time classes?—having regard to this mental stress and psychological challenges, many of them, students, pupils may have had some experience with during the online experience. Can you share with us whether there is any plan to address that with these teens going on spot?

Madam President: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam President. With very few exceptions each school has an assigned guidance councillor and school social worker. These are the personnel that would do the interventions that are necessary after doing the needs assessments with the students. Students can also be referred, who may not present with any issues, may be referred by their parents or they

students themselves, or their teachers, we refer them to the student support services officers. So in this way all students that are presenting with issues are dealt with by the staff of the Student Support Services Division.

Madam President: Sen. Mark.

Sen. Mark: May I ask the hon. Minister through you, Madam President, whether the Ministry has received any reports concerning students and/or pupils who would have had some challenges in learning upon their resumption of full-time classes having regard to the experiences that they would have suffered or, at least—well, experienced, I do not want to repeat that word, but experiences that they may have had during the online period at home? Has the Ministry been able to get any reports on any dip, any gap in the learnings of children as result of that experience?

Madam President: Sen. Mark, I will not allow that question.

Sen. Mark: Okay. Thank you very much, Madam President.

Madam President: Next question.

Sen. Mark: Can I ask it one time.

Madam President: Just one—yeah.

East Port-of-Spain

(Absence of Potable Water)

116. Sen. Wade Mark asked the hon. Minister of Public Utilities:

Can the Minister provide the reason(s) for the absence of a potable water supply for the residents of East Port-of-Spain during January and February 2022?

Madam President: Minister of Public Utilities.

Hon. Senators: [*Desk thumping*]

The Minister of Public Utilities (Hon. Marvin Gonzales): Thank you very much, Madam President. Madam President, the circumstances that led to a

disruption in the water supply in two streets in east Port of Spain in January and February of this year were as a result of a defective distribution line, a busted distribution line and a defective valve. I am advised by the Water and Sewerage Authority. As a result of that, a technical team was dispatched to the area and a pressure testing was successfully completed. The valve was replaced and the line was repaired and the water supply was immediately restored to the community.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Mark.

Sen. Mark: Can I ask, through you, to the Minister? Minister, could you tell this honourable Senate how long the process that you have outlined took?

Madam President: Minister.

Hon. M. Gonzales: Madam President, the matter was brought to the attention of the authority, the technical team was immediately dispatched and before the end of the day in question, the water was restored to the affected community.

Madam President: Sen. Mark.

Sen. Mark: Well I am happy about that, Madam President, for the people of east Port of Spain. Thank you very much.

Madam President, before I leave again, I am very uncomfortable. It is becoming unbearable. I would ask you to consider suspending the Parliament so that whatever is being addressed, could be addressed so that we do not sweat or feel, you know, to faint in this heat that is emerging. Thank you.

Madam President: So, hon. Members, the situation has been addressed and within about 20 minutes we are going to feel the difference. Okay? So I will ask everyone to, you know—yeah.

Sen. Mark: We are—[*Inaudible*]

Hon. Senators: [*Crosstalk*]

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I will now revert to the earlier item on the Order Paper. I am now in receipt of 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. MICHAEL SEALES

WHEREAS Senator the Honourable Allyson West 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, MICHAEL SEALES to be a member of the Senate temporarily, with effect from 23rd June, 2022 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Allyson West.

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 23rd day of
June, 2022.”

UNREVISED

OATH OF ALLEGIANCE

Senator Michael Seales took and subscribed the Oath of Allegiance as required by law.

3.00 p.m.

SEXUAL OFFENCES (AMDT.) (NO. 2) BILL, 2021

Hon. Senators: [*Desk thumping*]

[*Members of the Opposition exit the Chamber*]

Hon. Senators: [*Crosstalk*]

Madam President: Members are free to leave the Chamber but you must do so in silence. You must do so in silence.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you Madam President, I beg to move:

That a Bill to amend the Sexual Offences Act, Chap.11:28 and for other related matters, be now read a second time.

Madam President, today I have the privilege to pilot in the Senate, this august House, the Bill entitled the Sexual Offences (Amdt.) (No. 2) Bill, 2021. This Bill was passed in the House of Representatives on May 06, 2022. The Bill received the full support of the Opposition as it was passed with 33 votes in favour, zero against and zero abstentions. This Bill amends the Sexual Offences Act, 1986, which has gone through a total of three amendments from 2000 to the present. The Sexual Offences (Amdt.) Act, 2000, amended the 1986 Act by, among other things, inserting a new Part III, “Notification Requirements for Sex Offenders”. That 2000 amendment was subsequently assented to on September 25th, 2000. Regrettably, the intent and purpose of that 2000 amendment was not realized. Once assented, difficulty in the implementation of section 34(b) soon became apparent,

as a convicted person who was required to report to the police station within 14 days of his or her conviction during which time the convicted person would be incarcerated and serving his or her sentence. Thus this requirement under the law was impracticable. Needless to say, since this legislative incongruity, there has been no adjustment nor amendment to the system for the registration and reporting of sex offenders in Trinidad and Tobago until now.

Madam President, significant amendments were made in 2019 to ensure a workable system of registration and reporting. The opportunity was taken then to also amend other areas of the Act which included harmonizing the age of liability for the commission of a sexual offence under this Act with the age as stated in the Children Act and the Trafficking In Persons Act. Further amendments were made in 2021, and the Sexual Offences (Amdt.) Act, 2021, was proclaimed on August 18th, 2021. The Act was amended to distinguish, one, the sex offenders registry meant for the Trinidad and Tobago Police Service's sole use to be known as the national sex offender register and the sex offender website for the public access which would maintain limited information on sex offenders for the public's use to be known as the public sex offenders website. The Act specifically provides timelines for when a person must be placed on the website whilst taking into account a person's right of appeal and preserving due process by providing that the convicted sex offender may apply to the court to show cause why the person should be exempt from registering all reporting.

Madam President, we are assembled today to discuss further amendments to three sections of the Sexual Offences Act as amended, specifically sections 48, 56 and 57. I wish to now go through the relevant sections of the proposed amendments and the proposed amendments to each. The relevant sections, Madam President, of the proposed amendments to each would be addressed by me as I

continue.

Madam President, apart from the proposed amendments to the aforementioned sections, I wish to give further information on issues that were raised by several colleagues of the House of Representatives and to provide clarity on those issues. Issues raised throughout the debate: population of the register. The issue was raised in the other House that the register is not operating as it ought to be operating at the moment. At the outset it must be recognized that the public sex offender website is to be distinguished from the national sex offender register, the latter being for law enforcement use only. Section 47(1) of the Act clearly states that:

“The National Sex Offender Register...”—is not open to the public.

Correspondence submitted to the Trinidad and Tobago Police Service dated March 25th, 2022, and received by the Office of the Attorney General indicates that this national register is fully populated with the details of sex offenders for the year 2000 upwards to the present time. There is a station sex offenders register located at each police station and an e-register which is the central repository of all information on sex offenders maintained by the Trinidad and Tobago Police Service Criminal Records Office, the CRO.

On the other hand, the public sex offender website, which is accessible to the public, applies prospectively. The Trinidad and Tobago Police Service must await convictions and information from the register in order to publish this information on the website. I wish to remind this House that under section 48(2) of the Act the information regarding a registered sex offender shall not be published on the public website pending the determination of an application for an exemption or an appeal and until the Commissioner of Police receives an order from the registrar.

Further, the Trinidad and Tobago Police Services standard operating

procedures on the national sex offender register and the public sex offender website are outlined under the Trinidad and Tobago Police Service Departmental Order, No. 1 of 2018. This departmental order provides a comprehensive guide to sensitize police officers on the operationalization of the law relating to the sex offender registers and the procedures to be adhered to when officers are required to populate and access these registers. The matters—

Madam President: Attorney General, I think Sen. Seepersad is asking if you would give way.

Sen. The Hon. R. Armour SC: Most certainly, most certainly, Madam President.

Madam President: Sen. Seepersad.

Sen. Seepersad: Thank you AG. AG I understand the sex offences registry is still a work in progress as you are saying. My concern is the public website, sexoffenders.gov.tt. The information there, because I went and checked, is non-existent. The drop down menu has three areas, Arima, Curepe and Port of Spain and they do not work as well as the searches by name and it is not user friendly and it comes up saying—

Madam President: Sen. Seepersad—

Sen. Seepersad: Yeah, I am giving the question now.

Madam President: Thank you.

Sen. Seepersad:—the connection is not safe. AG I would like to know when the public can expect to have a working online system that is populated in the time frames that you are going to specify, et cetera? Thank you.

Sen. The Hon. R. Armour SC: With your leave, Madam President, thank you very much for that question Senator. It is certainly a relevant question that targets relevant concerns. As I am piloting the Bill this afternoon you would appreciate that with the best will in the world I could not immediately address that question

by way of answering it. I will make the relevant enquiries and I certainly give the assurance that in the shortest possible time I shall be able to assist in answering that question. Thank you.

May I continue, Madam President? Thank you very much. I was saying that the Trinidad and Tobago Police Service Departmental Order, No. 81 of 2018, outlines matters which are included. So we have, for instance, the creation of the station sex offenders registers and corresponding acknowledgement; receipt books to provide receipts to offenders upon notification; the creation of an e-register to electronically store information concerning all convicted sex offenders to be maintained by the CRO; the notification requirements for sex offenders inclusive of timelines mandated under the law and the penalties for failure to comply; the administrative duties of the second division officer in charge; the IT department and the CRO. The Trinidad and Tobago Police Service's duty of confidentiality and repercussions for breach of same, which are very important, respecting the privacy even of convicted persons. The procedure to be adopted where sex offender breaches notification requirements and guidelines on the use of the registers.

The TTPS therefore has sufficient mechanisms in place for the implementation and effective functioning of the national sex offender register and the public sex offender website. And I pause there to emphasize in answer to your question Sen. Seepersad that of course the question that you have asked is relevant and will be investigated. The TTPS remains cognizant of the mandates prescribed under the legislation and the caveat stipulated by law in relation to the publication of information on the website. A question may arise whether the Act is constitutionally valid and, of course, in determining that question the issue of proportionality and sound research will have to be examined if ever that question

had to be examined and answered. And it is my assurance to the population that the issue of whether the Act is constitutionally sound is certainly unanswerable.

It was determined, Madam President, in making these amendments that a balance must be struck between information given to the public and the sex offenders' right to privacy in order to prevent victimization of the offender and vigilante justice. And various decisions of the Supreme Court and of the courts of the Commonwealth Caribbean have been looked at, not least among being the decision of *Huang v the Secretary of State*, *de Freitas v the Permanent Secretary in the Ministry of Agriculture, Fisheries, Lands and Housing* coming out of Antigua and Barbuda. And I dare say we are reassured today, as we stand here, that the very decision of *de Freitas and the Permanent Secretary of the Ministry of Agriculture* coming out of Antigua and Barbuda which was at its time the locus classicus on the test of proportionality under section, what is section 13 of our Constitution, has now been very recently revisited and the current locus classicus which I dare say exists for the entire Commonwealth is a case out of Trinidad and Tobago reported only on Monday, the case of *Suraj and Maharaj v the Attorney General of Trinidad and Tobago* which I commend to all legislators.

In this regard, Madam President, the Government has determined that the society's protection from sex offenders is sufficiently important to justify limiting the sex offenders right to privacy. The public sex offender website is designed to give public access to specific information regarding the sex offender in order to identify him and be aware of the locality in which he resides. This information is necessary to meet the legislative objective of protecting the vulnerable in our society from such predators and we therefore submit that the law is balanced and constitutionally sound, proportionate and meets the test laid down as recently as Monday the 20th of June in the *Suraj* decision.

Additionally as previously stated, based on further research, Madam President, the following jurisdictions have public access websites that offer extensive details on sex offenders: The United States of America, South Korea, Canada, Nigeria, Poland and the Maldives. Clause 4 of the term, if we were to look at clause 4 immediately of the Bill before this august House, clause 4 takes us to immediately, Madam President, to section 48 of the Act and provides in subsection (1), in subsection (4)(a)(i):

“...by inserting the words “sex and” before the word “photograph”; and

(b) by inserting after subsection (7) the following new subsection:

“(8) Where”—that is to say subsection (8)—“Where there is a change in the information published on the website in relation to a sex offender or registered sex offender the Commissioner of Police shall, without delay, update the information on the website in relation to that sex offender or registered sex offender.”.”

My colleagues on the other side raised the issue that the use of the term “without delay” under clause 4 is vague in construction and does not bring clarity to the legislation.

Madam President, I have already addressed this issue in my closing remarks in the other place. I wish to reiterate nevertheless and to amplify my response. The amendment at clause 4 which proposes to amend section 48 by adding a new subsection (8), requires the Commissioner of Police to update the information on the website without delay.

This term is introduced by the prefatory word “shall” in the amendment. And those of us who are familiar with the English language and the language of the law will understand immediately that the introduction of the words “without delay” preceded by the prefatory word “shall” introduces an imperative. Further, section

23 of the Interpretation Act states that:

“Where a written law requires or authorises something to be done but does not prescribe the time within which it shall or may be done, the law shall be construed as requiring or authorising the thing to be done without unreasonable delay having regard to the circumstances and as often as due occasion arises.”

Taken in its context therefore it means that the term, the composite term, “shall without delay”, that is to say, you read the three words together as opposed to dysfunctionally separating them. “Shall without delay” imposes an obligation upon the Commissioner of Police with the understanding that it must be done without unreasonable delay. Therefore there is no lack of clarity in the language in doing that which the amendment empowers him to do. The Commissioner further can only act once information is received and this must be factored into in the context of what constitutes unreasonable delay.

My colleagues in the other House further stated that the timeline of without delay places a burden on the Trinidad and Tobago Police Service. It must be appreciated that the timelines placed in the Bill are important for the effective functioning of the registers. The Commissioner of Police has responsibility under section 48(3) of ensuring that the website is maintained, and I give that assurance to my colleague on the Independent Bench, Sen. Seepersad, that the website must be maintained and the information recorded in accordance with the Act. In this regard, the hon. Member for San Fernando West and former Attorney General also responded to that issue by rightfully pointing out that this is a sword that has two edges. The timelines not only ensure TTPS compliance, they also ensure that victims have the right to demand that the TTPS acts appropriately.

Madam President, inclusion of more information. The Members of the other

House also raised the issue of whether the information contained under Schedule III of the Act should not be well known to all and sundry. It was also questioned whether there is a need to provide more information to the public than the Act provides notwithstanding the conservative approach taken in the textbooks on the subject.

Madam President, the provisions allow parents, guardians and caregivers to formally ask the police for information regarding a person in close contact with the child if they are concerned that close contact with that person poses a risk to the child. The presumption to disclose only exists where the person has convictions for child sexual offences and the disclosure is strictly confidential. Section 48(4) of the Act specifies the information to be published on the website for the public's access. This includes the sex offenders' name, former name and aliases, date of birth, photograph, locality in which he resides and convictions of registrable offences committed by the offender, including the date of each conviction. Clause 4 of the Bill proposes to add the sex of the offender to this list of specified information.

In drafting the amendments in 2021 other jurisdictions which provide for public sex offender websites were examined and I list those other jurisdictions without going into the details of the actual provisions made. We examined the United States of America, the Republic of the Maldives, Nigeria, Poland, South Korea. Madam President, oh, we also examined Canada and the United Kingdom. Madam President, having regard to the detailed information that is accessible to the public in those jurisdictions the challenge existed for this Government to be not only cognizant that there is precedent for including addition details of the sex offenders, such as his or her full address, but also to strike an appropriate balance. We opted not to go in the detail and to go quite as far as the other jurisdictions

have done. We included what we considered to be digestible for our society in the first instance. This is a novel matter being introduced for the people of Trinidad and Tobago and we therefore think it prudent to begin in small steps.

The Government is mindful that depending on the effectiveness of the public access website we may return to Parliament in the future to expand the details available to the public regarding sex offenders. And, of course, we have to make sure that the sex offenders' website is functional, properly updated, and working properly. Again I take the opportunity, Madam President, to remind this honourable House that there is a clear distinction between the information published on the national sex offenders register and the public sex offender website. Whilst the information on the website is general the information contained in the national sex offender register is far more detailed and includes intimate information such as the offenders' DNA. This information on the national register remains accessible only to law enforcement and not to the general public. This information is necessary to further any ongoing investigations by the Trinidad and Tobago Police Service.

Clause 4, the inclusion of the word "sex" and notification to members of the public. And that was introduced, the Members will see, clause 4, section 48 of the Act (a), in subsection 4(a) (iii) by inserting the word "sex and" before the word "photograph". Members in the other House also raised the issue that this amendment under clause 4 which proposes the addition of the word "sex" before the word "photography" is reflective of sloppy work on the part of the Government and a number of concerns were raised.

As I mentioned in the other House we are here today to improve on a continuing and vigilant basis the legislation that it is our privilege to bring to this House to improve the conditions and to protect the vulnerable. So it is not sloppy

work. It is an encouraging on our part of the vigilance which we must continually undertake and on the part of all parliamentarians and we welcome contributions, positive, constructive contributions from all Members of Parliament to ensure that—as we work towards bettering the society for our citizenry we continue to keep our work under review to improve at every step of the way.

As it relates to the locality of the offender, I must reiterate whilst several jurisdictions have adopted this approach, for example, the US has one of the most comprehensive listings of sex offender registers in the form of the national sex offender public website published in the United States Department of Justice and that information published for each offender includes his name, her name, full address, geographical location, alias, age and photograph. In addition, in Canada, in certain provinces as mentioned earlier, the public has access to photographs, alias, addresses, background information on the offender, details of all sex-related crimes for which the offender has or is being convicted, date of release and prohibitions imposed on the offender by the court.

The Government understands, Madam President, the fears of members of vigilante justice, but a balance has to be struck between information given to the public and the sex offenders' right to privacy and it is in this regard that the Government has opted to provide legislatively for the sex offenders website which is available to the public in the terms that is designed.

Madam President, I have taken the time to address the concerns raised by Members of the House of Representatives in order to ensure there is no lacuna in the legislation. The proposed legislation specifically provides timelines for when a person must be placed on the website whilst acknowledging that persons due process right of appeal and his right to make an application to be exempt from the register. The purposed amendments also provide for some clarification. The

purpose of this Bill is consistent with our responsibility of continued vigilance and due diligence in relation to the improved efficacy of the legislation. So if I just draw Members' attention briefly to those other sections which are to be amended. I have already dealt with clause 4. Of course clause 3 refers to the Act, meaning, the "Sexual Offences Act". Clause 5:

"Section 56"—I read—"of the Act is amended in subsection (2), by deleting the word "offence" and substituting the word "sentence".

In clause 6 I read:

"Section 57 of the Act is amended—

(a) in subsection (3), by deleting paragraph (c) and substituting the following paragraph:"—

And the substituted paragraph (c) will read:

"...within seven days of the receipt of the information, verify that the information provided by the registered sex offender is correct before he enters it into the Register.";

(b) in subsection (4)—

(i) in paragraph (a), by deleting the word "receipt" and substituting the word "verification"; and.

(ii) by deleting paragraph (b) and substituting the following paragraph:

"(b) within three days of recording the change forward the information to the Commissioner of Police who shall, without delay, update the information on the website referred to in section 48."'"

Madam President, I beg to move.

Hon. Senators: [*Desk thumping*]

Question proposed.

Madam President: Sen. Lutchmedial.

Sen. Jayanti Lutchmedial: Thank you, Madam President, for the opportunity to contribute today to this debate. Madam President, I want to start off by saying that whilst the Bill is very short we do know that the establishment of what is a public sex offenders website is something that raises a lot of concern within the population and therefore we should not treat lightly with any amendment being made, because at the end of the day even convicted offenders have rights and we have to ensure that whatever we do when we are dealing with this Bill, with this piece of legislation, that we have a balancing of the rights. And we also want to ensure, as I heard the Attorney General say, that we do not have vigilante justice taking place at this point in time.

But, Madam President, more important to me, because I am not so concerned about that given the state of affairs and what we are seeing happening around the country, but I am more concerned about the ability of the persons who have specific duties under this law to carry out those duties, and I would get to that in a short while.

So the history of this law really started in 2019, as we have heard, when the concept of the national sex offenders' registry came into being and it was introduced by way of substantial amendments to the Sexual Offences Act. There was a special select committee, I think of the Senate, to consider that particular Bill which predates me, but some of my colleagues sat on it, and I know that the idea of a public sex offenders registry was the subject of a lot of debates and consultation. And I believe that coming out of those consultations there was—because of the small society in which we live, it did not seem prudent at the time to have a public element to that sex offenders registry. And I do not want to go through all of the

contributions made and the different persons as you may hear later about the other special select committee which Sen. Richards and I sat on, we had very extensive and powerful contributions coming from civil society organizations when it comes to issues like this. And of course it is our duty to consider all of them.

So I believe there is still a lot of uneasiness surrounding a public sex offenders registry, but the simple fact is this. Crimes of a sexual nature seem to just be exploding and they are all around us. And so when it comes to being able to, for example, the most topical example that could come to my head right now, verify the types of offences that persons you are employing in places where they are close to children. Perhaps a sexual—a public offenders registry or website is necessary if it would assist in ensuring that the types of persons we employ in these places are not persons who might have been previously convicted of, you know, heinous crimes of a sexual nature.

I want to say that the provisions seem to be more of a tidying up nature for the efficient running of the registry, the public registry. So we want to ensure the information is up-to-date. You want to ensure that the information is actually verified and, of course, anybody who has ever worked in the criminal justice system knows how important that is and how much we have sort of fallen behind in that respect.

So, as recently as, I think it was last year, I recall a matter involving a person who was issued a fixed penalty ticket and paid it and it was never recorded on the system. And some three years later he was arrested and, you know, ended up suing the State, of course, and the taxpayer having to foot the bill. The name of the case I believe was Patrick Awong. It was a judgment reported and Justice Seepersad was the Judge. And you know I remember Justice Seepersad in his judgment speaking extensively to the breakdown of the State's machinery and a total lack of

communication between the Judiciary and the TTPS and that is what resulted in this man being arrested, held at a police station on a warrant.

I too have had circumstances where cases like that have come across my desk, where persons are being arrested on warrants for things that have, you know, missing court dates, for example, when the matter was actually dismissed by the court and a warrant being issued for their arrest. I have had cases where I have had to send letters, it never got to the state of litigation, but I have had to send pre-action protocol letters to the TTPS threatening to sue because every time a client went to get a Certificate of Character it was showing matters pending against them which had been dismissed some five, six years before, or for which the person had been found not guilty. Because the process in the TTPS actually, from my understanding, and I would stand to be corrected if this has changed, but my understanding has always been that when a person is convicted or acquitted it is the duty of the complainant to now inform the Criminal Records Office and that Criminal Records Office has to put things in place. And I think the Attorney General did say that the public sex offenders registry is being operated by the Criminal Records Office of the TTPS.

So, I mean, I and all fed up hear myself talk about resourcing for things to work in the criminal justice system because I feel like I am always talking about that. But I feel like I have to make these specific examples known and it is there, it is out there where people, I do not think the case that I referred of Mr. Awong is a case in isolation. There have been other cases where things have been done, you know, warrants and so on, people being arrested, not missing court dates just for the absence of updating records.

3.30 p.m.

So, this brings me to the point of the updating that we are doing and the

amendment that we are making to section 48, and without delay. Now, the Attorney General is right in terms of section 23 of the Interpretation Act deals with situations where there is not a specified timeline, but I just want to say that it would have given me a lot of comfort if the police had a timeline here; me as a member of the public, not me as lawyer or a litigant or whatever. But I would have liked to have some sort of a timeline because I feel like that is the only way to get things moving sometimes in this one country if there is a definitive timeline.

I remember there was a case where—usually cases of delay in administrative law, it has to do with delays in decision-making or delays in the claimant coming before the court but the principles are sort of the same, but there was one case that I found where there was a delay—and I remember the case. There was delay in the defence council which is part of the defence force—it is set up under the defence force Act—in meeting to determine an application. I think the person's name, the soldier's name in that case was Andrew Seesahai. And in that case of Andrew Seesahai, Justice Seepersad again—totally coincidental—set out some of the factors that you would have to consider when you are thinking about whether or not a delay on the part of the State to do something, when there is a statutory obligation to do it, would then, of course, result—I think in that case they were thinking whether or not it resulted in fraction, an incursion on the right to protection of the law.

Because as we all know from cases like the Maya Leaders Alliance case and all of that, protection of the law is a very wide concept and the courts can interpret it as the failure of the State to do something when there is a positive duty to act in a case such as here, whether or not that can somehow be an infringement of anybody's right to protection of the law. So, in this case, you are looking at the victim. If there is not a timely updating of this website and the delay on the part of

the police in doing so has to be determined by the court, what are the factors they are going to look at? Well, one of the factors they look at is the importance of the matter. They look at the resourcing and the amount of matters that the police, or whichever agency is responsible, the amount of matters they have under their considerations, and there are a host of other issues that they will have to consider.

But in this case you have as well, what if the person—the court orders that even though the matter is on appeal, that the person, because of maybe the severity of the matter and all of that, it still has to be placed on the website, and then that appeal is determined in favour of the defendant and it takes, you know—who is to say what is the period of time that will be acceptable if I am acquitted of an offence to remove my name, my photograph? This is not simple information. This is very detailed information and in a small society, it is absolutely very easy to identify anyone from this information that is going on this public website.

So, what is the time frame within which I as a defendant would have the right to come to the court and sue for the failure of the police to act? Because if the Commissioner of Police, who has control over this public website, is depending on the prosecutor in the matter, or the police prosecutor, or the complainant in the matter, to send the matter up through the channels, well, I am very fearful that the updating of this website might actually fall the way of what we see here happening with fixed penalty notices and other things, that the delay can be so unacceptable and so great that it could have consequences for person acting there. So, I flagged that simply to say this, that the operation—this is not like a traffic ticket that you do not pay and you get arrested on a warrant. This could have serious far-reaching effects on the lives of the individuals who are placed there. And if the delays are so egregious that it causes some sort impact on either the victim, on other persons—what if, for example, I had a policy at my place of business that I would scan my

employees against the public sex offender registry because I have children at my place, I am running a day care centre and so I must scan them, and the police have failed to update that website in a manner that was efficient and prompt and their lack of promptitude prevented me from being able to know that this person who was screening for a position in my particular place of employment, or my business, was in fact a sex offender, am I then going to be responsible? Who is responsible?

There is a host of things and that is where when you have citizens dependent on the State to do certain things, I like timelines. So, I do not know if the Attorney General will be willing to consider that a reasonable timeline be given here to ask for the Commissioner of Police to have the information updated, even if it says that within 14 days of the notification, within 14 days of the event, something like that to just make sure that it is not in fact then just falling by the wayside and waiting for somebody to do something.

I remember when I was reading this that we were debating two Bills on the creation of companies to run SAPA and NAPA, and the Minister of Tourism, Culture and the Arts stood here in this Parliament and complained about the length of time things take to move from one desk to the other within his own Ministry. And sometimes people would then ask to utilize the facilities and so on, and they would take so long that the date of the event would pass and it would not even reach the proper desk that it needed for, for approval. So, I am not making things up. The other side is very well aware of the delays that plague public service, that plague TTPS, that plague many different areas and the bureaucracy, and the fact that we are still very much paper-based in some of these things.

I know that the efforts are being made to get there, but I am in Magistrates' Court more often than I would have liked and I know that they are still grappling with getting the official TTPS email to work properly so that they could complete

disclosure in a trial. They have challenges with those things right now. I am getting emails for disclosure—when the court orders a disclosure, I am getting all kinds of Gmail, I getting WhatsApp and things like in very informal channels because their email servers and so on are always going down, and none are working properly and things of that manner. So, you have to creep before you could walk sometimes and certainly before you can run. And sorting out these minor details but putting in place consequences or timelines for things to get done might actually help to drive the thing in the right direction.

The other thing that I wanted to talk about, Madam President, is that the impact that a public sex offender registry will have on what is really a serious societal problem that we face right now is simply dependant on us having names to put on the register. And the names are not going to get on the register unless we have improved detection and conviction. Because it is only upon conviction—I know that the former Attorney General, the Minister Rural Development and Local Government, had said last year, when we were debating an amendment to this same Bill, that if he had his way we would have even persons who are accused and charged before the courts on a public register. I have very strong views on that, of course, because I think that violates the presumption of innocence. But the fact is we have a low detection rate but we have an even lower conviction rate in this country. And until we feel or until we move towards a place where, particularly for sexual offences, that we are convicting people on solid scientific evidence, we are not going to raise our detection rate, we are certainly not going to raise our prosecution rate—our detection and conviction rates because a vast majority of sexual offence crimes right now in this country simply depends on the word of a witness versus, you know—who is often times a victim in many times. There is nothing more horrific, and I could tell you, there is nothing worse in this world

than having to take evidence from a child victim of a sexual offence, and I have done many of those matters and there is nothing worse than that, but the evidence is often so understandably, shaky sometimes, that is very difficult to get a conviction.

So, this registry, we need warm bodies to be in the prison, we need warm bodies, actual people. It sounds nice that we have a registry, and I am happy—I did the same thing that Sen. Seepersad did in checking it and I said “Well, I am seeing three locations and I am not seeing anything else,” and clicking, clicking, clicking. I thought it was me, to be honest with you, so I am happy somebody else had the problem. But no matter how fancy the registry and the website is, and how many pieces of law we pass, to add and take off the different types of information that we want to put there, if we are not convicting people, it is not going to have anybody there to put.

So, sexual offences is one of those areas specifically where the detection and conviction rate could be increase significantly if we had more emphasis on scientific forms of evidence, DNA, fluids, et cetera. I asked a question in this Parliament some months ago, I cannot recall if it was this year or last year, but I remember it was former Sen. Rambharat who had responded, and in total there were some 16,000 samples awaiting testing at the Forensic Science Centre. That is what it boiled down to in different categories and so on. But a substantial amount, I recall, had to do with fluids—when we take fluids from people. Those are the things that you need to be testing in order to convict people and put them on this register. So that when they go for a job, or they are joining an NGO where they will be interacting with young children, or when they are applying for a taxi driver’s badge, license—although we know a lot of the types of offences, sexual offences, that are reported do not have to do with registered persons but rather the

unregistered types, and those are other issues that have to be addressed. But still any type of job where a person may wish to screen you, it really depends on the efficient working of our criminal justice system in detection and prosecution. So, we have to address that.

I want to say that I was very, very troubled—well, a couple of things on this matter troubled me. One is that a task force committee set up to investigate crimes against children in children's homes took about five months to be laid in the Parliament. Thereafter, after much public uproar and many front page stories about the horrendous events taking place amongst our most, I would say, perhaps our most vulnerable population when you look at children because these children—there is a reason why in the law they are called “children in need of care and protection” because that is exactly what they are.

Madam President: Sen. Lutchmedial, if I may? I have been listening very carefully and you need to link up what you are saying. I gave you a lot of leeway before with your previous point and I just want you, please, to remember what we are debating.

Sen. J. Lutchmedial: Yes, Madam President. So, we are debating whether or not we want to make amendments to a public sex offender registry and I am still on the point of actually being able to find the names to get on to the registry. When we have delays, such as those things in terms of treating with issues of persons, and locations, and situations where we have sex crimes being committed and the police are saying that they are awaiting the reports to come from the adults in the home, I have to wonder whether it makes any sense to have a public sex offender registry. Because that, in my respectful view, defeats the—

Madam President: So, Sen. Lutchmedial, I hear you, but this is not about the entire—this Bill is not about the entire criminal justice system. It is a very specific

Bill. And while I have given you the leeway, I will ask you now to sort of come to the Bill please. Okay?

Sen. J. Lutchmedial: Now, again, when—so—the point of having a public sex offender registry is being able to find people. Now, if we have to go to clause 6 and section 57 specifically to say that:

“(c) within seven days of the receipt of the information...”—provided, the TTPS must verify—I made the same point as before.

There is a penalty, of course, imposed on the offender, by way of the parent legislation, for not providing the information on any sort of change. But some of the information, I would say, is very difficult to verify.

Some of the information they have to provide, for example, is the next of kin. How do you define your next of kin if you are living in a house with numerous people? If the next of kin dies and you failed to inform the police, or you just changed the next of kin for whatever reason, or your email address, all of those things—there are a lot of nitty-gritty details. So, there is a penalty being imposed on the offender for failing to come to the police station and make the relevant notification. However, again, what does it entail for verification? How do they verify? And then we are setting a time frame here for verification which could take on a number of different forms. So that in subsection (3) where we have deleted paragraph (c) and we say: ““(c) within seven days of receipt of the information, verify that the information provided by the registered sex offender is correct before he enters it into the Register.””

And then the amendment now to the register moves from not “receipt” but to “verification”. Well, what if they cannot verify within seven days? Then, of course,

I guess the law will have to be interpreted that it happens when it is verified. But do we have resourcing? Do we have capabilities? And on what level does the police officer have to be satisfied as to the verification? What if they cannot verify it? What if some of the information provided by the particular offender simply turns out to, they cannot verify, what then? What is the process to be triggered there? Is the person to be charged for failing or for providing false information? Because it is actually possible for someone to masquerade themselves by providing false information under this Bill. So, I think that the actual logistics here could use a little bit of perhaps tidying up; perhaps it is that it has to play itself out for some time and we see how it works.

But then, again, we have other timelines here:

“(b) within three days of the recording”—of—“the change forward the information to the Commissioner of Police...”—to—“update the information on the website...”

Now, are we—again, why do we have a timeline here but we do not have one in section 48? And I find that that is, you know, a bit strange where we would rely on without delay, but then we will go down to section 57 and we will fix some very stringent guidelines, and I do not know if the Attorney General could give us the reasoning behind that.

So, Madam President, at the end of the day, as I just wind up, I will say that a public offender registry is something that we decided as a population was necessary. We have attempted as best as we could to craft legislation that will balance rights. There are serious concerns still, as I said, coming out of the Special Select Committee on the Sexual Offences Bill, 2019, about the impact on a small society such as this. And getting these timelines and these actions right, and making sure that it can actually be done is certainly, in my view, a significant part

of ensuring that it works in such a way that no one is prejudiced; not the victim, not the offender, not the public at large who will be depending on the public offender registry.

And finally, as I said before, without the resources to actually convict people—detect and convict people, well, I do not know that—I think this website might end up in the state that it was—remain in the state that it is right now. Because it sounds simple enough to have a website, but the actual logistics behind getting the website running and working, as has been pointed out today, is not something that is actually so simple and it requires some attention if this is to have any meaningful impact on our population. And I think that those are the points that I wish to make today, Madam President. Thank you.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Richards.

Hon. Senators: [*Desk thumping*]

Sen. Paul Richards: Good afternoon again, colleagues. Thank you, Madam President, for the opportunity to contribute to this important Bill. There are several names that I can call to justify both a national sexual offender register and a public register—a public website, sorry, but I will just call one, and this one name will justify, particularly to me, the existence and maintenance of a public website, Akiel Chambers; Akiel Chambers. And that name should scare us all because of what happened to that child and the fact that to date—

Hon. Senators: [*Desk thumping*]

Sen. P. Richards:—justice has not been found for that child. And that child is gone, and his parents, and friends, and this country have not seen the perpetrators brought to life. And whoever that perpetrator is or those perpetrators are—because there are suggestions that it may have been more than one person—their names

should be available to the public so that other children and families can be protected and be aware of who they are, and where they are, so that more vigilance can take place where people protecting their children are concerned.

And I fully understand the conversation about the rights of a person and their privacy, even persons who are convicted of crimes. But, to me, the protection of citizens, in particular children, much far outweigh the rights of a person who has gone through the judicial system, has been given a fair trial, the right of appeal and has been found guilty of that type of crime, and I make no apology for that.

This Bill, as Attorney General and Sen. Lutchmedial indicated, seems short but there are some serious implications to several parts of it. And as the Attorney General indicated, 33 voted in favour and none against, which means, as a Parliament, we realized the importance of these kinds of steps, these kinds of laws in protecting citizens, in particular children, from heinous crimes, sexual abuse in Trinidad and Tobago. And there is a long list—unfortunately, a long list of names of children who have been abused and for whom justice has not been found. And Sen. Lutchmedial is right because the issue of gathering evidence and doing the work to bring these perpetrators to justice is not where it should be in Trinidad and Tobago, but that also does not mean that we should not take steps and do what we need to do as a Parliament to ensure that the protections are in place if and when those persons are brought to justice.

Madam President, the clause I want to focus on is clause 5, section 56, and I understand—because I was part of the Special Select Committee that Sen. Lutchmedial spoke about that produced the report. And there was quite a bit of conversation about some of the issues related to a national sex registry, one, and more so the website, because of the implications in particularly a small jurisdiction like Trinidad and Tobago because we are a really small country where while

everyone will understand—and in subsection (4), section 57 amended, there is, of course, the proposal, the provision for the registered sex offender to include name, former aliases, date of birth, photograph, locality, et cetera. In terms of the public website, I think it is extremely important—and I know the point has been raised before but I think the point is so germane. And if one does any of the research in any of the jurisdictions around the world, that issue of vigilante justice, not only on behalf or targeting the accused—not the accused, the person convicted; the convicted, but also members of their family and the stigmatization of the family, the family home and, in some cases, the entire area, is a real concern.

Because imagine for a moment that more than one convicted sex offender is attached to a particular village or town in Trinidad and Tobago, and what happens to other persons living in that jurisdictions or in that area. Because we are small a country and it is very easy to imagine that we get to the point where we find a particular area being called “sex abuse town”. So, we have to be careful and guard against those types of instances where localities are concerned in Trinidad and Tobago because it is not only the convicted person who may end being the subject of being targeted by vigilante groups or the family of that person being the subject of taunts and threats in that area. And we also must have a vigilant response to any kind of vigilante overtures in a particular area, and that is where the work of the Trinidad and Tobago Police Service comes in. So, in that clause 5, section 56, I think we need to be very careful of the issue of locality.

Now, in subsection (4)(a), there is—a lot has been spoken about the—sorry, 57, section 57, and the issue of the compliance of the police officers or the police service, the person designated so to do, in seven days. And, through you, Madam President, what are the repercussions of non-compliance? So, there are several provisions for compliance on behalf of the Trinidad and Tobago Police Service,

what about persons who breach the confidentiality issues? Because we know we have runaway horses inside the police service who may seek to use their position and office and, in some instances, access to do dastardly acts. What are the penalties for those? And I know the schedule and regulations may account for those police. The police service has in-built regulations and disciplinary measures. But given the gravity of the possible breaches here and the implications to the breaches, what are the penalties for non-compliance? What is the penalty for the police not acting without delay as specifically stated here? What is the penalty for the police interpreting without delay to be three days?

And yes, the hon. Attorney General said, “Shall, without delay.” You and I and all of us have an interpretation, “Well, that should be within the next hour, or two hours, or three hours, certainly within the next 12 hours.” What happens if it goes for two days, four days, seven days? What is the repercussion from the TT Police Service? And who is going to hold the officer, or the police service as a whole, accountable for that breach or that non-compliance? Who or what? The Parliament? The Police Complaints Authority? The Professional Standards Bureau? We all know about cases right now before those agencies that are dragging on forever, and these are real questions we have to answer when we are putting provisions in law. So, while we are, to me, doing the right thing by doing the legislation and bringing it to the Parliament for protection of the citizens, we have to make sure that they can work and that the agencies that are charged with the responsibility of applying them do so in a diligent manner and consistent manner, and there must be consequences for lack of compliance, and I am not seeing that built in. So, I will tell you that raises a lot of concerns for me.

Madam President, I also want to raise the issue of the updating of the website and the website itself, because Sen. Seepersad asked of the Attorney

General, while he was piloting the Bill, about the inactivity of the website and that is already very telling. So, we put provisions for a public website, as it is built into the Bill, to be updated in seven days as the law or the provisions here outlines in this Bill. And the website goes down—because the Bill specifically states maintenance and update—and it goes down, what is the mechanism and/or consequence for it not being maintained, it going down and it not coming up? And we have to also raise the very real spectre in today's context of cybercrime, and hackers, and persons who may, for whatever reason, nefarious reasons at that, decide to try to breach this website and manipulate it in some way because it is a public website.

4.00 p.m.

We have seen hacks of major conglomerates in Trinidad and Tobago who have resources as private sector conglomerates to have critical IT infrastructure and personnel to deal with that but they still fell prey to cyber-attacks and hacks and getting access to people's information. We have seen in other jurisdictions or right here, we have heard about banks being subject to breaches because of hackers.

Now you could imagine if someone wants to create mischief for example and this website is public and they hack that website and put the name of a public official on the website out of mischief and the persons charged with the responsibility are not diligent and that stays up there, people screenshot it and spread it around. Think of the kind of mischief that can do if the systems are not in place and if the agency is not held accountable for strict maintenance and compliance as the law provides for. That is not our job necessarily as legislators but we have to consider it when we are making law in this environment given what is happening in the world and we would know that any research that you do online, any quick Google search will show the exponential rise in cyber-attacks and hacks

to major corporations around the world. The TTPS is not exempt and the TTPS is going to be responsible for the maintenance of this site and the implications are dire for people who are intent on mischief.

Madam President, I did not intend to be long so I will start wrapping up now. I also think the issue of public awareness in a particularly small jurisdiction is very important. I think if we are making law as ground-breaking and as novel as this, especially in light of the provisions that are intended in this law, that we have to do more effective public awareness programmes and education programmes, because, for example, as the hon. AG indicated, a family who may have been subject to one of their members being abused, can go to the TTPS and ask for information regarding a particular convicted sex offender but then there are limitations to what they can do with that information because if they go beyond the parameters of what the information is supposed to do for them, they will also run afoul of other parts of the law and end up themselves with criminal liability.

And so, even though the original law has been passed and updated and there are several aspects that are active, I myself have not seen an effective, consistent public awareness programme telling the public what this is about because I was part of the SSC and that was heavily discussed in the Special Select Committee in terms of the public understanding what this is about, the difference between the national sex offenders registry which is not public and what the website is intended for and what the information on the website can and cannot be used for.

And I think that is also very important when we considering this kind of ground-breaking novel law that changes the paradigm in Trinidad and Tobago because we have to learn from other jurisdictions and what has happened consequent to them not considering these possibilities when they enacted their laws. Because as the hon. AG said, there are several jurisdictions including some

states in the US and some states across Europe and in some instances, have actually started and discontinued public registries because they did not achieve the intended objectives.

So I think in wrapping up, I agree with and support the proposals in these amendments because I think in some instances, the correct lacunae that have existed before and they balance the issue of the rights, the privacy rights of the convicted once that person has gone through the legal system in its entirety versus the protection of citizens who are victims of sexual abuse, in particular children and who also may become victims in terms of knowing sex offenders in their general locality, but I think there must be more specificity in terms of what this locality entails because the interpretation of that can be wide and dangerous if someone gives a particularly narrow locality in terms of probably a specific address or a street where the possibility of vigilante justice, stigmatization and stereotyping of a street, an area or a particular family home or dwelling may be concerned when other members of the family had nothing to do with the crime perpetrated and they fall victim to the victimization based on association or based on familial relationships.

So as I said before, I support the proposals but I think we also need to consider including clearly outlined penalties for non-compliance particularly regarding the responsibilities assigned to the Trinidad and Tobago Police Service in specific reference to the very narrow requirements that are proposed in this legislation in terms of the reporting, updating and maintenance of the website. And with those few words, Madam President, I thank you.

Hon. Senators: [*Desk thumping*]

Sen. Laurel Lezama-Lee Sing: Thank you very much, Madam President. It is my pleasure indeed to join this debate on the amendments to the Sexual Offences

Act on this lovely occasion.

Madam President, I remember in December 2020, reading a newspaper article entitled:

“Court orders first man to register as sex offender”

And this is an article by Jada Loutoo in the *Newsday* on Wednesday the 9th of December 2020 and I remember feeling a myriad of emotions. I was happy, I was sad, I was frightened, I was excited, I was not sure but one thing I knew was that my Government was acting in my best interest.

Hon. Senators: [*Desk thumping*]

Sen. L. Lezama-Lee Sing: You see that article and I will just quote the first paragraph:

“A 37-year-old man convicted of six counts of having sex with a female under the age of 14 is the first person to be ordered by the court to register as a sex offender.”

And then the article goes on to list the gentleman’s name and other parts of the case that he was tried for. And, Madam President, I continue to be very grateful. One, to the Government for its determination to protect the citizens of Trinidad and Tobago and more importantly, Madam President, two, for me to be a living part of the effort to protect the people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. L. Lezama-Lee Sing: Madam President, the Opposition speaker before me started off by saying that the issue of sexual offenders is not one to treat lightly and I agree with her wholeheartedly and that is the only thing I would ever agree with her on. But, Madam President, what bothered me tremendously is that the United National Congress, using the cloak or the removal of the cloak of the heat of the Chamber decided to pick up themselves and walk out when our distinguished

Attorney General was presenting his opening remarks for this debate.

You see, I am convinced, Madam President, that this Opposition never acts in the best interest of the people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. L. Lezama-Lee Sing: And I want to ask you as legislators: What message are you sending to the population? What message are you sending to your supporters? That you are completely uninterested in what is happening? You are not interested in looking after those who have been affected by sexual offences? You are not interested in the same name that Sen. Richards called? The children who are being affected, the women who are being assaulted, the boys who being are offended? I condemn the United National Congress who are unable to be mature and civilized in this environment.

Hon. Senators: [*Desk thumping*]

Sen. Lyder: [*Inaudible*]

Sen. L. Lezama-Lee Sing: Madam President, I am part of a team—

Madam President: Sen. Lyder, it is not appropriate for you to be shouting as you are. Okay?

Sen. L. Lezama-Lee Sing: Madam President, Sen. Lyder just turned the leaf to a new chapter and I hope that as he begins this new year of his life, he settles down and he acts in the best interest of the people of Trinidad and Tobago—

Hon. Senators: [*Desk thumping*]

Sen. L. Lezama-Lee Sing: —and do not take “chain up”, do not take “chain up” from the other people on your Bench.

Madam President, as I was saying, this Government is determined to look after the interest of all the people of Trinidad and Tobago and the hon. Attorney General speaking, in the other place, made a very powerful statement. He said law

does not function in a vacuum and it is very true. We cannot take this amendment and expect this to be the be all and end all and the protection of all the people who have been offended, sexually offended. You know, the Government has put a package of legislation forward that seeks to protect and prevent these things and when I call the names of these pieces of legislation, Madam President, it is shameful that very often a lot of this legislation has had to be watered down because of the blatant refusal of the Opposition to support these pieces of legislation and to act in the best interest of people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. L. Lezama-Lee Sing: Legislation, I want the national population to know, the anti-gang law, the pepper spray legislation, some things with the Evidence (Amdt.) Act and even some parts of the Sexual Offences Act where they have been very silent, Madam President. This Opposition does not act in the best interest of the people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. L. Lezama-Lee Sing: Madam President, let me take the opportunity now as a mother of three young girls to speak through you, Madam President, to mothers in this country. I have an 11-year-old pre-pubescent daughter, right, very lovely little girl, very respectful, polite but certainly very naive and unsure, and I walk with her and sometimes I see older people, who ought not to be, doing these things ogling at her and, Madam President, as a mother, you become terrified at things that can happen like this. And from a very personal perspective, I certainly would want to know if there is a sexual offender in my vicinity and within my locality. I do not need all of the specific details, the specific details are kept with the TTPS register but on the public register, I need to be able to know. And as mothers and as protectors of children and as an auntie, as a cousin, as a friend, as a friend of

mothers and even as someone who—I will skip that for now.

As a mother, it is very, very disturbing that you send your child out there and it happens everywhere in the world so this is not exclusive to Trinidad and Tobago and there can be people who want to put unwanted touches on your child or uninvited touches or the assault or the worst possible things that can happen to your child or to you or to your friends, and as mothers, we are very, very cautious about the environment. And so I stand in strong support of this legislation.

Madam President, I want to speak to improving the information on the registry where the information related to the registered sex offenders includes the names and aliases. We know in Trinidad, you could change your name or you have plenty, plenty aliases in this country, your date of birth, the sex and photograph, your locality and the convictions of what your offences have been including the date of each conviction. And I think that this is something that is very strong, I think this is something that is very important as we seek to continue to protect the people of Trinidad and Tobago.

And as I said, law does not operate in a vacuum so there are other programmes, for instance, put on by the Government to support and to prevent these kinds of incidences from happening. You have for instance the Ministry of Gender Affairs conducting a number of men's empowerment and men's building programmes to try to get men to not go in that direction. You have the Ministry of Youth Development and National Service and they have a myriad of programmes and I want to compliment the Minister of Youth Development and National Service for his tremendous work in championing efforts and initiatives for the young people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. L. Lezama-Lee Sing: A number of initiatives there. The agricultural

programme, the learn to drive a backhoe programme, the MiLAT and MYPART and all of the other programmes there to keep people away from a life of crime. You have the Ministry of Education. In the Ministry of Education, the number of guidance counsellors in schools, sustained within the schools to try to keep the children on the correct path. The Ministry of Community Development which is responsible for all the village councils and you know when you have the village councils, you build community, when you build community, you become your brother's and sister's keepers and that is what we are lacking in this country.

And as we talk about building community and being our brother's and sister's keepers, Madam President, I am very taken aback but not surprised that the presenter for the UNC so far continues, since the start of the Senator's tenure here to undermine, in my opinion, the efforts of the TTPS and even to an extent, the work of the courts of Trinidad and Tobago because every time we come here, she talks about they are unable to do their work and she is not saying it necessarily in a way that is specifically only to resources but she is also very often almost making it a sustained attack on the persons within the institutions and that is undermining of the independent institutions of Trinidad and Tobago and the PNM will not stand for that.

Sen. Mark: [*Inaudible*] (6) please. I need your guidance on it.

Madam President: So, Senator, I will ask you to—you have said certain things but you are saying it about a Member of this Chamber so I will ask you please to move on. Okay?

Sen. L. Lezama-Lee Sing: And I will move on. Thank you, Madam President. I just wish to say that the PNM continues to do what it can to support all of the institutions in Trinidad and Tobago that will seek to bring justice, relief and support to the citizens, all of the citizens of Trinidad and Tobago.

And, Madam President, there is not much more that I need to add to this debate you know because as much as the debate is very important, it is really very simple legislation and we will see more things coming forward. I wholeheartedly support and commend this amendment. I support the Attorney General in his work and in his diligence and I look forward to extending my support and to getting the support from other Members. I thank you, Madam President.

Hon. Senators: [*Desk thumping*]

Sen. Jearlean John: Thank you so much, Madam President, for the opportunity to contribute to these amendments today. We have had prior amendments to the Sexual Offences (Amdt.) Bill and what is needed now is really the work with the implementation. I think Sen. Lutchmedial was making that point and that was not necessarily negative criticism. She was just pointing to an issue of a fact.

Because all of these amendments have not yet been consolidated within the revised edition of laws I think in Trinidad and Tobago so therefore, one had to look all over with respect to these new amendments to see how they relate. Madam President, it appears as if notwithstanding these many amendments, it remains a work in progress and we know that will be so but at least one needs to get moving with the work because the crimes associated with this Bill are an epidemic in this country and everyone, all the speakers have alluded to that and they support that and certainly one does not want to know that a child is being affected in this way and we can do something about it. So it is not about any negligence from the Opposition. In the last amendment which came I think last year, we voted in this House, it was a unanimous vote in this House, Madam President, and I think it was our duty so to do.

Madam President, when former Attorney General Faris Al-Rawi, when he piloted this Bill, he said it was intended to create two registers at the time. The

national sex offenders register which will be private and for the use of law enforcement only and then the public sex offenders website which I think these amendments, they speak to the part of that website that the Commissioner of Police, he will have responsibility for in terms of the update. And this new section 48 which is further amended by the addition of new subsection (8) after the existing subsection (7), this new subsection mandates the Commissioner of Police to update the information on the website without delay.

But first, Madam President, there needs to be—well, there is an existing website. I went to look at it but it has nothing on it, well, as it relates to sex offenders, and Sen. Lutchmedial made the point that there needs to be convictions—well, detection and conviction and that is what will feed into this website and I do not see that as being obstructionist or negative. She is making a point which is a point of fact. So the Commissioner of Police shall in relation to the sex offender have control of the website to be known as the public sex offenders website and designated for the publication of information referred to in subsection (4)(a).

And, Madam President, as I said, this website is still outstanding and is still wanting and it is not because—I mean there are many, many sex offenders in this country and too often you see these stories reported in the newspaper and I think it appears as if we have now stopped being so shocked by it. And I am not saying me because I remain very shocked at even yesterday, a grandmother called me to tell me her very young granddaughter had been raped and is now in one of our local health institution and it is very painful when you hear these things and you are wondering would this person ever be caught and brought to justice and it is really not easy.

Again, the former Attorney General in presenting to this very House in

2021, he said for the period 2015 to 2020, the number of cases reported of abuse against child is 27,837 and of that 6,402 of those cases are for sexual abuse alone. This is a horrific statistic, Madam President, and what is grippingly horrific is that the cases for sexual abuse of children include children between the ages of zero to four months. And many matters of rape, human trafficking of women and children are reported in the media and I am certain much of it goes unreported because sometimes people are thinking of the shame of it, the stigma attached to it and really being safe, going to a safe place to report these matters of people who are have been committing these very serious acts.

Madam President, just a few weeks ago in Arima in the full view of residents, there was a raid made on some house that in the full view of the residents of a street called John Shaw Street in Arima where there was activity of human trafficking and child prostitution. And in terms of what is under the Children Act, Chap. 46:01, the definition of a child is a person under the age of 14. So imagine under the age of 14, they have these children engaging in these acts. Now, there were arrests in this case but one wonders whether these people are now just—while the matter is making its way to through the court, where are these people now? Does their neighbour know what these people have been engaged in or they are just left out there to continue what they have been doing? Because one of the persons arrested was 21 years old. This is a very young person engaging in these things.

So, Madam President, a functional well managed public sex offenders registry which will mean if it is working will help to name and shame because this is a very small country and basically, and I think Sen. Richards had made the point, it is a small society and people gossip and if it is it will not be—the sex offenders registry, I suppose, will have help in terms of people carrying across that word but

at least it needs to be well populated and give people a fighting chance to know who they are living next to.

Because these registries are supposed to protect families, especially children within communities from any potential harm, it could make or break a decision of where you decide to live. I mean it is not to stigmatize that a place has more potential or has more existing sex offenders than the others, but certainly you want to know who you are living next to. It helps police in an investigation and trying to understand how a suspect is and what he and she has done. It provides people with the right to know where and who these sex offenders are. Because these sex offenders really meshed and they are really a part of our everyday life. They find themselves in places where there are children and the vulnerable.

So, you know, we keep amending this Bill without really the implementation before it and I think that is the point Sen. Lutchmedial was trying to make very forcefully and it should be made forcefully because if this is one of the tools, the Government has decided this is one of the tools and we agreed because we have voted in support of it, then really and truly, we should get it done.

In addition, Sen. Richards spoke about public awareness because we have these mechanisms but we are not telling the public that this is available to help you and so that they can understand and they can participate. You know, I mean in the United States, they have a sex offenders registry that the FBI manages for 350 million people and we have approximately 1.4 million and we just cannot appear to get it done. You know although we have all of these reports coming out every so often.

As a matter of fact, not too long ago, I saw where a report by Camille Hunte of the *Express*, she was talking about a particular individual who was arrested, found with pornographic material involving minors and very distressingly, Mr.

Clarence Mendoza, President of the Trinidad and Tobago National Council of Parents and Teachers Association, he said he has described this as an on-going problem within the country. He said child pornography is rampant in Trinidad and Tobago and you know this leads to other behaviours. Madam President, “ah see yuh pulling yuh mike” but—[*Laughter*]

Madam President: Sen. John, because while all that you are talking about is of interest to everyone in the Chamber, I really do need you though to deal with the specifics of this Bill and this Bill, it is very limited in scope. I know that everyone would like to talk about what leads to having to implement these kinds of measures but this is not the debate for it at this stage. Yeah?

Sen. J. John: Thank you, Madam President. I am guided. But I think every opportunity we get to just reinforce you know because this is such a serious crime, you know, we are just trying with all due respect. Then we had our goodly Sen. Deyalsingh making a lot of—he was interviewed in the newspapers and I would not go into it but really and truly, he hit the nail on the head when he spoke in great detail about all of what leads to this kind of behaviour and he suggested that in addition to the sex offenders Bill, we have a cyber-crime Bill and so on because all of these are various strands of the abuse of our children and the vulnerable in our community.

Madam President, again, there was another article, I think last week Sunday with Denyse Renne where it said:

“Child sex abuse addiction in...”—Trinidad and Tobago.

And again, it talks about this thing is very widespread. So therefore as a result of that, it has the potential that these folks who involve themselves in all of these materials are predators on our children and basically it is something that we need to treat with very, very urgently and of course, as this Bill is giving a mandate to

the Commissioner of Police that when that website is up and running that he must update regularly because if the website is not updated regularly, then it defeats the whole purpose of this monitoring, et cetera.

So, Madam President, in light of the epidemic committed in this country, I think no stone must be left unturned in ensuring that we root it out or at least be able to give the victims, unfortunately, the victims some measure of assistance or hope that there is something that is being done in terms of prevention and deterrence when it is fully activated because I think this sex offenders registry, that is the role that is sees it playing. And as the right honourable Sir Dennis Byron had said, President of the Caribbean Court of Justice, as he presided over the presentation of the “Model Guidelines for Sexual Offence Cases in the Caribbean Region”, he said:

“It is our responsibility to ensure justice is served in the most efficient and effective ways; that the innocent are quickly exonerated and the guilty made to account and that we make every effort to minimise inflicting further harm to survivors of sexual assault who seek the support and protection of the criminal justice system.”

And I think this is another piece of the Bill that it is trying to do. So, Madam President, too many of our women and children are suffering and this Bill needs to be fully proclaimed and every aspect activated in the best interest of our citizens. Thank you, Madam President.

Hon. Senators: [*Desk thumping*]

4.30 p.m.

Sen. Hazel Thompson-Ahye: Thank you, Madam President, and welcome back. It is just one year ago since this Senate amended the Sexual Offences Act, Chap. 11:28, by the Sexual Offences (Amdt.) Bill, 2021. And here we are again in

June 2022, re-amending the much-amended Sexual Offences Act, by way of the Sexual Offences (Amdt.) (No. 2) Bill, 2022 and with the “Sexual Offences (Amdt.) (No. 3) Bill”, sitting in the waiting room, anxiously awaiting our latest legislative intervention and, no doubt, wondering if the legislative procedure we would be required to perform would be surgical or medical, lifesaving or cosmetic.

Prior to last year’s amendment, the Sexual Offences Act, 1986 was amended in 1994, 2000, 2012, 2018, 2019 and 2021. The year 2000 was the revolutionary year for sexual offences. That year, Parliament legislated that a husband could be guilty of raping his wife, although that rape was given the gentler title of grievous sexual assault. That year too, reporting of child sexual abuse was made mandatory and most relevant for our purposes, the court was empowered to impose on convicted sex offenders notification requirements for specific offences with the notification periods being dependent on the term of imprisonment imposed on the offender.

The 2000 Act also itemized the method of notification, penalties for noncompliance and for that a purported compliance by giving false information. At the outset, our law made it clear that our system of registration of sex offenders was based on the sentences imposed on conviction and was not directly related to the offence committed for the level of risk to potential victims, as some other jurisdictions are.

The next operation we performed on the Sexual Offences Act was to enact the Sexual Offences (Amdt.) Act 2018, when we inserted in its section 37, the National Sex Offender Registry. This applied to a citizen, a person in Trinidad and Tobago, or a person who committed the registerable offence in Trinidad and Tobago. This registry was not accessible to the public and was required to contain particulars of the convicted sex offender as listed in a Schedule, which was

Schedule 2. The particulars included, inter alia, the name, the former names, the date of birth, the sex, the main address or secondary address, and I wonder why “or” rather than “and”, you know, because people have different addresses.

The registry was placed under the control and custody of the Commissioner of Police who was to ensure that the information inserted was correct. It is interesting to note that in Jamaica, the registry is under the control of the Commissioner of Corrections.

Section 38 of the 2018 amendment Act specified certain information in relation to each registered offender being made access to the public via a website designated for that purpose. This information was: (a) name; former names and aliases; date of birth; photograph; main address or secondary address; offences committed, including dates the offences were committed.

The commissioner was to ensure that this information was to be displayed in a conspicuous place in each police station to which a registered sex offender was required to report. It is to be noted that the required information does not include sex of the offender.

In the 2019 Act, the next procedure was conducted with much self-backslapping for it established a Sex Offender Register in section 47(1), which became section 46A(1) in 2021. The establishment of the registry had been outstanding since 2000. So the then Attorney General was justifiably proud and was not too shy to so proclaim his success. The information on the convicted offender, which was required to be included in the register, was listed in a Schedule, Schedule 3, and was more extensive than the list of information required under the 2018 Act. But it also required that the sex of the offender be included on the register. This register was not accessible to the public unless the court determined otherwise. It was to be under the control and custody of the

Commissioner of Police who was to maintain it, to ensure the information on the register was in accordance with the Act, and any other written law, and that it was accurate and protected from unauthorized access, collection, misuse, alteration, disclosure, or disposal.

The 2019 amendment Act by section 48 also created a sex offender website which was to contain certain information in relation to a registered sex offender, namely the name, former name, aliases, date of birth, photograph, main address or secondary addresses, and the dates of each conviction of registerable offences committed by the registered sex offender.

The website was also required to have a notice displaying in a conspicuous place warning of prosecution for the intentional and unlawful reproduction, sharing or use of information contained in the website. Penalty for the breach of this section was a fine of \$25,000 and imprisonment for three-years. Whereas the particulars of the convicted sex offender that were to be placed in the registry and on the register included the sex of the offender, this requirement was not included among the information pertaining to the convicted sex offender which was required under section 48 to be placed on the website. Each police station was to display the information, again in a conspicuous place in the police station.

Clause 4 of this Bill now seeks to amend the Act to include the word “sex” before the word “photograph” so we would note the gender of the offender and have it included on the website. One cannot help but wonder how this omission came about. Was it oversight or a deliberate omission? I must strike a note of caution here though, with the growing awareness of gender dysphoria, which has been described as the distress a person feels due to mismatch between his physical or assigned sex and his gender identity and the availability of gender reassignment surgery, evidence of which came before our very eyes, not too long ago and with

the fluidity of definitions of gender that now obtains, and which sometimes put feminists on a collision course with his Holiness, our esteemed Pope, I trust that there is available within our legal institutions the requisite competence to cope with any problem we might encounter in striving to be accurate and fair. This issue may very well turn out to be a major human rights case that we will never forget.

Section 48(3) of the Sexual Offences (Amdt.) Act, 2019, gave the court a discretion to determine whether or not a person convicted of a sexual offence should be registered as a sex offender. Section 49 of the 2019 amendment Act empowers the court to make the order for registration of a person as a sex offender to decide on the duration of the reporting period, its frequency on whether or not the information on the sex offender should be published on the website, and the power to order a reporting period less than that specified in the Schedule. The court, however, in making its decision, must consider various factors, including a mental assessment report from a psychiatrist. Under section 50, an appeal operates as a stay with regard to a determination by the court on whether a convicted sex offender should register or report.

The Sexual Offences (Amdt.) Bill, 2021 now made certain changes, including widening the application of the Act to a sex offender convicted of a registrable offence within or outside Trinidad and Tobago and providing for the establishment of two registers: the National Sex Offender Register and the public sex offender website. Now, remember the 2018 Act had established a National Sex Offender Registry and provided that information on each registered sex offender be made accessible to the public via the website. And I am grateful the Attorney General did take some pains to explain the development of the register, on the registry, and the website.

So, today as we go round and round the Mulberry Bush of the National Sex

Offender Register, the National Offender Registry and public sex offender website, with the attendant danger of becoming quite giddy and disoriented, we are presented with yet another Bill, the Sexual Offences (Amdt.) (No. 2) Bill, 2021.

Madam President, section 43 of the 2018 Act required a registered sex offender to notify a designated officer of the information set out in Schedule 2 and provide documentary evidence of the information at the time of making the notification. This provision is repeated in section 47(2) of the 2021 amendment Act, which refers to the relevant Schedule as Schedule 3. When you look at those two Schedules, we see a list of information to be contained in the National Sex Offender Registry. In both cases, the word “sex” appears. In the 2018 Act, it is the third item, and in the 2021 amendment Act, it is the fourth item after “place of birth”. So we have name, former name and aliases as number one. Then we have number two, date of birth; number 3, sex; number four, place of birth.

So it seems the error was made when the provision in the original Bill to have the information on the register placed on the website was not followed. Now, this wastes legislative time and reminds me of a childhood lesson:

“For want of a nail, the shoe was lost.

For want of a shoe, the horse was lost.

For want of a horse, the rider was lost.

For want of a rider, the battle was lost.”

Despite the lack of support when needed, we cannot always be losing the battle to put the best laws on the books, especially when we need to protect the most vulnerable among us.

Clause 3 of the Bill would provide for the interpretation of the words “the act” to mean the Sexual Offences Act, Chap. 11:28. Madam President, that Act, as I have mentioned, has undergone so much surgery even its mother would not

recognize it. Sifting through the consolidated version prepared by the Legislative Drafting Department of the Ministry of the Attorney General and Legal Affairs, offers some comfort. But it is not so easy on the eye. It is challenging in some respects and already outdated. As someone who has been in legal professional teaching institutions for 27 years, and still am an avid researcher, I say without fear of contradiction that the state of our laws, not having been updated since 2016, are a researcher's nightmare. We need to do something about it and do it urgently.

Clause 4 also proposes the next amendment sought; that is with regard to the Commissioner of Police updating, without delay, the information published on the website in relation to a sex offender or registered sex offender, where there is a change in the information published.

Now, I heard the Attorney General speaking about what happened. I did not hear it in the other House. I missed that part of the debate, but he did talk about "without delay". Now, to me, the phrase "without delay" does not mean the same to everybody. I can tell you several stories, but I will spare you today, and persons whom I cannot bring into the debate will be grateful. Suffice it to say that I propose a specific time frame for updating the website with the new information. Failing a specific time frame, I would recommend the use of the word "promptly". Somehow, it gives me greater comfort.

Clause 5 of the Bill seeks to amend section 56(2) of the Act by removing the word "offence" and replacing it with the word "sentence". The error was clear. Now, notice I did not say pellucidly clear, as tautology makes my nonexistent bristles prickle. I support this amendment though.

Clause 6 of the Bill seeks to amend section 57 of the Act. Section 3C provides for a designated officer to verify the accuracy within seven days of receipt, the information received from a registered sex offender, and to provide for

a verification of the information rather than its mere receipt. And 4B, this amendment provides that within three days of recording any changes in the information provided by a registered sex offender, that information must be forwarded to the Commissioner of Police who must, without delay, update the information contained on the website, section 48. Information relating to the registered sex offender includes the name, former names and aliases, date of birth, sex and photograph, locality in which the sex offender lives, and the convictions of registerable offences committed by the sex offender, including the date of each conviction.

Now, I have a sneaking suspicion that that will not be the end of amendments to the Sexual Offences Act and we will be going around the mulberry bush once again. Only Trinidad and Tobago, Jamaica and Belize have sex offender registries. It is not a priority in Caricom, but it should be. I would wish to see included among persons subjected to sex offender notification requirements, as obtains in the Belize Criminal Code, a person who is found not guilty of a sexual offence by reason of insanity or disability, having committed the act of which he is charged. Because frequently you have people who seem non compos mentis, but when it comes to sexual acts they know what to do and they do it sometimes and it should not be with impunity. So one ought to look at that. The children needed to be protected. I remember as a little teenager going to a cinema and there was a guy there, he is still walking about Port of Spain, so he is very, very old, and he used to want to touch us.

Now, I found the Jamaica Sexual Offences Act and regulations made the other three very detailed. And I would commend them to our draftsmen for our future deliberations. We are in a crisis, as far as sexual offences are concerned. One may even say we have an epidemic. You may have seen a newspaper headline

in *Sunday Express* newspaper about two weeks ago:

“Child sex abuse Addiction in T&T”

It spoke about a lively trade of child abuse material being shared on the dark web, which involved trafficking in children as well. I should also like to refer Members of this Chamber to the *Committee on the Rights of the Child General Comment...on children's rights in relation to the digital environment*, that was published last year, and ask if our children's rights are sufficiently protected in law and practice. It would be useful to hear from the Children's Authority and the Child Protection Unit about a number of children who are lured from their homes to meet the boys and men they have met online. And I have received anecdotal evidence which, of course, I cannot share.

What I should like us to bear in mind is that the origin of publication of sex offender registry began with Megan's Law and the need to protect children from predators. With the explosion of online offences, which provide deadly threats to childhood innocence and the very lives of our children, the future of our society is in danger. Children who should be playing and happily singing “here we go round the mulberry bush,” are crying out in pain every day and night pleading for our care and protection. Let us stop failing them and provide the protection they so desperately need from monsters in human form who dwell among us. While a sex offender registry is desirable, it is no silver bullet. It will not eliminate sex offences from our society. Many sexual offences are not even reported. When reported, many are not properly investigated, especially in cases perpetrated by strangers. For example, those perpetrating in the context of home invasions. Our conviction rate also gives us little comfort.

Research conducted by the American Correctional Association entitled *Understanding Policy and Programmatic Issues Regarding Sex Offender*

Registries, published in February 2006, in corrections today, reveal severe adverse consequences for offenders that may facilitate recidivism. It also spoke to flaws in the process of registration that impacted both the community and the offender. It informed that, and I quote:

The heightened awareness of sex offenders can generally be attributed to the Jacob Wetterling crimes against children and Sexually Violent Offender Registration Act of 1994 that formalized the practice of registering sex offenders in statewide databases.

Jacob was a boy who was abducted, but was never found. It also said that sex offender registries were subsequently made publicly accessible almost always via the Internet, through Megan's Law passed in 1996, in response to a brutal murder of Megan Cantor, a young New Jersey girl, by a registered sex offender living anonymously in the community.

The Adam Walsh Act 2006 was named after a child who was also raped and murdered by adult men. It would be a pipe dream to have the Akiel Chambers Act. A study by the Medical University of South Carolina, on evaluating the effectiveness of sex offender registration and notification policies for the reducing sexual violence against women found, inter alia, one, a significant deterrent effect was noted after the 1995—the year that South Carolina first implemented the Sex Offender Registration and Notification, called SORN for short; but two, but that there was no significant decline in the six-year period after 1999, which was the year South Carolina implemented its online Sex Offender Registry indicating that online notifications did not influence general deterrence of adult sex crimes and that registered sex offenders were not less likely to recidivate than non-registered sex offenders; three, that sex offender registration and notification appear to have a positive impact on general deterrence associated with averting approximately three

new first-time sex crimes per month. The researchers recommended, inter alia, that.

1. Registration and notification requirements should be based on empirically-validated actuarial risk assessment.
2. That we limit online notification to high-risk offenders.
3. Limited the duration of SORN requirements.
4. We redistribute resources to collaborative and evidence-based risk management and treatment.

We cannot assess the impact of sex offender registration and notification in Trinidad and Tobago. As far as one can tell, and this is the information I got last night, that there is one sex offender on the registry, but I heard the Attorney General saying something quite different, and information on the registry cannot be accessed without your providing a name of the offender. Because we did try to access.

The motive for the offender registry was to protect children from sexual predators. In addition to laws, we need a programme of education and training of parents, caregivers, teachers and children and the community so that children can be kept safe. Boys and girls need desperately to have a programme of sex education and should also be trained in gender issues so they can reject stereotypical roles and avoid the behaviours, which characterize the power and control wheel and learn to operate on the equality principles. Those are the things, when we ratified the Convention for the Elimination of Discrimination Against Women, we promise to do those things. They need to understand their sexuality and how to deal with this God-given gift.

Madam President: Sen. Thompson-Ahye, I have to—you are coming to the end? All right, because, you know, I have been repeatedly saying about what this—to

focus on what this Bill is about.

Sen. Thomson-Ahye: I am in my last paragraph, and I just wish to say that restorative justice is increasingly being used for sexual offences and preventing recidivism. And while I agree, a sex offender registry and website are important tools in our toolbox, in our armory, to keep potential victims safe, it is by no means a foolproof solution. No silver bullet it is. Thank you, Madam President.

Madam President: Sen. Hislop.

Hon. Members: [*Desk thumping*]

Sen. Laurence Hislop: Thank you, Madam President, for the opportunity to contribute on this Sexual Offences (Amdt.) (No. 2) Bill. I must say that my short time in this House, every time Senator Thompson-Ahye contributes I sit there smiling, because it is indeed a full contribution that she gives. But Madam President, permit me to begin with a quote from the good book, the *Bible*. Jeremiah 17:9 says: “The heart is deceitful and above all things desperately wicked: who can know it?”

There is no doubt that these times that we live in seems to be evil times. We also need to accept the fact that any and all governments are unable to categorically eliminate all crimes. But I must say that this Administration has indeed shown its willingness to treat with all issues that affect the citizenry. And today, Madam President, this Senate is being asked to treat with what I would consider small, but significant amendments to three sections of the parent Act.

Sexual offences registries, as was mentioned by Sen. Thompson-Ahye, may not always prevent reoffending, because the studies have shown that even after you have created a sexual offences registry, there is still reoffending. So, no law, Madam President, is foolproof, but laws do act as a deterrent in one form or the other. If this legislation, if these amendments, save one life or prevent one offence,

then one is more than enough.

The technology has, as we have seen in the 2002 science fiction movie *Minority Report*, starring Tom Cruise, is not yet available where a group of persons called “precogs” have the ability to predict that an individual will commit a crime before he or she actually does it. We still have to have laws. We still have to create laws to act as a deterrent. We still have to depend on the police service to investigate when a crime has been committed and the Judiciary to convict the said criminal based on the laws we create. Because, Madam President, no matter how many laws we create, there will still be someone who will think that he or she would not get caught, or in the heat of the moment, logical thinking goes out the door and a crime is perpetrated.

An examination of the amendments, Madam President, show a very clear direction that the Sexual Offenders Registry would seek to take in its operation. There is a drive for this registry to be clear, precise and timely in its gathering and dissemination of information. All of these factors are essential for the proper operation of a registry of this nature. We accept that such a registry bears information that is sensitive, critical and aimed at preventing sexual violence and/or reducing or eliminating the rates of sexual reoffending.

And Madam President, the timely updating of the information to the website can act as protection for not only the community, but even the offender. Because we know that persons are less likely to reoffend if eyes are upon them. Well the truth is, while this may be so, it must be done against the backdrop of clarity, preciseness and timeliness. Failure to do this can potentially undermine the entire system and this is what we are seeking to prevent today.

This Government has given its firm commitment to strike against all forms of crime and criminality. And once again, we are seeking to tighten any loopholes,

and we see that in section 57, which speaks to giving the Police Commissioner that time frame and asking that the information be updated to the registry in short order, or to the website in short order.

The former Attorney General, in piloting the Bill in 2021, said for too long the society has seen the rampant commissioning of sex crimes, including the most savage and brutal attacks against women, children, and even the elderly. And we heard the names this evening. We heard Akiel Chambers. And it is time, Madam President, that we all band together, not only as legislators, but as a country to, if not eradicate completely sex crimes, but to make it even more difficult for perpetrators to even consider committing the crimes.

5.00 p.m.

You see, Madam President, with the noted and frightening increases in sex crimes, these proposed amendments seek to even more—give more detail about the offender and to provide a more robust and time-sensitive approach to the system of monitoring and updating. And this can never be viewed as a drawback but should be welcomed by all, including my colleagues on the Opposition Bench. Because I know all the Government Bench is in full support of this work. What we are doing today is to protect all, all of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: My support, Madam President, for these amendments is unwavering and we need all on board. We need all to see that it is now to give Trinidad and Tobago that added help that it needs. We are doing—what we are doing here today is significant and important as we seek to protect all citizens, as we seek to remove the veil of secrecy that has blanketed our communities and our country where sex crimes are concerned. And so, Madam President, I give my full support, full support to these amendments. Madam President, I thank you.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen. Wade Mark: Thank you, Madam President. Madam President, it gives me great pleasure to join this debate and to make a limited contribution to this Bill that is before this honourable Senate, a Bill to amend the Sexual Offences Act, which is known as the Sexual Offences (Amdt.) (No. 2) Bill, 2021.

Now, Madam President, whenever the Government brings a Bill on seeking to change or to bring changes to legislation that will provide greater protection to our women, and to our girls, and children, outside of seeking to strengthen and improve the legislation, the United National Congress has always, as far as I recall, supported legislation to protect, to safeguard, and to defend our women, our girls and our children against the relentless assaults and attacks by predators and criminals in our society.

But, Madam President, you would also appreciate that as the alternative government, we have the responsibility to safeguard the integrity of the process in whatever we are doing. So, when we walk out, whenever the Attorney General rises to speak, we feel strongly about the position taken by our Attorney General on a matter that is extremely serious in this nation. So, for Senator—

Madam President: Sen. Mark, yes. I do not want you to go further than what you have just said. Okay? Let us try and—

Sen. W. Mark: All I am saying, Madam President, is that we were condemned. We were condemned and I am putting on the record, Madam President, that we condemn the statement made by the Sen. Lezama-Lee Sing—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—condemning our party when, Madam President, it is clear,

crystal clear, that we have supported and we will continue to support good law to improve legislation to protect our women. So, we take strong umbrage by anyone making statements that is designed to convey the wrong impression as it relates to our role and responsibility in this Parliament. So, I just wanted, Madam President, to clear the air on this matter.

Madam President, we have to recognize that, as Sen. Hazel Thompson-Ahye said a short while ago when she addressed us, we were here debating an amendment to the Sexual Offences Act in 2019. We have an amendment to that same Act in 2021. Madam President, if you go to the 2021 piece of legislation, which is what is being amended in several respects before us and before this honourable Senate today, you would see where we recently brought changes to this Act. It is called Act No. 13 of 2021, where we supported the establishment of two sex offender registers, one for the police, under the direct police control—of course, the two registers are under the Police Commissioner's control. But, as you know, one is called the "National Sex Offender Register" and the other one is called the "Public Sex Offender Website", and we supported both.

In fact, we wanted the register for the public, right?—to have much more information than it currently contains. But, of course, we had different viewpoints and we had to compromise. But, Madam President, why are we here today coming to make certain amendments to legislation that we just passed? Legislation that we passed, Madam President, that is yet to be proclaimed by this Government. So, we are amending legislation that has only been assented to, has not been proclaimed by this Government. Is this Government serious, Madam President, when it comes to sex abuse or sexual abuse of children, of women, of girls? Why has it taken so long? So, we are engaged really in what I call bad law, piecemeal legislation, half-baked legislation. And, Madam President, we in the UNC are concerned, and

always will be, about good governance and the security and safety of each and every citizen, particularly our women and children.

Madam President, when you look at the legislation that we have before us, we are asking the Police Commissioner—and when you go to the amendment to the legislation, designated officers who are police officers, to do more, we are giving them more responsibilities to execute and to effect what we are seeking to amend today. But we have to ask the question, Madam President—this police service is under-resourced. They are overburdened. They are overworked, and they are not properly appreciated. So, we are giving them more functions to perform, more duties to carry out, Madam President, and we ask the question: Are they up to the task? Is the Government providing and resourcing them as they ought to be resourced so that they can go their job? Because, Madam President, rather, as you will see that the legislation before us, timelines, time frames are given in which, for instance, information must be corrected, once it comes to the attention to the Police Commissioner, once it is properly verified. You must amend, you must change the information that is on the public sex offender register.

But, Madam President, you know what is also critical when we are addressing this issue of the public sex offender register?—where the police commissioner is being asked, Madam President, to deal with updated information on sex offenders or registered sex offenders. We have to recognize, Madam President—and I think someone made the point earlier, it is my colleague out of Tobago, Sen. Hislop. He was making the point, and it is a very important observation, legislation alone will not solve the problem. We have to look at it, Madam President, in two perspectives. There is need for legislation that we are addressing but there is also need for us, Madam President, to look at what is called “non-legislative initiatives”. We must take non-legislative initiatives as well.

But the Government, for whatever reason—I believe this Government is tired and they need to go home. The Government is tired because when they bring legislation to the Parliament, and we have to come back within less than 24 months or less than a year to amend the very legislation that they have just brought, the question here that has to be asked: What is happening in the Office of the Attorney General? Is not the Attorney General and his drafting department—did they not recognize, Madam President, that there is need for an amendment?

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

Sen. W. Mark: So, we have “photograph” and we are being told, “Listen, we have to amend that because we need to identify the sex or the gender of the person.” So, when we were crafting, Mr. Vice-President, this legislation we did not know these things? Is that an excuse, Mr. Vice-President, to delay the legislation? So, we are back a couple months later to make these, what is called, “minute changes and amendments” to something, Mr. Vice-President, that ought to have been looked at before.

So, we are very concerned. We are very concerned. And, Mr. Vice-President, I want to tell this honourable Senate, through you, that we could instruct the police to update the register once new information is brought to the police’s attention on the sex offender, we can do that and many more things. I want the Attorney General, when he winds up—I will not be here to hear it—

Hon. Senators: [*Laughter*]

Sen. W. Mark:—but I want him to tell the country; I want him to tell the country, since this public sex register, Mr. Vice-President, was established by law in 2021, how many citizens, Mr. Vice-President, who have been convicted according to the law—you cannot put a person’s name on that register for you and I to look at so that we can protect our daughters, and our sons, and our families from predators

who have been convicted in this nation. The question here, Mr. Vice-President, that I would like the Attorney General to address: How many, Mr. Vice-President, sex offenders, who have been convicted, are on the public sex offender register? How many?

Mr. Vice-President, you know, in many other jurisdictions, you know what they are looking at, Mr. Vice-President? The information that we have on the National Sex Offender Register, which is much more elaborate and voluminous, it is not available, it is not made available in the public sex offender register. And the question that we may have to ask, Mr. Vice-President, is whether the time is not coming or has not arrived for us to place much more information on these sex offenders in that particular register so that the public can have the kind of notification and information to protect their children, to protect their daughters, to protect their girl children, to protect our women? Maybe that is a debate that we may have to engage in, in the not too distant future.

Mr. Vice-President, I want to also ask the Attorney General when he is winding up—because I know he has to “wine” up sometime. He might “wine” up a debate today, but I know he has to “wine” up at some point in time.

Sen. Gopee-Scoon: Point of order—

Sen. W. Mark: When I say wind up—[*Inaudible*]

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

Mr. Vice-President: Sen. Mark, I hope you were saying, “wind up”.

Sen. W. Mark: Wind up.

Mr. Vice-President: “Wind”.

Sen. W. Mark: Yeah. I am talking about—yeah.

Mr. Vice-President: “Wind”.

Sen. W. Mark: No—yeah, yeah, yeah. Well, you understand what I am saying.

Right?

Mr. Vice-President: Right, okay.

Sen. W. Mark: Because I think you are learned. Right?

Mr. Vice-President: Let us stick to the—

Sen. W. Mark: Yeah, yeah, thanks, Mr. Vice-President. I do not know why this Minister of Trade and Industry is jittery. Mr. Vice-President, may I go on? Mr. Vice-President, the role—I want tell this honourable Senate, through you, Mr. Vice-President, this public sex offender register where we are making some amendments and the Commissioner of Police has a role, I want to tell this honourable Senate that to populate that sex offender register—public sex offender register, Mr. Vice-President, you must first catch, and prosecute, and convict the offender before that name could appear in the registry or the register.

Mr. Vice-President, it takes 10 to 15 years in this country just to get a proper trial and a conviction. So, if we do not catch the criminals who are committing these heinous crimes, how are we going to safeguard and protect our women? How are we going to do it? It takes too long. The administration of justice, the system grinds too slowly in our country and we need to do something about that.

I would like to ask the Minister, the Attorney General when he speaks, what has happened to the DNA kits that can be used, right?—that can be used in order to speed up conviction of sex offenders in Trinidad and Tobago? That is a very important tool in speeding up, Mr. Vice-President, the administration of justice, and to convict predators and criminals who are offending our women, our girls, and our children.

I understand, Mr. Vice-President, that some three years ago they arrived at the port but I do not know where these DNA kits are today. And these kits, Mr. Vice-President, can be used to deal with the very matters that we are dealing with

here today, where you can have a speeding up of the population contained in the public sex offenders register if we get the correct tools to carry out that exercise. I do not have much faith or confidence in this Government.

So, Mr. Vice-President, I would like to say to this honourable Senate that these amendments that we are asked to address today, we hope that when they have received final passage, that the legislation would be proclaimed and action taken to defend and promote the interest, safety, security and well-being, of the citizenry of our country, particularly our women, our children, our daughters, our girls, our boys.

So, we are hoping that this is not another wastage—another wasteful exercise, I should say. We hope that—this Government reminds me whenever I debate matters, Mr. Vice-President, in this Senate, this Government reminds me of NATO, the term “NATO”, “No Action, Talk Only”.

The key, the key to success, Mr. Vice-President, is the implementation of the legislation, the enforcement of the legislation in the final analysis. All we are doing here, all these amendments that we are making, if they are not enforced—but first implemented and then later on enforced, Mr. Vice-President, our girls, and our mothers, and our sisters, and our daughters, will not gain and secure the protection that they need in Trinidad and Tobago. I am a defender of the rights of ordinary people.

Mr. Vice-President: Sen. Mark.

Sen. W. Mark: Mr. Vice-President—

Mr. Vice-President: Sen. Mark, you are really going off on a tangent now. You need to focus on—

Sen. W. Mark: No, I am not going off on a tangent. I am about to wrap up, if you will allow me.

Mr. Vice-President: Yes. Proceed, please.

Sen. W. Mark: Mr. Vice-President, as usual I am guided by your wisdom, as I am guided by the distinguished President's wisdom. But I just thought it was necessary, Mr. Vice-President, to make a limited intervention to at least record our position on this piece of legislation. And we condemn the PNM for seeking to condemn us when they know that we are supporters of proper and good legislation that will promote the interest, security, and safety of our women, our girls, our daughters, our sisters, our children.

Mr. Vice-President, I want to thank you for giving me the opportunity to say a few words today. Thank you very much.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Dr. Dillon-Remy.

Hon. Senators: [*Desk thumping*]

Sen. Dr. Maria Dillon-Remy: Mr. Vice-President, I thank you for allowing me to participate in this debate on the Sexual Offences (Amdt.) (No. 2) Bill, 2021. And I was here in 2020—in 2019, sorry, where they had the major amendment of the Act. I was here again in 2021 when we had the amendment to that amendment. And like Sen. Thompson-Ahye, I wonder what has happened as to why we have not got further than we are today. So, my contribution is going to be very brief.

And, Mr. Vice-President, I really want to find out what has caused the delay because when we gathered here in 2019, and when we gathered here again in 2021, it was with the understanding that this thing was so important. And the contributions were very robust and we understood that this was something that was needed and needed now.

When I examine the reasons for the amendments now, the causes for the amendments—okay, so clause 4 of the Bill says that the subsection is amended by

adding the phrase “sex and” before the word “photography”. Now, I would blame all of us because we all went through that Bill and both Houses, nobody picked up that on that registry something that was there before was now—well, now removed and it was not brought up and now we have to come back for this amendment to put this—because how could you not want to know what the sex of the offender is? It is not assumed that is only males who commit offences. Females can commit offences too. So, you need to know the sex.

And as Sen. Thompson-Ahye pointed out, it was there before. It was left out and we are saying now—I am not going to blame anybody but all of us. And it is so important that we just make sure that what is being passed now is something that is going to be implemented. And yes, we will have to have changes at some other point in time but it should not be changes on things that are this simple, is my take on this particular amendment.

The other amendment on section 48, which is further amended by addition of the new subsection (8) and it says—this new subsection mandates:

“...the Commissioner of Police to update the information...on the website...without delay...”

Well, there is a lot of discussion on what does “without delay” mean. And again, I would think that this is something that you want updated as soon as possible. And I do understand Sen. Richards’ point as to what happens if the commissioner does not update it within a reasonable time and without delay, what happens then? And I would like the Attorney General to—is there anything that could be put in this legislation to—I know there are penalties for the person who is making the report that they are sex offenders, if they do not do it. In the Bill of 2019, there are penalties there for that person. But the question is, and I would agree: What would happen if the Commissioner of Police or if the persons who is doing the

investigation does not do it in a timely manner?

5.30 p.m.

The other clause 6 of the Bill which seeks to amend section 57 of the Act, proposed amendment provides that:

The designated officer must verify the accuracy of the information.

And again, we talked a lot about that as to whether seven days is enough and what will happen if they do not get the information appropriately after the seven days. I must question though, Mr. Vice-President, we have put here the seven days but have we really looked at whether there has been an assessment on the information that is required for the police officer to verify? What type of information are the police officers verifying? And indeed, what is the likelihood that the person will get the information within that timeframe? Is seven days enough or is there a need for more? I do not know but the question is—this is something that should have been considered before, I think, and now we are putting a timeframe of seven days and my question is will that be enough and what happens if the person does not get the information to verify the accuracy of the information within that seven days?

Mr. Vice-President, the Act also calls for that after the information has been verified, instead of simply recording the information in two days after receiving—instead of—yes that the information should be recorded after verification, two days after verification. I am to ask the question of, are we in 2022, doing all these things manually? It was mentioned already, but we have talked about digitalization and all that but again in an area that is so important, where you are putting a registry out with information on persons who are likely to be predators and you want that information for people to know outside there. I would imagine that is something that you need to be doing in a timely manner. So, the three days and seven days and all that I am asking the Attorney General is this something that could be

considered that they should put as they putting it in place, make sure that whoever is doing the investigation, whoever is doing the reporting, have the appropriate software, the appropriate internet access, etcetera, so that things are updated in a timely manner, rather than the—what we are seeing here.

For instance, the amendment provides that:

“...within three days of recording any change...”

—of the information provided by the Registrar, the information must be forwarded to the Commissioner of Police. Again, is the forwarding a file that goes to the Commissioner that he then has to look at read and then update? We are in 2022, we are putting a registry out and I am asking because I really do think that we should be seeking to do better if this is going to be a manual paper trail, we have to do better. I do not know but I am thinking—I am saying that if it is not yet considered and I hope it is not something that would delay its implementation that that should be considered—that it should be something that is being done digitally.

Mr. Vice-President, as I said, we are not debating here, whether there will be a sex offenders’ registry. That debate went on before and it was a very fulsome debate. We are talking now about amendments that are supposed to be simple and my question is, when will this be assented to? Because that is what I think we all would like to see. And with that, those few comments, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Minister in the Office of the Attorney General and Legal Affairs.

Hon. Senators: [*Desk thumping*]

The Minister in the Office of the Attorney General and Legal Affairs (Sen. The Hon. Renuka Sagramsingh-Sooklal): Mr. Vice-President, I thank you most sincerely for the opportunity to contribute to this debate. Of course, we recognize

that the scope of this debate is very limited based on the amendments that have been brought, many of the legal issues, of course, were traversed by the hon. Attorney General in piloting the Bill, but during the course of my contribution, Mr. Vice-President, there are things that I will do. I will add a little further on the law as it relates to certain issues dealt with, legal issues dealt with and challenged by the Attorney General in his piloting. And as I always do, when I come to this honourable Senate to debate, I will try to address, as best as I can, some of the concerns that were raised by honourable Senators.

I know I come after the hon. Sen. Dr. Dillon-Remy, many of her concerns were addressed to the Attorney General and I am confident that our most and well esteemed Attorney General in his winding up will deal with those issues. That being said, Mr. Vice-President, I will immediately turn to Sen. Mark. Now, Sen. Mark asked quite clearly and plainly, what is happening in the Office of the Attorney General and the Ministry of Legal Affairs? And what I would say in reply to hon. Sen. Mark, is that “what ah could tell yuh is what not happening in the Office of the Attorney General and the Ministry of Legal Affairs. And what not happening is another section 34. What not happening in the Office of the Attorney General in the Ministry of Legal Affairs is ah AG has criminal charges to answer to”, so, that is what is not happening in the Office of the Attorney General and Ministry of Legal Affairs. And to that end, I want to say it to the members or to our staff of the Office of the Attorney General and Ministry of Legal Affairs, again, as I always do, when I have an opportunity, I want to put on the record how grateful we are for the efforts of every single department throughout the length and breadth of the office. So to attack the Office of the Attorney General is to attack our employees and I take that personal, so just stop it.

Mr. Vice-President, with that being said, I also want to address some other issues, of course raised by Sen. Mark. Sen. Mark, you know, he is attacking this Government, Mr. Vice-President, for having such a short space of time to re-amend, but at least Mr. Vice-President, we recognize that there is a need for an amendment and we take responsibility, Mr. Vice-President, for doing that unlike the previous UNC administration, who passed legislation, Mr. Vice-President, the public must be reminded of this—who passed legislation without having sufficient resourcing for implement such legislation. And what immediately comes to mind, this includes Mr. Vice-President, the Community Residents Act and the Children's Authority Act. So when Sen. Mark comes to this Senate, and he abuses the Government, and he speaks about us not putting processes in place to give and breathe life into these—to breathe life, clearly, Sen. Mark is forgetting what they did to this country legislatively when they had an opportunity to make it right.

Mr. Vice-President, Sen. Mark would have indicated there is also a need for non-legislative initiatives as well. And I must say that I do agree with Sen. Mark, because we must recognize as a nation, that crime is not a Government problem alone. It is not something that cannot be addressed by a Government it requires a joint effort by all institutions in our society. But I want to also put on the record and remind the hon. Senator, the TTPS has established two units to handle reports of gender-based violence and sexual violence. We have, for example, Mr. Vice-President, the Gender-based Violence Unit, which was established in January 2020 and the Sexual Offences Unit established in June 2020. Other non-legislative mechanisms and methods that took place to deal with such offences under this Government. So, Mr. Vice-President, that is, in essence, as it relates to what Sen. Mark, is the only thing that I felt was worth responding to.

Now, if I may quickly go, Mr. Vice-President, with your leave to a concern raised by Sen. John. Sen. John said, you know, she rightfully said that people gossip because we live in a small society. And I agree with the honourable Senator and to be very honest that is one of the fundamental reasons, which is why I stand in full support of the public website. You know, I think the more remote you go, and once you come from a village setting, you understand that this public register has always been in existence, because people gossip.

So for example, growing up and growing up where I come from a very, very small village area, my “aajee” was actually my reporter, because she would be the one who would be able to report to us, okay, someone has come into the village, of course, due to, you know, talking to her friends and all of that. And she always knew, she was always able to at least inform me as her granddaughter, you know, do not go there, do not be seen what this one because they hear this, they hear that and I just want to simply say that it is for that very reason, I do honestly agree with the Senator when she spoke about gossiping, that takes place in communities. I, of course, you know, understanding coming from a village that from since in time immemorial, there have been in existence or has been in existence, what I refer to as this informal sex register.

Now, in answer, Mr. Vice-President, to a concern raised by Sen. Thompson-Ahye, you know, the honourable Senator she said one, respectfully through you, Mr. Vice-President, she said one year ago, since we amended the Bill, and here we are, again, here we are to re-amend an amended Bill and I know Sen. Mark in his delivery he also spoke about us being here again to re-amend. Now respectfully, Mr. Vice-President, is not that the action and I want to ask the people of Trinidad and Tobago, is not that the Action of a responsible Government? What are we supposed to do as legislators? Acknowledge that there may be a deficiency in the

law and just to look good, do not come back to this Parliament and ask the Parliament to join with us in making an amendment? I shudder to think that any government will operate their business in that kind of manner. Certainly, the PNM Government will and have never done that. So yes, we take responsibility for coming here again, and coming time and time again to amend laws but the reality is, and while I still consider myself very much a child of the law, a student of the law, we have to acknowledge that the law is not static. The law is extremely dynamic and as time goes by, there will be the constant need to return to the Parliament and make amendments. So just, you know, just to clear that up, I want to make it clear that coming to the Senate to do an additional amendment is not, in my respectful view, Mr. Vice-President, a bad thing.

Now, Mr. Vice-President, I now want to turn to some of the concerns raised by Sen. Lutchmedial. And you know, I noticed that the entire Opposition Bench is now vacant. And for that reason I have to support my colleague, Sen. Lezama-Lee Sing when she was reprimanded by Sen. Mark for, you know, pointing out and making them out that when an opportunity comes for them to sit here and discuss the people business and mind you to represent the how much, the 200,000 or 300 how much ever thousand people that voted and believed in them, they are never here. The Attorney General is not speaking, I do not know if they have an issue with me too. So “they walk out because I from that Ministry”, but Mr. Vice-President, where is the Opposition? Anyway, I will leave that right there and I will turn to some of the concerns, of course that were raised by you know, Sen. Lutchmedial. You know, I want to put on the record, Mr. Vice-President, that for last year's debate, and it took me some time to find *Hansard*, but for last year's debate on the Sexual Offences Amendment Bill 2021, at page 29, Mr. Vice-

President of that *Hansard* dated June 15th 2021, Sen. Lutchmedial, came to this Senate and stated and I quote directly from the *Hansard*:

“I wish to say it upfront that I will support any measure, any legislative or other measure that would curb the tide of violence against women in this country, and children, and particularly sexual violence.”

So, Mr. Vice-President, my question is the Bill before us today, which seeks to rectify from legislative issues pertaining Mr. Vice-President, to the sex offender registry, this same Sen. Lutchmedial has a million questions to raise about how are we going to verify information and who going to verify? Now, mind you, she is entitled to raise those concerns, you know, but at least acknowledge that an attempt is being made by the Government, by us as legislators to put systems in place to try to make this thing right up.

So, Mr. Vice-President, also in the Senator's contribution, of course, this is—I am not sure if she is the shadow Minister, the Senator is a shadow Minister for the Ministry of National Security. I am not sure what she shadowing and I thought, well, I am not sure if it is the AG too but anyway, she made the point about the TTPS and in speaking about the TTPS, the Senator said, you know, without the resources to detect and convict, of course, this amendment would — and this is *inter alia*— would prove futile.

Sen. Mark, also in his contribution raised the issue of resources, you know, for the benefit of the viewing and listening public, of course our country and the world has been facing an economic crisis and we understand that, but for the record, if I may respectfully remind all present here. And it took me some time again, because I had to go back to those financial books, when the budget—that we use at the budget and what I saw there is that under the PSIP:

“...the Government provided a total allocation of \$106.76 million, and sorry, \$176.9 million, was utilized for the implementation of the TTPS’ programme of works with the fiscal 2021 to address crime prevention and public safety.”

And in that book, Mr. Vice-President, the yellow book, I refer to page 127, of the Public Sector Investment Programme 2022, book.

So, we constantly hear the Opposition come and they make it seem as if this Government is not serious about crime. We are not investing in crime. Of course, we could only operate we cannot, I mean, manna would not fall from above and you know, we have to work with the resources that we do have, but certainly if we go back to our budgetary allocations, it is clear, Mr. Vice-President, that what we do have, we recognize as a Government that crime fighting is critical, as is evidence, Mr. Vice-President, in page 127 of the Public Sector Investment Programme book.

Now, Mr. Vice-President, what I also found in looking at the soft copy of that book, a total of 9.79—sorry, I am not good with numbers:

“...\$9.795 million”—sorry—“was utilized to execute these strategies through greater use of technology throughout the operation”—such as buying—“body cameras and outfitting vehicles with cameras GPS tracking devices and laptops...training...”

And the list goes on. Then what I also saw is that:

“The TTPS expended the sum of \$19.7 million for the implementation of infrastructural projects that are in the fiscal 2021.”

Such as, the Roxborough Police Station, the San Rafael Police Station, and we also had a significant amount of injection into the upgrade of works for example, at the Morvant, Marabella, Princes Town and St. Madeline—mind you, some of those are

UNC areas. So, clearly it is why when they come here, and they talk about geographic—I can recall what the—discrimination, certainly this Government, we do not look at things like that, we look at a whole-of-country initiative. And from those reports that were presented at the Standing Finance Committee, of course, in the allocations that were presented by, of course, the TTPS, at the Standing Finance Committee, the evidence is there relative to the kind of injection we continue to make in crime fighting.

So, to answer the question, Mr. Vice-President, is the TTPS resourced, I can clearly say, of course, it is not perfect, and there is still a lot to be desired. But again, as a Government, we have been working assiduously with the resources that we do have. And as year to year fiscal to fiscal, we continue to recognize that crime is critical, and we invest in crime. So it is not that we sit down there, and we give the TTPS two pens and say well do make do with that. That is furthest from the truth Mr. Vice-President. So that is on the point Mr. Vice-President, just of course, to remind the public, many people who may not have sat in into those Standing Finance Reports, where we would have addressed the nitty gritty of expenditure and budgetary injection into various Ministries, just to remind the public that at least on the records, and of course, records submitted by the TTPS. This is the kind of injection and resources that this Government has placed in the Trinidad and Tobago Police Service, recognizing that it is critical for us to address crime.

Now, Mr. Vice-President, if I may deal with another issue. Sen. Lutchmedial raised the issue about verification. And this at least is my notes, I stand to be corrected but this is what, in my recollection, the honourable Senator asked. The hon. Senator indicated the verification has several forms. What happens when, if

the information cannot be verified? What is the level of verification? Is the offender to be charged? Do you get charged providing wrong information?

Now, to answer this, Mr. Vice-President, Sen. Lutchmedial is again contradicting herself. Her issue is with respect to timelines Mr. Vice-President. We have included Mr. Vice-President, the requisite timelines in clause 6, proposed section 57, which gives a seven-day timeline for a police officer:

“...within receipt of information, verify”—such—“information...”—of —
“the...offender...”

But Mr. Vice-President, Sen. Lutchmedial is bringing up the trivial issue of what is happening if the information cannot be verified. And let me tell you why I believe this is a trivial issue. Mr. Vice-President, the same way in pursuant to this new—the amendments in the legislation, what we are doing is imposing a legislative duty on the officer assigned for verification. So we have a legislative duty imposed upon this particular officer.

Now, this police officer Mr. Vice-President, has a duty of care to uphold in the law—sorry, Mr. Vice-President—the lawful execution of their duties because it is now legislated that this is a responsibility of theirs. Similarly, a civilian has a duty Mr. Vice-President, to provide correct information to the law enforcement officer. So, Mr. Vice-President, thus the onus of verification, we must recognize it is twofold process. You know, Sen. Lutchmedial I often hear her come here and speak about her extensive, you know, my practice in the criminal courts or the magistrate courts and all these courts. But I know if you—any lawyer who really practices in the magistrates and criminal courts will understand how verification works. And verification is not a process that we could only legislate. It is something that the police have to work in conjunction with the accused or the person bringing the information—sorry, not the accused, the where the police

would have to now work in conjunction with the person bringing the information in order to ensure that we are able to collate correct information. So verification is not just a legislative issue. It is something that depends on this twofold approach.

Now further to that, Mr. Vice-President, if we look at section 6 (2) of the Criminal Law Act, Chap. 10:04. It states inter alia:

“...Where a person causes any wasteful employment of the police by knowingly making any person have false report tending to show that an offense has been committed or to give rise to the apprehension for the safety of any persons or property, or tending to show that he has information material to any police inquiry, he is liable on summary conviction to a fine of one thousand dollars and imprisonment for six months.”

And the reason why I—I have not practiced in the criminal court—make reference to this Criminal Law Act, we have to look at the interoperability of law that will kick in for someone who gives false information to the police. So therefore, there is no need in this law in the current Bill that appears before us, to treat with persons who—what going to happen to this man, if he gives the police wrong information? There is no need for us to do that because we have other pieces of legislation existing on our books that will deal with persons who put God out of their thought and decide to provide a wrongful information or untruthful information to the police. So, Mr. Vice-President, that in summary, I believe are some of the concerns that I chose to respond to that were raised by Sen. Lutchmedial, and I am sure my well esteem and learned senior, he would address other concerns.

If I may now respectfully turn to Sen. Richards. Now, Sen. Richards raised, to my mind, a very important question. The hon. Senator asked the question—he was looking at the antecedents. I want to believe that the data that is captured for

these defendants. And I recall he said—he spoke about the honourable Senator, Mr. Vice-President, spoke about the stigmatization of a particular area based on information that is provided on that public record. And I will be very honest with you, that was one of my major concerns as well, when we firstly looked at the problem, when I was looking at the antecedents, and the data that now has to be captured on this public website. But then it dawned upon me that capturing data is not only necessarily a bad thing, and data, we always speak about data and the provision of data and information and having that data readily available. And to my mind, respectfully, just like Sen. Richards, I had that concern.

My concern was, of course, relative to sex as well, you know, where, you know, boys, of course off the bat are deemed or men are deemed as fundamentally the perpetrators of sexual acts, and of course, locality as raised by the hon. Senator and of course, again, just to reiterate, I too, was concerned about the stigmatization but then I asked myself, imagine what can be done if this data which is captured, is used by community groups, or is used by civil societies to go into—because we acknowledge that crime is a whole country problem and it is something that can only be addressed by every single one of us and every single institution that exists in our society. And then I said to myself, I say well, you know what granted, yes, the negatives to having this information may very well be some sort of stigmatization, but imagine the positive side of capturing this data that whereby we can have other groups in society even government relying upon this data which is captured for us to be able to determine what communities really require our intervention? What this data can also be used to do is assist us in being able to determine where our focus areas should be, our focus groups. So for example, some of the antecedents that would be captured or some of the data that would be captured—one of the amendments that we have actually brought today, Mr. Vice-

President, if we look at clause 4, proposed section 48 (4) (a) (3), we have now inserted the word “sex” and before the word “photograph” right, so imagine what this information—the benefit this information capturing this data, Mr. Vice-President, can of course, the benefit that it could bring to other groups to the Government in creating policy. So as it relates to the concern that was raised by Sen. Richards, again, I do agree with the Senator because it was a concern of mine, relative to stigmatization, but then I thought to myself, I say, but then this information once used captured, it can also be used for good and it can be used in shaping policies, and, you know, putting certain things in place for us to really be able to dig deep and deal with crime, not just from a punitive standpoint, or a legal standpoint, but really and truly in creating policies that can have impact on the lives Mr. Vice-President, of our citizens.

6.00 p.m.

Now, Mr. Vice-President, so that was one of the things raised by Sen. Richards that I wanted to address. You know, Sen. Richards also, in his deliberations, he addressed the concerns, I believe—at least based on the notes that I have—with no penalty being placed on the police, because we used the words without delay and, of course, he raised his concerns relative to that. I want to, again, reiterate that in this incarnation in the amendments that we have brought, even though we have not expressly stated what will be the offences or what offence would be created if a police officer fails to act or conduct their business in a particular way or by a particular time, remember it is, nonetheless, a legislative responsibility that we have now imposed on the Office of the Commissioner of Police and the Commissioner of Police. And, that being said, the Commissioner of Police failing to act and failing to, of course, complete this new legislative responsibility that has been placed on him, he would certainly be in breach of his

legislative duty. And, most certainly, what this would do, Mr. Vice-President, is trigger, most certainly, many internal channels within the service itself to deal with officeholders who do not simply fulfil their legislative responsibilities.

And that being said, Mr. Vice-President, I really did not believe that it was necessary in this Bill—that is my personal view—for us to actually indicate expressly so what would be the consequences that these officers would have to face. Because, of course, we are imposing upon the commissioner, we are imposing upon the verification officer a legislative responsibility, and, in failing to do so, certainly, there would be repercussions within the service itself that will deal with officers who fail, at least, to my mind, to deal with—to comply, sorry, with these obligations. Now, Mr. Vice-President, that I believe in a nutshell were some of the concerns that I wanted to address that were raised by the hon. Senators in this Chamber and, again, I am most certain that the hon. Attorney General, in his winding up, would certainly deal with the issues that I did not address.

Mr. Vice-President, if I now may, respectfully, add my two pence, Mr. Vice-President, to the issue of the use of the words “without delay”, and to do that, Mr. Vice-President, I would look at clause 4, proposed section 48 subsection (8) and, of course, as we all know, it says:

“Where there is a change in the information published on the website in relation to a sex offender or registered sex offender the Commissioner of Police shall, without delay, update the information...”

Now, the Attorney General, of course, most competently, would have looked at section 23 of the Interpretation Act and he would have also addressed case law as it relates to the composite use of “shall without delay” in explaining the use of “without delay” in this legislation.

But if I may also add to that, Mr. Vice-President, the use of “without delay”

in this legislation is not novel to law. If we, for example, turn to the Police Service Act—so, again, now I want to look at just the interoperability of law and the use of “without delay” that also finds itself in other pieces of law. So, if we look at the Police Service Act, Mr. Vice-President, for example, if we look at section 53, it speaks to a punishment of officers. It specifically states that:

- “(1) A police officer who...
- (b) knows of any actual or intended mutiny, rebellion, insurrection or terrorist act and does not without delay give information thereof to a police officer senior in rank
- commits an offence...”

So, we have in the other pieces of law, the use of “without delay” and, to my mind, that being said, I believe it is well placed in the legislation because it is not an anomaly.

In the Constitution as well, Mr. Vice-President, if we look at section 5(2)(c)(ii) of our Constitution, it speaks to a person being allowed to a right to retain council without delay. So even in the Supreme Court of our land, we have had drafters relying upon the use of the terminology “without delay”. And, of course, I am saying this coming after the Attorney General, who would have expressed, you know, looking at the Interpretation Act and looking at, I believe, the case of *de Freitas*.

I also, Mr. Vice-President, found another local case, and it is the case of *Gibbs v the Attorney General* it was before Justice Moosai. It is a 2000 case. And the question in this case, however, was whether the conduct of the Commissioner of Police, in transferring the applicant without serving a 14 days’ notice required by the regs, amounted to a breach of the constitutional rights of the applicant. Now, of course, this is very different from the matter, the Bill that appears before us. But

in this particular judgment, Mr. Vice-President, *Gibbs v the Attorney General*, the applicant, who is a police officer, was served, Mr. Vice-President, with two warning notices in accordance with regulation 81 of the Police Service Regulations.

Now, regulation 28 in that case, well, as we know, dictates inter alia that:

“Where the Commissioner proposes to transfer a police officer, the Commissioner shall, except where the exigencies of the service do not permit...give not less than fourteen days’ notice to the officer who is to be transferred.”

And, of course, this is an inter alia explanation of regulation 28.

Now, in this particular case, Mr. Vice-President, in traversing this legal issue, the court relied upon a statement made by Lord Diplock in the case of *Harrikisson v the Attorney General*, page 268, to be exact. And in that:

Where a person claims redress for a failure of, in this case, a public authority or public officer, it involves the contravention of some guaranteed right.

Now, the court also quoted in *Gibbs v the Attorney General* another case, Mr. Vice-President, *Wang v the Commissioner of Inland Revenue* and that is a 1994 case. And, in this case, the Law Lords stated that in relation to:

“...an alleged failure to comply with a time provision—it is...better to avoid”—the use of the—“words ‘mandatory’ and ‘directory’ and to ask...whether”

And these are the things that they asked:

“...whether the legislature intended the person making the determination to comply with the time provision, whether a fixed time or a reasonably time.”—and—“if so, did the legislature intend that a failure to comply with

such a time provision would deprive the decision maker of jurisdiction and render any decision which he purported to make null and void?”.

Now, let us analyze that case in the Bill that appears before us. Now, following the decision, Mr. Vice-President, in Gibbs and, most importantly, regulation 28 of the Police Service Regulations, the Legislature is not precluded, as we know, from imposing a definite timeline on the Commissioner of Police for the entry of information on the Sex Offenders Register.

[MADAM PRESIDENT *in the Chair*]

It must be noted, however, Madam President, that the difference between the latter case and the present Bill and the present situation, is that in the latter, it relates to where a Commissioner of Police has the discretion to make a determination whereas here, Madam President, by virtue of clause 4 of the Bill, which seeks to amend section 48, the Judicial Officer has already made the determination as to the guilt of the accused. And what the Police Commissioner is called upon to do, in this current Bill, is to simply serve an administrative function. Therefore, the duty of the Commissioner of Police, Madam Speaker, is a matter of administrative procedure or, in other words, to simply complete a data entry process.

And that being said, I respectfully believe—so the Commissioner of Police is not called upon to pronounce guilt. He is not called upon to act in any way which will affect the fundamental rights of a person in the instance. So, therefore, by saying “without delay”, it is not creating a situation where, failing to act, the Commissioner of Police is somewhat stepping on the rights, the fundamental rights of an accused. What the Commissioner of Police, indeed, in the current instance is being asked to do is to fulfil an administrative function which is to, of course, update the register.

And I am not saying, mind you, I am not saying that that is not a critical function—not the register, sorry, the website. I am not saying that that is not a critical function, because of course we know the purpose of the website is to alert persons, the public, as to who have committed sexual offences, who have, sorry, been charged with sexual offences and so on. So, I am in no way at all not acknowledging that what the commissioner is called upon to do here, is not a significant role and, you know, by simply saying it is an administrative function. That is not my intention at all.

But the reason why I have raised the case of *Gibbs v the Attorney General* is that that was a case in which the commissioner was called upon to make a different decision as opposed to in this instance. So, of course, in that instance, a specific time frame was critical whereas, in this instance, I would continue to support that by using the words “without delay” we have not erred as legislators and, of course, this case is just to add to, you know, the good explanation, well-comprehensive explanation, as to why we relied upon delay by the Attorney General who looked at the Interpretation Act, the case of *De Freitas*.

Madam President: Minister, you have five more minutes.

Sen. The Hon. R. Sagrarsingh-Sooklal: Thank you very much, Madam President. So, certainly, Madam President, that is my two pence as it relates to why I would support the use of the words “without delay”. As I said before, I would have looked at other pieces of law in which we have used “without delay”. I have relied upon, Madam President, the Constitution that used the term “without delay” and, in my own way, I have tried to contribute to case law as it relates to *Gibbs v the Attorney General* just to add to what the Attorney General has already spoken to as to why we have used this legal terminology in the Bill that appears before us.

Madam President, I believe I have already dealt with the concerns about the

police and, of course, the resources for the police. If I may quickly look at in the five minutes—well, less than five minutes that I have—clause 5 of the proposed Bill, Madam President, which seeks to amend section 56(2) of the Act. Of course, the amendments, again, where we are seeking to delete the word “offence” and substitute the word “sentence”. And, you know, the reason why I am getting into this is because, I started off this contribution by saying that the law is not static, the law is dynamic, one, and two, as responsible legislators—as you know, as lawyers, for example, when you amend a statement of case or a claim, it is not really—you do not really hope for that. As a lawyer, you draft a claim form and you hope that what you submit that is the be all and end all. But as time goes by and you recognize that there is a need to bring an amendment, of course, you acknowledge and you take responsibility for that amendment. And that is why, you know, I want to reiterate, that yes, as simple as this amendment is, we have taken responsibility as a Government, in recognizing that even though we came to this Parliament previously with this Bill, we recognized that there is still need for us to continue to tweak and we take responsibility for that, because we are a responsible Government.

And in that clause 5, Madam President, section 56 of the Act is amended in section (2). And why is this amendment critical in my respectful view? “Offence” means generally that of which is equivalent to a crime, for instance, an act or omission punishable under the criminal law and an Act done by a registered sex offender could be deemed as an offence. But it does not confirm, Madam President, any meaning of indication of an offence having been committed and a court of law finding guilt. And, as a consequence, based on the interpretation of this word, I believe that it was critical as responsible legislators for us to acknowledge and hey this and we need to come back here and make this necessary

amendment, not because we have been sloppy in our drafting. And that is why I support when—and this is not putting blame on anyone—but, you know, at least, Sen. Dr. Dillon-Remy recognized that this Bill was before all of us in this Chamber, and certain things may have missed us, and once we pick up on it we take responsibility and we have come here to make the necessary amendment.

Of course, this amendment in clause 5, in my respectful view, it is, you know, this construction against absurdity which may be created in the law. And then, of course, if we look at one case, as I close, it is the case of *Black-Clawson International Ltd. v Papierwerke Waldhof Aschaffenburg A.G.* It was stated:

“The same words should be consistently use to mean the same thing in drafting legislation and that different words will be given different meanings. This is the presumption against the change of terminological use.”

And hence the reason in clause 5, Madam President, as simple as it may seem, the word “offence” we intend to delete the word “offence” and substitute it with the word “sentence”, recognizing that we have a duty to this country as it relates to statutory interpretation, and the chaos that this simple word could create in the law, why it was necessary for us to come here and make the amendments. With those few words, Madam President, I thank you for the opportunity to contribute.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you, Madam President and thank you to all Members of the Independent Bench, in particular, and to Members on the Government side for arecognition of living reality, and that is that law is a living thing, and our job as legislators is to keep the law under review and to continue to respond to societal changes. We live in an interesting time. I will admit to being something of a dinosaur in the times that we live now, in particular, with reference to the reality of

something known as social media, which is so relevant to the conversation that we are having today. And so, it is very important that we recognize, as we continue to return to the wheel of effort and industry that we must not be too self-critical or criticize each other too harshly when what we are really trying to do is to keep up with the times.

Only this morning, I was having a conversation with a gentleman for whom I have great respect, who is much more au fait with the reality of social media than I am, and I was genuinely taken aback by some of the tales he was—not details, some of the accounts he was giving me of the passage of the population of young people that he would observe in the malls and elsewhere going into parties and how they are dressed, and all of it is on video now and it is being exchanged and shared on social media. This is the reality that we have to continue to address, and what we are about here today is one of those attempts to continue to keep under review, and I emphasize that, to keep under review the pace at which our society is developing and to keep it under review so that we might continue to regulate ourselves and those who we love, our citizens, in a manner that is responsible and responsive so that we can continue to leave and to bequeath a rich nation to the citizens of this country.

May I say thank you, in particular, to those Senators who have made substantial contributions to the effort that we are making here, and I would just like to respond to some of the comments that have been made, and I would start with the Opposition comments that have been made. There has been, of course, the return to the criticism that the term “without delay” is not sufficiently clear and there was a suggestion by Opposition Sen. Lutchmedial that it should be given a more, to use her term, definitive timeline. I have spoken to the meaning of “shall without delay”. I am not going to return to that nor repeat it.

I was just slightly taken aback in the context of the suggestion that “shall without delay” is so without meaning that it should be given a more specific timeline to then find that when the Senator turned to subsection 57(3) and subsection 57(3)(ii), which is introduced by clause 6 of the Bill, there was a suggestion that the seven day period was not a realistic period, and it should somehow or the other be relaxed to allow for a greater period of time for the verification of the information. So, I do not quite follow the suggestion on the one hand that “shall without delay” does not demarcate a timeline, but then when you have a timeline of seven days, that should somehow become more elastic. I rest on the fact of what I have already submitted that the words “shall without delay” are sufficiently clear in the drafting language and sufficiently clear for any reasonable interpretation that would have to be made by a court of law if it were to meet that case.

The suggestion was also made, Madam President, that the impact that a public sex offender register will have is dependent on populating same, which requires detection and conviction. Well, that is precisely the job of the Trinidad and Tobago Police Service. That is the purpose of the sex offenders register and the sex offenders’ website. I have already said that with respect to the question that has been asked of me by Sen. Dr. Dillon-Remy, I will make enquiries and I undertake to return, in due course, with sufficient information to address that and to ensure that there is synchronicity between the relevant parties who are charged with responsibilities under the legislation to ensure that both registers, that is to say, the sex offenders register and the website are populated properly.

There is a concern that I would address immediately which was raised by Independent Sen. Richards, for whom I have the greatest respect, and I would address that immediately. He was suggesting, and with great justification, that

there should be some greater control of the default that the police might be guilty of in complying with the responsibilities that are visited on them by this legislation. And while I accept that we want our police service to function as efficiently as they possibly can and we will always encourage them to, I would urge caution that we cannot expect, short of violations of the law and breaches of specific responsibilities, to cast penalties in the legislation on the failure of a police officer to perform a time bound responsibility within a reasonable time.

At the end of the day, it would seem to me that we have to encourage our police officers to act responsibly having regard to the duties that are imposed on them. And if they do not, then there is recourse that will have to be availed—recourse to the Commissioner of Police, recourse to the Police Service Commission and recourse to the Police Complaints Authority for disciplinary action to be taken against the police officers who are being derelict in the discharge of their responsibilities under the legislation. But I do not think that, in this legislation, we could entertain putting in a penalty to be exacted against a police officer if he does not do something within seven days. But, of course, that is a matter that I will have to advise myself on with more expert advice, and I am capable of rendering to myself, in consultation with the draft persons within the Ministry of the Attorney General, and it is a question that I would want to look at.

I do not believe that we can address that today and, of course, we know that there are other amendments that we will be coming to this House with. Voyeurism is one of those amendments, and if in due course we think that there are tightening up procedures that can engaged in along the lines that Sen. Richards has suggested, certainly, we will return to deal with that. We cannot deal with those today, because I do not see how we can exact penalties by way of breach of statutory duties on the police officers for failing to comply with a responsibility within a

reasonable time frame.

One of the other suggestions, useful suggestions, that came from Sen. Richards, which one has to accept, there is the possibility that the website could go down. It could be hacked. Well, again, we have to rely on the fact that so far we are assured—and this website has been in existence for some time—that the police service is applying very serious skill sets and taking a very responsible approach to ensuring that the website is properly managed and, therefore, again I do not know that we are can make prescriptions in the legislation for what happens if the website is hacked. The fact of the matter is that if the website is hacked, there are other laws under which the hackers will be held responsible. So we do not need to detain ourselves in respect of this legislation to prescribe offences, in my respectful view.

The question of locality being too broad, another suggestion raised by Sen. Richards, and not narrow enough so that the address of the person is unknown. Well, the Act does not specify any address within the locality, but simply the area where the person resides. And when one looks at Schedule 3, to the Act in respect of the National Sex Offenders Register, you will see the detail that is spelled out there. So that I think that with the assistance of an effective police service who will be recording the sex offences that are registered and registerable that the issue of the locality not being sufficiently clear ought not to impede the proper implementation of the legislation.

Sen. John spoke to detection and conviction which would feed into the website. Well, those again, are joint responsibilities and efforts of all of the stakeholders, in particular, the investigative and detective processes of the police once an offence is reported, and then we can rely on the sex offenders register which is in existence, which we can take the comfort from knowing that even

though the website may not be populated in the way in which, critically, Sen. Dr. Dillon-Remy has pointed out on the research that she has done, we do have that sex offenders register, which is maintained in confidential terms by the police service.

When one looks at section 54 of the Act and Schedule 3, which spells out in great detail items listing beyond item 22 and continuing, the details which are known to the police which are held confidential and which will enable the police to pursue registered sex offenders who have committed offences, the heinous offences, that this legislation seeks to inhibit and prohibit. So, I think that we can rest assured in response to Sen. John's comments that we have sufficiently functional sex offenders register and we certainly, in response to Sen. Dr. Dillon-Remy, would be looking to investigate the potential room for improvement of the website.

My good friend, Sen. Hazel Thompson-Ahye as did Sen. Dr. Dillon-Remy, made the point which I started with, and that is law is a living thing. When the Act was first amended in 2022, 33 Members of the Legislature joined together in a commendable effort to pass the amendments that were passed, at the time. And we are not all perfect and, I dare say, that not one of those 33 Senators would today suggest to themselves that they were so imperfect that would have rendered utterly unnecessary, the need to return today, as we do today, to improve the quality of the legislation as we shall continue to do, because law is a living thing and legislation must keep pace with the progress or the lack of progress of a society.

6.30 p.m.

The mental assessment point that was raised by Sen. Hazel Thompson-Ahye, section 61 of the Act already deals with that, where a person makes an application to be exempt from registering as a sex offender or reporting requirements, the court

has a discretion to conduct a mental assessment under section 61 of the Act. So, there is that provision there which is of assistance in respect of the concern raised by Sen. Dr. Dillon-Remy.

We find as well that under section 70, Sen. Hazel Thompson-Ahye spoke of a person who was found not guilty by reason of insanity or disability should be included in the register. Well, such a person would not, first of all, be considered a sex offender under the law if you suffer from an insanity or a disability. But under section 60 of the Act, the parent Act:

“Where a registered sex offender...”—has—“a mental disorder is required to report to a police station...he may be accompanied by a representative of his own choice...”—he or she that is.

So that the Act reaches out to contemplate realities which we are all grappling with and realities which we must be sensitive to as we pass legislation to regulate people’s everyday life.

Sen. Wade Mark has, in his style inimitable style, made contributions which I think every other speaker in the House has addressed and I therefore do not think that I need to trouble this House with a response to Sen. Mark.

Sen. Dr. Dillon-Remy made the point that I have already addressed, which I am grateful for, that the time frame of seven days and three days—she questions whether these are sufficient to verify the accuracy of the information. I say two things on that, we have to remember, referencing back to section 42—first of all, section 2 of the Act which defines “sex offender”, a sex offender is defined as someone:

“...who has been convicted...”

And then we go to sections 46 through to later sections of the Act and we remind ourselves that the sex offender register and the website are registers by which we

record information that comes out of recorded convictions so that we can be satisfied, in my respectfully view, unless there is something fundamentally wrong with your court system, that if the courts have convicted someone of being a sex offender and that person is then registered on the website, that there has been a sufficient verification process. And I would not suggest, given our sense of urgency to make this legislation as effective as possible in its implementation, that we need to trouble ourselves to further verify the fact of the conviction which has been recorded by a competent court of law.

Sen. Dillon-Remy spoke of the recording of the information after verification, it should be done digitally. That will have to be a decision that the Trinidad and Tobago Police Service would no doubt have to look at. I dare say, as a nation, as we move towards digitization, our entire governmental and public administrative system, that we will get to the point at which it will all be digitized, a step at a time. We are doing the best that we can as we move towards a better society in which our vulnerable and our citizens can feel safe.

Madam President, in the circumstances, I do not think that there is much more that I can say at this stage. And in all of the circumstances, 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 a whole Senate.

Senate in committee.

Madam Chairman: Members, may I remind you that there are six clauses in this Bill and we have an amendment circulated by Sen. Welch. Is everyone aware of the amendment? So, we can proceed.

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

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Madam Chairman: Sen. Welch.

Sen. Welch: Madam Chair, I have proposed an amendment to clause 4. The effect of clause 4 is that there will be a new subsection 48(8) to the Act and it is in respect of that 48(8) I have suggested two fairly minor amendments. And that is after the words, “the Commissioner of Police”, I have suggested the following insertion:

“...the Commissioner of Police on learning of the new information or on it being brought to his attention shall...”

And I have suggested after “shall”, the insertion of the words:

“...subject to that information being verified, without delay, update the website in relation to that sex offender or registered sex offender.”

So, in other words, the information is already registered on the website and if there has been a change in that information, in respect of the sex offender, the duty of the Commissioner of Police shall arise only after he learns of the new information or it is brought to his attention.

As the amendment is, it simply says:

He—“...shall, without delay...”—do certain things.

I am suggesting that by inserting the words:

“...on learning of the new information or on it being brought to his attention...”

—it is more realistic and practical because that is when he ought to be required to update the website when he learns of the new information. So that is the first aspect of the suggested amendment.

And the second aspect of it which reads:

“...shall, subject to that information being verified...”

—simply means that before he seeks to update the website with any new information, he should—that information should first be verified before any changes are made on the website. It should not be tinkered with so easily. And those are my suggestions regarding the proposed section 48(8).

Madam Chairman: Attorney General.

Sen. Armour SC: Thank you, Madam Chairman. I have listened to Sen. Welch and I have given consideration since he circulated the amendment to his proposed amendment. I am unable to support the request for the amendment and I have three reasons in particular.

We start, first of all, one, against the background that a sex offender becomes a sex offender on conviction. That is in the definition section. So, we start with that fact of certainty that this is someone who has been convicted by a court of competent jurisdiction and therefore becomes registrable under the legislation. And I do not think therefore that—unless there was something wrong with the court’s order that there would be much that the commissioner could reasonably be called on to verify there.

Secondly, when we look at section 48(3) of the current law, we see that:

“The Commissioner of Police shall, in relation to the website referred to in subsection (1), be responsible for—

- (a) maintaining the website;
- (b) ensuring that information is published on the website in accordance with this Act and any other written law; and
- (c) ensuring that the information published on the website is accurate.”

So that one would expect that the responsibility and the duty cast on the

commissioner by section 48(3) will carry through to section 48(8), which is the amendment that is being introduced. And therefore, it would be really to gild the lily unnecessarily to ask him to go beyond that duty to repeat that which he is already charged to do under 48(3). For that reason, I think it is unnecessary.

And finally, and thirdly, we are all concerned that the “shall, without delay” should be accomplished within the shortest possible time. We have spoken to that and to introduce an unnecessary further requirement in 48(8) is going to slow down the process which we are concerned to expedite. So, for those reasons, I cannot support the amendment.

Madam Chairman: Sen. Welch.

Sen. Welch: Yes. I have heard what the hon. Attorney General has said but let me say with respect to the first aspect of what he had said, first of all, when the information is initially published on a conviction being received, that is one matter. One expects all that information, before it is initially published, to be verified, et cetera, and I understand that. But we are talking about where there is a change in the information, where the information on the website is already published and you are now saying that in relation to the particular offender, his personal details have changed. That is where this 48(8) comes in. And if you are going to make a change, then I am saying, at that secondary stage one needs to—first of all, it first must be brought to his attention or he must first learn of it before the duty arises to effect a change on the website. And secondly, the information should be verified because we are talking about a change, not the initial conviction or information which we accept that once it appears on the website for the first time, it would have been verified already. We are talking about where there is a change of it, that should be verified. That is my answer, Madam Chair.

Madam Chairman: Attorney General.

Sen. Armour SC: I am grateful to the Senator but I do not change my view. I continue to say that the need for his further amendment is not necessary. I am not persuaded.

Madam Chairman: Sure. So, at this stage, I will—Sen. Welch, you are pursuing the amendment?

Sen. Welch: Yes, Madam Chair.

Madam Chairman: Sure.

Question, on amendment, put and negatived.

Question put and agreed to.

Clauses 4 to 6 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.

Madam President: Acting Leader of Government Business.

ADJOURNMENT

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

Madam President, I beg to move that this Senate do now adjourn to Tuesday, June 28, at 1.30 p.m., which is meant to be Private Members' Day. We will continue the debate—this is in agreement with the Independents—on No. 1 which was in progress before and hopefully move to completion; hopefully.

I also wish to give this honourable House notice that we will meet on Thursday, June 30, at 2.30 p.m., when we hope to debate and bring to conclusion, the National Insurance (Amdt.) Bill, 2022.

Sen. Mark: We are coming Thursday?

Sen. Gopee-Scoon: Yes, Thursday the 30th. Thank you.

Sen. Mark: [*Inaudible*]—I am here—[*Inaudible*]

Madam President: Are you, Sen. Mark? Are you sorry?

Sen. Mark: Madam President, I have—[*Inaudible*]

Madam President: Sure. Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised.

Sen. Mark: [*Inaudible*]

Madam President: One? Yours?

Sen. Mark: [*Inaudible*]

Madam President: Sen. Mark.

Occupational Safety and Health Authority and Agency

(Operations of)

Sen. Wade Mark: Thank you, Madam President. Madam President, I bring to your attention today the situation impacting on the Occupational Safety and Health Authority and Agency where there is a profound crisis affecting the operations of this agency designed to protect and safeguard the health, safety and well-being of close to 600,000 workers and their families. The utter contempt, disrespect and contumely shown towards the working class and their trade unions, Madam President, is clearly manifested in the state of play at the Occupational Safety and Health Authority and Agency. We have with reports, and those reports are yet to be denied, that in a period of 15 months some 14 inspectors, safety inspectors have tendered their resignations from this agency, including the Chief Inspector.

Now, Madam President, how can a government allow such an important agency to be without that core technical, competent capability that is so critically needed to deal with safety and health and security and the well-being of the working class? There is a law in our country that establishes the Occupational Safety and Health Authority and Agency. Madam President, it is alarming. I am in a state of consternation to understand why this Government has allowed this

agency to deteriorate in the way it has.

Madam President, this Government of the PNM has allowed safety inspectors not to have security of tenure. They have these safety inspectors working on a month-to-month basis. How can you expect these inspectors, Madam President, to carry out their duties diligently and effectively in the interest of safety and health of our nation, and particularly the workers? Madam President, is it any wonder that—when this Bill, before it became law, on three occasions, two I recall vividly, the entire PNM who was in Opposition, they abstained from voting on the Occupational Safety and Health Act? And on another occasion they all voted against the Occupational Safety and Health Act. Is it any wonder, Madam President, that the Government of today, the same PNM who voted against this Bill, which is now an Act, is allowing that company—that agency, rather, to deteriorate, to collapse, to fall down?

There is a story in the newspapers—I do not have a copy of it with me, Madam President—where a chap called Francis—I think he is a labour relations officer at some trade union, and he was making the point that the divers, the four divers that died, that whole enquiry and investigation has now been compromised because the key personnel who were responsibility for conducting the enquiries, all of them were on month-to-month, including the Chief Inspector, and they have all tendered their resignations. So, what is going to be the outcome? You know what is the outcome, Madam President? You and I learnt today that the gentleman who came from Jamaica, a very distinguished lawyer, Justice Morrison, who was supposed to head this commission of enquiry into this incident, he tendered his resignation and he has gone back to Jamaica and they have replaced him with some

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other person.

Madam President, I am asking this question: Did the Government put pressure on Justice Morrison? I am asking a question.

Sen. Mitchell: Madam President—

Madam President: Sen. Mark—

Sen. W. Mark: Yes.

Madam President:—this is not a debate—

Sen. W. Mark: Okay. I understand you, Madam President.

Madam President:—to ask that question. Right? So I need for you to get back—

Sen. W. Mark: I apologize to you, Madam President. Madam President, it is very, very difficult to have workers in this country not being given the kind of protection that the law that we passed in this Parliament with a three-fifths majority—we were here when the PNM brought that law in 2004 and we supported that law in 2004. It passed, Madam President. It was operationalized in 2006 and in 2022, there are hundreds of thousands of workers in this country without any protection because the Government has literally collapsed the Occupational—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—Safety and Health Authority and Agency. Who is going to protect the workers? Who is going to look after the safety, the health and well-being of the workers when the core of the Occupational Safety and Health Authority and Agency, 14 gone, including the inspector—Madam President, this is unacceptable. This is inexcusable. This is indefensible. This is bordering on criminality.

Hon. Senators: [*Desk thumping*]

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Sen. W. Mark: How can we sit in this Parliament, Madam President, and in Trinidad and Tobago and allow such an important agency to just collapse and there is no protection, Madam President? Madam President, I feel very strongly about it. As a former trade unionist, I understand the importance of safety and health and welfare in the workplace, both in terms of the role of the employer as well as the worker. And you need to have, Madam President, that ability when workers and their trade unions or the employers call upon the Occupational Safety and Health Authority and Agency to come to make an inspection, to come to examine what is taking place in the workplace. But who is going to come, Madam President? Madam President, I call on the Minister of Labour to come clean on this matter.

Let us know what role is the Government playing in compromising, subverting, Madam President, this very important agency. I call on the Government to ensure that they take immediate steps to bring about security of tenure for these inspectors. They cannot be working on a month-to-month contract any longer. They must have security of tenure. They must be permanently employed. They must have the kind of security that is necessary for them to carry out their responsibility on behalf of the people of Trinidad and Tobago. This is an abomination, Madam President. This is going on too long and I want the Minister to tell us, Madam President, to what extent this situation is compromising the deaths, the divers' enquiry—

Sen. Mitchell: Madam President, 46(1), please.

Sen. Wade Mark:—into that whole incident. I would like the Minister to tell us that—

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

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Sen. Mark (cont'd)

Sen. Wade Mark:—in terms of—thank you very much, Madam President.

Hon. Senators: [*Desk thumping*]

Madam President: Minister of Labour.

Hon. Senators: [*Desk thumping*]

6.00 p.m.

The Minister of Labour (Hon. Stephen McClashie): Thank you, Madam President. I thank this House for the opportunity to respond to the Motion raised by Sen. Wade Mark, concerning an explanation on the arrangement whereby inspectors of the Occupational Safety and Health Agency are employed on a month-to-month contractual basis.

Madam President, the Occupational Safety and Health Agency is a statutory body under the Ministry of Labour, which was established in August 2007, in accordance with section 69 of the Occupational Safety and Health Act, which replaced the outdated Factory Ordinance. Its establishment was a landmark achievement of the Government as it demonstrated a strong commitment to the safety and health of the country's workers, as well as those who interact with enterprises on a daily basis.

As a first step in the establishment of the OSH Agency, the OSH authority sought to fill positions on the organizational structure of the Agency, which was approved by Cabinet, comprising 152 contractual positions. Once a contract position is utilized, renewal must be sought from Cabinet for additional life in the expired position. This is a normal occurrence in the contract employment as done in the Government service.

Madam President, in December 2019, the OSH Agency began the process of

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working with the Ministry of Labour and the Public Management Consulting Division, PMCD, of the Ministry of Public Administration, to extend the life of the contract positions. As an interim measure, the OSH Agency offered month to month-to-month contractual arrangements to inspectors pending approval of the life of the contractual arrangement or measure.

I wish to emphasize that the month-to-month contractual arrangement was an interim measure, not a long-term arrangement and definitely not one that will become the norm. It has been used to facilitate the continued functioning of the Agency to undertake its critical work, pending the relevant approvals.

Due to the impact of COVID-19 and varying work schedules within the Ministry, the process for extending the life of contractual positions and engaging or re-engaging inspectors has taken longer than we would have liked.

I am pleased to report, Madam President, that on April 21, 2022, Cabinet approved the extension of the life of the position of inspectors, and three-year contracts have since been offered to inspectors.

Hon. Senators: [*Desk thumping*]

Hon. S. McClashie: I wish to assure this honourable House that the untenable situation of month-to-month contracts for safety and health inspectors of the OSH Agency has been addressed. I would also do my very best to ensure that such a situation does not reoccur, as safety and health in the workplace remain a top priority of the Ministry of Labour.

With regard, Madam President, to the issue of resignations within a 14/15-month period, this is not unlike any other institution where people have the right to determine whether they want to continue to work in a particular establishment or

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not. That does not mean in any way that the service to that industry or organization is compromised in any way. If every organization had one person who was ultimately responsible for getting everything done, then that organization would not exist for very long.

The OSH Agency has competent people who can take up the mantle and who can address the issues as raised from time to time. I will not get into any issues relating to any specific incidents, as this is not on the table at this time.

I wish, however, to take this opportunity to inform the House of a tremendous accomplishment concerning occupational safety and health, which was realized at the recently concluded 110th session of the International Labour Conference of the International Labour Organization for which I had the honour to lead our national delegation in a virtual format. This has to do with the adoption at the conference of a safe and healthy working environment as an addition to the fundamental principles and rights at work. What this means, is that occupational safety and health is now ranked as a fundamental right in the workplace. We are indeed proud to have been part of the process leading to this milestone in the history of the International Labour Organization.

As Minister of Labour, I will continue to place priority and attention to the work of the OSH Agency, and do all within my purview to ensure that the OSH Agency is positioned to effectively discharge the mandate in accordance with the OSH Act. I thank you, Madam President. [*Interruption*]

Madam President: It is clear to me that some of us want to stay here a little longer. I am very happy, I can sit back and just wait for full silence.

Question put and agreed to.

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Senate accordingly adjourned.

Adjourned at 7.04 p.m.