

SENATE*Monday July 04, 2022*

The Senate met at 10.00 a.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Madam President: Hon. Senators, leave of absence has been granted to Sen. The Hon. Dr. Amery Browne who is out of the country.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/Paula-Mae Weekes

President.

TO: MR. MICHAEL SEALES

WHEREAS Senator the Honourable Dr. Amery Browne is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44 (1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Prime Minister, do hereby

UNREVISED

appoint you, MICHAEL SEALES, to be a member of the Senate temporarily, with effect from 4th July, 2022 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Dr. Amery Browne.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 1st day of July, 2022.”

OATH OF ALLEGIANCE

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

PAPER LAID

Civil Proceedings (Amendment) (No.3) Rules, 2022. [*The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC)*]

SPECIAL SELECT COMMITTEE REPORT (Presentation)

Committee of Privileges, 2021/2022

The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Madam President, I have the honor to lay on the table the follow report as listed on the Supplemental Order Paper in my name:

Report of the Committee of Privileges, Second Session, (2021/2022), Twelfth Parliament.

Code of Ethical Conduct and Behaviour, Second Session 2021/2022

Sen. Muhammad Yunus Ibrahim: Madam President, I have the honour to present the following report as listed on the Supplemental Order Paper in my name:

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Report of the Special Select Committee of the Senate appointed to consider and report on a Code of Ethical Conduct and Behaviour for Senators, Second Session (2021/2022), Twelfth Parliament.

**JOINT SELECT COMMITTEE REPORT
(Presentation)**

Fisheries Management (No. 2) Bill, 2020

Minister in the Ministry of Agriculture, Land and Fisheries (Sen. The Hon. Nigel de Freitas): Madam President, I have the honour to present the following report as listed on the Supplemental Order Paper in my name:

Second Interim Report of the Joint Select Committee appointed to consider and report on the Fisheries Management (No. 2) Bill, 2020, Second Session (2021/2022), Twelfth Parliament

URGENT QUESTIONS

**SEA Students Remedial Support
(Details of)**

Sen. Paul Richards: Good morning colleagues. To the Minister of Education: What urgent remedial support is being put in place ahead of the start of the new school year, to assist the 63 percent of students who scored less than 50 percent in the recent SEA exams?

Madam President: Acting Leader of Government Business.

Hon. Senators: [*Desk thumping*]

The Minister of Trade and Industry Enterprise Development (Sen. The Hon. Paula Gopee-Scoon): Thank you, Madam President. With the closure of schools in March 2020 due to the COVID-19 pandemic, students were engaged in online schooling in their homes. While online schooling provided a critical level of education continuity, it is globally recognized that it is not a substitute for face-to-

face school. One of the most deleterious effects of prolonged school closure is the learning loss experienced by students, especially those in the early childhood and primary levels. The SEA 2022 results showed clear learning gaps with a marked increase to the students achieving less than 30 per cent. This general decrease in performance is similar to global predictions of the learning loss and decreased performance of students associated with the physical school closure. Over 9,000 students have scored less than 50 per cent in the 2022 SEA, and therefore will not be adequately prepared for the secondary school system.

There is an urgent need to provide remedial instruction during the July/August vacation period in a physical setting to allow students to devote more time to acquiring competencies which will be essential for a solid foundational education in the fundamental areas of Mathematics, English Language Arts and English Language Arts writing. As such, the Ministry of Education is establishing a vacation revision programme which will run for four weeks during the period of July 18th to August 12th 2022 at 26 secondary schools in a face-to-face format. More schools will be added to facilitate students on the north and south coast. The vacation revision programme targets 9,000 students and requires 600 teachers to be recruited from the primary and secondary schools. Emphasis will be placed on small classes, sizes of no more than 15 students per class. These classes will be conducted between 9 a.m. to 3.00 p.m. daily, and parents of students requiring these remedial classes will be specifically advised—

Madam President: Minister, your time has expired. Sen. Richards.

Sen. Richards: Thank you, Madam President. Thank you for the response, Minister. Given the fact that the Minister has identified the 9,000 students who sat the SEA and did not score above the benchmark performance level, does the Ministry include now Standard 5s who were Standard 4 in the remedial protocol

given that they have also suffered learning loss as identified by global standards?

Sen. The Hon. P. Gopee-Scoon: I was going to say that, those who also suffered learning loss. But the vacation revision programme is targeting the 9,000 students that have scored under 50 per cent.

Sen. Richards: Given the response to the answer, does the Ministry have any plans to include that cohort in the immediate future, or even after the summer vacation, give the impact of them in terms of learning loss also?

Sen. The Hon. P. Gopee-Scoon: I can say to you that the Curriculum Planning and Development Division of the Ministry of Education did do a diagnostic test for administration of teachers in Math and English Language Arts in October 2021. So they are aware of the learning gaps, and attention is being given to remediation for all of these students sometime in the future, but I could not give you the exact details of that now.

Sen. Richards: Madam President, I have one more.

Madam President: No, that is it.

Sen. Richards: Thank you, Madam President.

Madam President: Next question will be Sen. Mark.

Hon. Senators: [*Desk thumping*]

**Absenteeism of Lifeguards at Trinidad Beaches
(Contingency measures taken)**

Sen. Wade Mark: To the Minister of National Security: Given the recent notice issued by the Ministry that there will be no lifeguards on duty until further notice at several major beaches in Trinidad, can the Minister indicate what contingency measures have been put in place to safeguard beachgoers?

Madam President: Minister of National Security.

Hon. Senators: [*Desk thumping*]

The Minister of National Security (Hon. Fitzgerald Hinds): Madam President,

as usual the question from the Senator is convoluted and without clarity. So in order to satisfy the hearts and minds of the people of Trinidad and Tobago, the question talks about the Ministry. Let me make it clear that the Ministry of Tourism, Culture and the Arts is responsible for those beaches, but the Ministry of National Security hosts and is responsible for the lifeguards. So when the Senator talks about Ministry, he is talking about the Ministry of Tourism, Culture and the Arts, and they have responsibility for those beaches: Manzanilla, Vessigny, Las Cuevas and Maracas, and the facilities at those beaches.

I am advised that this notice was published when the Ministry of Tourism, Culture and the Arts was faced with a walk out and a walk off the job by the lifeguards and that this notice was quite wisely, in my view, published in order to inform citizens and beachgoers of the risk associated with using those beaches when the lifeguards had walked off. It is to be noted that this Minister of National Security and a team from the Ministry, including the Permanent Secretary, met with the lifeguards in January of this year, where a number of issues regarding their disgruntlements were discussed. From our perspective there are a number of issues affecting the service, including punctuality, attendance and general work ethic, and service to the public. We are pursuing solutions to these issues which are under the active consideration of the Ministry of National Security in this regard. We have and we will continue to provide resources that the lifeguards would need in order to effectively carry out their functions. Finally, Madam—

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

Sen. Mark: Yes. Madam President, can the Minister indicate what solutions, as he has identified, are being pursued by his Ministry to safeguard beachgoers in the absence of lifeguards on our beaches?

Hon. F. Hinds: The lifeguards are employed by the Ministry of National Security,

they are paid by the Ministry of National Security, they are trained for their positions, and they are provided with the resources that they require in order to do the job. All of these with a view of protecting the citizens and beachgoers who visit the shores of Trinidad and Tobago. But let me say in response to that, that this issue of the walk off took place before. In December of 2020 the lifeguards did the same thing, they walked off the job, and we resolved that issue because they did so in breach of the collective agreement which was signed and agreed to by all sides. They walked off without giving due notice, and one of the resolutions we took on that occasion is to not pay them for their absent days. So we encourage the lifeguards to come out, understand that this is Trinidad and Tobago, the citizens must not be the rope in anybody's tug of war. Safety and security is our business, and we expect they will stand in their offices and pursue the course of their duties in the protection and the safety of the people of Trinidad and Tobago.

Madam President: Sen. Mark.

Sen. Mark: Sen. Lyder wanted to say something.

Madam President: Sen. Lyder.

Sen. Lyder: Thank you, Madam President. Madam President, through you, to the hon. Minister of National Security. Given that in the not so distant past, the last citizen of Trinidad and Tobago drowned after a very similar walk out was done as a result of health and safety conditions, does the Minister of National Security not agree that there is a major risk of loss of life here again as he comes with no plan or solution? Thank you.

Madam President: Sen. Lyder that statement is not allowed.

Madam President: Sen. Mark.

**Crime and Escalating Violence
(Public Health Emergency)**

Sen. Wade Mark: To the Minister of National Security: Given that the Prime

Minister has declared crime and escalating violence as a “public health emergency,” can the Minister outline specific measures to give effect to this particular policy?

Hon. Senators: [*Desk thumping*]

The Minister of National Security (Hon. Fitzgerald Hinds): Madam President, I could not say whether it is mere ignorance or anything a little more malicious than that. But the Prime Minister made no such declaration. I listened to the Prime Minister’s communication with the people of Trinidad and Tobago and the world, which is recorded, and I understand the Prime Minister too has said that sometime in the near future he considered that it might be a useful thing for Trinidad and Tobago to consider that crime and violence be treated as public health issues, and that that would be a matter for national discourse that would require buy-in from all stakeholders and the citizenry of Trinidad and Tobago. No such declaration has been made, and therefore this question by the Senator is, as usual, misguided, empty and otiose.

Madam President: Sen. Mark, the time for urgent questions has expired.

Hon. F. Hinds: Thank you warmly, Madam President.

ORAL ANSWERS TO QUESTIONS

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Madam President, the Government is in a position to answer all three oral questions on the Order Paper today.

Madam President: Hon. Senators, in light of the fact that the Minister of National Security is here and he is to answer the question 125, I would allow Sen. Mark to pose that question first. Sen. Mark.

Court Award to Woman Police Constable (Steps taken to avoid recurrence)

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

Given the recent award of the court to a woman police constable as a result of an illegal strip search, can the Minister indicate what has been done to avoid such a recurrence?

Madam President: Minister of National Security.

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you again warmly, Madam President.

Hon. Senators: [*Desk thumping*]

Hon. F. Hinds: Madam President, based on information received from the Commissioner of Police, this unfortunate incident occurred at the Police Training Academy during a purported investigation. Accordingly, in order to avoid such a recurrence, the St. Clair Police Station of the Port of Spain Division of the Trinidad and Tobago Police Service has been identified as the station responsible for receiving and investigating all reports of alleged crimes that would have allegedly taken place at the academy. Instructions to that effect have been given to all officers attached to the academy by the First Division officer in charge. In addition, it is expected that the Trinidad and Tobago Police Service will convene a committee to draft a policy as regards investigation of crimes allegedly committed at the academy involving trainees, which will include details as to the process by which reports are to be recorded, and referrals made to the relevant investigatory sections of the Trinidad and Tobago Police Service.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the Minister when this committee is to be established?

Hon. F. Hinds: I would not tell you with specificity. But the implications from what I have said, and in light of all the surrounding circumstances implies, and I hope the Senator accepts, in the quickest, shortest and quickest possible time.

Madam President: Sen. Mark.

Sen. Mark: What measures have been taken by the police, Madam President, to address this matter subsequent to the court ruling?

Madam President: Minister.

Hon. F. Hinds: Did I not just answer that with great fluency, Madam President? Is something wrong?

Madam President: No, Minister. Next question Sen. Mark.

Sen. Mark: Madam President, let me relieve the beleaguered, hapless Minister of National Security.

Hon. Senator: Hapless!

Hon. Senators: [*Crosstalk*]

Madam President: No, no, no. Members, please! All right, Sen. Mark.

Sen. Mark: Yes. Can I go on to 124, Madam President?

Madam President: Yes.

Upsurge of Violence and Indiscipline in Schools (Steps being taken to curb)

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

Given the recent upsurge of violence and indiscipline in schools, the latest resulting in an alleged chopping incident at the Signal Hill Secondary School, can the Minister state what steps will be taken by the Ministry to curb the incidence of violence and indiscipline in schools?

Madam President: Acting Leader of Government Business.

Hon. Senators: [*Desk thumping*]

The Minister of Trade and Industry Enterprise Development (Sen. The Hon. Paula Gopee-Scoon): Thank you, Madam President. The well-being of students and teachers is at the forefront of the Ministry of Education's developmental goals. The gravity of school violence and its impact on communities cannot be overstated. An analysis of the data on school violence and indiscipline has

identified 16 secondary schools that have the highest rates of school violence. At least seven of these schools exhibited the following characteristics:

- High percentage of Form 1 students who scored under 30 per cent in the SEA;
- High levels of indiscipline;
- High absenteeism; and
- Low levels of CSEC achievement.

Madam President, the Ministry has collaborated with the following Ministers and agencies to devise a national school infraction rubric:

- The hon. Fitzgerald Hinds, Minister of National Security;
- The hon. Foster Cummings, Minister of Youth Development and National Service;
- The hon. Ayana Webster-Roy, Minister in the Office of the Prime Minister with responsibility for Gender and Child Affairs, along with their technical teams;
- The Trinidad and Tobago Police Service Community Police;
- The hon. Shamfa Cudjoe, Minister of Sport and Community Development;
- The hon. Donna Cox, Minister of Social Development and Family Services; and
- The Tobago House of Assembly.

To date, the inter-ministerial technical team responsible for the actual development of the rubric has held three meetings; February 28th, March 21st and April 24th, 2022. Their report was completed, submitted to the Ministry of Education, and sent to the education stakeholders for review by June 14th. Subsequently, a meeting was held with stakeholders, and their comments were

received and are being incorporated in the final document, which will be submitted to Cabinet in July, 2022. Thank you.

Sen. Mark: To the Minister, Madam President, through you, what measures are being taken in the interim to address this issue of school violence and indiscipline, particularly as it relates to the school identified in the question?

Sen. The Hon. P. Gopee-Scoon: Sen. Mark, that question has already been answered by the hon. Minister of Education, specific to the Signal Hill Secondary School.

Sen. Mark: You said it has been answered?

Sen. The Hon. P. Gopee-Scoon: I do not have the details, but I know that it has been answered, and of course the work continues through the committee which has been set up and which has been meeting.

Sen. Mark: Madam President, as it relates to the students involved in this particular incident, can the Minister provide this Senate with a status report?

Sen. The Hon. P. Gopee-Scoon: I could not give you the specific details as to where this situation is at this time, however I could provide that information. But I give you the assurance that the Ministry of Education views this matter as one of significance, of great importance, of urgency, and, of course, it cannot be understated, is being given the attention that it deserves, that the Ministry of Education, together with all of the other Ministers that I pointed out to you, members of the particular committee which is looking at violence and indiscipline, they are all giving attention to this particular matter, which is of grave importance.

Sen. Mark: Can I ask the Minister, through you, Madam President, what kind of counselling services have been issued, or provided I should say, to the students involved in this unfortunate incident? Can you indicate whether the Ministry has taken action to provide any services of the kind?

Sen. The Hon. P. Gopee-Scoon: Counselling services are available through the Ministry of Education.

Sen. Mark: I know that it is available, I am asking you specifically, in the incident involving the students, whether any specific measures have been taken by the Ministry to provide counselling services to those persons who were involved?

Sen. The Hon. P. Gopee-Scoon: Yes.

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

Madam President: Next question—Sen. Mark, yes.

**Cabinet Sub-Committee into TSTT
(Co-opting of the CWU)**

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

Given the appointment of a Cabinet Sub-Committee to look into the operations of the Telecommunications Services of Trinidad and Tobago (TSTT), can the Minister state whether the Communications Workers' Union (CWU) will be co-opted by the Committee to advance the interests of the workers of the Company

Madam President: Acting Leader of Government Business.

Hon. Senators: [*Desk thumping*]

The Minister of Trade and Industry Enterprise Development (Sen. The Hon. Paula Gopee-Scoon): Madam President, in the performance of its mandate, which is to review the operations of TSTT with a view to determining the Government's future role in the company, and to determine the viability of the company in today's rapidly changing technological world, the Cabinet sub-committee has already consulted with key stakeholders, including, in particular, the Communications Workers' Union, to assist the committee in its deliberations and recommendations. There is no requirement to co-opt the union as a member of the committee, but rather to discuss the operations of TSTT with the union, and to

solicit its views on the way forward for the company, which has been done. It should be noted, however, that the committee was not mandated, and is not empowered to make commercial decisions for TSTT. Thank you.

Sen. Mark: Can I ask the Minister, in light of what has been said, we know it is not a requirement, but good industrial relations and human resource practice would require consideration of the involvement of the stakeholders. So, can the Minister indicate whether that, or those sets of principles were considered at all by the Cabinet sub-committee when they left out this important stakeholder in the decision-making process?

Sen. The Hon. P. Gopee-Scoon: The Cabinet sub-committee did not leave out the Communications Workers' Union. As I said, they consulted with them as one of the key stakeholders. So they would have had discussions, and the union would have assisted the committee in its deliberations and recommendations. However, they did not co-opt, and there is a difference. But consultation was done, and they did have discussions with the Communications Workers' Union.

10.30 a.m.

Madam President: Sen. Mark.

Sen. Mark: To the Minister, through the hon. President, since the subcommittee, the Cabinet subcommittee was not assigned the responsibility to engage in commercial decision-making, can the hon. Minister indicate specifically what were their terms of reference?

Madam President: Minister.

Sen. The Hon. P. Gopee-Scoon: All I can say to you is what I said earlier. Its mandate would have included the review of the operations of TSTT, the determination of Government's future role in the company, and also the viability of the company in today's rapidly changing technological world? Should you want

clearer definitions of the role of the committee, you would have to put it in another question.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister whether the subcommittee—the Cabinet subcommittee that is, has completed its work and submitted same to the Cabinet for final decision-making?

Madam President: Sen. Mark, that question does not arise.

Sen. Mark: Do I have any?

Madam President: You have one more.

Sen. Mark: Okay. Madam President, is the Cabinet subcommittee in its recommendation considering the disposal of the 51 per cent shareholding of TSTT to either local or foreign partners? Can the Minister indicate whether that is one of the areas that the subcommittee would have considered?

Madam President: Sen. Mark, based on the response I will not allow that question.

Sen. Mark: [*Inaudible*]

Madam President: That is it, yes. Attorney General. No, I am sorry.

JOINT SELECT COMMITTEE

Joint Select Committee Fisheries Management (No. 2) Bill, 2020

(Extension of Time)

The Minister of Trade and Industry (Sen. The Hon. P. Gopee-Scoon): Madam President, having regard to the Second Interim Report of the Joint Select Committee appointed to consider and report on the Fisheries Management (No. 2) Bill, 2020, in the second session 2021/2022, Twelfth Parliament, I beg to move the Committee be granted an extension to September 09, 2022, to complete its work and submit a final report.

Question put and agreed to.

Bail (Amdt.) (Extension of Duration) Bill, 2022

Madam President: Attorney General.

Hon. Senators: [*Desk thumping*]

Sen. Mark: Madam President—[*Inaudible*]

Madam President: Sen. Mark. Sen Mark, Sen. Mark, please, if you have—if you decided that you are leaving the Chamber leave the Chamber in silence. There is no need to make an announcement, Sen. Mark. Members, please, the silence applies to everyone, okay.

[*Opposition Senators start exiting Chamber*]

Madam President: I have made a ruling please, everyone just stop right now because I am on my legs. Sen. Walker, please. I am on my legs. I made a ruling that everyone who wants to leave—anyone who wants to leave the Chamber, you do this in silence. I am not to be sitting here and hearing comments being thrown. So you can all leave in silence, anyone who wishes to do so.

[*Opposition Senators exit Chamber*]

Madam President: Attorney General.

Hon. Senators: [*Desk thumping*]

Order for second reading read.

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

That a Bill to amend the Bail (Amdt.) Act, 2019 (Act No. 17 of 2019), be now read a second time.

Madam President I come before this august House today to pilot the Bill, the Bail (Amdt.) (Extension of Duration) Bill, 2022. In effect, what the Bill before this House seeks to do, by amendment with reference to Act No. 17. 2019, is by

deleting the words “three years” and substituting the words “four years”. We see that clause 3 of the Bill if passed by this House today provides that Act No. 17, of 2019 would be amended to continue in force for a period of four years from the date of commencement which is August 05, 2019. In other words, the Act of 2019 is to be extended from its inception three years ago for a further period of one year.

By way of summary, Madam President, I will today make the following five or more points:

1. This Government has a constitutional responsibility to govern by legislating for an amendment of Act No. 17 of 2019 by way of extension given the current crime situation.
2. The Government accepts that our Supreme Court of Appeal of Trinidad and Tobago in the Akilli Charles matter has declared parts of that Act to be unconstitutional, but that does not affect what we are about today except by way of reference. And the Government is convinced given its mandate that it must continue and proceed with its legislative agenda notwithstanding.
3. The Government has appealed that decision to the current Apex Court, the Judicial Committee of Her Majesty’s Privy Council and has put strong arguments before that judicial committee to sustain the Act of 2019 which the Court of Appeal said in part was unlawful. Consistent with its duty to govern, the Government must therefore legislate to maintain the status quo in place for another year while the Government seeks and works with the community to bring the crime situation further under control.
4. The section 13 constitutional argument in the Constitution permits of exceptional circumstances which exist in our current situation today.

The Government, by Prime Minister the hon. Dr. Keith Rowley has only two days ago, stated that this republic is at a point at which violence can be seen to amount to a public health emergency which this Government is committed to address.

Madam President, it is important that I commence my remarks before this House today by addressing a consideration of principle. I remark on the fact that today I stand here and I am privileged so to do as Attorney General of the Cabinet of the Government of Trinidad and Tobago.

Hon. Members: [*Desk thumping*]

Sen. The Hon. R. Armour SC: On June 28, 2016, I had the privilege and honour to serve as the President of the Law Association of Trinidad and Tobago, a constituent statutory organization to which all practicing lawyers belong and which organization regulates the dignity of an honourable profession. In that capacity in 2016, with reference to a previous incarnation of the legislation which we speak to today, I stood then in the name of the Law Association and declared on behalf of that association that the predecessor Bill which sought an extension of the operation of the Bail Act until the 15th of August, 2018, and the extension of the operation of the Anti-Gang Act, 2011, could not be supported then by the Law Association for the reason that those two proposed pieces of legislation were inconsistent with, among things, legislation which was reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual. That is to say, section 13 of the Constitution of the Republic of Trinidad and Tobago under which we consider today the Bail (Amdt.) Bill that is before this House.

Today, as I stand here to persuade this House to pass legislation on a continuation of the same subject, it is my solemn responsibility to persuade this House that in the changed and current circumstances of Trinidad and Tobago

today, that Bill must be continued and extended. And I say that by way of prefatory remarks in order to guard against any suggestion that with what I said in 2016 as President of the Law Association, I am being inconsistent with what I say today in July 2022, with reference to the Bill which is before this House. The circumstances are changed and I have the privilege and the honour and the solemn responsibility to look at this legislation, this Bill, through the lens of an entirely different perspective. That is to say, as Attorney General of this country and with a mandate of the Government to govern this country responsibly.

Madam President, this Government is committed by the Bill which is before this House and in proportionate terms to provide for the safety and security, and peace of mind of the citizens of this country, our young women, our mothers, our young men, our elderly, and all of our citizens who in today's reality, live under siege, and which body of citizenry relies on this as a responsible government proactively, and on a continuing basis as circumstances warrant in balanced and proportionate terms to govern this country in the interest of everyone.

It is appropriate that we remind ourselves that the Bill which we are considering today, expressly declares that that it is a Bill which must receive the requisite section 13 super majority of this House, because it is accepted that it would otherwise be inconsistent with constitutionally guaranteed rights of the individual.

Section 13 speaks clearly and I need not dwell on it extensively other than to refer to the preamble to the Bill which is before us today. It states, the Preamble:

“Whereas it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect

accordingly.”

Secondly:

“And whereas it is provided in Section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:”

So I address the preambular contents of the Bill before us in order to make clear that this Government appreciates the significance of the Bill and appeals to the responsible members of the Opposition Bench, and the well-known responsibility of the Members of the Independent Bench to support this legislation today, in the current changed circumstances which we are now living in and which requires us to move forward on an incremental basis to regulate the lives of our citizens, to provide them with a safe and secure harbour.

Madam President, it is probably appropriate at this stage that I remind this House once again, and I hope that I will not be accused ad nauseam of returning to that decision too often, of the June 20th decision of the judicial committee of the Privy Council *Dominic Suraj and Satyanand Maharaj vs the Attorney General of Trinidad and Tobago*. I am already on record as having acknowledged what was and is a major victory of this Government in the success that the Government had before the Privy Council in that matter. I am on record as speaking in that regard, to the simple majority by which governments of democratic countries such as Trinidad and Tobago must be allowed to govern.

But today it is very appropriate, apt, right, and meet that I should draw attention in particular to the passages in the Suraj and Satyanand Maharaj matter which draw our attention to section 13 of the Constitution, under which we are considering the legislation today.

And therefore, with your leave, Madam President, I would like to turn attention in some detail to sections 90, 91, 92, 93 and 94 of that decision. Members will recall, Madam President, that that decision concerned a challenge to the public health regulations of Trinidad and Tobago and in that challenge, of course, we were concerned to save the Public Health Regulations which had been passed under the saved law of the Public Health Ordinance. But in considering those regulations and their validity, the Privy Council had to consider arguments which were made with reference to section 1-3, 13 and that is what I turn to now.

Paragraph 90:

“In the Board’s view, (1) the correct interpretation of the Constitution is that the rights in section 4 are to be read as incorporating an implied proportionality test as set out in *Suratt*...the proviso to section 13(1) also incorporates a proportionality test...the framing of the test in each case is different, so there is no inconsistency or incoherence involved. The proportionality test inherent in the rights in section 4 is the conventional and usual proportionality approach originally explained”—by the Privy Counsel—“in *de Freitas v Permanent Secretary* and refined thereafter, which is more demanding...”

And this is the important point—

“...which is more demanding from the point of view of the state than that under section 13(1). Another way of putting this is to say that the test of proportionality appropriate under section 13(1) involves a lesser intensity of

review by the courts and a wider margin of appreciation or discretion for the state, acting by legislation passed by a super-majority in both Houses of Parliament.

91. The proportionality approach for bringing into account both individual rights on the one hand and the general interest of the community on the other is aimed at ensuring that a balance is struck between the two. The stronger the public interest in issue, the greater the interference with individual rights which may be permitted without there being any violation. Generally, in a democracy, it is the democratic institutions which have the primary responsibility to identify the public interest and what is required to promote it. As Baroness Hale put it in *Suratt*, para 58: ‘It is for Parliament in the first instance to strike the balance between individual rights and the general interest’.”

And what we are about the here, Madam President, if I may pause for context, are the individuals rights of persons charged with offences which the legislation is saying should have their rights to bail restricted versus the general interest of the population of Trinidad and Tobago to be able to live in their homes safely, to walk the streets safely, and otherwise to coexist with each other in the society as a safe society.

Continuing with the Privy Council dictum in paragraph 91:

“Where Parliament gives expression to the public interest not merely by legislation passed in the usual way, but by an Act passed by a super-majority in each House pursuant to section 13 and which records expressly on its face that it is to have effect ‘even though inconsistent with sections 4 and 5’, Parliament will have identified in a particularly clear and forceful way its opinion as to where the public interest lies. In a democratic state, the courts

must be expected to be especially respectful of the choice made by Parliament to pass legislation in that form and slow to substitute their own view of the necessity for and proportionality of the measure taken.”

Paragraph 92:

“That the proportionality framework may be affected by the extent of the engagement of the democratic institutions of the state is well attested by decisions in other jurisdictions:”

And the Privy Council traverses a number of other case law jurisprudence from other jurisdictions and continues:

“In the context of the Constitution, where an Act has been passed using the super-majority procedure in section 13, ‘the democratic credentials of the measure’ are especially strong... Accordingly, although the court has to make the ultimate judgment whether the proviso in section 13(1) has been satisfied or not, it is...”—not obliged to do so to give—“...it is obliged in doing so...”—I beg your pardon, Madam President—“...to give especially great weight to the judgment of Parliament regarding the importance of the public interest which is sought to be promoted by the measure in question. In the context of section 13 it is clear that the intention is that the weight to be given to the judgment of Parliament regarding the importance of the public interest and how individual rights should be accommodated in relation to that is even greater than in relation to an ordinary proportionality assessment, because the Constitution provides that Parliament may override the ordinary application of the rights in section 4 where it judges that the public interest requires this, provided that it faces up directly to the possibility that the measure may be inconsistent with sections 4 and 5 and uses the super-majority procedure. The proviso in section 13(1) is a long-

stop check against abuse of that power and cannot be taken merely to replicate the ordinary proportionality standard inherent in the rights in section 4.”

Madam President, at paragraph 94 the Privy Council Continues:

“Nonetheless, in the Board’s view the test to be applied under the proviso in section 13(1) is still a version of the proportionality test, albeit one framed in a way which gives especially strong weight to the judgment of Parliament regarding the imperative nature of the public interest. Where legislation has been passed by a super-majority, that is capable of affecting each of the four stages in the proportionality test... It shows that Parliament considers the public interest objective to be very important indeed (stage (i)), which in turn is likely to affect assessment of whether there is a sufficient degree of connection between the measure in...”—question.

And the measure in question here is restricting in limited terms an individual’s right to bail and the objective stage.

“...(stage (ii)), whether the trade-offs in public policy terms in using that measure as opposed to others are acceptable (stage (iii)) and the question at stage (iv) (sometimes called proportionality in the strict sense). The essential question posed under the proviso, taking account of this framework, is whether the Act in question strikes an acceptable balance between the rights and freedoms of individuals and the general interest of the community. The proportionality test has been developed as the appropriate way to answer this question across a range of contexts and, since it is readily capable of being adapted in a suitable way to be applied here as well, there is good reason to conclude it should be used in the context of section 13(1).”

Madam President, the essential question is that which the court, the Privy

Council has posed at paragraph 94 and it bears repeating. Taking account of the framework whether this Bill—and I adapt for relevance and context—whether this Bill in question strikes an acceptable balance between the rights and freedoms of individuals, that is to say persons who are charged with serious crimes and are remanded in custody, and the general interest of the community: our young women, our young men, our elderly, our general citizenry. That is the essential question being guided by Suratt which we must be concerned with today.

The statistics, Madam President, which this Government has researched show a very serious state of affairs before us. Trinidad and Tobago has continued to see alarming figures as it relates to serious crimes including but not limited to murders, violence, sexual offences and firearms. According to the Trinidad and Tobago Police Service statistics for the five-year period between 2017 to 2022—and I pause there again to make the distinction between when I uttered my statement as President of the Law Association in 2016, we are talking about a period since. According to the Trinidad and Tobago Police Service statistics, for the five-year period between 2017 to 2022, the number of serious crimes reported to the police for offences such as murders, sexual offences, robberies, burglaries, kidnapping and firearm and ammunition possession amounted to 58,533 of which 17,401 cases were detected. This means, Madam President, that a high percentage of reported crimes are in fact serious offences covered by the amendment which we ask this House to pronounce on today.

As it relates specifically to firearms, the Commissioner of Police has recently provided the country with recent statistics that 85 per cent of murders are currently being committed through the use of illicit firearms. He has informed the population that for the period January to May only, 2022, 242 firearms and 5,400 assortments of ammunition were seized and that the majority of the ammunition

seized could be used in high-powered weapons.

Madam President, when we look at the period 2017 to 2022, the number of unlawful firearm possession and ammunition reports received by the Trinidad and Tobago Police Service total 5,313 as follows: 2017, 1,162; 2018, 1,251; 2019, 927; 2020, 813; 2021, 750; 2022, 410. Madam President, for that period, 2017 to June 2022, there has been an alarming 3,533 arrests for possession of firearms with there being 505 arrests alone for possession of firearms in 2021 and 245 arrests in 2022, up to June 30th, 2022. We simply cannot ignore these statistics. We may take some solace, we may take some comfort from the fact that in the period from 2017 down to 2022, we are seeing a decline in trend in the number of firearm-related offences and we may persuade ourselves that that has to do with the efficacy of the amendment to the Bail Act which we are seeking to extend today having regard to persons who are not on the streets because one of the incidents that we have to address is the incidence of recidivism.

This House will recall, Madam President, the high surge of heinous sexual offences and murders committed against young women within recent times which has caused further outrage and protest by the public calling specifically for more protection for the women of Trinidad and Tobago. Where are we going to strike the balance as we apply the proportionality test that the case of Suraj and Satyanand Maharaj tells us is applicable although the Government is called to a less stringent test under section 13(1) as pronounced by Suratt.

We look at the state of the criminal justice systems improvements, Madam President. We can record the continuing commitment of this Government to supporting and promoting significant changes to the criminal justice system: the restructuring of the court system to provide for different divisions of court, the significant increase in the number of judges, the abolition of preliminary enquiries,

the computerization of courts including the Magistracy, the introduction of e-filing at the High Court, the introduction of the Criminal Procedure Rules, the creation and operationalization of the public defender system, the introduction of judge alone trials which expedites the process of bringing justice to persons in custody, the decriminalization of marijuana, legislation that we only very recently passed in both Houses, this House and the other House—the introduction of a National Sex Offenders Registry and previous amendments to the Bail Act are just a few examples of the strides being made by this Government in revolutionizing the criminal justice system.

Hon. Members: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Very importantly, Madam President, significant improvements have been made to the Trinidad and Tobago Forensic Science training of 26 Trinidad and Tobago Police Service officers which led to an additional complement of 15 firearm tool examiners to examine and to enhance the analysis and processing capacity of the centre. Improvements to the processing time for firearms at the Specialist Evidence Recovery Unit and the improvements to the processing times at the TTPS armoury. All of this, Madam President, has been put in place to allow for the more efficient processing of firearm exhibits which will in turn aid in the quicker trial times and turnover of matters before the courts.

11.00a.m.

All of these are being put in place to ensure that the 2019 Bail Act restrictions, which we are seeking to extend, are being adequately balanced with speedier and improved trial processes. We do not say that we are there as yet but legislation necessarily has to be introduced on an incremental basis to address the challenges as we face them.

Madam President, I am cognizant of the purposes in genesis of the Bail Act and the fact that magistrates have to examine and ought to examine the criminal records of accused persons before making a decision on whether to grant or refuse bail. The issue is, however, in extending the 2019 Act restrictions in the current climate so as to send a very clear message to criminals by extending the life of the amendments in the 2019 Act.

We are only recently, in May 2022, looking at a system of parole. We have passed—we have examined and drafted legislation in that regard and we are in the process of seeking important stakeholder input from a number of stakeholders, including the Law Association, in introducing parole legislation. We also, Madam President, have to bear in mind, as we look at the balance to be struck, that for persons on remand—and here we talk about how acceptably the period of time in which people on remand have to spend in jail in order to await their trials and the question whether at the end of the day that remand period will reflect itself at all in the sentencing that will be passed on persons who are convicted. And we have developed our jurisprudence in that regard. We have the leading authority, a 2011 decision of the Court of Appeal of Trinidad and Tobago, *Borneo v The State*, and I quote from the dictum of the Court of Appeal in that decision:

“We invited further submissions from both council on the issue of sentencing from which we have derived much assistance.

In *Callachand & Anor. v The State of Mauritius*...the Privy Council took the view that any time spent in custody prior to sentencing should be taken fully into account by means of an arithmetical deduction when assessing the length of the sentence to be served from the date of sentencing.”

And then a Court of Appeal referred to the case of the *da Costa Hall v The*

Queen, a decision of the Caribbean Court of Justice reported at 2011, 77 WIR, in which the Caribbean Court of Justice:

“...followed the decision in *Callachand*...that pre-sentence time spent in custody should be fully taken into account in imposing sentence.”

So, from this sentencing procedure, which we now have as part of our jurisprudence in Trinidad and Tobago, it is clear that the question of remand time will be taken into consideration by the courts when they eventually come to sentence those persons who have been on remand for an admittedly long period of time and who have in that period of time not been granted bail under earlier legislation of the type that we are contemplating now and which we ask this court by amendment to continue.

Madam President, we also have acknowledged, this Government is looking at the criminological and other studies that tell us that simply keeping people in jail for periods of time is not the answer to the challenges that we have. And we have all of our Ministries—this Government has all of its Ministries working towards developing better systems of governance for this country, in the different portfolios held by different Members of Cabinet of this country, to improve the overall life conditions of the members of the citizenry of this country. So that we are not simply today talking about an amendment to the Bail (Amdt.) Act. We are not simply today talking about improvements in the criminal justice system. We are speaking about a holistic approach to governance and an approach which shall allow us, while we continue to improve our systems and procedures, to keep the citizenry of this country safe.

Madam President, we see, therefore, when we look at the provisions that are under consideration, the Bill before us today has significant and far-reaching impact. It seeks to extend the provisions contained in the 2019 Act by 12 additional

months to August 2023. We see that by amending section 7, the Act shall continue for a period up to August 4th to August 20—well, 5th of August 2023. As recently as two days ago, two Fridays ago, the Acting Commissioner of Police, Mr. McDonald Jacob, expressed, alongside the Minister of National Security, the desperate need for the extension of these bail provisions noting that the provisions are a critical tool in the crime fighting armory. The Commissioner indicated that the 2019 Act had a positive impact on prompting early guilty pleas. The import of this cannot be underestimated as it redounds to clearing the backlog in our justice system.

The Act, Madam President, essentially provides that a person shall be denied bail where the person is charged with the following offences but no evidence has been taken within 120 days of the reading of the charge:

(a) where a person has been convicted of an offence that carries a penalty of imprisonment for over 10 years and is then charged with an offence stipulated in Part II of the First Schedule of the Bail Act, Chap. 4:60;

(b) where a person has a pending charge for possession of a firearm, ammunition or prohibited weapon and is charged with an offence under section 6 of the Firearms Act, Chap. 16:01;

(c) if a person has a pending charge for an offence specified in Part II of the First Schedule of the Bail Act and is charged with an offence listed in Part II of the First Schedule of the Bail Act, Chap. 4:60; and

(d) an offence listed in Part II of the First Schedule of the Bail combined with the use/possession of a firearm and/or imitation firearm in the commission of an offence.

Importantly, Madam President, most of the aforementioned circumstances arise in relation to repeat offenders, that is to say the incidence of recidivism. This

is a safeguard feature built into the provisions. A first or singular charge will not attract these provisions unless it is a very serious offence. And so, the allegations of police misuse and framing are minimized. It further targets hard criminals, the repeat offenders who are intent on continuing their trend of criminality. It does not target one-off charges, one-off offenders except in two circumstances. The first being that of harboring a child under the Anti-Gang Act and the person is a parent in loco parentis of the child. The second circumstance is where a person is charged with a serious offence which does not involve the offence of unlawful possession of a firearm or prohibited weapon and the prosecution subsequently informs the court that the accused or other person involved in the commission of the serious offence used or had in his or her possession a firearm during the commission of the offence.

Madam President, in cases involving the offence of harbouring a child under the Anti-Gang Act, the accused shall be denied bail when no evidence has been taken within a lesser period of sixty days of the reason—of the reading of the charge. The Government, Madam President, has been keen to ensure that a key safeguard to be inserted in the 2019 Act where the exceptional circumstances by which a person can apply for bail from the beginning, *ab initio*, as the Latin phrase says, in relation to some of the 120-day circumstances. This safeguard provision is critical to the constitutionality and proportionality of the Act.

Madam President, in the case of *Her Majesty The Queen v Maximo Morales*, 1992, 3 SCR 711, the expression exceptional circumstances is a circumstance left for consideration by the court, which the Government respects and does not intend to prescribe for or otherwise to interfere with.

In all of the circumstances, Madam President, we say on behalf of this Government that we respect the separation of powers. We respect the fact that it is

our duty as a responsible government to govern in order to provide for the safety of all citizens of this country by the extension which we seek. We respect the fact that reserved powers are kept within the province of the Judiciary to manage the extension which we seek. And in all of the circumstances, we are confident that the legislation, which we are asking this House today to pass, illustrates the balancing between the role of the legislature and the Judiciary, that is to say a respect for the separation of powers.

We are expecting, in due course, shortly, to get the decision out of the Privy Council in the Akilli Charles matter, which deals with section 5(1) and Part I of the First Schedule. And we expect that as that decision comes to hand, we will have to take it into consideration in the amendments that are to be passed today, which I urge this House today. But, of course, we cannot, in the interim, sit still and expect to govern in a vacuum. The Government must continue to govern as a responsible government. Madam President, I beg to move.

Hon. Senators: [*Desk thumping*]

Question proposed.

Madam President: Sen. Mark.

Sen. Wade Mark: Thank you, Madam President. Madam President, what time do I stop? Just remind me again.

Madam President: Sen. Mark, it is 11.10, you have 40 minutes. So, you will stop at 11.50, 10 to 12, and some seconds after that. Okay?

Sen. W. Mark: Thank you very much Madam President. Madam President, thank you for giving myself an opportunity to address a very important matter, a very important measure that is before this honourable Senate. Madam President, rivers of blood continue to soak the soil of our beloved Republic as close to 14 to 15

citizens perished under a hail of gunfire unleashed either by law enforcement in self-defence, allegedly, or by seasoned criminals, or even hired assassins. Mothers, fathers, wives, children, relatives, among others, are shedding rivers of tears for the loss of their loved ones.

The hapless and clueless Government that we currently have to endure does not know what to do, is literally hopeless and helpless as to what next steps should be taken. So, it appears that the best approach maybe is to blame everyone else except themselves for what I consider and we consider to be the utter incompetence and monumental failure of this administration. And therefore, we have before us today legislation that has proven to be unworkable as a punitive and draconian method simply to seek to cover the festering and gaping wounds by what I would like to describe as plasters. So, today, Madam President, we are called upon to address the Bail (Amdt.) (Extension of Duration) Bill, 2022. A Bill that is destined to fail, owing to its unconstitutionality and, of course, its frontal assault on the rule of law.

Madam President, it should be clear by now to a very anxious population that this intellectually bankrupt and dying PNM administration has absolutely no response to the runaway crime wave plaguing our nation. Madam President, denying bail, let me repeat, denying bail does not solve crime. It is merely, Madam President, a cover for executive imprisonment. That is what this is about. I want to indicate that bail is a judicial function. And, Madam President, we have to be extremely careful to avoid executive intrusion. And the Attorney General spoke about proper proportionality in his contribution. But we have to look at proportionality in the context of the aim of the Act and options, including the quickening of the pace of justice, especially from charge to trial, which poses a very severe challenge to us in Trinidad and Tobago.

Madam President, this Bill recognizes that what it seeks to do is to breach the fundamental human rights of citizens and as such, must be passed in compliance with section 13 of our Constitution. One of the thresholds which the Bill must pass in order to withstand judicial scrutiny is that it is reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual. Madam President, if this cannot be shown, then this Bill will be exposed to constitutional challenge. So, it is not simply to extend the sunset period that we are being asked to consider. We need to look at the substance of what is being extended.

What is the rationale, Madam President, for this extension? If the removal of the right to bail is countenance as a solution to increasing crime and violence, then we need to really need—then we need really to reflect on whether or not there are any more proportionate responses, which may be less intrusive than breaching someone's fundamental and constitutional rights. For example, Madam President, are enough resources being put into crime fighting. What about manpower? What about electronic monitoring, which my colleagues will deal with?

Madam President, it is clear that the measures before us today are in violation of section 4(a) of our Constitution, which deals with:

“the right of the individual to life, liberty, security of the person and”— to the—“enjoyment of property and the right not to be deprived thereof except by due process of law;”

This has to be fully understood, Madam President. And therefore, there is no—we all recognize that there is no constitutional right to bail under our Constitution. We understand that. However, Madam President, we also understand that there is a constitutional right to apply for bail.

Sen. Mitchell: Madam President—

Sen. W. Mark: What this Bill is seeking—

Sen. Mitchell: Madam President, may I please have your ruling on 46(1), please, and on the narrowness of this Bill.

Madam President: Minister, I will allow Sen. Mark to continue. I am listening very carefully and I will determine—I am allowing some context to take place.

Sen. W. Mark: So, Madam President, thank you. What the Bill is seeking to do essentially, Madam President—Madam President, may I remind this honourable Senate that we are dealing with this Bill called Act No. 17 of 2019, and this is the Bill that is before us. And all the provisions of that Bill are relevant in the context of this extension that the Government is seeking to address. Madam President, I just mentioned, and I do not want to repeat, that we all appreciate that the citizens have a right to apply for bail. What this Bill is seeking to do, essentially, Madam President—and if you go to section 5(2) of the Bill that is being amended—the Act rather, that is being amended, what it is telling us, Madam President, is that the Government is seeking, through this Bill, to remove from the Judiciary, the courts of Trinidad and Tobago, to remove from our magistrates and judges the right that is inherent and entrenched in our Constitution as it relates to discretion; to discretion to grant bail or not, Madam President, and to insert that right to the Executive organ of the State. That is what we are being ask.

And, Madam President, as I said, if you go to section 5(2) of the Act that we are seeking for amendment, this is what we have before us. And Madam President, I do not know to what extent my colleagues have a copy of that. But I have a copy of Act 17 of 2019. And I have under Act 19 of 2017, a section called section 5, and section 5(2) makes it very clear, Madam President, that:

“A Court shall not grant bail to a person who on or after the commencement of this Act is charged with an offence listed in Part II of the First Schedule

and has been previously convicted of an offence which is punishable by imprisonment for a term of ten years or more.”

So, Madam President, under this provision, and as we know, under our Constitution, it is only the Judiciary that is charged with the responsibility of dealing with matters of bail and the granting of bail. And as I said, Madam President, that is a discretion that should remain with judicial officers.

Madam President: So, Sen. Mark, I need to caution you a little bit on the issue of relevance. There is a Bill that is before us that is seeking to extend the time for a previous Bill. Yes?—to extend the time that it will—the previous Bill will be enforced. So, your—what you are starting to say here seems to me to be a complete rehash of a debate that took place in 2019. Okay? So, I just want to caution you as you proceed. Okay?

Sen. W. Mark: So, Madam President, when we are talking about an extension of what is called this measure, this Act that is before us, it is an extension to the provisions that are contained in Act No. 17, of 2019. All those provisions are being asked by us in the Senate through this extension of one year from three years to four years. That is what is before this honourable Senate.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Mark, I get that. I get that. And therefore, what you are saying—so that the provisions are in place from that previous Bill. So, the arguments that you are making seem to be going against the provisions that are in place. That is what I am trying to tell you. I am just trying to—I have not stopped you, you know, but if you are going to spend significant time on this issue, I just want to caution you at this stage.

So, Madam President, what we are arguing in the United National Congress, we are arguing that the extension of this provision, which is going to see the

Executive arm of the State being involved in this matter of bail as opposed to the Judiciary, we are saying this is undemocratic, this is unconstitutional and this is unlawful. And therefore, we cannot support this extension that is being proposed by the Government in the context of what is being proposed. We have all agreed, Madam President, and we have searched—we have done our research and we have seen where, Madam President, that this matter of the role of the Judiciary in determining and exercising its power of discretion should not be tampered with. And what this extension is seeking to do, Madam President, is to achieve that very objective and this is what we are objecting to.

So, therefore, Madam President, it—this measure of an extension is a disproportionate measure that is not rationally connected to the objective. And what is the objective, Madam President? The objective is to seek and to secure attendance at trials, protecting society and witnesses from risk. And therefore, we are proposing that a more proportionate and less intrusive response could be located, could be fashioned, Madam President, instead of reversing the burden of proof for the right to bail and strengthening the criteria for bail. And, Madam President, we can use other devices like—as I said, my colleagues will debate that even further—the use of electronic monitoring and even more, or we should say, rather than imposing more burdensome conditions on our society, Madam President.

Madam President, when we talk about the extension of these measures, we are talking about the extension—the Attorney General went into detail on this matter when he was speaking. He spoke about Part II for the First Schedule. And I am responding to the hon. Attorney General on this matter that the extension of this Bail (Amdt.) (Extension of Duration) of this Bill is going to ensure that in this Schedule, Madam President, that is Part II of the First Schedule, a number of

offences, right?—will now be subject to the same treatment of persons in this country not being able to access bail. They are going to be denied bail. And if you look at Schedule—Part II of Schedule I, Madam President, it outlines—and the hon. Attorney General talks about exceptions. And the exceptions to Part II of Schedule I can be located in section 5, Madam President, if you go to section 3(c) where it tells you that in cases of someone being in possession, right?—of arms, or a firearm, or an imitation firearm, that person, Madam President, would not be entitled to bail.

11.30 a.m.

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

Madam President: Sen. Mark, continue.

Sen. W. Mark: Yeah. So, Madam President, when we look at the legislation before us, the Act is applicable to persons being considered for bail and, therefore, there are other measures we are submitting that the Government can look at that are less intrusive. And, that is why, Madam President, in looking at this measure that is before us, we have to take into account these particular situations that would avoid people, citizens' rights, from being infringed.

And when we go to the Constitution, Madam President, we see in our Constitution, Madam President, and I want to ask you to look at the Constitution, look at section 5(2)(f), Madam President. If you go to (i) and (ii) of our Constitution, it tells you, Madam President, that the presumption of innocence, until one is proven guilty in accordance with law, is what is entrenched in our Constitution. And what the experience has shown, is that the Government by this measure and this proposed extension, will be able, through Part II of Schedule I and section 5 of this piece of legislation be able, through state agencies, to arrest citizens and merely to charge them upon arrest, Madam President. And upon

charging these citizens upon arrest, given this extension to the Bail Act, our citizens will be subject, if their trial has not started, to 120 days in jail or incarcerated. And if the trial begins before the 120 days, you can be there, Madam President, for beyond 120 days. And what the Constitution is saying, under section 5(2)(f)(i), is that issue of presumption of innocence. And, Madam President, if you go to (ii), it talks about:

“(ii) to a fair and public hearing by an independent and impartial tribunal”

And if you go to (iii) of the Constitution, it talks to the issue of:“(iii) to reasonable bail without just cause”

Madam President, all of these matters, all of these rights that citizens have in our Constitution are being challenged by this extension of the Bail Act.

And, Madam President, we are saying that the Government must be aware that that is an incursion in the function and duties and responsibilities of our judges and magistrate, and we must give that power to those institutions and those persons in the Judiciary to determine, Madam President, if you are charged, you must be able to go to an independent and impartial tribunal, and for that tribunal to determine whether you are entitled to bail or not apply, but not what is being proposed in the legislation, Madam President. And that is why we are saying that we have some serious reservations about what is being proposed in the current piece of legislation before us. It violates the Constitution and we cannot, in all good conscience, support a measure that does that.

Madam President, may I also raise, as I am dealing with this matter of the extension of bail, can I ask, through you, to the Attorney General, whether there was any consultation on this matter. Whether they consulted with the Law Association of Trinidad and Tobago on this matter. Because I know when the Attorney General occupied a separate role that he currently holds, there was

consultation, and there were statements issued by the then President of the Law Association in 2015 and 2016. And the Attorney General has made it very clear in his presentation that that is a fact. That in 2016 he, on behalf of the Law Association, came out against the Bail Act that we are dealing with today, Madam President. Madam President, the truth is, we have to be able to analyze, why at that particular juncture, the Law Association rejected the continuation of the Bail Act? The Law Association, quite properly, Madam President, put forward what I called some excellent arguments, in order to show why, Madam President, this matter of an extension of the Bail Act was absolutely unnecessary and, therefore, disproportionate.

Madam President, I can tell you, based on an article I have before me, in some publication called *Pride*, that sometime in 2015, the Law Association advised then Attorney General, Garvin Nicholas, that given the constitutional guarantee and I quote:

Given the constitutional guarantees of reasonable bail, coupled with the presumption of innocence and the right to be brought promptly before an appropriate judicial authority, the association considered the proposed legislation then to be a disproportionate measure.

So, Madam President, that was the position of the Law Association, and they have not issued any statement as far as we are aware to contradict this statement. So if in 2015, Madam President, we were told by the Law Association, through its distinguished President, Reginald Armour, at that time, that the measure that was being proposed by the then People's Partnership was disproportionate and, therefore, must be rejected and, Madam President, it did not stop there.

To be fair to the hon. Attorney General, he came back in 2016, and he also told the hon. Prime Minister, Government led by Dr. Keith Rowley, MP for Diego

Martin West, Madam President, he also made the same arguments that they rejected that particular Bail (Amdt.) Bill. And we want to know, Madam President, in terms of principles, what has changed? What has changed, Madam President? Because it is the same Bill that we have here. The only difference, Madam President, is that instead of three years, we are proposing four years. That is the fundamental distinction. So where is the principled stand on this matter? We cannot be for bail—against bail Bill in 2015 and in 2016, Madam President, and come in 2022, we are for bail Bill.

Madam President, I am saying that this matter that is before us is extremely serious, so serious, Madam President, that we were advised—that is the Government at that time was advised—that the Law Association called on the then People's Partnership Government to repeal, to repeal the bail legislation. That is the extent to which we had to deal with this thing in 2015. So, Madam President, all we are saying is that the arguments put forward are extremely pertinent.

Madam President, this extension that we are being asked to support today, the Attorney General did not explain to us, how this piece of legislation, via the amendment, is going to act as a deterrent to the commission of serious crime. What is the explanation for it, properly speaking? Where is the data? Where are the statistics, Madam President, on this matter? Did the Attorney General present data, present empirical data, to justify this extension? We did not get any proper data, apart from what the Commissioner of Police said. What we do know is that from 2017, according to the Attorney General, to 2022, there were close to 58,000 serious crimes and there were, Madam President, some 17,600 detected. So the detection rate is less than 18 per cent. That is the problem here.

The problem, Madam President, is not to deny the citizens the right to bail, Madam President. The problem that the country faces is for the Government of the

day—and the Minister admitted it, the Attorney General and the Prime Minister belatedly has also admitted it—is that you need to take a holistic approach to this whole matter. You cannot put young people behind bars. It is not solving the problem. And that is why, Madam President, the then Attorney General, Reginald Armour, as President of the Law Association stated, quite pellucidly, and I agreed with him.

Madam President: Sen. Mark, at this stage, I have to caution you. You are now repeating yourself. Throughout your contribution, you have made reference to different positions of the Law Association, and now you are coming back to that again. So, I really would ask you, in your last set of minutes to find new matters to speak about, please.

Sen. W. Mark: Madam President, I want to thank you for guiding me as usual. Madam President, we believe that steps can be taken to give the criminal justice system the space that is required for the judicial officers to carry out their function. And I would give you an example of what I am talking about, Madam President. Madam President, you are aware in an effort to address the backlog of bail applications, that the Government told this country, they were and they are converting the entire Hall of Justice into the Criminal Division of the High Court. And, Madam President, we were told that this was expected to significantly increase the capacity of the criminal justice system, and that is costing the taxpayers some \$56 million to move what is called the Civil Courts to the Waterfront. Now, Madam President, with this kind of relocation, this would represent a significant increase in the capacity to allow the Judiciary to clear up any backlog of persons wishing to make bail applications and then to streamline new applications.

So this extension, Madam President that we are talking about, the

Government is admitting that they are going to take measures in order to extend the capacity of the Criminal Division, which the Hall of Justice will be converted to, in order to deal with the backlog of bail applications. So that is something, Madam President, anyone would welcome.

So, we are saying that there are measures, there are steps, there are areas that we can look at, Madam President, in order to address this issue of not tampering with the current status that we have in our country. The current status, Madam President, as I know it and the Attorney General has not denied it, is that the Trinidad and Tobago Judiciary has the authority and the standing law in this country to provide people and to grant people bail. That is the law of the land, according to the Akilli Charles judgment, Madam President. So why are we seeking, Madam President, in this measure that we are dealing with, to undermine or to compromise the independence of the Judiciary? Why are we challenging the Judiciary as it relates to this measure that is before us, Madam President?

Madam President, we believe that this issue of bail—Madam President, what time do I stop? Madam President, what time do I stop? May I be guided by you?

Madam President: You have five more minutes now, Sen. Mark.

Sen. W. Mark: Yes. I have five more minutes, right, Madam President?

Madam President: Yes.

Sen. W. Mark: Thank you. So, Madam President, what we are arguing and we are positing to this hon. Senate is simply this: If we put forward those changes that are being proposed, it can contribute enormously in extending and expanding the capacity of the Judiciary at all levels in our society, which will make it much easier for the Judiciary to address the issues affecting bail and backlogs of bail applications in this country.

So, Madam President, the agencies of the State that are responsible for

implementing and enforcing legislation in this country and, in this instance, the Bail (Amdt.) (Extension of Duration) Bill, one of the agencies involved, Madam President is, in fact, the police. And I want to say, Madam President, I have the greatest respect for our police. They work very hard. But, Madam President, we have to admit that there are some very bad police officers in our service. And when you give the police this kind of power to arrest and charge people, we have to talk about malicious prosecution. And, Madam President, innocent lives can be impacted upon by this kind of measure. And what kind of checks and balances is there in legislation to protect the innocent against malicious prosecution?

Madam President, when we are talking about charging people and denying them bail, many citizens have gone to court and the courts have ruled that they were maliciously prosecuted by the police and we, the taxpayers, are called upon to compensate those victims for malicious prosecution. That is why, Madam President, we have a duty and a responsibility to protect the innocent. We cannot allow the Government to just give total blanket power to the State and do whatever they want. I think some time ago, I recalled, when this matter was being debated, Sen. Vieira is on record as asking for measures to protect the innocent. How do we ensure that the innocent is protected when you give the police that enormous kind of power? This is draconian powers that we are giving to the police, Madam President, and we cannot just sit idly by and allow this to take place, Madam President.

So, as far as we are concerned, Madam President, we are saying that the Government needs to pay attention to the need to establish what I would like to call and what we would like to call, the proper balance. We need a proper balance between the liberties and the rights of the citizens and, of course, the important role of the State.

Madam President, let me say in the few seconds or minutes I have remaining, if the Government cannot provide protection for life, liberty, safety, security and longevity of its citizens and our society, then the Government needs to pack up and travel, travel.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Call elections, Madam President.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We cannot trust this Government. We are not prepared to give this Government, Madam President, this kind of power to invade people's private spaces. We are saying, Madam President, that this matter cannot be supported. The Government understands the magnitude of the distrust and the laws of confidence of the people and, therefore, we cannot support this Bill.

Madam President: Sen. Mark, your time is expired. Sen. Richards.

Sen. Paul Richards: Thank you, Madam President, for the opportunity to make a contribution to this, the Bail (Amdt.) (Extension of Duration) Bill, 2022, and I will go through several different angles because, basically, what we are here today or what the Government is here to do, through the initial presentation of the Attorney General, is to justify this extension of the Bail Act which was amended in 2017. And what is bail?

“Bail is defined as a pre-trial release. It may be considered a contract whereby an accused person is released on certain terms”—conditions—“from custody to his surety/sureties. The surety/sureties responsibility is/are to ensure the defendant attend court at every hearing, until the case is...determined.”

And the option of bail, as Sen. Mark and the hon. Attorney General, both alluded to, under the circumstances we are considering here, must be considered within the

balance of the individual's constitutional right to liberty, freedom with the other aspect, the safety of the population. And in the context of the charges laid against the individuals, if they are serious enough to consider that he or she is a threat to the safety and security or the general interest, in the words of the Attorney General, of the population.

And we are here, because a sunset clause was part of the legislation. And what is the purpose of a sunset clause? It is:

“...generally to enable lawmakers to enact a law when...action is required reasonably for a limited period”—or may be extended—“when the long-term ramifications of the law in question are difficult or impossible to foresee, or when circumstances warrant such a legal structure.”

—which means that when we passed the previous iterations of the law, we realized, as a Parliament, both here in this honourable House and the other place, that we would need to look at the effectiveness of the law. We would need to look at how the law was applied and, if indeed, it achieved the objectives of the provisions in the law.

And the hon. AG, through his piloting of this extension, went through several data points regarding law enforcement in Trinidad and Tobago, and the work of the police service indicating 58,000 serious crimes were reported, and the hon. AG also cited a reduction from 2017 to 2022 which, I think, can be countered because within that period, many persons may suggest that that included a state of emergency, well a locked down period, where we saw reductions in crime, because persons were not allowed to move about. So, I think, in looking at the effectiveness of the provisions in the Bail (Amdt.) Bill, we have to do it in a really objective manner and see if the provisions warrant extensions.

Now, it is very interesting that we find ourselves in the position, and I think

part of the rationale for this is because of what we are seeing in society in Trinidad and Tobago is a very disturbing spectre. I mean, extremely disturbing. Anyone looking at the front pages of the three major dailies yesterday, would agree, that these are frightening times. Anyone waking up this morning in Trinidad and Tobago and looking at—depending on which newspaper you read—14, 15, murders and the continuous nature of these every couple of weeks, where we are seeing extremely bloody weekends and people losing their lives in violent manners, would tend to jump at the opportunity to deal with situations like the Bail (Amdt.) Bill where persons who are accused of serious crimes, in the circumstances as outlined by the hon. AG—I would not go through them again—repeat offenders, primarily, may be should not have the opportunity of bail. And, I will tell you. I, generally, in principle support this, because I do not think a lack of support for it is productive in the context, but you still have to ask the question of: Is it as effective as it should be? Is it achieving the objectives?

I had the opportunity to interview the acting commissioner this morning, who confirmed that there were 10 murders over the weekend, well, 14 persons loss their lives—10 murders and four persons loss their lives in exchanges with the police. And he was very, very, concerned. The Acting Commissioner, Mc Donald Jacob. I asked him specifically, if he is in favour of this, and he said yes, because it gives the police an opportunity to apprehend persons who find themselves before law enforcement over and over again, particularly on gun crimes. And as we know, gun crimes are the crimes that take the most lives in Trinidad and Tobago.

But, you see, the other side of that, is Sen. Mark's argument that while it may be warranted, we have to ask ourselves the question: Is it working as it should because of the other elements or factors that need to come into play where curtailing crime in Trinidad and Tobago is? And something, just, you know,

occurred to me while Sen. Mark was delivering, and I do not know, maybe I am wrong, I am missing something, but the previous iteration of this Bill, was it not supported by the Opposition?

Hon. Senators: [*Desk thumping*]

Sen. P. Richards: So, I am trying to find out what changed? And there may be a very valid reason for the Opposition to change their position where this is. But were the same constitutional issues present at that time? And, if something changed maybe we should find out what it is, where that position has seemingly changed, because this would have required the same three-fifths majority at that time. So, I am hoping one of the Opposition Senators who delivers later on can identify the reasoning for that change in position.

What I am disappointing in—and I indicated already, I will support this, because I think not supporting this may be a dereliction of duty given the ramifications of not supporting it for persons who are charged and end up before law enforcement on multiple charges, particularly, gun-related charges may end back out on the street and commit more heinous crimes, and I think that is an unacceptable proposition. Because all we will do as a population is say, well, crime is going crazy now, because—and I understand the balancing act between a person's constitutional right to liberty, but we also have to look at whether that person poses a serious enough threat that that liberty should be curtailed by the denial of bail under these provisions as outlined in the Act.

And when we think of this, we need to tell ourselves—well, you know, the old adage, the needs of the many outweigh the needs of the few, under those circumstances. Because I would be much more comfortable with under specific circumstances as outlined in the provisions of the Bail (Amdt.) Act to risk denying a person their constitutional right, then that person who has a track record of

serious crime, who is ending up before law enforcement, again and again, as a repeat offender and is being charged multiple times, ends up in the public domain and is able to commit more crimes and cause more carnage in the population or in Trinidad and Tobago.

12.00 noon

I think that is what we need to consider and that is why I will support the continuation with this, with the caveat that we have to do a more objective interpretation of why. And if it is working, one—and, quite frankly, I do not think it is working as effectively as envisioned, and if not, why it is not working effectively, because this is one of a suite of mechanisms that has been initiated in the past five, 10, 15 years to curtail crime in Trinidad and Tobago, and if we look at the trends we are failing. We are losing the battle to the criminals and whether or not we are making minor incursions and minor successes, the overall perspective of the population is that we are in a sad state, and while this is but one of the mechanisms, there must be an examination of how and if the others are working. And if they are not working—and my proposition is that they are not working, for several different reasons, several different aspects of it, the law enforcement's effectiveness, the backlogs in the criminal courts, a sense in the criminal arena that, “Well, I am either going to be not caught at all or if I am caught and charged, I am going to stay 10, 15 years on remand and I am very comfortable with that perspective because I have decided I am going to live a life of crime anyway and cause mayhem and havoc in Trinidad and Tobago.”

Madam President, you know, when I look at the newspapers—and I am going to quote an article from *insightcrime.org*, dated May 31, 2022, by Douwe den Held, who is the author, and it is entitled, “Why are Trinidad and Tobago's gangs becoming more violent?”, and I will quote a short part of this:

“Authorities in Trinidad and Tobago have warned legislators that the Caribbean island nation is likely to see a rise in violent crimes, as gangs splinter and bounce back from the pandemic.

The country’s intelligence body, the Strategic Services Agency (SSA), issued its 2021 security report to Parliament. Though serious crimes decreased in 2021 due to the COVID-19 pandemic...”

And that is in direct contravention partly to what the hon. Attorney General indicated earlier with his contention that, well, 2017 to 2022, we saw a reduction in crime because of reflective policing and the legislation and the other measures the Government would have put in place.

A lot of persons, including this article, cite the pandemic and the restrictions enacted therein as part of the reason we saw a reduction and it is not unreasonable to think that that was part of the reason:

“...the intelligence assessment said...the country was seeing a new crime wave. The SSA also predicted the splintering of gangs, potentially ‘resulting in an increase in murders, injuries, shootings and other violent crimes.’.

Shootings in recent weeks indicate renewed gang warfare. On May 10, a suspected gang leader was gunned down in Saint James, a district in the country’s capital, Port of Spain. Four of the six killings during the week of April 25 were attributed to gang violence.”

And:

“Two of the men shot dead were suspected of belonging to the country’s two largest gangs...”

And they cite “Rasta City” and “Muslims”, which are not names unknown to us:

“In 2021, Trinidad and Tobago recorded 448 homicides, an increase from 399 in 2020. The tally, however, was below the 539 murders reported in

2019 prior to the pandemic.”

And they went on, and I will just quote a short part:

“Three factors help to explain the complex criminal landscape and rise in violence in Trinidad and Tobago.”

[Police sirens sound outside Parliament building]

I think the special effects were timely.

“First, it appears that gangs are splintering and, in the process, becoming more vicious. In March 2022, Security...”—National Security—“...Minister Fitzgerald Hinds told Parliament that the 2021 killing of a gang leader had generated ‘deep ramifications in the criminal underworld.’

Hinds did not name the gang leader but he was likely referring to...”

—and I will not call the name. And the article goes on to state that:

“‘...newer gangs are anticipated to be more volatile as they try to establish themselves,’ the 2021 SSA report...”—indicates.

So, we have to ourselves in the context of this Bail (Amdt.) (Extension of Duration) Bill, 2022, if we are as a country unable to identify and charge gang members, what is the point of extending the Bail Act because they would not even fall subject to the provisions in the Bail Act? That is what we have to ask ourselves. How effective will a Bail Act be even with extended provisions if we cannot identify with evidence persons who are in gangs and committing gang-associated activity? That is one of the problems we face.

An article by Sean Douglas, I think of the *Newsday*, on Wednesday, May 18th indicated, “violent gangsters”, and I quote:

“Younger and more violent gang leaders are taking over the local criminal landscape, warned the Strategic Services Agency...”

So, the gang members are becoming younger because the gangs are successful at

not only staying relevant in the criminal arena but recruiting younger members because the deterrent to being in gang activity is not effective. So if we are having more and more and younger gang membership, how effective will the Bail (Amdt.) (Extension of Duration) Bill, 2022, be? And, what is the evidence that this actually is contributing effectively to curtailing crime in Trinidad and Tobago and keeping the criminals off the streets, through you, Madam President?

One of the issues, I think, that we can champion in Trinidad and Tobago because we have enacted several different laws that can have a more effective outcome or more effective outcomes in Trinidad and Tobago because we enacted an Act to amend the Administration of Justice (Electronic Monitoring) Act, 2012, assented to on the 12th of May, 2020, and that Act was first applied in a landmark court order made when Master Sherene—on March 26th this article is dated:

“...Murray-Bailey made the first order for the use...”

Madam President: Sen. Richards—

Sen. P. Richards: Yes Madam President.

Madam President:—if I could just interrupt you here a little bit, the debate here is about extending the provisions of an Act that was passed in 2019, extending it further—yes?—and I just want to caution you because I can just see the debate taking a particular slant. It is not a debate about crime in general and about all the things that can be done to, you know, act as a deterrent to crime. I need for us to stay on the path of the Bill. Okay? So I just give you that little caution.

Sen. P. Richards: And without any response or remonstrations to your guidance, which I take, if I could just tie it into the Bill, can I? One of my initial theses was that, I think, coming before this Parliament and just bringing an extension to me is falling short on behalf of the Government. It has not gone far enough and I do not think that the extension is going to achieve the desired objective or outcome

without other measures being enacted to curtail crime. I hope I am staying within your guidance, Madam President. And just to wrap up that point quickly in relation to the Bill itself here, I think part of what should have come before this Parliament is the Government bringing additional amendments to the Administration of Justice (Electronic Monitoring) Act in the context of if persons are to acquire bail they should be fitted with electronic monitoring devices to keep the population safe in a balancing act of the bail that the—according to Sen. Mark and others, may have the right to with balancing the safety of citizens and the general interest. And that is my proposition in terms of what we are debating here to today in terms of the Bail (Amdt.) (Extension of Duration) Bill, 2022.

I think it falls short and it is almost a formality, and I may go far enough to say, without other aspects in terms of the comprehensive understanding of what is fueling the crime, because this is a crime-fighting mechanism; this is a safety mechanism, a national security mechanism, a tool. In the context of the absence of others we are spinning top in mud and we are almost at the point of a dereliction of duty because extending it by some more years without the relevant foundation of if it is effective and other measures that seek to balance the issues that we are dealing with here, constitutional rights versus the safety of the population is not going to be as effective as we should be and to me that is where the challenge lies. In terms of the bail being denied for repeat offenders, which is the primary area of remit, as opposed to some other areas where persons—where we may seek, because of the seriousness of the crime, to deny bail to the person under the condition of them being electronically monitored. Because we have only done or applied about 36 to 38—sorry—38 persons with electronic monitoring devices between April 28th last year and March 21st, 2022, and I think that is an under-used piece of legislation and an under-used tool in the context of the application of bail in Trinidad and Tobago

or the denial of bail in Trinidad and Tobago as this extension is seeking to do.

In wrapping up, because I do not want to run afoul of Madam President's guidance, while I would support this because I think not supporting this would be an absolute dereliction of duty in terms of what the status quo is because we cannot make or amend law in a vacuum. It has been a tool that the TT Police Service has employed. In the interview with acting Commissioner Jacob this morning, he would have advocated for a wider remit of the denial of bail in many instances because of what the Trinidad and Tobago police is encountering on the ground, but of course that has to be considered in the context of persons' rights to liberty in Trinidad and Tobago and how we balance those issues. But I certainly believe that a lot more needs to be done and this amendment brought before the Parliament today, basically just before the recess, to me does not nearly go far enough. I think what could have been added to the amendment, in addition to an extension of duration, is a consideration of other areas where we are seeing an increase in serious and heinous crimes. We have seen—and I know it is part of the 2019 Act—the issue of domestic violence in Trinidad and Tobago and how persons who find themselves before law enforcement and are charged are sometimes not—in some circumstances they are not granted bail, but in other circumstances if bail is to be applied it needs to be under the condition on a wider scale of the implementation of electronic monitoring which I think is a tool, as I said before, that is terribly under-used in Trinidad and Tobago.

So, Madam President, I hope these musings are considered by the Government moving forward because I think we all have the say ultimate intention which is to pass and/or amend law for the safety and security of Trinidad and Tobago and for order and good governance, but sometimes I think, like in this situation, in this case today, we have fallen woefully short even under the

circumstances that, well—and, you know, sometimes the argument is, “Well, the Opposition will not support the legislation if we go harder”, but I think that is a puerile excuse given that you have nine Independents who may or may not support it. It may not meet the muster of a three-fifths majority but I think it must be brought to the Parliament and debated. And who knows, maybe with forceful and convicted debating you may be able to help to convince the Opposition to get to your three-fifths majority, but the presumption of it and not bringing the law or the laws or the amendments that may make a real difference to me is an abdication of duty. And with these few words, Madam President, I thank you.

Hon. Senators: [*Desk thumping*]

Madam 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 Ministry of Legal Affairs (Sen. The Hon. Renuka Sagrarsingh-Sooklal): Madam President, I thank you most sincerely for the opportunity to contribute to this debate. You know, in my usual form and fashion, Madam President, I would always “pelt ah few blows” at Sen. Mark before I jump into the crux of my contribution. There are certain things that Sen. Mark, of course, would have made, certain points he would have made which, of course, I would attempt to address. But this debate, Madam President, is actually a very, very critical debate and it is a debate which really warrants careful consideration because it stands to critically impact on the Government’s ability to deal with crime and criminality in this country. And I am saying this because, Madam President, my intention, at least during my contribution in this debate, is to attempt to convince all Senators who are sitting here to give us that support that we require in order to breathe life—a continued

life into the amendment and into the Bill that we have presently before the Senate. Now, you know, I recall in a previous debate I mentioned that the Parliament is often regarded as the highest court of the land and it is something that I truly believe, and in a previous debate I also indicated that if this is the highest court of the land it means that I am speaking to you, the members of the jury, that is the hon. Senators who sit in this Senate. I am also speaking to the people of Trinidad and Tobago asking for that support that we require in order to make Trinidad and Tobago a safer place for us all. And it is my hope, Madam President, throughout my contribution, I may add to what the Attorney General has already stated and make further contributions in trying and attempting to respectfully convince this Senate why your vote in support to this Bill is critical and why we are here asking for your support, because we recognize as a Government that this Bill is critical, as I stated before, in bringing changes in assisting us in our crime-fighting efforts.

Now, Madam President, Sen. Mark made the statement that this amendment is executive imprisonment; well, respectfully, Madam President, I will say to the Senator, instead of running out of the Chamber like a little school boy when the Attorney General was on his legs, respectfully, Madam President, had the hon. Senator remained in this Chamber during the Attorney General's contribution, he would have heard the Attorney General make reference to a Mauritius case, the case of *The State v Khoyratty*. Now, Madam President, at page 8 of that particular case, the Attorney General—that case, Lord Steyn in that case stated:

“...the exercise of granting bail is a judicial one...It is a judicial act in the same way as passing sentence and must be left to the judiciary...”

So the Attorney General did acknowledge what is the role and function of a judicial officer in the granting of bail. This is not new information to us as parliamentarians. We understand what bail and we understand the role that the

judicial officer plays in the grant of bail, but, Madam President, what we need to remember is that we are not taking away a right, I respectfully submit. What we are doing, Madam President, is deferring that right with an imposition, Madam President, of 120 days' timeline.

Now, Sen. Mark also proceeded in his contribution, Madam President, to make statements about the Attorney General, highlighting the AG's change in position when he served as the head of the Law Association and now in his capacity as the Attorney General. Again, Madam President, respectfully, had Sen. Mark remained in this Chamber and done the people's work, instead of running out of the Chamber when the Attorney General was on his legs, Sen. Mark would have heard the Attorney General read into the record why his position from 2016 to now have changed. And if I may respectfully read, Madam President, from a statement made by the Attorney General when he was the President of the Law Association; at paragraph 4 of that statement, the Attorney General said:

“The significant deficiencies of the forensic system, resulting in unreasonable delay in forensic testing means that persons are unlikely to have matters involving the use of firearms heard...(at a minimum) of two or three years.”

At paragraph 5 of that said letter, the Attorney General said:

“There are no safeguards against malfeasance by Police Officers in situation in which the mere mention by a Police Complainant of suspicion of possession of a firearm (or something resembling a firearm) invokes the no Bail provisions.”

Now, this is what the Attorney General's position was in 2016, but we have heard the hon. Attorney General explain to this country, explain to this honourable Senate, the reason for his position considerably changing is because from 2016 to

2022 we have had significant improvements and changes in our criminal justice system. So to say that the Attorney General is somewhat changing his position is correct. He has changed his position as it relates to the support of this Bill, but the reason being, the hon. Attorney General would have indicated clearly that is because, certainly, circumstances from 2016 to 2022 has considerably changed and as a consequence of that he is confident that this Bill stands to bring about certain changes that will positively impact on our criminal justice system.

Now, Madam President, Sen. Mark then proceeded—right. If I may go on to a question that was asked by Sen. Mark and Sen. Richards relative to statistics on crime and of course the impact—a question relative to the impact or whether or not this amendment has brought any impact at all in crime and criminal activity. Madam President, I want to respectfully submit and remind hon. Senators that the extension that we seek today covers offences that are stated in Part II of the First Schedule of the Bail Act. There are a list of offences, Madam President, a list of criminal offences in which a person can be denied bail for 120 days; murder is but one of those offences. You know, Madam President, respectfully, I often hear people come—persons in the public, you know, we speak about crime, and of course there is an upsurge of crime in our country but what we need to remember is that murder alone is not the only criminal offence that exists. And when we are trying to assess whether or not this Bill and this extension is assisting in crime detection, we have to remember that we are not applying this tort to the offence of murder alone because there are other Part II offences—well, Part II of the First Schedule in the Bail Act, there are a list of other offences which this amendment will apply to.

Now, for the benefit of, of course, the honourable Senate and, of course, the country, I received some important data, Madam President, from the Crime and

Problem Analysis Branch of the Trinidad and Tobago Police Service and what these statistics does, Madam President, it actually breaks up and it delves into some of the offences that Part II of the First Schedule of the Bail Act covers. And what I want to read into the record, Madam President, I would start with the most common offence which we often judge criminality in our country by, which is murder. Now, in 2019, Madam President, based on the statistics that I have before me, as it relates to the offence of murder, the TTPS reports that there were 539 reported cases of murder in 2019. What we have is 85 of those cases we have it being detected or what the TTPS refers to as detection. Now, detection pursuant to this statistics, Madam President, the TTPS detection is referred to as the solved cases which are reported to the TTPS. So in the stats that I am going to respectfully read into the record, Madam President, would range from 2019 to 2021. In these stats the TTPS focuses on reported cases and then they go on to speak to detected cases.

For the members of the listening public and for Members of the Senate, the detected cases are those solved cases which were reported to the TTPS. Now, I will admit that when we look at the statistics, of course it leaves a lot to be desired and of course we would wish if we can have a higher detection rate of crime in our country. But the reason why I believe it is critical for me to make reference to these statistics, Madam President, is because what we can see is that there has been an assistance as it relates to the amendment that we seek here in dealing with these criminal activities. So I would have started looking at murder. In the 2020, Madam President, there were 3,039 cases reported; we had a detection rate of 81 cases. In 2021 the TTPS reports 450 murders; detection, we have 72 cases. If I go to another—so murders, as I said before, is but one of the offences that exist in Part II of the First Schedule of the Bail Act in which this bail restriction would apply to.

Let us look at another offence that sometimes we take for granted. Let us look at receiving stolen goods. Receiving stolen goods, Madam President, is an offence that falls under Part II of the First Schedule of the Bail Act. If we look at 2019, what we have had is—the TTPS reports 15 reported cases. When they turned to detection we have 15 of those cases detected, and to remind you all, “detected” means solved cases which were reported to the TTPS. Now from 2019—this was when the Act, the amendment, would have come into being where we looked at the 120-day bail restriction. Now, in looking at the offence of receiving stolen goods, in 2020 the TTPS reports there were 13 reported cases of receiving stolen goods; we have a detection of 13 cases.

If we look at 2021, we have, under the receiving of stolen goods, we have reported 25 cases; we have a detection of 25 cases, and that is another offence, Madam President, which this amendment will apply to. If I go to, for example, wounding and shooting, Madam President, with respect to wounding and shootings, it comes under again Part II of the First Schedule of the Bail Act which this 120-day restriction applies to. In 2019, Madam President, there were 686 reported cases of wounding and shootings. How many detected cases we had—again, “detection” meaning solved cases which were reported to the TTPS—226. Now, of course, we are not where we want to be. The TTPS is not where it wants to be, but certainly we have been making—certainly—well, not we, but the TTPS had been making inroads in dealing with some of these offences.

When we look at wounding and shooting in 2020, Madam President, we have 525 reported cases. Out of that 525 reported cases, the TTPS reports that 189 are detected cases. When we look at 2021, Madam President, under wounding and shooting, we have 675 reported cases. Out of those 675 reported cases, Madam President, we have 270 detected—again “detected” as solved cases which were

reported to the TTPS. Madam President, if I go now to another offence, sexual penetration of a child, that is in (e), Part II of the First Schedule—again, an offence which is 120-day bail restriction relates to. If we look in 2019, Madam President, there were 370 reported cases of sexual penetration of a child. The TTPS reports that there are 84 of those cases. We are looking at detected cases—again, “detection” meaning solved cases which were reported. In 2020, Madam President, as it relates to the offence of sexual penetration of a child, we have 379 reported cases; 146 in that year being detected.

If we turn to the same offence, sexual penetration of a child in 2021, we are looking at 649 cases that were reported; 159 cases that were detected. And, Madam President, I know it seems redundant by going through this list but I believe this data is critical in at least being able to show the Members of this honourable Senate that based on the statistics that we have, of course, there still leaves a lot to be desired. Of course, we wish if every single matter that is reported to the TTPS that we can certainly have that matter being detected—“detected”, according to the TTPS, solved cases which are reported to them. Of course, we wish as a country, as a nation, just as a regular citizen of Trinidad and Tobago, it is our desire that every single matter that is reported can be detected.

12.30p.m.

Of course, we are not exactly where we want to be, but we have to recognize that this Bill, this amendment, I want to reiterate, it does not cover the offence of murder alone. There are several offences in which this 120-day bail restriction will apply to, and based on the information that I have from the Crime and Problem Analysis Branch of the TTPS, what we can see is that we have reported cases from the period of 2019 to 2021, and based on the detection rate, we have made inroads in detecting some of these offences, which, in my respectful submission, should of

course sway the Members of this honourable Senate in at least giving us the support we require, recognizing that this restriction has made some inroads in the detection of crime.

Madam President, if I look at the offence of buggery, for example, which is a serious offence under the Part II of the First Schedule of the Bail Act. In 2019, there were 16 reported cases of buggery. Again, it is not perfect, but we had nine out of 16 cases which were detected. In 2020, we had nine cases of buggery reported, five out of nine were detected. In 2021, which I am particularly pleased with, there were nine cases of buggery reported, nine detected. Again, detection meaning solved cases which were reported to the TTPS. So that is another offence in which this amendment, of course, would apply too.

Madam President, if we look at, for example, narcotic offences, we are always talking about drugs. Narcotic offences in 2019, this statistic states that there were 417 reported cases. Madam President, in 2019, 417 of those cases were detected. Detected meaning solved cases which were reported to the TTPS. In 2020, under narcotic offences, we have 316 reported cases. We have in 2020, 316 detections happening, as it relates to narcotic offences. So it means all of the cases as it relates to narcotic offences, we had an across the board detection. In 2021, the statistics suggest that there were 314 reported cases of narcotic offences, that is in 2021, and Madam President, in 2021 we have had 214 detected cases under this offence. So, again, we are looking at 314 reported cases in 2021, they were able to solve these cases, 214 of them in 2021.

Again, I want to respectfully reiterate to the Members of this honourable Senate, especially to those sitting on the Independent Bench of whom support we are relying upon. We are not ideally where we want to be as a nation, of course, as it relates to crime-fighting, but if we are to look at some of the statistics that have

been presented to you, we can certainly see that some of the offences that fall under Part II of the First Schedule of the Bail Act, in which this extension will apply to, we can say resoundingly that there has been significant impact of the application of this restriction in the TTPS having, of course, the time to be able to actually solve the cases, which have been reported to them.

Madam President, I do not want to become too redundant. I know it is different statistics, but let me just look at one more based on the stats that I have here. Let us look at in robberies, for example. In 2019, we had 3,018 cases reported under the offence of robbery. Detected cases were 521. In 2020, we have 2,082 cases. Well, of course, the detection rate was 278. In 2021, we have 1,868 cases of robbery reported. We have 432 of those cases which were detected. Of course, there are several other offences here that fall under Part II of the First Schedule of the Bail Act, which this 120 days would apply to. But this, Madam President, is respectfully to say to this country, imagine if the police did not have that additional 120 days to put their houses in order, to be able to accrue evidence, to be able to do whatever was required and necessary in order to actually be able to charge persons. Imagine if they were not given that 120 days. I respectfully personally submit that we may not have even had the detection rate which we have here, that is presently before this honourable Senate.

Now, Madam President, as I am coming out of these statistics, I want to use a very practical, a very practical, simple example as to why this 120 days is critical, I respectfully submit, in solving or assisting the police in crime, in being able to detect criminal activity.

Let us say, for example, we have somebody who is—*[Interruption]* Yes?

Sen. Richards: Thank you for giving way. Would you have the solvency rates?

Sen. the Hon. R. Sagramsingh-Sooklal: I do not have that information before

me. What I have before me, unfortunately Senator, would be the detection rate and the reported cases, but hopefully I would be able to get that information.

Madam President, as I was saying, if I can take this Senate respectfully through a very simple exercise of that 120 days, and the impact this could have had, I respectfully submit, on the statistics that I have just presented. Let us say someone, for example, is charged. Let us say there is an offence of, let us say rape or sexual penetration of a child. We had sexual penetration of a child, and let us say the minor is about 14 years old. We are looking at the sexual penetration of a child, and the minor being 14 years old—and this is not across the board, but I am just using this as a hypothetical example. We have a 14-year-old child who, let us say, her boyfriend, she is in a relationship, a bona fide relationship with a 20-year-old or a 25-year-old.

This child is 14 years old. In most instances, what you would find is that the informant in this matter may be a parent of the child, and the child may not necessarily be too pleased that his or her relationship is being reported to the police, and more so the boyfriend is being reported to the police. Now, when you have this report taking place, it is not that upon the report—we all understand that the police cannot just simply go and proffer a charge. What can this 120 days provide to the police? That 120 days with this person inside, with the accused inside, can allow the police the opportunity to be able to get statements from this child who, in this instance, may very much not be willing to give a statement, because the scenario that I am referring to is a case in which is “de boyfriend of de child”, and the child may be reluctant to give the statement. So the police officer in this 120 days, is given a window in which they can be able to at least attempt to solicit that statement from the child. So the statement is one.

In that 120 days there would be medical evidence that the police would have

to get, in order to be able to prove penetration, in order to be able to prove that the offence did indeed take place. That 120 days, respectfully, it gives the police the opportunity to be able to accrue that evidence. Any evidence that has to come back from forensic, it gives them the 120 days to accrue that. In that 120 days, we have an accused in this matter. That accused in this matter may require counsel, whether it is a legal aid, whether it is a public defender, whether it is their own counsel, before giving a statement to the police. That 120 days affords the police the opportunity to be able to get that information.

If we go further down the road, there are some offences, especially like, for example, in this sexual offence. If the police, let us say the child is not willing to assist, may need evidence off of a cell phone. The police may need evidence from an internet service provider to show that there was contact between the accused or, let us say, conversations that suggested that there was a sexual relationship between the child who is 14 years old, and the accused. That 120 days, it provides the police with the opportunity to accrue that evidence as well.

All in all, Madam President, what I am respectfully suggesting, submitting to this honourable Senate, is that 120 days seems like a lot, but 120 days, in essence, what it does is that it provides the police officers with the time in which—of course not for a witch hunt to be conducted, but it provides the police officers with the opportunity in which they can accrue the necessary evidence that would warrant the commencement of a matter against, or a charge being proffered, against the accused.

So, Madam President, in a nutshell, that is just a very simple example. Of course, there are more complex examples. The more complex the matter becomes, the 120 days will simply not be enough for police officers to be able to properly accrue the kind of evidence that is required, for them to successfully detect an

offence, but just respectfully submitting, from a very simple place, that that 120 days it is, in essence, going to support the police officers with the support that they would require, which could have possibly resulted in some of the statistics I would have presented, as it relates to the detection of offences that, of course, falls under Part II of the First Schedule of the Bail Act.

Now, Madam President, that in a nutshell is really just my two pence in answering, to the question that was raised, both by Sen. Mark as it relates to statistics, because I know the hon. Senator would have referred to this amendment as draconian. My respectful submission is that if we look at the statistics that were presented, bearing in mind, yes, and I reiterate, we are ideally where we want to be. The TTPS is not ideally where it wants to be in the detection of crime, I recognize that, but at the same time we have to recognize that the TTPS certainly has been able to make certain inroads, as it relates to offences in which this 120-day bail restriction would apply to.

Madam President, can you tell me how much more time to full time?

Madam President: You finish at 12.54. It is 12.41 right now.

Sen. the Hon. R. Sagramsingh-Sooklal: Thank you, Madam President. If I may now respectfully get into the crux of my contribution. Yes the Bill is a very small Bill, but as I would have started off by indicating it is by no measure a simple Bill, because, of course, it stands to fundamentally impact on our criminal justice system.

Now, I want to briefly begin by looking at some of the support that, at least—this Bill, we recognize, we all recognize that we would be trampling upon constitutional rights of a citizen, and hence we have the majority provision provided in the Bill. That is why there is the majority provision required. So all of that, the constitutionality of it, that entire discussion we understand that. But what I

believe was equally important to understand is, perhaps, what the public's opinion is, or what has been the support in the public domain, as it relates to the extension of this Bill.

While we know—of course, if we look at the spirit of bail, this amendment before us we understand is short as it is it indeed—as I would have stated before, it is a three-clause Bill and, of course, it requires us to address major constitutional rights of the accused. Especially, I know Sen. Mark would have made reference to section 5(2)(f)(iii) of the Constitution, that an individual has a right not to be deprived reasonable bail without just cause. Madam President, I agree. We all know that two fundamental principles of the criminal justice system is that a person is presumed innocent until proven guilty, according to the law. We also know that a person should not be denied his or her liberty.

So we understand all of that, but you, know Madam President, in preparation for this particular Bill, it took me to an article, “Bail Law: developments, debate and statistics, Briefing Paper” of 2010 by Lenny Roth, and that stated:

“When the Bail Act was enacted in”—New South Wales—“in 1978, the then Attorney General, Hon. Frank Walker, stated that the laws’ attempt to strike the necessarily delicate balance between the right of an unconvicted accused...to be at liberty...on the one hand, and the protection and welfare of the community on the other.”—hand.

So the question is, understanding the above, why are we here asking for the support of this honourable Senate? Madam President, we are here asking this honourable Chamber to extend the time period for a further year, and we are doing that because it is exactly then, it is exactly in accordance with what the hon. Frank Walker of New South Wales stated. We are asking for this amendment, already alluded to by the Attorney General for the protection and for the welfare of our

community. Let us not forget that we all have a responsibility, as we all know, to protect all of our citizens of Trinidad and Tobago.

Madam President, in preparation for this particular Bill, this Bill, I would have also come across an article *LoopTT* news article by Dareece Polo, and it was dated the 24th of June, 2020. It was an article in which the present Commissioner of Police made a statement. That statement is entitled:

“Police commissioner begs for extension of Bail Act set to expire soon”

In that article, according to the Acting Commissioner, the Bail Act has assisted in convicting persons accused of serious crime and targets repeat offenders. I believe some of my colleagues already made mention of this article, so of course I would not want to get into that. But here we have the head of the TTPS currently recognizing that this particular extension can play a critical role in us—going back to the previous Attorney General of New South Wales Walker’s position, it can certainly help us in protecting our community.

I came across an article as well by the former Commissioner of Police, Mr. Gary Griffith. In that article, even the former Commissioner of Police highlighted the need for persons who face multiple charges to be denied bail. It was in a CNC3 article entitled:

“Griffith makes fresh appeal for passage of Bail Amendment...”

—written by Sharlene Rampersad, dated the 4th February, 2021. Of course, this article goes on again to explain, as a Commissioner of Police, Mr. Griffith, recognizing the role that this extension in the Bail amendment could have played in the TTPS being able to execute its responsibilities in managing criminality in our country.

Now, we also had an article by the Minister of National Security. Another article that I came across is the *Guardian* article dated June 24, 2022, by Sharlene

Rampersad entitled:

“Bail Act set to expire, Govt lobbies citizens for its extension”

In this particular article, the hon. Minister of National Security stated the legislation is:

“...very important in the fight and the response to...criminals and criminality in the protection of the...”—citizens—“of Trinidad and Tobago...”

—which, of course, not just as a Minister of Government, but as a citizen of Trinidad, I completely endorse. These were just some of the support that I have seen in the public domain, as it relates to this particular extension.

Now, Madam President, in the few minutes that I have, if I may now respectfully turn to clause 3 of the Bill, which is the crux of the Bill, which seeks to amend section 7 by deleting the words “three years” and substituting the words “four years”. I know Sen. Richards would have spoken about what a sunset clause is. If I may respectfully add a little bit to that position advanced by the hon. Senator.

Now, in the 2016 law journal article entitled, “Snoozing Democracy: Sunset Clauses, De-Juridification, and Emergencies”, by Antonios. It was stated that:

“...the adoption of sunset clauses simply postpones decisions regarding extraordinary powers. Therefore, sunset clauses might not always be a shield against the normalization of extraordinary emergency provisions.”

Accordingly, this sunset clause in clause 3 of the Bill, I want to reiterate, is a temporary measure contingent on a new legislative decision. Rather than making a permanent amendment to the statute books, which may have more far reaching consequences, owing to a change of circumstances and in the near future, what we are doing is making a temporary change to the legislation. Now, Madam President,

I want to respectfully submit again, and ask this honourable Senate, in the Government recognizing that we are standing upon certain constitutional rights of the accused, why we are still here asking for your support.

Madam President: Minister, you have five more minutes.

Sen. the Hon. R. Sagramsingh-Sooklal: Thank you, Madam President. Why are we still here requesting the support of this honourable Senate? Why are we still here requesting the support of the country? I want to briefly look at the concept of reasonable bail. Wooding CJ in the case of *Collymore v the Attorney General*, made the point with his usual precision, that in the Bills of rights of our Constitution of Trinidad and Tobago, specifically section 4 of the Constitution, that no right is absolute. In other words, you cannot have a situation in which any one individual can enjoy a right absolutely, simply because the concept of absolute rights leads, as we all know, to anarchy. Therefore, such rights have to be subject to limitations, in order to justify a reasonable incursion. What we are attempting to do today, is to justify to you, the Members of the Senate, why we are attempting to make this reasonable incursion on the rights of our citizens.

Now, Madam President, to that end, if I may respectfully look, very briefly, at a statement that was made when this parent Act, the Bail Act, Chap. 5:60, was passed in the Parliament, and the then Attorney General, Keith Sobion, made a very profound statement, which would perhaps be the last thing that I contribute in this debate. *Hansard* dated August—and this is what I respectfully want to remind the members of this honourable Senate, of what I believe was a profound statement made by the then Attorney General. *Hansard* of the House of Representatives debate held on August 12, 1994, page 13. The then Attorney General, Keith Sobion, in his piloting of the Bail Act, Chap. 4:60, stated:

“The Bill of 1994, therefore, provides that repeat offenders forfeit their right in the same way as the one-time offender in the existing circumstances—murder and treason. The society must express its abhorrence of heinous crimes and we have to find a mechanism for balancing the right of the individual to liberty and the right of the community and the citizens to security to live within their homes and to conduct their normal...activity. Those are the rights that we are seeking to balance.”

This was the statement made by the then Attorney General, Keith Sobion, in 1994, when this Bill was piloted. Bearing that in mind, I want to respectfully ask the Members of this honourable Senate to consider giving the Government the support that we request today. This amendment, I believe when we look at what can be achieved and obtained, certainly that outweighs the concept of this amendment being draconian.

So to this end, I stand in support of the hon. Attorney General, and we do ask for your support. Thank you, Madam President.

Madam President: Sen. John.

Sen. Jearlean John: Thank you very much, Madam President. Thanks for the opportunity. Here we go again, because the Government comes to the Parliament to amend already draconian laws, which infringe on the rights of citizens, with no accompanying statistics or reports, nothing to show for the almost three years, because this Bill is in effect even as we speak. The hon. Minister who preceded me, would have gone into some statistics, but if that is success, I do not know what failure is.

You see, this Government operates from the lowest common denominator, and wants us all to accept that as the level that we should all accept as excellent, or

the place that we should live. This is no longer, Madam President, sweet T&T, far from.

I think, given what was—even if you have to use even current events as a score card for what is happening, or how the amendments we are speaking about today, how they would have performed for the three years that they have been in existence, I mean, you could just have looked at the newspapers of yesterday. The *Newsday*, for instance, the headline was:

“Murder mayhem”

The *Sunday Guardian*:

“13 killed in 36 hours”

The *Express*:

“Killing fields”

Trinidad and Tobago records 14 murders for the weekend.

Madam President, crime is more than the murder rate, and the Minister in the Office of the Attorney General and Ministry of Legal Affairs would have gone through quite a few other areas of crime, which are all very serious, but people tend to use the murder rate as the metric that they look at. It is the statistic the population looks to, and the murder rate is completely out of control. Because in this very House, if we have to try to exit Port of Spain using the Beetham Highway, right now, I do not think that we can.

Madam President, bail was and should never be utilized, it was not the intention for it to be utilized as punishment. It is simply to ensure that the accused person attends court for their hearing. Therefore, the remand of an individual in custody for even one day is punishing this person for an offence that he has not yet been tried and convicted of. I think it was last year in one of the committees, the then Commissioner of Prisons, he was talking about how people in the remand

yard, they are adopted and groomed into becoming—well, I do not want to say better, but hardened criminals. So it was thought by some that the refusal of bail, specifically murder, would act as a sufficient deterrent for persons not to commit murder. If this was the working position, then the murder rate in Trinidad and Tobago would be quite low. In contrast, however, the rate continues to be exponentially high. So this theory actually does not work.

The provisions of Act No. 17 of 2019, which is before us to be amended today, it is in full effect. It is not as if it is not here. It is in full effect. But, again, according to the media, blood flowed over the weekend like water.

So, Madam President, the Bill seeks to extend the time for which persons committing an offence specified in the Bail (Amdt.) Bill, Act 17 of 2019, can be denied bail. The speakers who preceded me would have gone through the list of offences, and I do not want to run the risk of you ruling, Madam President. But the Bill itself recognizes that what it seeks to do is in breach of the fundamental human rights and, as such, it must be passed in compliance with section 13 procedure. It needs a special majority of the Parliament.

One of the thresholds which the Bill must pass in order to withstand judicial scrutiny, is that it is reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual. If this cannot be shown, then the Bill will be exposed to constitutional challenge. I would have heard, I think, the hon. Attorney General, kind of teeing up that crime is being made—I think the Prime Minister would have said so—announced that they are going to characterize it as, I think, a public health emergency. So I think maybe they are teeing it up to probably come back with a lower majority.

So one of the thresholds which the Bill must pass in order to withstand judicial scrutiny, is that it is reasonably justifiable in a society that has a proper

respect for the rights and freedom of individuals. I repeat, if this cannot be shown then the Bill would be exposed to constitutional challenge.

Although the Bill before us, Madam President, is simply to extend the sunset period, it is incumbent to look at the substance of what is being extended, and whether it is still necessary. The case has not yet been made. What is the rationale for the extension? If the removal of the right to bail is countenanced as a solution to increasing crime and violence, then we need to really reflect on whether or not there are any more proportionate responses which may be less intrusive than breaching someone's fundamental human and constitutional rights. Have we put enough resources into crime fighting? You know, you hear about the police prosecuting cases, acting as prosecutors I think, I call them, in the Magistrates' Court, that sometimes they are not prepared. They are not well trained, maybe we need to look at that, manpower, the electronic monitoring strategy.

1.00 p.m.

Is it a disproportionate measure that is not rationally connected to the objective, that is securing attendance for trial, protecting society and witnesses from risk? And the more proportionate and less intrusive response could have easily be fashioned, example, reversing the burden of proof for the right to bail, strengthening the criteria for bail, using electronic monitoring devices and imposing more burdensome conditions, et cetera.

Madam President, the standardless sweep which seeks to deny bail to someone—to anyone charged for an offence in the specified Schedule regardless of the facts and circumstances, the strength and quality of the evidence, their age and antecedence is wrong. And the hon. Minister in the Office of the Attorney General and Ministry of Legal Affairs, again, would have outlined some examples. But what about if the prosecution's case is weak and tenuous? It includes children

who are inevitably to be treated on par with adults. It includes the sick, the elderly and the infirmed who would be treated on par with a strong youthful offender who can withstand the rigors of prison life. What about the battered wife who retaliates and stabs her husband on par with the husband who beats his wife to death? The father who kills a bandit during a home invasion after he rapes his daughter? And crimes of passion, Madam President, are treated on par with the bandit who burgled the house, raped and killed the daughter. The victim of infidelity who kills in an emotional rage is treated on par with the husband who murders his wife in cold blood. It is arbitrary, Madam President, and violates the discriminating moral code of conduct upon which the criminal law is based. And, of course, again, I refer the Parliament to the list in, I think, section 5 of the Act 17 of 2015—of 2019, sorry.

Madam President, Trinidad and Tobago has the legal infrastructure in place for electronic monitoring and this has been—the unit was established in accordance with section 4 of the Administration of Justice (Electronic Monitoring) Act No. 11 of 2012, and this was about a decade ago. On May 12, 2020, Parliament passed the Administration of Justice (Electronic Monitoring) (Amdt.) Act 2020, and this Act allows for persons who are granted bail to be monitored by the Ministry of National Security's Electronic Monitoring Unit.

Madam President, in an article titled, "Ministry of National Security installs first electronic monitoring device of offender", it was reported that:

"The installation of the device"—I quote—"was performed on Wednesday April 28, 2021 by the Ministry of National Security's Electronic Monitoring Unit, following an order of the High Court on April 23, 2021 via which the offender was granted bail, on a condition of compliance with the parameters of the Electronic Monitoring Programme."

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

The article ended by reporting that the:

“Electronic Monitoring is one of the major initiations being implemented by the Government of Trinidad and Tobago to transform and modernize the criminal justice landscape in this country. The Electronic Monitoring System is intended to contribute to the overhaul of the Penal System in Trinidad and Tobago by introducing a new sentencing option to the court as an alternative to incarceration, with a view to reducing prison overcrowding and introducing a more effective offender management system.”

You know, we have to go to, Mr. Vice-President, to the fundamentals. It is not just locking up people and throwing away the key. You know, whether it is education, better schools, Mr. Vice-President—

Hon. Senators: [*Desk thumping*]

Sen. J. John:—we saw the SEA results last weekend. All these are matters that should concern us because that is a pipeline, most likely, to the remand yard.

Mr. Vice-President, the Act is applicable to persons being considered for bail. It is difficult to understand why this Electronic Monitoring Unit has taken so long to be operationalized, especially since the Act was passed by Parliament since 2012. In any event, the unit has been operational for almost two years and one can safely assume that it has passed initial stages of the programme.

Mr. Vice-President, save and accept for one of the instances, there has been no major complaint of anyone who has been granted bail for any of the offences that they ever absconded. Because the entire purpose of bail is to ensure that accused does not abscond and that he or she attends court whenever the matter is called. So, placing people in jail without them being sentenced is really very punitive because we know that innocent people can also be in the remand yard for

years and years.

So, absconding is generally not a problem which plagues our judicial system. Reports of persons absconding are few and far apart. Furthermore, the judge is in the best position to assess whether the accused should be granted bail. The judge can take all the factors into account which generally leads him or her to evaluate the risk of the accused absconding. These factors are well known and they include, Mr. Vice-President:

- “(a) the nature and seriousness of the offence or default and the probable method of dealing with the defendant for it;
- (b) the character, antecedents, associations and social ties of the defendant;
- (c) the defendant’s record with respect to the fulfilment of his obligations under previous grants of bail in criminal proceedings;
- (d) except in the case of a defendant whose case is adjourned for inquires or a report; the strength of the evidence of him having committed the offence or having failed to surrender to custody;
- (e) and any other factors which appears to be relevant.”

And that is a matter for the presiding officer of the court.

Mr. Vice-President, the judicial officer, therefore, has a wide and fettered jurisdiction to grant or refuse bail. I maintain my position, however, that the automatic refusal of bail is wrong and unfair. It could never be right for someone to spend a decade in prison and then be casually dismissed because the prosecution is unable to establish a prima facie case. There must be some kind of risk assessment which must be done prior to imprisonment. People are entitled to the presumption of innocence until they are proven guilty.

Mr. Vice-President, the judicial officer can also grant bail on conditions such as electronic monitoring or a revocation of passports. Additional measures such as

frequent reporting to a district police station can be used as cautious approach.

Mr. Vice-President, bail is a judicial function and the effect of passing this Bill is taking it away and putting in the hand of the Executive. There is nothing to suggest that the Judiciary does not have the resources. And I am aware—I am quite aware that as at January 02, 2019, five persons were appointed as acting marshals of the court and they have been treating with their own human resource issues. So, what these things are supposed to do, these moves, this is expected to reduce some of the burden from the High Court judges and allow for more streamline of cases. Judges will therefore have the time—more time to deal with any anticipated bail applications.

Furthermore, Mr. Vice-President, any backlog of bail applications shall be cleared up in a short period of time. As recent as June 2017, the honourable Chief Justice himself appointed Justice Madam Waterman-Latchoo as a judge in the Criminal Division. So, again, the court, it appears, has been very forward thinking in terms ensuring their house is in order. Even research has shown that many magistrates also have been the recipients of appointments in the Magistrates' Court.

So, Mr. Vice-President, furthermore, plans are afoot to convert the entire Hall of Justice into the Criminal Division of the High Court. I am sure these are not things that are not known to the Government because, again, they are talking about the increasing capacity. The former Attorney General was here and he spoke about the move of the civil courts to the waterfront at a cost of \$56 million.

Mr. Vice-President, in his opening speech for the 2019/2020 law term, the honourable Chief Justice announced the impending move of the civil courts to Tower D. So, there is an expectation within the Judiciary. The honourable Chief Justice noted that the move will allow the Judiciary to retain the Hall of Justice

with its cells and appropriate circulation for criminal trials and appellate courts while fitting out 11 trial courts and 10 hearing rooms, mediation rooms, civil appellate courts and judicial officers, chambers along with supporting services and the Judicial Education Institute at the waterfront location.

Mr. Vice-President, in 2020, in that budget debate, the then Attorney General boasted about making significant reforms to the criminal justice system. Some of these reforms have been implemented and some are left to be implemented. So, nonetheless, these measures also will allow for a more effective and efficient management of the bail application system. So, there are measures being put in place to manage this process which is save and apart from the amendments that is before us for an extension of that no bail process.

Mr. Vice-President, with these measures in place, there is no reason why a prisoner should be denied the opportunity to make a bail application. It is not blanket. You have to go before the court. The Attorney General claimed to have done a significant amount of work to ensure the efficient operation of the criminal justice system.

Mr. Vice-President, in the 7th Report of the Joint Select Committee on Finance Legal Affairs on an Inquiry into the Wider Application of Non-custodial Penalties in the Criminal Justice System of Trinidad and Tobago, Fifth Session of the Eleventh Parliament, it was reported that:

“According to the information submitted by the Ministry of National Security, the cost of maintaining prisoners annually was seven hundred and twenty-eight million, seven hundred and thirteen thousand, two hundred and seventy-one dollars and eighty-one cents...”

Mr. Vice-President, can you imagine if that was put into education and training what this would have done for our population? Because:

“The total population of prisoners at 2018 was three thousand, nine hundred and forty-three...Of this figure, one thousand and sixty-four...are serving sentencing of five years and less.”

The report went on to confirm that the cost to maintain a prisoner is over \$15,000 per month. While there is no guarantee that all of the prisoners will be granted bail, this measure can have a huge financial saving for the State in addition to ameliorating the severe overcrowding situation.

Mr. Vice-President, furthermore in an article titled, “Petty crime accused clog up remand system: \$50 million burden on State”—the AG had said that. Dated April 06, 2016 and published in the *Trinidad Guardian*, it was reported that:

“It costs the State almost \$50million per month to maintain 2,235 remand prisoners in...”—Trinidad and Tobago.

“Attorney General Faris Al-Rawi revealed the figure as his office began its national consultation on prison reform at City Hall, Port-of-Spain...

Referring to statistics compiled by his office over the past six months, Al-Rawi claimed that taking into consideration the annual budgets of the Prisons Service, Judiciary, Office of the Director of Public Prosecution...and other criminal justice stakeholders, remand prisoners who account for little over 60 per cent of the prison population...”—they—“cost the State between \$20,000 and \$25,000 a month each. ‘That is a real figure to grapple with because coming out of this discussion we must decide what are we going to do about it. Are we prepared to make some hard and unpopular choices?’ Al-Rawi...”— said.

I am quoting:

“He claimed the situation was exacerbated by the fact that 11 per cent of remand prisoners have been awaiting trial for over 10 years, 11 per cent for

between five and ten years and the rest for under five years.”

Mr. Vice-President, the inordinate delay of overcrowding and subhuman prison conditions intensifies the consequences of the deprivation of the right to make an application for bail in accordance with the aforementioned constitutional rights.

In an article dated September 14, 2016 in the *Trinidad Guardian* titled, “Slow pace of justice haunts legal system”, it was reported that:

“There are now more than 700 people awaiting trial for murder and it takes ten years for a murder case to make its way through the system. In some cases, it takes up to three months for a simple trial to be completed.”

The article continued:

“In south Trinidad there are 76 criminal cases listed for hearing in the San Fernando High Court including 26 murders, two manslaughters, four attempted murders and six sexual offences.”

Mr. Vice-President, the reality is that the trial does not start sometimes until 12 to 17 years after imprisonment. This can never be fair for someone who poses no risk to society and for someone who is presumed to be innocent until proven guilty.

The removal of the court’s jurisdiction to consider application for bail cases falling with the specified Schedule has created a regime of mandatory remand at the behest of the Executive. The regime is indiscriminate in its application and is inescapable of permitting any judicial oversight or intervention. The court has already ruled as such in the case *Akilli Charles v Attorney General* for which judgment is still pending, I think, appeal. Such a system breaches individual’s enjoyment of one of the fundamentals of a democratic system of Government. The net effect, Mr. Vice-President, is the ousting of the Judiciary’s role to protect the individual against arbitrary detention by the Executive.

So, Mr. Vice-President, this Bill is no longer reasonable or proportionate and

the Opposition cannot support it. The Opposition will not be party to legislation which seeks to trample on the core principles of a democratic society. We cannot, in good conscience, pass legislation or agree to legislation that is at odds with the ruling of the Court of Appeal and which offends the court's tenets of a sovereign democratic State. Mr. Vice-President, we in the Opposition are not prepared to aid in the Executive aggregating onto itself an inherently judicial power, that is—

Sen. The Hon. R. Armour: Mr. Vice-President, 46(1), please. Akilli Charles is not relevant to this discussion. That has to do with murder in section 1.

Mr. Vice-President: Sen. John, I realize you are trying to—you were going to winding up. Just keep the arguments and the points pertinent to the three—

Sen. J. John: I thank you.

Mr. Vice-President:—tenets of this debate.

Sen. J. John: Yes. I am winding up.

Mr. Vice-President: I know. Yeah. Continue.

Sen. J. John: Good. So, we are not prepared to aid in the Executive taking powers—wide-sweeping draconian powers on to itself. This is already a runaway government and especially in this discretion, whether to grant bail or not to grant bail. So, Mr. Vice-President, we are therefore opposed to this unconstitutional law and we will not be supporting it. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Welch, would you like to make a—yeah?

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: Members, kindly allow the good Senator, who is on his legs, to make his contribution with due respect, please. Thank you.

Sen. Evans Welch: Mr. Vice-President, thank you for giving me the opportunity to address this matter of the amendment to Bail (Amdt.) Act of 2019. I have a few

brief remarks to make about this Bill. In fact, it is a narrow compass. It is basically a Bill with one clause which is to extend the Bail (Amdt.) Act of 2019 by a further year. If this Bill does not succeed today, it would mean that the Bail (Amdt.) Act of 2019 would expire in August of this year. And if it does expire, the question which arises is: What happens in those circumstances?

If it does expire, then we go back to the normal provisions of the Bail Act governing the grant of bail and that is, putting murder aside, irrespective of the nature of the offence, how serious it may be, whether it may be a firearm offence, an offence involving violence, whether it is kidnapping, whether it is an offence involving sexual violence, robbery, it means that a person on being charged would be entitled to apply for bail and be granted bail on his first appearance in court in all situations. That is what would happen if this Bill does not become law, if this Bill is not extended and we revert the normal position in August of this year. It means that judicial officers will continue to have full discretion in the matter and they will be entitled to refuse bail or grant bail as they see fit, taking into consideration the factors which are specified in the Bail Act as it is.

This Bail (Amdt.) Act of 2019, if extended by a year, it means that the provisions that have been introduced in 2019 will continue to operate for a further year. And the difference with those provisions is that, in certain circumstances for certain specified offences, it aims at preventing bail being granted to repeat offenders. So, for instance, the effect of the Bail (Amdt.) Act 2019 is such that if a person commits a specified offence or is charged with a specified offence and comes before the court, that person—if that person has a conviction for certain type of offence will not be entitled to be granted bail by a judicial officer. It is a statutory prohibition against bail. Not only if the person charged has a conviction but if that person charged has a pending charge, the effect of this Bail (Amdt.) Act,

which it is sought to extend by a year, in certain circumstances prevents that person from getting bail. A judicial officer cannot grant bail on that person being charged, being first brought to court.

Now, I understand the philosophy of the Act when it was passed in 2019, as well as the desire to extend it, because we are in a desperate situation, crime has gotten out of control and one way of curbing crime is by targeting repeat offenders. One way of dealing with repeat offenders is by preventing their access to bail.

Now, it has be observed that the judicial officers generally have a discretion to grant bail. The magistrates have a discretion to grant bail. But we have often heard the complaint when some serious offence takes place, especially an offence involving firearms, we have often heard the complaint with a firearm offence, or sometimes a robbery offence, or sometimes a kidnapping offence, or an offence involving serious personal violence, we have often heard the complaint that this person had pending charges or previous convictions and yet still a magistrate has granted that person bail. And the magistrate's discretion—the particular magistrate's discretion has been questioned as to whether it has been properly exercised. And therefore, to some extent, one can understand the philosophy of thinking that desperate times call for desperate measures, so you remove that discretion to avoid such occurrences in situations where you are dealing with repeat offenders.

And it must be emphasized and understood that this Bail (Amdt.) Bill largely contemplates the position with repeat offenders because it targets those persons who commit serious offences, but not just commit serious offences, but who has a pending conviction or a pending charge for serious offences. And that, in fact, has proven to be a problem with repeat offenders for serious offences. So, one can understand the philosophy and the thinking behind the consideration being

given to affecting that person's right to bail in certain circumstances and removing any discretion from the court and providing a statutory prohibition against it.

However, as the Attorney General has observed and as many of the other contributors have observed, there has to be a question of balance and there has to be a question of proportion and there has to be consideration given to the presumption of innocence. So, Act itself begins—the present Bail (Amdt.) Bill, 2019 begins in a dramatic manner which says:

“...where a person is charged with an offence mentioned in subsections (2) or (3) before the Court but no evidence has been taken within one hundred and twenty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.”

It seems to me, however, despite the philosophy and the thinking of the Government in seeking to extend this Bail Act and introducing it in the first place in 2019, it is equivalent to—it is equivalent to a legislative attempt at clapping with one hand. Because notwithstanding the philosophy behind it, it is largely a measure whose success depends on taking care of other problems associated with the criminal justice system. And to attempt to re-enact this amendment for a further year without those measures being addressed for the past three years, effectively it comes like spinning top in mud. Because one is saying here, the person who has been denied bail, who comes under this provision, would nevertheless, if evidence is not taken in his matter after the charge is read to him, if evidence is not taken within a 120 days which is four months, then he is entitled to be granted bail. And if evidence is taken within a 120 days but his trial is not complete within a year, then he is also entitled to be granted—he is also entitled to come before the court and be granted bail.

Well, it seems to me, Mr. Vice-President, that in light of the fact that the

person who is prevented from getting bail by statute can then turn around and apply for bail after a 120 days if his trial does not begin and if his trial does not complete within a year, it seems to me, therefore, that what one should have done over the past three years before coming for an extension is to try and expedite the particular offences and the particular offenders who this amendment affects, try to expedite their trials before the courts, try to have it started within a 120 days and try to have it completed within a year's time otherwise this provision really has no effect.

If the criminal justice system operated as it should and such were to occur, that is trial within the specified time, start it within a 120 days and within a year time, then as draconian as it may seem, I have no difficulty if it is certain that a trial will finish within that time for serious offences and repeat offenders if bail is not granted for that particular period of time. Because it is a question of proportionality, it is a question of balancing the person's—the offender's presumption of innocence against the potential harm they may do if they are released on bail. And if their trial can be concluded in that time and whatever punishment is to be inflicted, is inflicted within that year, then a balance is create. And if they are to be acquitted within a year, then a balance is also created. And if they are to be acquitted within a year then a balance is also created. But that, in effect, is not the case. That, in effect, is not the case. It does not happen and it is impossible and it is unrealistic to expect that a trial when someone is charged in the Magistrates' Court is going to begin within 120 days.

1.30 p.m.

There are several factors which affect and prevent that happening. So automatically a person charged who comes within this section will be entitled to apply for bail in 120 days. Because it is known, as I can say as a practitioner before the court, it is unlikely and hardly likely for that trial to begin. For instance, if it is

firearm offences with which we are primarily concerned it is a fact and it remains a fact, notwithstanding what the Attorney General had spoken about the increase in tool examiners and so on, it remains a fact and the imperial evidence is that with respect to firearm offences you do not get back that report within a 120 days. It does not happen. And that is an administrative responsibility that the Government who is advancing this Bill is responsible for getting in order without any excuses.

We have to reach a stage where, in respect of a firearm charge, if we say that firearms are the main problem that we are faced with, we simply have to reach a stage where the firearm testing comes back to a court within 120 days. We simply have to reach a stage where the police are driven by government policy between some kind of collaboration, between the Ministry of National Security and the police officers they are responsible for, of taking care of matters, getting statements, because a lot of matters are now done by way of statements in the Magistrates' Court, getting statements in order soon after a charge is laid so that a matter can actually begin within 120 days. Even if those things are taken care of, as a practitioner before the court I can tell you, the experience is that with respect to magistrates' lists, their trial dates are beyond 120 days. One hundred and twenty days is approximately four months, when a magistrate is ready to fix a matter for trial it takes about seven months before they have an available trial date.

So it has to be that even judicial officers are to be incorporated into this exercise and they are to be urged through the judiciary and collaboration with the relevant line Minister, however it is achieved, that where you are dealing with a situation where this amendment applies an offender or an offence with respect to which this amendment applies they may have to consider trying to effect to start within the 120 days even if it involves displacing other matters which are for much less serious offences displacing those trial dates, vacating them and replacing them

with these matters. For this provision to be effective, a whole lot of improvement in how things are done with respect to this draconian measure must take place in the criminal system.

Prosecutors who are responsible, be it police prosecutors or professional prosecutors from the DPP's Office or in some instances some statutory institutions have their own persons who appear before the court and prosecute, they must become part of the process when it comes to serious criminal offences whereby they do their part to ensure that a matter begins within the so called 120 days. And part of that responsibility is to deal with matters of disclosure very early. It is not an impossible feat because I have been in jurisdictions where it is par for the course that matters flow, expedited and they progress within the particular time frame that the statute aims for. If it is impossible to achieve that time frame, to start a matter and finish it within a year then forget about this piece of legislation, forget about this Bill. Because all it becomes is an inconvenience to a potential offender. Look, you cannot apply for bail until 120 days, but when the 120 days pass you are back to the normal position where you can apply and get it. That does not amount to any deterrence if you are saying that the purpose of this Bill is to curb the activities of repeat offenders. If a repeat offender has to wait four months and then get bail, because the matter does not get on the way, that is a mild inconvenience.

We have a situation recently where it is alleged that a person who had been imprisoned for some two or three years waited his time and when his prison term was up he went and carried out a brutal murder of his victim who he was imprisoned for harming. Four months is a mild inconvenience. What should really happen is that the matter should start in four months, the trial should be complete in a year and if the repeat offender is guilty then he is put away for the relevant time. But because those measures I have identified have not been taken for the past

three years or if taken, have not been taken diligently or simply have not worked then this Bill is really just intended as a trying to fix a leaking ship with many holes. You plug it for four months and it leaks all over elsewhere again.

What is its purpose? What is its efficacy if the criminal justice system at the speed at which things are done for which the Government is responsible is not paralleled with the provisions of this Bill. What is another year to achieve? Another year will be the same old same old. How did you arrive at another year? Is it being advanced that for the past three years we have been doing a lot and we just need one more year to complete? Or is it these measures have not been taken but let us have another year for the sake of another year. And then when next year comes and we are in the same situation is it going to be repeated, crime is a serious thing, proportionality, our society is badly affected, our citizenry is affected by crime, so when next year comes another year is asked for? What is the philosophy behind asking for another year if the measures which are required to parallel this provision have not seemed to manifest?

Hon. Senators: [*Desk thumping*]

Sen. E. Welch: Because for the past three years there has been no improvement in the speed and the delivery of criminal trials or criminal matters that have been put into the Magistrates' Court. That is what I was hoping to hear statistics on, not questions of detection. Because this Bill is about speed, this Bill is about efficiency. And without that speed and efficiency in the operations of the criminal justice system, as I said at the start, it is a legislative attempt to clap with one hand. Why deny constitutional rights without a purpose for four months? If after four months the person gets bail again because the matter has not started. What should happen after four months is that the matter should start. What should happen after a year is that the matter should be completed by then. And since that is not the case,

this is just an inconvenience to everyone, an inconvenience to the offender and nothing more really.

So I have not heard, I have to say, much justification in any relevant statistics being presented which can show how this Act for the past three years has been effective and achieved major goals and the statistics are to the contrary. If it is suggested that it was intended to prevent crime well then as one Senator has already pointed out we only have to look at what has happened and the headlines over the weekend, 15 murders. Any credit that is about to be taken about crime reduction over the past few years, it can be argued, has very, very, little to do with this Bill. As another Senator has observed we were on lock down and there was a noticeable reduction in crime for obvious reasons during that lock down period. And as the restrictions were lifted and have been lifted more and more, there has been a corresponding increase in the crime rate.

So if this Bill has been touted, yes, prevent persons from getting bail, it is much needed in the society, it will deal with the escalation of crime. The fact is the empirical evidence has shown it has not. I do not have a difficulty if you have a potential offender who is a potential risk to society, they have to be dealt with and I agree there could be some restrictions in that person's right to bail beyond the judicial discretion, but it must not be for an extended period. It must be that when this Bill is invoked that person trial is expedited and finish in a year. And if we know it cannot be and if we know it is impossible then do not suspend their rights for four months. Leave it to the discretion of the judicial officer, the magistrate or the Judge-in-Chambers exercising their discretion to decide whether to grant bail or not.

So, Mr. Vice-President, I end for the first time within my time by asking, again, what is another year? How has it been arrived at? Arbitrarily so? I have

heard nothing which says we have achieved X, Y, and Z and we just need another year to complete. Another year has been pulled out of the atmosphere it would seem. In an ideal society, I would extend a little bit, my contribution, with a functioning system, this Act with probably little complaint could be made part of the legislative landscape and not one with a sunset clause for three years. But part of the legislative landscape and if the system operated as it should, I suspect there would hardly be any complaint if persons even though denied bail were tried within—they see and know their trial begin within four months and concludes in a few months after. That would have created the correct balance. But the fact is that is not our reality. And since it is not our reality then unfairness prevails and is far more apparent than what is necessary in the interest of good governance. And, Mr. Vice-President, with that I would conclude my contribution.

Mr. Vice-President: Sen. Charrise Seepersad.

Hon. Senators: [*Desk thumping*]

Sen. Charrise Seepersad: Thank you, Mr. Vice-President, for the opportunity to contribute to the debate on the Bail (Amdt.) (Extension of Duration) Bill, 2022. Mr. Vice-President, I am prepared to support any measure which will reduce the incidence of gun related and other violent crimes including murders in general. While I understand the frustration of law enforcement in the courts and recognized that continuous improvements are required in ever changing conditions and systems, knee-jerk reactions and quick fixes are not advisable.

Mr. Vice-President, in the debate held in November 2019 we all debated all the issues involved in the curtailment of citizens' constitutional rights. Despite reservations the Government was given the benefit of the doubt and the Bail Bill 2019 was passed with the support of Senators. Now in 2022 we are asked to support the extension of the sunset provision for a further year to August 04, 2023.

From all the statistics and changes to the judicial systems crime has escalated and Trinidad and Tobago is worse off today than what existed in 2019.

Mr. Vice-President, I only have to refer to the numerous murders that occurred over the weekend and the protest occurring on the Beetham Highway at this time. It makes no sense to strengthen the law and hope that the legislation would automatically result in an increase in the detection and conviction rates of these heinous offences. I have heard nothing to tell me that the Government is introducing new measures to deal with the escalating crime situation. The same things are being done with the expectation that bail denial will act as a deterrent to crime and result in a reduction in the level of crime. We need to know why all the measures implemented have not worked.

Further, we should also be provided with amendments to a wider suite of laws which can be used in conjunction with the Bail Bill extension. Mr. Vice-President, I would like to urge the Attorney General to audit the resources of the criminal justice system which includes personnel, technology and systems for adequacy and effectiveness. Thank you. Mr. Vice-President.

Mr. Vice-President: Sen. Lyder.

Hon. Senators: [*Desk thumping*]

Sen. Damian Lyder: Thank you, Mr. Vice-President. Mr. Vice-President, thank you for the opportunity to contribute to the Bill entitled, an Act to amend the Bail (Amdt.) Act, 2019 and extension of duration 2022, which obviously seeks to extend the sunset clause by one year. And, Mr. Vice-President, not being a lawyer but being a businessman and understanding what a sunset clause means I see that a sunset clause in this legislation would mean to be an interim measure. This was only because of the seriousness of it. By that reason any time you are depriving people of their liberty and their freedoms it is a serious constitutional matter.

Mr. Vice-President, this was done as an interim measure to allow systems to be put in place. I heard a number of speakers talk about the overall systems of crime fighting crime, more than just this Bill that we are debating here today. And, Mr. Vice-President, the Opposition supported it on the basis that while there was an encroachment on rights and freedoms there was meant to be a plan put in place to arrest crime. And the reason why there is a sunset clause is that this is simply not healthy legislation for any democracy.

Mr. Vice-President, I heard Sen. Richards mentioned that the Opposition supported it and he asked the question, what has changed? And through my contribution I would describe exactly what was changed. But just for an immediate response to that, I would state to Sen. Richards, through you, Mr. Vice-President, that there was a judgment in the Court of Appeal, in the Akilli Charles matter on a matter of bail for murder accused. And the court made it clear that the Parliament is not the body to determine bail for citizens. That is the function of the Judiciary to do so. That is what has changed. But it is not healthy because you do not necessarily simply take away the rights of individuals because you have an escalating problem. This is not the solution. What has happened here, Mr. Vice-President, has demonstrated that this Government, that there is no plan, there has been no plan and there will be no plan by this PNM administration.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: Mr. Vice-President, other than trying to erode the rights of citizens in this country, what the citizens of this country want and what the Opposition want is for crime to be bought under control in a systematic way, that there is confidence in the measures and the systems being put in place. I just heard Sen. Welch speak at length on systems and I will refer to Sen. Welch's contribution several times in mine, because I agree with him.

Crime is not only about the police on the beat and taking away the rights of bail and blaming the Opposition every time there is an escalation in crime. What is required, Mr. Vice-President, is a holistic approach in terms of how the courts operate, the prison system works, the community, school systems, not just about bringing this Bill to the Parliament; how they all operate simultaneously for a collective purpose. And I heard the hon. Attorney General speak about this holistic approach. In his piloting of the Bill, it is the AG himself had signalled the fact that the systems in the various Ministries and various entities of the Government needed to be improved. He himself said that, and I heard various Senators here today also speak of that.

But we have seen things getting worse incrementally and I think the previous speak, Sen. Seepersad said that we are worst off today than we are in 2019, from since 2019. So there is the no plaster for a sore, there is no quick fix, Mr. Vice-President. Things are simply getting worst. In fact right now outside the doors of the Parliament there are serious demonstrations. I am not going to go at length to that but I am saying to you that things are simply worse. So when we listen to the Prime Minister come to this country on a press conference and state that crime is becoming a health emergency, we wonder if it is getting so bad that a state of emergency is coming. Should the Prime Minister be calling a state of emergency for what is going on outside or maybe he should be calling an election, that is what he should be doing. But, Mr. Vice-President, I move on.

Mr. Vice-President: Allow—

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

Mr. Vice-President: Sen. Lyder, relevance to the topic.

Sen. D. Lyder: Yes.

Mr. Vice-President: The three clauses at hand—

Sen. D. Lyder: Yes, yes, thank you, Mr. Vice-President, I take your guidance of course. So taking away the rights of citizens only makes things worse. All it is a plaster for a very short time unless there is meaningful dialogue and the country gets confidence in their plans we are simply going to fail. I heard Sen. Welch state that unless we can have a trial started within four months and completed within a year, and in my opinion I agree with him, this does not make any sense. And, Mr. Vice-President, this is probably the worst time to debate this Bill because the population is terrified and they are afraid now. They are going to view that the Opposition by us disagreeing here today on this piece of legislation, they are going to view us as somehow being against fighting crime or encouraging crime and that is the narrative the Government will use when we vote today.

But the problem is do you allow the Government that has not been able to control crime when serious allegations of the police service are being headlined every day and more importantly a Privy Council judgment that raises serious concerns about a judicial officer and a PNM Attorney General who was sitting at the time. We must ask ourselves if these matters build confidence. The Opposition will be attacked and criticized for taking the position of opposing the Government on this Bill. But we are opposing because the Government is using measures in a draconian manner that could upset the lives of innocent people. So while the PNM may just want to pass laws to lock up everybody and throw the key away and deprive everyone of bail, one has to understand that what is the likelihood that innocent people could be trapped in a system by the way of some rogue police officers, for example.

We know that there are many good police officers in the system, but it only takes one rogue officer to spoil the bunch and have a person locked up who is innocent, especially when we review section 5(3)(c) and (4).

2.00 p.m.

Mr. Vice-President, so have we ever heard of people being set up in a system? Are there rogue officers? I ask the question. We heard the Attorney General referred to section 5(3)(c) and section 6, Part II of the Schedule. So therefore, when you read that you have to ask the question, if one man is deprive from bail in a legitimate circumstance because of wrongdoing of police, this is one man too many, Mr. Vice-President. When this is put in place and the police are constantly given increasing power with a police service that in my humble opinion, Mr. Vice-President, and in the opinion of many citizens in this country, a police service that is actually broken. Yes, there are good police officers fighting to save it, but we must admit that the police service is broken currently when we see the level of crime spiralling out of control. If we had a police service that was performing par excellence we would have said proceed, but we have a broken police service. We do not have a criminal justice system that allows speedy trials. Sen. Welch spoke about that.

This law will take away bail from persons knowing that there is the likelihood that no one will get a trial sometimes within four and five years, Mr. Vice-President. The State will take away their rights in this Bill because the perception of anyone who is charged or has two offences—you know let us just be judge, jury and executioner all at once, the police service. Let us bear in mind that the purpose of bail is not to punish an individual. The purpose of bail is to ensure that people attend court. That is all it is. The court system determines whether you are innocent or not, and the court system is failing to have speedy trials. Is it that

you are going to remove bail from people to facilitate a system that is not functioning adequately, Mr. Vice-President? There are so many cases of people who have been set up wrongfully by rogue police officers or by other people who have criminal intent, and they take sometimes five to 10 years to be found innocent.

There are people who cannot even afford some of the top lawyers, who cannot afford proper representation and fall through the cracks because of a broken system. There is a creeping system where the Government is trying more and more to encroach on citizen's rights, Mr. Vice-President. And as I said, judging from the Prime Minister's comments, in my humble opinion we are heading towards another state of emergency with no notable and meaningful solution of crime in place. There is a Commissioner of Police who is saying that we have everything under control and we should not be bothered, and on the contrary, there is a lot to be bothered about, Mr. Vice-President. We have a DPP who comes out and complains that he is understaffed to deal with matters.

Mr. Vice-President: Sen. Lyder, I ask you to keep your arguments as it pertains to these very three narrow extension clauses that this this Bill is about, and not drift as far as you are going. Thank you.

Sen. D. Lyder: Yes. Mr. Vice-President, we are now debating an extension of an Act No. 17 of 2019, and the body of all the decisions once passed will come into effect here. The whole Act is being amended. So we should be allowed to discuss anything that pertains to this Act.

In fact, it is the hon. Attorney General who spoke about section 5(3) and (6), Part II of the Schedule. So I hope to be given some latitude to discuss matters of this Bill, and also—

Mr. Vice-President: Sen. Lyder, your latitude is the parameters of the Bill.

Sen. D. Lyder: Yes.

Mr. Vice-President: Can you stick to it, please?

Sen. D. Lyder: Yes. Thank you, Mr. Vice-President. And also too my latitude, Mr. Vice-President, is to respond to persons who have spoken on the Government side, I can respond to the Independent Senators, and all of those persons who spoken about the systems, about this Bill not being impactful, or the efficacy of this Bill not being there if we do not have all the other systems in place. So I am responding to Independent Sen. Welch, to the Attorney General who spoke about the systems. So I am just simply talking about the systems around this Bill.

Mr. Vice-President, so when you have a DPP who comes out and complains about being understaffed to deal with matters, when you have backlogs at the criminal courts, we have orders to kill people coming in from jail, where is the Government's plan to deal with these issues? If you do not have a holistic plan, as was the intention of moving the sunset clause, we are going to fail. You cannot just take away more and more people's rights to justify your PNM failure.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: You see once you start to undermine people's rights because you are unable to deal with the situation, you are interfering with the innocence and the innocent. Once the innocent is interfered with and judges do not have the power to make a determination, whether a person is innocent or not, entitled to bail or not, you have a very dangerous system in front of you, Mr. Vice-President.

You have competent judges and magistrates who can make a determination. Is it that this Government has no confidence in the magistrates and judges? I am asking the question. They are the ones who are going to be determining the innocence or guilt of people. But by doing this you are now exercising your right over the Judiciary without even giving a proper explanation to say, "Hey look, look

at the progress we have made in the last three years. We need another year to continue because we made significant leaps and bounds by this piece of legislation.” And I listened very attentively to Sen. Welch. He spoke at length to this and he simply stated and I am quoting exactly but I am saying he that—he indicated that there is no justification by any statistics to show the efficacy of this piece of legislation. No empirical evidence to show that the Bill is effective or ineffective. Sen. Mark also indicated this. And all that it may end up doing—and I think Sen. Welch said it—is inconvenience the offender and nothing more really.

However, this amounts to another failure that the Government wants to put a plaster on and at the same time blame the Opposition. We waiting for that. But, Mr. Vice-President, let me tell you, the Opposition’s role is to ensure that the rights and freedoms of individuals are intact. We do not have control over a Government that fails to deal with crime, but we in the United National Congress remain as watchdogs of the society to ensure that individual’s rights are not trampled upon by a broken PNM system, Mr. Vice-President.

Mr. Vice-President: Sen. Lyder, I will remind of 53(1)(b). When it comes to tedious repetition—

Sen. D. Lyder: Yes, not a problem, Mr. Vice-President.

Mr. Vice-President:—I am not even referring to you or reiterations of the past deliberations. I am referring to yourself within your own speech. Okay?

Sen. D. Lyder: Thank you, Mr. Vice-President. I will move on. So the Government has had three long years with this legislation but they made zero progress. Crime actually got worse, Mr. Vice-President. The murder rate has increased. Today the murder rate is bolting towards 600 for the year. At the rate now, it is bolting towards 600. So it increased. This piece of legislation has not worked in the past three years, and all other serious crimes are skyrocketing as

well, Mr. Vice-President. People, many people if they are asked—and this is another system flaw again, Mr. Vice-President, I am referring to that we all have been talking about today—many people if asked do not have the confidence in the police service, nor its operations any longer.

More so, Mr. Vice-President, after the revelations by the Police Complaints Authority and the incidences regarding rogue police officers that make citizens extremely unfortunate today, to trust that they will have fairness in this legislation. The biggest complaint, Mr. Vice-President, is the number of police officers who have been charged, not only for corruption, but for wrongfully killing persons. That is how severe it is. There have been several cases with a number of police officers being charged for corruption in connection with a range of offences such as bribery, human trafficking and others. These are persons who are meant to protect and serve us and who will play a part of section 5(3)(c), (4) of the Bill—they will play a part in this.

The Police Complaints Authority came out recently to make allegations to this effect, Mr. Vice-President, and then the DPP Office, as I stated earlier, is understaffed. There is a litany of criminal matters, yet there is no matching complement of personnel in the DPP's Office to handle them and I will speak about some of these statistics later. So they can only go at the pace based on the number of attorneys they possess. So this is a Department that has clamoured for increased resources for years. So this is simply going to create a backlog of putting the plaster of locking up people with no chance of effective quick justice, and at the end of the day do we anticipate crime to escalate? Of course, unless there is a plan in the country that the population has faith in. There is no plan or system. Or is there a secret plan that nobody is aware of?

Once the entire population is gripped by fear, this fear has nothing to do with

a Bill amendment Act. But because there is no plan to help citizens decide if they are to endure an extension of another year here, the Opposition will not buy with in to this. The population and the Government has taken this on for three year, yet they are still waiting—we are still waiting on this plan. There is no plan. So it is in my opinion, Mr. Vice-President, that the Government is looking for a smokescreen and in the end will try to blame the Opposition. But the failure of crime must be bolted firmly on the chest of this PNM Government, Mr. Vice-President.

Mr. Vice-President, let us ask ourselves genuinely, is there a likelihood that any businessman in this country—so I am speaking as a businessman watching this Bill presented here today, and I ask is there a likelihood that any businessman in our country could set up or frame? Are there matters that somebody could find themselves innocent but in trouble and in breach of the law? And I think the answer is yes. If this bail amendment continues and you get in trouble once, and the second time something happens, you could easily be set up and caught by this legislation. For example, Mr. Vice-President, when we look at firearms offences, you may have an extra bullet from the range as a licensed businessman who has gone there to shoot and practice, or you do not have your book on you at the time, or you have to give your wife the gun because there is an incident, a shootout, and she holds the firearm— I think recently we saw someone had his gun over to his driver, I cannot remember the name, but the businessman is not committing any criminal act with the intent to rob or injure someone, Mr. Vice-President. It may be a genuine mistake, however he may still be charged by this legislation.

If the second offence happens, for whatever reason there is an infraction, he will potentially sit in jail for 120 days. The point is that there are cases that, on its facts, there are completely defensible, and there are cases where there are breaches of the law whereby a mistake or a misunderstanding people get in trouble. And

only, Mr. Vice-President, a magistrate could exercise the discretion upon hearing those facts. So taking away the discretion from a magistrate to determine who is a bandit, and who is a person that has found themselves in the wrong situation, is prejudging that person. If you take away the rights and say that magistrates ought not to have an ability to determine where the discretion should be exercised, then the Government is putting matters in a very dangerous place.

Mr. Vice-President, I heard Sen. Welch talk about we could have been—that you could have someone sit, and, in fact, when I looked at section 5(4) of the Act, someone can sit as long as 120 days without the officer providing evidence, and sit there. And if an officer wants to be vindictive for whatever reason, a rogue officer, can then present the evidence on the 118th day in order to start the proceedings, and then we do not have a court hearing for months after, or a year after, this person could find themselves under lock and key by this draconian piece of the legislation. Mr. Vice-President, even if the intention is good, it must be done for a purpose. We should give the magistrate back the power of discretion. If the Government does not trust or believe in the magistrate, let the Chief Justice put a practice direction in place on how you treat with these matters.

The court must have some discretion when you are dealing with the rights of individuals, because by virtue of what the Government is advancing here today, what I interpreted is, is that this Government does not have faith in the Judiciary. So why take away the rights of the magistrate to determine whether you are entitled to bail or not? It is the same magistrate that determines whether you are guilty or not.

Sen. Gopee-Scoon: Imputing improper motives.

Sen. D. Lyder: To who?

Mr. Vice-President: Sen. Lyder, kindly stick to the discussion at hand. Move on

kindly. Thank you very much.

Sen. D. Lyder: Yes, Mr. Vice-President. So in one breath my interpretation, not imputing any improper motives on anyone, my interpretation is that this Government has no faith in the magistrate. So it is either you have faith in the Judiciary or not. Lost some time, Mr. Vice-President, from all these disturbances.

Mr. Vice-President, by giving access to bail we are not increasing crime, but rather giving the magistrate the power to deal with the matters. What the Government should be doing instead of trying to put a plaster like this, they should be articulating to the population how they will expedite hearings, how they will expedite trials. Why they have matters that are in the system for 10 years and 15 years in many cases? This should be the case. How come there are criminal trials that are ongoing for a year or two years in some instances? How do you justify that? When will they finish the backlog of the matters currently in the system, Mr. Vice-President? When? It may take 10 or 15 years if there is no crime committed. At the pace that it is going now, it may 10 or 15 years if there is no crime committed from today to finish the backlog in these matters, but we know that is not the case.

Crime will continue to be a runaway horse under this administration. People will continue to be charged. The Government must put a system in place to clear the backlog. There must be swift justice. There must be a rule of law that allows people to be tried, either convicted or acquitted immediately. What we are doing is simply prolonging it. And I also echo the sentiments of other speakers. Why 120 days? Why another year? Why do we need another year? We took that out of the sky? I think what it was is—oh yes, another year pull out of the atmosphere? I like that quote. Because no trial is started before a year or two years, and this is a fact. I agree with Sen. Welch. What they are setting up the country for is the need to build

more jails maybe. And if that is the case, Mr. Vice-President, jails are proven not to be a deterrent to crime.

This is another system breakdown again, Mr. Vice-President, that I am referring to. Because from the Commissioner of Police and the Commissioner of Prisons' utterances, it appears that gang leaders in prisons seem to be running their business more effectively and efficiently inside than outside. It is another breakdown.

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

Mr. Vice-President: Sen. Lyder—

Sen. Gopee-Scoon: Way outside.

Mr. Vice-President:—you are way outside of the parameters. You are straying and I ask you to keep much tighter. Not just tighter, but more relevant.

Sen. D. Lyder: Yes, yes, yes. Thank you, Mr. Vice-President.

Mr. Vice-President: You were speaking at length about—

Sen. D. Lyder: Yes.

Mr. Vice-President:—crime fighting initiatives which really does not fall under the purview of this discussion.

Sen. D. Lyder: Yes, okay. Mr. Vice-President, any time a piece of legislation has a time limit it means that there is an expectation of the need to test for this efficacy. So this Bill has failed on several fronts, one of which is the access to justice. It also ignores the gaps in administration of justice that delay justice which is as a result of poor priority spent by this Government. This Bill will do nothing to move the detection rate up from the poor 18 per cent standard at present. This Bill will not do that.

So therefore, from the 500 or more murders, maybe 600 this year, approximately 400 or 450 of them will go undetected. So this poor detection rate

shakes down the confidence in the police service. So the bail amendment was law from 2012. The People's Partnership in that time took serious crime down to lowest levels in decades, Mr. Vice-President. However, this was not achieved via this legislation alone, and that is why today the big topic has been systems, overall systems. It was not law-making operating in silos as you observed this Government doing today. There was community comforts patrol, there was CCTV cameras. There were so many initiatives that the People's Partnership put in place along with legislation, and we have heard the Government repeat the same litany of excuses, ad nauseam, such as they claimed they had to pass water down anti-gang Bill which we also do not agree with. So we do not subscribe to that narrative.

In fact, the current occupier of the AG Office was against the Bill. I heard the hon. AG say that earlier when he piloted the Bill, he was against the Bill back in 2016. So what has changed?

Sen. Gopee-Scoon: Point of the order, 53(1)(b). We heard that already.

Mr. Vice-President: 53(1)(b)?

Sen. Gopee-Scoon: Repetition.

Mr. Vice-President: Repetition? Self on self.

Sen. D. Lyder: Okay. Well I was just passing over it because I heard the hon. Attorney General say that, and what I did not hear is the question what has changed because crime has worsened. So what has changed? And a breakdown of all Government institutions in this country.

Mr. Vice-President, Sen. Mark spoke about rogue police officers who are going to be able to charge persons under section 5(3) and (4). This in my opinion, Mr. Vice-President, places too much power in the hands of police officers. And whilst again there are very good hardworking officers out there, there are some statistics I need to read for this Senate to understand why we have a concern with

this Bill. So no one spoke about statistics. We did not hear statistics of how this Bill worked in the last three years, but I have some statistics on the issue of rogue officers who will be charged to carry out this—

Mr. Vice-President: Sen. Lyder, would you be able to substantiate the source of your statistics?

Sen. D. Lyder: Yes, absolutely. Absolutely I will.

Mr. Vice-President: Please go ahead.

Sen. D. Lyder: I will be able to do that. I am glad you asked, Mr. Vice-President. So if I may continue I will substantiate that, yes.

So there has been an understanding that there are rogue officers in the TTPS. “Last year...”—alone, Mr. Vice-President—“...18 police officers were charged by the Professional Standards Bureau...”as reported in a March 12th, *Express Newspaper* story by Alexander Bruzual—“...for a variety of offences against them.

So I just substantiate it. And to compound matters, the total number of officers under investigation has been increasing.

Sen. Gopee-Scoon: Point of order.

Mr. Vice-President: Sen. Lyder, you asked to quote the statistics to make a point.

Sen. D. Lyder: Yes, and that is what I am doing now.

Mr. Vice-President: Can you come to the point please?

Sen. D. Lyder: Yes, I am getting to that point. Right now I am getting to it—

Mr. Vice-President: Please get to the point.

Sen. D. Lyder:—because I have to address the overarching powers that the police in section 5(3) and (4).

Mr. Vice-President: No. Actually you do not. It is confined to—

Sen. D. Lyder: So, Mr. Vice-President, I will go very quickly through the

statistics. So there were 82—

Mr. Vice-President: Sen. Lyder, you have five more minutes to complete your contribution.

Sen. D. Lyder: Thank you very much. Thank you. So there were 82 in 2018 investigations; 90 in 2019; 124 in 2020; and in 2021, 133. This is an alarming trend, Mr. Vice-President. And to show that these matters are not frivolous, the number of convictions has risen from seven in 2019 to 12 in 2021, and for this year up to March the 12th we have already seen 17 convictions of police officers.

So it must be noted that the sanction strength of the Professional Standards Bureau is 54 persons, yet they are only operating at 63 per cent capacity with 34 persons employed. So again, this is another breakdown in the system, Mr. Vice-President, that we all have been speaking about that I am responding to, and I see I am being interrupted again.

Sen. Gopee-Scoon: Point of order.

Mr. Vice-President: Sen. Lyder?

Sen. Gopee-Scoon: This is not an all systems debate. 46(1).

Mr. Vice-President: Sen. Lyder, you are going down very granular into systems and not bringing the relevance of it into the matter. Kindly bring it back to the relevance of the topic at hand please?

Sen. D. Lyder: Thank you, Mr. Vice-President. The relevance of the matter is that we are about to pass legislation, or extend, sorry, the sunset clause on legislation for another year of a piece of draconian legislation that puts power in the hands of police officers, and I am connecting it by showing that there are a number of rogue police officers that could potentially negatively impact innocent persons with the powers they have in this Bill.

Mr. Vice-President: Sen. Lyder, your point is noted.

Sen. D. Lyder: So I am directly connecting

Mr. Vice-President: Your point is noted. Your point is noted. We understand. Can you move on to another point please?

Sen. D. Lyder: Yes. Thank you, Mr. Vice-President. Mr. Vice-President, and again we see a situation with under resourcing in the DPP.

Mr. Vice-President: Sen. Lyder, this is the fifth time in your contribution you have said the same line about the under resources of the DPP's Office.

Sen. D. Lyder: Right.

Mr. Vice-President: Is there a point you would like to make on this?

Sen. D. Lyder: Yes, I want to quote an article.

Mr. Vice-President: Would it be the same point?

Sen. D. Lyder: I would like to quote an article, yes.

Mr. Vice-President: Please go ahead.

Sen. D. Lyder: Yes, thank you very much. So let me quote an article. A *Guardian* article on the 22nd of February this year, the Director of Public Prosecutions, Roger Gaspard, stated that his approved staff complement is 137 attorneys, yet we observed after seven years of this Government he has only 50 attorneys. That speaks to what the speed of justice that I heard Sen. Welch speak about.

So the Office of the DPP is operating at only 36 per cent capacity. The article went on to state as well:

“Gaspard...”—had—“...explained that for his prosecutors to properly and robustly...deal with bail applications, they would have to provide the court with detailed reports on whether the accused poses a threat to witnesses, whether witnesses protection is required, and the accused person's propensity to reoffend whilst on bail.”

And if this was not bad enough, in the same article we learnt that the Permanent

Secretary in the Ministry of National Security, Gary Joseph, outlined challenges in the electronic monitoring unit as such. He spoke about staff shortages; absence of equipment to provide safe and effective monitoring of high risk offenders; monitoring equipment acquired does not meet the criteria required for high risk offenders; and there is no sufficient budgetary allocation to treat with the bail application cases that will flow based on the landmark judgments in court.

This again speaks to the lack of resources that the Government puts into these institutions, but wants to come and pass this Bill. These are damning submissions from both the Office of the DPP as well as on behalf of the Electronic Monitoring Unit. So now to cover up the incompetence in delivery, they want to deny bail. Therefore the citizens must pay and lose the benefit of access to bail that is a feature of our system and administration of justice in this democratic and sovereign state.

Mr. Vice-President, the Government is denying access to bail carte blanche. In doing this it is creating a system that is right for increasing recidivism rates. When you take a presumably innocent person who is impressionable and incarcerate them from 120 days, you potentially produce a criminal, Mr. Vice-President.

Mr. Vice-President: Thank you, Sen. Lyder. Your time has expired.

Sen. D. Lyder: Thank you, Mr. Vice-President.

Hon. Senators: [*Desk thumping*]

2.30 p.m.

Sen. Dr. Varma Deyalsingh: Thank you, Mr. Vice-President, for allowing me to partake in this Bill to basically look at the denial of bail for a further 120 days to persons listed with an offence punishable to 10 years or more imprisonment and the list of offences was given by a Senator on the Government side. So basically

we are here again to revisit this topic.

And I might say a bit of history of this is I have to look at why this came about and I would just like to quote on Tuesday, October the 1st, 2019, Shaliza Hassanali in the *Guardian* wrote an on article captioned:

“Amendments to Bail Act on the way...”

And she quoted the Attorney General Mr. Al-Rawi said:

“...he was ‘astounded and shocked’ that a judicial officer had granted bail to a person who was charged with having nine automatic firearms in his possession.”

Again, it seemed to be that there was a talk then about bad bail decisions and this obviously disturbed a government who have a problem really trying to get a handle on crime. So this was put as something that would have helped that situation with runaway crime. Even the Commissioner of Police then had recommended and supported this legislation. So here we are again looking into this, and I might say it did bring about, what I may say, as was mentioned, bad bail decisions or you know probably a distrust in some of the bail decisions made by magistrates at that time. So we came, we passed this, we gave Government this 120 days and we were actually promised that they would have gotten their act together, this would have helped them.

And I might say I was a victim of crime, four times. I was held up at gun point by two young thugs, I was almost pulled out of my car in Morvant Junction. I had a home invasion, my wife’s car was broken into. So I know what it is like to feel to be a victim of crime and I am one who has also said I will support legislation which would probably go to punish criminals. I say we have to punish criminals, we have to set the example to curb crime. We have to set the example to put away criminals so, you know, they would not be out there causing a distress,

social distress. Also to have what you call social learning so the young persons would see criminals are being putting away. This is what I think a responsible Government would have to do. And I fully believe that while we are trying to bring the strong arm of the law to get those criminals apprehended, to have that, we also have to have the family social intervention so the young ones coming up would be somehow be able to move away from that cycle of crime.

But in 2019, we were promised that this was a temporary measure. This was a measure that we knew it had an erosion in the rights of individuals but we were told that Government was putting things in place. The AG then had mentioned about plant, processes, machinery and he gives us the promise that things would have been put in place. We would have been getting courts to be functioning well, we would have even gotten faster justice, we would have been able to have more masters, magistrates and the whole system was exciting. It was an exciting brush he painted about the judicial system and I was very, very pleased when I heard that. But today I am disappointed when I heard a practitioner of the court, Sen. Welch painting a different picture. So even though I may have come in to this forum today to defend this Bill, what I am hearing, you know, has me in two minds because a practitioner of the court is actually saying things are not right.

So we have to understand that this pre-trial detention of civilians in violation of the presumption of innocence and the protective constitutional provision, this is serious and you know, I voted it. I voted for this before hoping the Government would get their house in order, give us things promised, CCTV cameras. They got some things. The coast guard vessels, I mean, to protect our borders that guns are coming in. So things were being done but yet still we have to say this situation that we have now, is it that the 2019 legislation, did that give us any sort of relief? Did that give us any sort of improvement? Because we took away rights of

individuals but did we get something to gain.

I heard the AG mentioned yes there were some statistics, I heard other persons mention that it could have been the COVID pandemic which could have probably caused a reduction in crime. So for me to really judge, I have to say, am I feeling safer? And to be quite honest, I am not feeling safer as yet in this country. I have seen there are much things to be improved. And what I might say is that if I have to judge, I want to judge what other persons were saying about what is happening out there, to judge if that legislation in 2019 did give us that effect.

Because remember that legislation was like giving “ah bligh, eh” and I always say here we are seeing legislation I think even last week, we had the NIS legislation where people get “ah bligh” for late payment, for breaking the law as mentioned by Sen. Vieira. I even looked at the marijuana legislation which I supported and I saw one of the reasons given was that there were so many young persons in jail and we have to try and cut this amount of young persons in jail for this. So it was really giving the judicial system “ah bligh” because if you had a faster judicial service, those persons would have been out, their matters would have been heard. So this legislation, again, it seems to be giving a “bligh” to the Government to at least be able to get their act together, to be able to fast-track that judgment, hear what is happening, somebody is in jail with a gun, investigate that person.

So I want to say that 120 days that we gave and it was three years ago, did we really get any sort of major improvements. Well, our acting Commissioner of Police recently said murders are not out of hand so by his comments I may say yes, probably we did get an improvement but then the Prime Minister said that crime and violence is a public health emergency. So that will give me the effect that no, things are still not right. So therefore, looking at my own judgment, I say that if it

is a public health emergency, it means we have to do more. The *Guardian* headline, someone had mentioned today's *Guardian* with killing fields and yesterday 13 dead in 36 hours, that paints a picture that things are not right and that paints a picture that still we need to be doing our duty to be able to assist the population out there who are victims of these criminals.

So while I gave the Government support before in this Bill and I saw that somebody mentioned that—the AG also had a change of heart before where he did not support the Bail Bill years ago and he supports it now, I am now looking at this legislation and I think it might be an abuse of the legislative process to keep making incursions into the Constitution. You see, the Constitution is there to protect our citizens, it is dangerous to continue to ask us to continue doing this. We have to respect the Constitution and this is what I am saying, we have already given that time. So you see, if I—you know, I am still looking, should I support this or not.

But my problem is could I continue to let criminals get away, could I continue to let them run around, to come out quickly, to be able to make quick bail, create havoc in society. And this is the only fear I have because being a victim myself, seeing other persons who are victims of crime, counselling them. Am I, by not supporting this, allowing criminals to go out and continue their trade and continue to cause distress? So I wondered are there any other mechanisms besides eroding the constitutional rights of citizens. Are there any other things that could have been put into place? And part of my decision was yes, we have the bracelets.

So even if a magistrate is giving the bail to these individuals and they are now decorated with these bracelets, we could trace them anywhere, police can watch them, they can go. So there is a measure that could be put in place that is not as draconian, as two Members used that word, as interfering with the

Constitution. Again, we may have to look back at, you know, if we are looking at the bracelets as one, I am looking to see if that could be implemented. The Government could come in with castle legislation to give persons the chance to defend themselves and again we could have a limited state of emergency as Jamaica has. So those are mechanisms that could be implemented if we are not getting this Bill passed today.

So therefore, I know—I mean, if someone could tell me that these cannot be implemented, I may be willing to withdraw the fact that I am leaning against not supporting it because I am seeing other methods that could be put in place. You see, what I am saying is if you were worried initially as the last AG had mentioned that he was worried about the decisions coming out in the Magistrates' Court in granting bail, we may have to say better judicial scrutiny. Look at the decisions of the magistrates who are allowing those persons out there to be on bail and have that discourse with the Judiciary what is happening. See if there is a pattern. We may have to open up a discussion should we not allow the judicial officers to fall under the Integrity in Public Life Act. All those are things that we can bring about to get that faith in the Judiciary, to get scrutiny.

I would like to say now, we have to already—it was mentioned we need better policing. We have to have better policing and is it that the police officers there, you know, that 120 days, they could not finish their investigations. Why is that so? They must have known that we bent backwards here in this Chamber to give them that power to be able to have somebody there in 120 days and they may have to use all within their powers to get the investigation, to get the charges to, you know, make their case. We gave them that chance and they did do not it. Why? I mean, is it—the police officers recently were clamouring for increase in salaries, is it that they need? I do not know. But we do hear Sen. Welch saying the

need for faster justice, the administrative delays and so this is something that we have to say that it is just not passing legislation but as mentioned, getting other avenues to work, because all these avenues together would help in the administration of justice and to get criminals off the street.

I saw an Opposition Senator made mention of the trust in the police. Do we trust the police? And this is something, Sir, we always have to understand and as was mentioned before, yes we want this no bail that has the benefits to keep criminals in but could people be really set up, could they be on any sort of trumped up police charges. I know there are good police officers but I have to look at—allow me to quote please. The *Guardian* of the 1st of the seventh month, 2022:

Blatant abuse of power from the PCA head.

And what this shows me is that the head of this august body actually says there is abuse of power from the police. So are we now going to put persons who may be in society and a police officer may decide let us go and hold that person, give one charge, the minute they come out on bail, you know, trump up another card so you have now it is a repeat offender for guns and ammunition. It is possible. There is the possibility there of the police abusing their power.

So therefore, you know, we have to be scared. People are saying that you know, if police come, they can plant things on you and I am thinking the most frightening thing now is if police could plant something on you or either put you to sit on a chair in the police station. So we have to be very, very cautious about and be aware that, yes, Sen. Lyder did come out and give some comments there and the head of the PCA did comment. So therefore, we have to learn that certain officers may abuse so we have to say we now, are we going to give this power again to them.

I also would have said that we need trust in the police officers, we need

police officers out there to do their duty, we need to pay better them as they are asking. And if we even had a situation, Sir, where they had their body cameras, they could have gone and done search, warrants, whatever they did and it would have been clear evidence that they could not abuse their power, so it has to work in tandem. If tomorrow, there is a policy that before you can have a warrant, before you can go and search somebody, you, police officer, will have your camera, they allow that person to videotape that seizure of the guns or whatever, and that is evidence to me that then I would not mind supporting this because it shows us that you know, you cannot just go and plant a gun, you cannot just go and plant something on somebody.

So therefore, we may have to work on these body cameras and we may have to work on instilling this level of fairness that we say that we are giving the police officers their equipment and by giving them that equipment, we are now protecting them from people coming to say they are planting things on them and protecting the individuals from being planted.

So I also need to say that is it so farfetched what Sen. Lyder said about police officers planting—Mr. Vice-President, I remember St. Joseph police station, they found guns and drugs in the roof years ago, none of those officers were held accountable, they were just transferred. Why would they have those guns and drugs there? You see? So those are things that would erode the trust in individuals out there. There is a possibility and because there is a possibility, the one or two persons who may go down with this Bill, you know, if this Bill is passed, that may go down and innocently be put in jail, innocently be a charge trumped up, I think that may be something we have to put things in place to guard against that.

The other reason I looked at, Mr. Vice-President, is the fact that, you know, the prison conditions, it is atrocious. I have persons who had gone to prison, come

out and it is a great negative psychological consequence for somebody to be put in prison, somebody to be charged, somebody to go there and be locked up and if they are innocent, that person could have great mental trauma and psychological effects after.

So one of my greatest hesitations now and it was not there before, is the words that I would like to read into the—it is really the fact that respecting the Judiciary. You see, we know the Judiciary is there to have that independent role. We realize that there was the case recently where the appeal court ruled on the effects of murder and the ability to give persons who are charged with murder, give them bail, allow that, right. So that was there, that is there, that is going down to I think the Privy Council. But what I would like to read really, Sir, is the fact that you know, persons may say if we could give bail to murder, why can we not give bail to possession of guns and ammunition and those other things because murder to me would have been the most serious criminal act we have? So again, looking at that judgment is something where I may now be thinking should I change my mind.

But you see, what I would really like to read is this. In that case, the Chief Justice who delivered the summary of the court's written decision, he actually did decide—the Chief Justice Ivor Archie, Justice of Appeal Mira Dean-Armorer and Michael Holdip declared that section 5(1) of the Bail Act 1994 was not reasonably justified in a society that had a proper respect for the rights and freedoms of the individual. They also declared that the particular section was unconstitutional as its effect removed the jurisdiction of judges from granting bail for murder. Now, this is where I have my problem.

He said that it was the court's unanimous decision that the issues of granting bail was a core judicial function and as it agreed a breach of separation of powers

not a standalone reason for striking down a statute but what he said, by removing the jurisdiction of the High Court judges to grant bail to persons charged with murder, section 5 has trespassed on a core judicial function. In this case, section 5 offends critical aspects of the rule of law and is not reasonably justified in a society having respect to the rights and freedoms of the individuals. And Justice Archie did say he is aware of the ramification of this decision.

So in a similar vein, if the Court of Appeal judges and the respected Chief Justice mentioned about the granting of bail was a core judicial function, I respect the Judiciary, I respect the independence of the Judiciary and if this was their thought and their level of thinking for this, I may have to extrapolate that for this lesser offence that we are looking at, lesser offences caught under this Bail Act, that we may also be somehow stepping on the toes of the Judiciary and somehow taking away what they may consider a core judicial function which is the granting of bail.

So therefore, I must say that the other shocking revelation I had really was when I read in the newspaper and I would like to get that discourse coming from back from the Government side to tell me, you know, to at least appease me, let me figure that what I am saying is taken out of hand. But when I looked at the Privy Council case recently, there was an article in the *Guardian*:

“Privy Council told: Parliament did not trust Judiciary on bail”

And it was Jada Loutoo article and this:

“...‘startling submission’ was made by the State lead’s counsel Peter Knox, QC, in an appeal in a landmark ruling of the Court of Appeal...”

So if the Judiciary somehow thinks that we are stepping on their toes or their boundaries or their core judicial function and this headline is there, what I may be guilty of doing here again is doing exactly what the Chief Justice said is their core

function and this is again this case, the fact that the PCA head criticized the police officers, the fact that Government had chance to clean up some of the activities and you know, I still did not get the idea that things were clicking properly to that 120 days, that “bligh” I think we gave them some time ago, when in 2019, we still have to say we are not seeing the other avenues being explored to expedite as Sen. Welch said.

So based on this, I am once again asked to extend the erosion of the rights of individuals to get bail, I still have to make an assessment on how I would vote on it but I am hoping that what I hear from the Government side or other Members would cause me to vote how I did in 2019.

Thank you, Sir.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Dr. Dillon-Remy. Oh. [*Crosstalk*] Sen. Walker.

Sen. Marsha Walker: Thank you, Mr. Vice-President, for the opportunity to contribute to this very critical piece of legislation. Before I get into the crux of my contribution, permit me to respond to various points raised by various Senators that have gone before me. Sen. Richards would have asked why did we support the legislation then but we are not supporting it now and the answer is very simple. We were willing to give it a chance and it has not worked. The Government must now find another way, they must move on. This extension to me feels like a fly buzzing at a window that is closed when there is an open door that the fly can simply turn to and go. If we continue and extend this Bill, what we are doing is giving the Government permission to stay by this window rather than shift the focus onto the door which will be more effective. And so Sen. Richards, that is why we are saying enough is enough, use the door, move on. What you are doing is delaying the inevitable, it is time to move on.

Let me also deal with Sen. Sagrarsingh-Sooklal who raised the issue of the—well, I will call it the Gary Griffith article, I have it here:

“Criminal linked to 47 murders”

By Anna Ramdass, July 30, 2019. That would have been the article that the Senator would have raised. And you know what? I agree that this should never have happened, but I would like to read permit me, Mr. Vice-President, how the article opens.

“One criminal was linked to some 47 murders in Trinidad and Tobago and if the Bail Bill was in effect these killings could have been prevented...”

Mr. Vice-President, I believe that this line in this article is very misleading. Let me say what I believe should have been written because you see, the public needs to understand that we do not oppose the denial of bail, what we oppose is the denial of applying for bail. So this article should have read if the judge—

Mr. Vice-President: Sen. Walker, what you should be doing is saying this amendment or this sunset clause should have read.

Sen. M. Walker: No, no, no, no, no. I am asking—

Mr. Vice-President: We are not here to dispute a—

Sen. M. Walker: No, I am not speaking to the clause. Sorry.

Mr. Vice-President: No, no.

Sen. M. Walker: [*Inaudible*] this article.

Mr. Vice-President: I know but we are not here to dispute an article.

Sen. M. Walker: But you see, the Senator—may I?

Mr. Vice-President: You may, yeah.

Sen. M. Walker: The Senator was able to raise an article and the article in itself is misinformation—

Sen. Sagrarsingh-Sooklal: Mr. Vice-President.

Sen. M. Walker: —so I am merely clarifying that the article raised is misinformation so we need to make sure for public record.

Mr. Vice-President: Hold a second.

Sen. Sagrarsingh-Sooklal: Mr. Vice-President, respectfully the Senator is misquoting the article. The article that I made reference to was not an article by Anna Ramdass, I believe that is what the Senator said. The article that I made reference to was an article by Sharlene Rampersad dated February 4th, 2021. I did not make reference to any article by Anna Ramdass. Thank you.

Mr. Vice-President: Noted, Senator.

Sen. M. Walker: I am not [*Inaudible*] the article.

Mr. Vice-President: Please, thank you.

Sen. M. Walker: But I put on the record that we do not oppose the right to apply—we do not oppose the right to—the restriction of bail. We are saying that each individual case must be judged on its merit. And to raise one issue where the justice system may have gotten it wrong is unfair to the justice system. And we can use the Akilli Charles very quickly because there were 60-plus applications since the Akilli Charles judgment and only four cases have been granted and those four cases, 20 conditions for bail, so we are seeing that there is no abuse.

Mr. Vice-President: The Senator is raising a point of order please. One moment please.

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

Mr. Vice-President: This is about the fourth time we are hearing this reference to this case in the matter.

Sen. M. Walker: I will move on, that is fine. I would like to address the statement made by the hon. Senator, the Minister in the Office of the Attorney General where she said 120 days may seem like a lot and then she said “but”, there

is no “but”. Respectfully, Madam Minister, that has to be the most privileged statement that one can make to say that 120 days in jail in what has been deemed as inhumane, to say that it may seem like a lot but it is a lot. Every single day that we send our young men into jail spent there is a lesson in crime and the last SEA results have proven that our education system is not teaching them. So we cannot afford 120 days of them in there.

Mr. Vice-President: Sen. Walker, what you are saying does not pertain to the Bill.

Sen. M. Walker: I am addressing specifically statements—

Mr. Vice-President: No, I am talking about your statement on education. I am speaking about the system of education and the support to crime.

Sen. M. Walker: No problem.

Mr. Vice-President: It does not pertain to the Bill.

Sen. M. Walker: No problem. But I do suggest that that statement is a very highly privileged statement.

Mr. Vice-President, permit me now to go into my contribution. Permit me to start with a story of a young man from the Prime Minister’s constituency, my constituency. Last week Friday, Josiah John passed for Saint Mary’s College. To those who live in more affluent places, that may not seem like a *Hansard*-worthy accomplishment but to a young man from a depressed community to score in the 88th percentile nationally, that is something worth speaking about and placing on the records of this august Chamber.

3.00 p.m.

Mr. Vice-President, I opened with this story to demonstrate firsthand how the fight against crime can be won and why this extension will only delay that fight. Because while those on the opposite side believe that this legislation, this

extension is critical in the fight, if we continue to focus on the wrong solutions and the wrong tools, if we continue to use the wrong tools, we will lose. And we cannot lose. I think we all agree here today—I agree, we want to support you in your fight but this is not the tool. I heard the Senator say, “This is a critical piece of legislation.” But if we get this wrong, we fail our young men.

Mr. Vice-President, to those on the other side, they may look down on just a talk show host because for them, you know—well, they will know. And it says that, you know—

Mr. Vice-President: Senator, Senator—

Sen. M. Walker:—talk show hosts have no—

Mr. Vice-President: Senator, Senator—

Sen. M. Walker: Yes?

Mr. Vice-President: Are you imputing improper motives onto yourself?

Sen. M. Walker: Well, those on the other side have spoken about talk show hosts.

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: Can we—

Sen. M. Walker: Should I quote the *Hansard* records where those on the other side spoke about—

Mr. Vice-President: Sen. Walker, we have before us—

Sen. M. Walker: I move on.

Mr. Vice-President:—an amendment—

Sen. M. Walker: I move on.

Mr. Vice-President: You move on when I am finished.

Sen. M. Walker: Okay.

Mr. Vice-President: Yeah. We have in front of us, before us, an amendment, which is for an extension. You have gone totally outside of that purview

completely. We are still wait being for the relevance as it applies to the school boy.

Sen. M. Walker: This specifically deals with crime fighting. We have been told that this is a critical piece of legislation to deal with crime fighting. That is what we were told today. Today, we were told that the extension before us and the term used was, “This legislation is a critical piece of legislation that they need support from us because it is critical in fighting crime.” That is what was said today. This piece of legislation. So, I am rebutting—directly rebutting that statement. But I will move on from young Josiah John. His name is there in history.

Mr. Vice-President, this Government speaks about an all-of-government approach and I would like to suggest to those on the other side that more critical legislation would be the National Parenting Policy. There was public consultation held in 2018. Where is it? That, Mr. Vice-President, I would argue is a more critical piece of legislation. You see, Mr. Vice-President, what I was doing when I told the story was building context to show that a young man from a depressed community, through strong parenting measures, would be able to—

Sen. Gopee-Scoon: Point of order—

Sen. M. Walker:—get away from crime.

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

Mr. Vice-President: 46(1) upheld, Sen. Walker. We ask you to keep it relevant and you have actually started to repeat yourself within your first 10 minutes already.

Sen. M. Walker: So, I place on the record that we suggest the National Parenting Policy is a more critical piece of legislation that can be brought.

Mr. Vice-President: Sen. Walker, we are not here to dispute or to argue upon that matter. Crime-fighting initiatives and other projects are not part of the purview of this Bill before us.

Sen. M. Walker: So, Mr. Vice-President, just for clarity, maybe you can guide me, if the hon. Senator says that this is a critical piece of legislation and she is asking us to support this critical piece of legislation, in my response to that exact statement, would I be allowed to suggest that, no, we disagree that this piece of legislation is not as critical as the National Parenting Policy?

Mr. Vice-President: To use your most used word for the day, it is critical that you stick to the Bill at hand.

Hon. Senators: [*Desk thumping*]

Sen. M. Walker: I am new to this House, Mr. Vice-President. So, is it that I am not allowed to respond to those on the other side?

Mr. Vice-President: Senator, you are allowed to respond by keeping within the confines of the debate without being repetitive and without making any aspersion onto any Members present or in other place.

Sen. M. Walker: Mr. Vice-President, those on the other side and some of the Independent Senators spoke about tools. And we are here today trying to figure out if this extension is the best tool to accomplish that which we seek to accomplish.

Permit me, Mr. Vice-President, in building context, to quote from an article by Kim Boodram in the *Trinidad Express*, Feb 07, 2020, “The cost of corruption in T&T”. I beg your indulgence:

“Proper procurement practices could save this country a conservative \$5.2 billion a year—otherwise lost to corruption or inefficiency...”

I—end quote, because I want to scroll now very quickly because I want to make the point very quickly.

Open the quote again, he goes down to say—so, this is now—I am quoting Moonilal Lalchan who is the Chairman of the Office for Procurement Regulation:

“...which he views as ‘the tool’ to help wipe out white collar crime...”

Mr. Vice-President: Senator, we are on—one of the Senators earlier has spelt it out for us. We are on bailable offences. Does your tool align as a bailable offence?

Sen. M. Walker: I am about to build context with regard to statements made by the hon. Sen. Dr. Deyalsingh and the hon. Attorney General. They both spoke to sending a signal to criminals. So that is where I am going with that point.

So, I am asking, with this article being put in the public domain—so, very quickly, that is that article. Then we see another article with the Acting Commissioner of Police within weeks of a shooting, receiving ballistic reports. Yet we are still waiting on anything to come out in the public domain regarding Naomi Nelson. And so, the signal can be sent—

Sen. Gopee-Scoon: [*Inaudible*]

Sen. M. Walker: Pardon? “Oh”, Naomi Nelson. So, the signal can be sent to the public that what we are doing is not in fact fighting crime, but what we are doing is encouraging injustice.

Mr. Vice-President, right now, I am sure we are all getting things on our phone regarding what is going on in Port of Spain. We have to be very careful as legislators when we are sending signals. I agree; I agree that we have to use legislation and we have to consider what signal will this legislation send. So, when in the public domain we are reading things like pardoning white-collar crime, we are reading things like this Government refuses to proclaim a legislation that will see us saving \$5.2 billion a year that can go into education—

Sen. Gopee-Scoon): Point of order—

Sen. M. Walker:—what signal are we sending?

Mr. Vice-President: There is a Senator on her feet.

Sen. Gopee-Scoon: 46(1), 53(1)(b).

Mr. Vice-President: Both point towards relevance as it applies to how it pertains

to the Bill at hand. Once again, it is not a discussion about other measures. Tedious repetition within your first 20 minutes of trying to get content is surfacing as well.

Sen. M. Walker: Mr. Vice-President, sorry, just guide me in terms of the Attorney General and Independent Senator, Dr. Deyalsingh, speaking about a signal, that we must use legislation to send the right signal. And I am suggesting that this legislation can send a signal of injustice. It can send a signal that rather than fight to reduce poverty, which directly reduces crime, we are prepared to go down draconian legislation. So, I am suggesting, respectfully, that this legislation will actually send a counterproductive signal.

I am suggesting that based on all the information in the public domain that we are losing \$5.2 billion that could be spent on resourcing the DPP's office, et cetera. And I say "et cetera" because I genuinely do not want to have us here repeating things. But in the public domain we know that we are losing \$5.2 billion a year, and yet we are here focusing and spending a lot of time on taking away the rights of one section of society while, on the other side, pardoning and giving way. So, the signal that we can very well send with the extension of this legislation will be counterproductive because it is saying to us, it is saying to the public that, "Well, maybe this Government believes that there are cockroaches to be stamped out." And I am really cautious that we send that signal. We want to make sure that as legislators we use the right tools, we send the best signals possible because this is a serious issue. I agree.

So, I am here and I am hoping that the other side will not rise and—because we want to get to the—we want to do the right thing. And we are all here saying that as legislators we have an opportunity to send the right signal. But are we—is this the way? That is what I am asking. Is this the way? Or will we say to the public that, "You know what? We are not concerned with fighting in justice. We

are not concerned.” The definition of injustice is unfairness, which was a word that was used by Sen. Welch. And this legislation, we have to be cautious, it will send the wrong signal. That is the point I am really trying to drive home, Mr. Vice-President, because if we get this wrong, we get crime wrong. And yes, we have all been somehow affected by crime. I grew up in Big Yard. So, Naomi Nelson may be a name that you hear on the radio or whatnot. But in Big Yard, it means that we can no longer walk to the parlor without the fear that we are not coming back.

So, I am in no way playing down what we are here to discuss. It is serious. We want to support you but if you bring legislation—and coming from someone from Big Yard, in my opinion, what we hear is that those that are from one area, from one socioeconomic background, they are pardoned and the laws give them rights, but our rights, it is free to take it away. And that all—it so important.

Mr. Vice-President: Senator, we have gotten the signal. I am asking you to not be as repetitive. Your point has been made. It is on record. Can we move on to the next point, please?

Sen. M. Walker: Thank you, Mr. Vice-President. That is actually the main point. Because for me, in my opinion, any government that wants to end crime must first end poverty.

[MADAM PRESIDENT *in the Chair*]

They must first end injustice. And when we refuse to proclaim legislation that will save us \$5.2billion, but we are quickly willing to remove the rights of another sector of society, Madam President, I am concerned that what we are saying is that this is political “mamagism” and we are not really interested in ending crime, but we are interested in spending time pretending. If we want to end crime then proclaim the procurement legislation so that we can end poverty and social

injustice because that is how you end crime.

Madam President: Sen. Walker—

Sen. M. Walker: Use the \$5.2 billion and end poverty.

Madam President: Sen. Walker, let me just caution you a little bit. I think I had previously said this and cautioned speakers before you. Please do not widen the debate. The debate is about this particular piece of legislation and if I would ask you to stick to the Bill, please. Okay?

Sen. M. Walker: Yes, Madam President. I simply want to end with a response to the hon. Minister in the Office of the Attorney General and Ministry of Legal Affairs, that I agree, this is a critical piece of legislation. I agree with the hon. Attorney General that this legislation will send a strong signal. But I disagree as to what signal it will send. If we are to end crime, the Bills we must pass and the legislation we must pass must send a signal that we are committed to ending poverty and social injustice. Those are the Bills that we ought to pass. Those are the legislations that are critical in the fight against crime. Thank you, Madam President, for the opportunity to contribute.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Dr. Dillon-Remy.

Hon. Senators: [*Desk thumping*]

Sen. Dr. Maria Dillon-Remy: Madam President, I thank you for the opportunity to contribute to the Bail (Amdt.) (Extension of Duration) Act, 2022. This Bail (Amdt.) Bill comes at a time when the recent spate of murders in Trinidad and Tobago is of great concern to everyone. And the question I had to answer for myself is: How would this amendment help with the current situation?

The Bail (Amdt.) Act in 2019 provided for the circumstances in which bail would be denied to repeat offenders of violent crimes that are punishable by a term

of imprisonment of 10 years or more. The Bail (Amdt.) Act restricts such persons from being granted bail for 120 days after being charged. When that Act was passed in 2019, there was full support for the Act in the House and in the Senate, the Act was supported by Government and Independent Senators. The Opposition voted against it.

This Act applies to individuals over the age of 18 charged under the Anti-Gang Act; Offences Against the Persons Act; Dangerous Drugs Act; Kidnapping Act; a sexual offence in which the alleged victim is a child, an offence under the Sexual Offences Act or the Children Act; Anti-Terrorism Act; Trafficking in Persons Act and the Firearms Act.

There was an article dated June 24, 2022, on *LoopTT*, that reported the Acting Commissioner of Police, Mr. McDonald Jacob, making a plea for the extension of the Bail (Amdt.) Act 2019, and that has already been quoted. And Sen. Richards already spoke about the fact that the Commissioner of Police has said—Acting Commissioner of Police has said that the TTPS is looking forward to this legislation being—the amendment being made so that it can help the police service. I myself spoke to a senior police officer this morning and that person is really hoping the Parliament gives them the—what they consider an important tool, an effective tool for fighting crime.

Madam President, I am a bit concerned about how effective this is going to be. When the Bill was presented initially in 2019, the point was made that it was necessary. The same points are being made now. We are now three years later. Now, I do agree that crime and the escalation of crime did not occur overnight and therefore, it would take more than three years to see things get better, which is what the request is now, to extended from three years to four years for this amendment.

I am not yet convinced from what I have heard so far from the Attorney General or from the Government—the contributions so far from the Government side, that the extension that is being requested will necessarily bring what is required for assisting with crime fighting. I did not hear, specifically from the presentation, as to what has happened with this particular Act, specifically as it relates to what the police has been able to—how the police has been able to see that the application of this extension or this application of this Act has particularly helped them with fighting crime. The Commissioner has said that it is significant—it has helped them, but I do not know where the facts are.

The Minister of National Security, speaking at the same conference that the Commissioner of Police was speaking at, he also said that:

“...if the Bail Amendment Act is not extended, violent criminals will run rampant in Trinidad and Tobago.”

The Bail (Amdt.) Act is a reality right now, Madam President, and violent criminals are running rampant in Trinidad and Tobago. I am not sure, I am still waiting to hear how will this extension prevent the violent criminals from running rampant, as they are doing right now in Trinidad and Tobago.

Madam President, we know—I think all of us here are concerned and I have heard passionate pleas from every side for a resolution of what is going on. I do not think that anyone here is of the view that what we are doing here is not important in fighting crime—what we are doing here as legislators. I think the main concern is whether this particular extension that is being required of us, an extension that requires a special majority—as I said before, the special majority was given when the Bail (Amdt.) Bill was passed and in the Senate, all Independent Senators voted for it, in addition to the Government. The Opposition did not. So, we are being asked again today for the extension, that we would be convinced that the

Government needs to have this extension undertaken so this that violent criminals will not run rampant in Trinidad and Tobago.

Madam President, I do agree that crime is a serious situation and there must be long-term plans to address it. In that context, we are speaking of this Bill today and it is specifically after a suspect or repeat offender has been detained for a serious crime. I understand that this extension is being sought to assist in crime fighting. However, I would say again, I would need to hear from the Government about the other concerns that have already been mentioned by other Senators and significant concerns.

Madam President, in reading about the extension of bail and dealing with bail amendments, there were certain articles I looked at and I just want to mention three particularly. One that deals with—point one dealing with constitutional reform. In other words, rather than just extending the bail, what we are doing here right now, in Ireland, they did a referendum and they did an amendment to their Constitution to allow the courts to refuse bail in specific occasions.

Now, I know that anything that requires a constitutional majority has been a problem and if this is brought to the House—something like this is brought—it will be a problem again. So, I am not saying that it is something that is easy but my question is, what happens if this is not fixed with the year—as some Members have already asked, at the end of the year when this—if the extension is granted now, what do we do? There is a concern and I am saying one of the things that we could look at is about a proposed amendment that will allow the courts, and not the Parliament, but will allow to courts to make the changes that are necessary to refuse bail on certain in certain considerations. And that was done in Ireland.

Another point I want to make is—another suggestion is that the legislation could be amended, so that instead of a blanket 120 days general detention for all

arrestees fitting the description of the offences stated in the Bail (Amdt.) Act, Part II, an amendment could be made to the legislation that would allow each case to be decided upon its own facts. And I know that that was also mentioned by some Senators that went before. And in this case, it will not be just, therefore, a blanket 120 days extension that is given to anyone. I know the Act does provide right now that a person can apply for their bail to be reviewed, but what this is saying is that rather than doing a blanket resolution like this, the amendment is made so that the case is decided upon its own facts by a set criteria rather the general detention provided for. And we looked at some legislation in the US that provided guidance there.

Madam President, I also want to look at that under the Improved Access to Justice in the Caribbean, IMPACT Justice programme, which is an eight-year regional justice sector reform project funded by the Government of Canada. The University of the West Indies published a report in 2018 entitled “Bail Acts of the Caribbean Report”. The report compared bail Acts regionally and internationally and the recent amendments made to them. It highlighted that in Canada:

“...the onus is on the accused to show why he or she should not be detained in custody...”—in certain situations, such as a firearm offence or trafficking narcotics.

So, this is a different way of looking at it. They must show reason as to why they should not be detained.

Madam President, I do realize that the landscape relating to granting bail or denial of bail is no longer—well, is no longer black and white, it is neither this or that, one type or the other, but it has become very fluid and we have to look at the various options that are available to us.

Madam President, the other point that was made, and I agree with, is that

bail is granted but other measures and ways of detention are implemented to monitor the arrestee and ensure public safety. And it was mentioned by several Senators where in this age of digitalization, there are a number of technologies available that can aid with the detention, restriction, or surveillance of the individuals within the criminal justice system. So, they are given bail but they are monitored by electronic devices. Madam President, I think we should really look—and other Senators have made this point and I would not go through it in any greater detail.

Madam President, I really wish that this situation was no different today. And like other Senators, I am in a—let me say, I have been struggling. Crime is important to us. I would love to give the support that is necessary to fight crime. However, I am concerned that I have not yet heard in this debate and at other times too—because I think I have said it before. What I would love to see, in terms of crime fighting, is not just us coming here to pass laws and to restrict bail, et cetera. Those things are important but where is the comprehensive—not just an all-of-government approach, but where is the approach that includes government and the business sector and other community sectors, faith-based? Where is that? It is needed. It needs—it is not just an all-of-government, what we need is an all-country approach to crime because it is affecting all of us. And I am not yet seeing but I am pleading today, not just to the Government, but to all of us, including the Opposition.

3.30 p.m.

And I hear the Opposition saying that they are willing to assist the Government in fighting crime, I would really love to see hands stretched across the aisles, and something happen in terms of what is happening in our country. The criminals are seeing how we are behaving and they are saying well, I have free rein in this place

because nobody's in charge. Madam President, as I said, I wish the situation were different, I am willing to listen to more submissions and I would decide on which way I go. I thank you very much.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Lezama-Lee Sing.

Hon. Senators: [*Desk thumping*]

Sen. Laurel Lezama-Lee Sing: Thank you very much, Madam President, for affording me this opportunity to join in this very critical and narrow debate on the extension of the life of the “bailable”—the Bill. Madam President, you know, we are just in this season of SEA and my mind was cast back to when I was doing common entrance and taking lessons in Arima in 1990-something and there was a calypso that one of my—that my lessons teacher will always sing for us because it was dominant at the time, and it was from the Mighty Chalkdust and he—according to the venue he was performing at he would give a different iteration or different verse. And this calypso “Misconceptions,” spoke about people having misconceptions. And I remember he was challenging Sparrow and there was the last verse and one place he performed that he said:

There is a misconception you know that nobody could beat Sparrow but tonight, you will realize—and he said, you know, that—Sparrow does not know his ankle from his elbow.

And Madam President, I cast no aspersions against anyone but sometimes in this debate, I really felt like I did not know my ankle from my elbow because I was not sure where certain presenters were going with their contribution.

As I joined this debate, I just want to refer to some of the comments that would have been made by some of the presenters earlier. Sen. Mark started off in his usual dramatic form, talking about rivers of blood continuing to soak the soil of

Trinidad and Tobago, runaway crime wave, are there enough resources being put into crime fight and etcetera. And then I chanced upon the *Hansard* of the debate of June 11th 2019. And so Madam President, there is absolutely no need for me to respond to Sen. Wade Mark because the presentation here today was the exact presentation in June 2019 and so, in that debate all of his concerns would have been responded to. And I really wish that at some point, Sen. Mark would come with something fresh and invigorating for the country.

Sen. Lyder, my good friend Sen. Lyder, talked about this is not healthy legislation for any democracy. And he talked about, well, he repeatedly talked about government trying to encroach on citizens' rights. I think he said that about 40 times throughout his 40 minutes. And then he went on to say:

Do not take away the rights of the individual because there is an escalating problem.

He made the point his point was:

That the Government is trying to take away the rights from individuals because there is an escalating problem.

And I cast my mind back again to August of 2021. And I remember and I am from Arima, and I live two blocks away from Jonestown in Arima and I remember the Jonestown situation where, some young men lost their lives and the then Prime Minister declared a state of emergency in hotspots. And to me, that was the clearest example of taking away the rights of an individual because there was a perceived escalating problem and it is that concept of hypocrisy that bothers me tremendously, Madam President, it bothers me tremendously and it permeates through every presentation that comes from the Opposition Benches.

Sen. Marsha Riley—Marsha, sorry, I know her from school. Marsha Walker, she is Mrs. Walker, Sen. Walker now, Sen. Walker said that, you know:

The UNC is willing to give a chance and it has not worked.

And she referred to a young man and she talked about:

We want to support you in your fight.

And then I remember what Sen. Dr. Dillon-Remy just said, that is not just—this is not a problem of the PNM or the Government, you know, this is a problem—this is a situation manifesting itself in this country that we all occupy Trinidad and Tobago, and so I am very disappointed that Sen. Walker is saying that:

We want to support you in your fight.

You have singularly stated that:

You wash your hands after Trinidad and Tobago.

Is the—and I ask the question, is the Opposition washing its hands of any responsibility insofar as, guiding Trinidad and Tobago? Our roles as legislators here, Madam President, really and truly is to discuss law, present—create law and give the different institutions in the country the tools to deal with what they have to do so, that the outcome is the best for all of the people of Trinidad and Tobago. And so my—I have to express my disappointment in this and I want to quote then from the UNC's manifesto of 20—well, the People's Partnerships manifesto of 2015. And I quote from that manifesto, page 30—page 41, sorry:

“The security of all citizens in their homes, in their communities and in all our public spaces must be assured. We stand by the principles that all citizens...”

Sen. Lyder: Madam President, 46 (1) Madam President, I do not want [*Inaudible*] this narrow Bill, that the Senator stated, what is the UNC manifesto have to do it?

Sen. L. Lezama-Lee Sing: I am responding to the—sorry.

Sen. Lyder: 46 (1).

Sen. L. Lezama-Lee Sing: Sorry.

Madam President: Sen. Lezama-Lee Sing continue please.

Sen. L. Lezama-Lee Sing: Thank you very much, Madam President. And so I continue:

“There is no single solution or quick fix, as the impetus for deviant behavior has both economic and social dimensions and originates from within and outside our country. As such, neither the Government nor the police can fight crime alone. For a safer Trinidad and Tobago we need a more efficient criminal justice system and the support of all social partners and we must empower all Trinidadians and Tobagonians to be a part of the solution.”

And Madam President, I do not ever agree with the UNC except to say that this is not a singular fight and all partners must come together as we treat with this situation here.

Madam President, it was very interesting as well that is Senator—sorry?

Sen. Walker: Madam President, this is not a debate on crime. Is this relevant?

Sen. L. Lezama-Lee Sing: Responding to you darling—Senator.

Sen. Walker: Just asking.

Madam President: Sen. Lezama-Lee Sing, please continue.

Sen. L. Lezama-Lee Sing: Thank you very much, Madam President. And so Madam President, we get to the Bill. We talk about the Bill right now. And the purpose of the Bill really and truly is to restrict bail for certain offences for a certain period, and that period was established in 2015 under a UNC government, that 120 day period was established under UNC government. And what I find very concerning, Madam President, is that the United National Congress brought legislation in 2011 on this exact Bill. They brought legislation in 2013 on this Bill, and it was supported, it was supported was the best thing since and the then Opposition supported it. In 2019, the position changed somewhat—in 2019, when

the Parent Act came in, the sunset clause was originally—there was a request for the original time period for the sunset clause to be five years and then at the end of the debate, it was agreed to three years. And in those—we have seen, clearly, that, the three years obviously, has not been sufficient just yet and so, the Government is therefore asking for an extension so that we can give, we can give the police—continue to give them the best fighting chance. And I agree with all the other Members here today, the law does not exist in a vacuum. There is several other supporting mechanisms to reengineer the criminal justice system and to ensure that we give the people of Trinidad and Tobago the best fighting chance.

Madam President, if this Bill is not passed, I know Sen. Welch talks about that but if the Bill is not passed, and if the extension is not granted, then what happens? It weakens the State's arsenal in the fight against crime, and in treating with those minded to undertake criminal behaviour. And Madam President, I humbly submit to this—I respectfully submit to this Senate. And we cannot afford to leave that gap wide open and I am asking Members to give support for the additional year for the life of this legislation.

The extension will, to an extent, clip the wings of those who have been detained for potentially continuing to invoke terror on our country here in Trinidad and Tobago, Madam President. I find it unfortunately, untenable, the level of flip flop, potential hypocrisy, the irony of parts of this debate, Madam President. You know, Members of the Opposition have been speaking from both sides, you hear one argument from one Senator and then two presentations later in the same debate, you have a different perspective coming from a different Senator. And therefore, Madam President, I have to lay for the records my disappointment in the UNC for distancing itself from a concept and an approach to the criminal justice that the UNC—for something that the UNC itself introduced.

We have a duty as legislators, Madam President, to create law and to pass a law that gives the police the best chance to do its work, Madam President. And so I commend this legislation, I encourage the Independent Senators to give good and proper thought to this legislation and to lend its support, we are asking for one more year so that the police has the opportunity to do the best that it can. And so, Madam President, with these very few words, I thank you.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Nakhid.

Hon. Senators: [*Desk thumping*]

Sen. David Nakhid: In the Name of God, the Most Gracious, the Most Merciful. Madam President, thank you for the chance to join this debate on the Bail (Amdt.) Act, however brief I may be, I would just like to acknowledge directly what was stated in his contribution by the Attorney General who said:

The Government should govern in the interests of everyone, to provide for the safety and security of women, children, men and that is their mandate.

Given that that was a statement made by the AG who piloted this Bill that we have before us, I therefore proceed with that in mind.

Before I do so, I would like just to touch briefly on what the previous Senator said in her contribution. And I do agree with Sen. Lezama-Lee Sing, when she said that she does not know her ankle from her elbow. Her submission indicated as much because she completely misunderstood everything that the Senator said. Our prime concern from our side is the attempt by this Government to take away the constitutional rights of the citizens of this country. Nothing more, nothing less. You have brought no stats, no data but a paradoxical quote from Chalkdust that actually places you and your contribution in a very bad light. Pity, \$500,000 down the drain. And when we look—

Madam President: Sen. Nakhid, I call upon you to withdraw that comment and to apologize.

Sen. David Nakhid: I withdraw the comment and apologize. So, Madam President, is interesting after listening and, you know, this Government continues to always gloss over the statistics. And I heard Sen. Sagrarsingh-Sooklal, you know, as she spent, as this good Senator, sorry—spent two minutes or a little bit more trying to explain the AGs, the Attorney General's change of heart, his change of mind on his previous position by stating things had changed, but never telling us with any clarity, with statistics that made sense, what exactly changed in order for us to once again agree with this Bill, to give an extension. She said, the Senator spoke about a detection rate, and she called—and the Senator called numbers, 500 died and 84 were detected and so on. But when I added up all of those, just to be brief on that the detection rate came up to no more than 20 per cent. And when we check actual data that makes sense the UNODC states that:

Globally, an acceptable rate of detection in developing countries should be between 30 and 40 per cent.

So then, again, why would you bring statistics that absolutely does not help your contribution? Other than to perhaps, I do not want to say hoodwink the population but mislead the population into thinking that this Bill would actually help the crime situation in the country. So it was totally rejected.

So, Madam President, once we agree that every citizen charged has the right to apply for bail and I think it is something that we all can agree about. No one said it is an absolute right for bail but we can agree that every citizen must have that right to apply for bail. Then the result of that, logically, indicates that we cannot mandate by statute that bail cannot be granted and I think that point has been well made by our side. Because this, Madam President, and this will be the crux of my

submission. Who does this attempt to extend this Bail (Amdt.) Bill? What segment of our population is affected by this Bill?

Amazingly, Madam President, the Government can speak on this Bill. We are here now close to six hours, a little less, and not once have I heard from anyone on that side and address to the people or about the people that this Bill affects or will affect—how is that possible? Are we reduced to just bringing legislation for legislation sake? Or do we bring legislation in the interests as our good Attorney General, internationally famous, said:

We must always work in the interest of the men, women and children of the country.

Well, we are waiting, as Sen. Dr. Dillon-Remy said, to hear how does this Bill do that? You have not done so at all. Not one of you. And you know why this Government, Madam President, never address the people that their legislation affects. After all my time in the Senate. Madam, I am seriously concerned about the situation outside this Parliament and worry. Apparently there is a lot of protest and crime going on.

Madam President: Sen. Nakhid, let us treat with what is inside of the Parliament. Let us treat with what is before the [*Inaudible*]

Sen. D. Nakhid: Just a general concern. Thank you Madam President. As I said, why this Government never seems to address the people that the legislation brought before us affects? And I honestly believe that this Government, they do not see them. They do not understand their circumstances, their plight. Do we only see them? And this is serious, Madam President, do you only see them? When it is time to get some votes or do you only see them when they are already in the penal system? Would it not be for this Government a bit ground-breaking, if for once, we can address the problem before it reaches the penal system, Madam President? I

have heard nothing to suggest anything about that. So, is same old, same old approach, expecting some new results. Well, we are in the Opposition, Madam President, we are sworn not only to protect, and hold this Government to account and protect the citizens from our overarching, overreaching government. We have to do that at the expense of seeming to be obstructionist, and that is never a good position, Madam President. But when you see something before us, that has real time implications. I can give you an example. And it is anecdotal, well known in the public domain.

We had a case of a young man called Jehlano Romney, from Rich Plain. I think it is a case well known to all, Madam President. This was a young man who had previously had convictions and he was about to or attempting to ameliorate his life, Madam President. He had accepted Islam, he was going to the mosque, he was fasting, then typical, to the communities that I know that I played football with, they were targeted, and well stated by a lot of our Senators here, targeted by rogue police, for example—they exist. What happened, is documented. The young man wrongly accused of shooting and having killed a policeman, unfortunately. But Madam President, do you know that prior to that coming out, do you know that we had statements from both the Assistant Commissioner of Police and the Minister of National Security that, were it not for the intervention of this young man's mother from England who came down, this young man would be one of those young black youth possibly killed? Such was the palatable rage, rhetoric given to this country beforehand. This young man was presumed guilty while being innocent.

Now, let us not take it to that extreme Madam President. Let us bring it to what would have been a more moderate situation. Let us say for example, he has been apprehended Madam President, he had conviction, according to this Bill, he would not be eligible for bail. And he turned out to be completely innocent. And

this is my problem, Madam President. Do we sacrifice one innocent for the possibility of five guilty? Is that emblematic? Is that the cornerstone of a proper democracy? Or is it the other way around, Madam President. Is a proper democracy where we do the right thing and have that one innocent person, not go to jail, not be placed in a system where he be possibly in remand yard for 10,15, 20 years. But we saved a young man, we saved a life. Because it is just not a life we saved, Madam President, we saved his life, possibly his children's life, possibly his wife, and possibly a community. That is how we have to look at things, Madam President. But we do not do that when you only see people as a voter bank, when we see people in silos and in isolation, we do not do that. Because that young man that the village does not raise properly and that is what happens in a PNM village, he will burn that village, Madam President, as the young men are burning Port of Spain right now. Because that, Madam President, is what is relevant to the Bill. The Bill is not an abstract piece of literature, it is a Bill that works, it breathes, it lives and I want this Government to understand that. It is not to come here and look for political points and the Opposition does not support, and obstructionist, no, you have brought got nothing here that lets us know that you are concerned about the poor and vulnerable communities of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: Your own Attorney General said that, he said that, Madam President, I am quoting from him. He said:

Your job is to protect the men, women and children in this country. Why not get to it? Why not stop messing about? Why not be honest with yourself and know that this extension you have no grounds for it. You have no grounds for it. There is no stat, you have produced no data, you have produced no anecdote,

you have produced no real life situation, you have produced—extremely disappointing.

So, Madam President, I thank you for the opportunity once again. And in closing I would like to ask, who are the real criminals, who is? It is time we ask ourselves—are the real criminals, that young man who face with a rise in prices cannot feed his family? Is it him, faced with two young boys and two young girls in front of him unable to buy bread because of 58 per cent increase in flour? For example, is he the criminal looking to feed his family or, is the criminal who accommodated that increase? Who is? Madam President, we have ask these questions. Is the criminal the young man in the poor and vulnerable community, Madam President—

Madam President: Sen. Nakhid, now you are, even though you said you were wrapping up, now you are moving beyond the ambit of the Bill. I have given you quite a bit of leeway and you have made [*Inaudible*]

4.00 p.m.

Sen. D. Nakhid: I have one more example, and I am done. Is the criminal, Madam President, the young man who has an easier access to a gun than he does a job, where Government policies do not engender the ability or the opportunity—

Sen. Gopee-Scoon: On a point of order [*Inaudible*]

Madam President: I have to agree with the point of order, Sen. Nakhid, because you are doing exactly what I have been cautioning other Members not to do. You are widening the scope of the debate. Yeah?

Sen. D. Nakhid: Okay. Well, I try to keep it, but I am guided, because I am almost done. So, Madam President, again, this Government has shown its lack of connection with the people on the ground by this Bill. It has shown its lack of empathy, because they have failed to acknowledge how this will affect the poor

and vulnerable communities. We let them know, in no uncertain terms, we do not support this Bill, and we will not, until we see some holistic policies that really addresses the root cause of crime, something that this Government seems incapable of, and I thank you, Madam President.

Hon. Senators: [*Desk thumping*]

Sen. Deeroop Teemal: Madam President, I do thank you for the opportunity to contribute to the Bill that is before us here today, and I will start by saying, I consider it, indeed, regrettable that this Bill is before us to the extend the sunset clause of the Bail (Amdt.) Bill, 2019. And I say “regrettable”, because of the fact that the three-year period for the Bail (Amdt.) Bill, 2019 would be expiring in August of this year and, as has been said, if not extended, would allow criminals to run rampant, and even for regrettable, when one considers the billions of dollars that have been milked from taxpayers to be spent by lawenforcement agencies and the Judiciary over many years with no seeming solutions and progress in sight to curb the criminal scourge and reduce the haemorrhaging of our Consolidated Fund.

And I ask the question, of all that has been done and spent, thus far, to curb crime and bring criminals to justice, are we failing? And are we just holding the criminals at bay? And can we be engulfed, at any time, by these criminal elements? And the reason I asked these questions is that we are being asked, once again, in this Senate, to pass legislation that is in direct contravention of the human rights of individuals enshrined in our Constitution. Because, at present, it seems as though the police cannot effectively curb the crime situation in the country with their current resources, and the means provided through current legislation and administrations of justice in the country appears to be woefully inadequate, Madam President.

Madam President, I would like to put just some key considerations, in my

view, as to why placing someone in remand custody, with an opportunity for bail only after 120 days, and only on certain conditions being met, why this should not be taken lightly, and should not be taken without what I call in-depth evidence-based research to validate its effectiveness, especially, when we have had almost three years of the Bail (Amdt.) Act, 2019 in effect. We need to remind ourselves that our bail laws, at all times, strike the appropriate balance between competing factors, namely, protecting the safety of the public, reducing the possible negative impact on potential witnesses, victims and their friends and family, maintaining the integrity of court proceedings and recognizing a person's right to be presumed innocent until proven guilty and not to be arbitrarily detained.

Madam President, the first key consideration is the criminal process rights guaranteed to an individual by our Constitution. And, as we have heard, it is a fundamental principle of our criminal justice system that anyone charged with an offence is entitled to be presumed innocent until proven guilty and may not be arbitrarily detained. Any person charged should be released on reasonable terms and conditions unless there is just cause for remanding them in custody. And if we are to restrict these rights, then we must be able to undertake the necessary due diligence and thorough reasoning, based on evidence-based research and we need to visibly demonstrate to all that the restriction we are looking at is justifiable in a free and democratic nation.

Prior to the Bail (Amdt.) Act, 2019, I ask how many defendants with previous convictions for the offences detailed therein were granted bail for a new offence and offended whilst on bail and created a public safety risk or have had a negative impact on potential witnesses, victims and their friends and family? I feel the need to ask this question, because I have looked at *Hansard* for the debate on the Bail (Amdt.) Act, 2019 and found no data along these lines, and I am saying

that it is relevant in considering what is before us.

One other key consideration is how we assess the rights of the individual and the demands from our law enforcement agencies, namely, the TTPS, for legislation that infringes on these rights, particularly, in light of the seemingly low level of trust and confidence that the public has in the TTPS and the conflicts that the TTPS has with improvised communities, who continuously cry out that they are being victimized by the police.

Anyone should not be considered to be a criminal or a menace to society just on the basis of accusation that ignores the possibility of people being framed or otherwise wrongfully accused. Madam Speaker, this is not far-fetched here in Trinidad and Tobago, but it is a reality in the context of past situations. And, once again, the Senate is being asked to place the utmost trust and confidence in the TTPS in that the frightening powers being granted by the continuation of this Bail (Amdt.) Bill, would not be abused and that there are sufficient checks and balances in the TTPS to ensure that the alleged rogue and corrupt officers in the TTPS do not use these frightening powers to cement their control over those they see as a threat to their nefarious and corrupt activity.

I have heard of enough matters that tell how easy it is to frame someone and frame up a person for several reasons. They are done by rogue and corrupt law enforcement officers safeguarding their territory and the masters they serve, disgruntled spouses, employers, employees, friends, family members and, at times, for political expediency. Under normal circumstances, it is extremely difficult for an innocently accused person, who is victim of a frame up, and this Bill pushes the situation into the realm of futility.

Now, Madam President, the hon. Attorney General, did indicate that being a repeat offender, reduces the chances of being framed, but I think that this does not

fully address the issue at hand. There are adverse effects on someone who is framed and innocently accused is drastic to say the least, and we just cannot turn a blind eye to it in our deliberations here today.

The provisions in the Constitution are there to safeguard the rights of persons who find themselves in this situation. And if we are to pass legislation that removes this right, then we are obligated, as legislators, to offer some avenue for ready correction and redress, for the framed or wrongly accused, you lose your job. The means for ensuring the well-being of your family is lost or compromised. You cannot pay for the property that you have mortgaged, and it can be lost. You can lose your reputation. You have to spend substantive time in Remand Yard that has been described by others as “a living hell hole” and to top it all off, you have to engage in costly legal services, brought about by criminal proceedings against you. Madam President, I am torn by this issue. It bothers my conscience based on reality, that as a legislator, I would be putting such persons in such a situation.

Another consideration I would like to highlight is the practicalities and continuing the cause of remanding defendants in custody. Increasing the number of defendants held in custody would create additional fiscal cost to the justice sector. In an article in the *Trinidad Guardian*, as far back as April 09, 2016, it is stated that:

“It is inconceivable that the State can be paying \$20,000 to \$25,000 per month to keep a prisoner in Remand Yard. The costs as given by Attorney General Faris Al-Rawi”—at that time—“reach up to \$50 million per month for 2,230 prisoners and billions of dollars stretching over the years.”

End of quote from that article, Madam President.

It can be argued that where additional defendants are remanded in custody,

cost to the justice sector may be partially offset by efficiency gains to the police, due to fewer defendants being on bail and requiring monitoring. However, these savings appear to be minimal in context of the overall cost of keeping someone in remand when, on average, persons are kept between seven to 10 years without their cases being heard.

In addition, to the fiscal cost of remanding additional defendants in custody, another reality has to be taken into consideration. The sober reality is that most of a majority percentage of prisoners on remand are on murder and gang-related charges. This exposes individuals to the negative influences of other offenders over prolonged periods and turn Remand inmates into hardened criminals.

Madam President, Sen. John, provided detailed information on the issue of cost and conditions on remand custody, and thus I do not intend to go further on this issue. Madam President, based on some of the key considerations that I have outlined, thus far, the decision to remand a defendant in custody, and even further as is being considered here without the opportunity for bail within 120 days, just cannot be taken lightly. Madam President, I listened carefully to the contributions, thus far, and to put it mildly, I am most disappointed at the quality of data and analysis presented, thus far, to substantiate the need for an extension of this sunset clause for another year.

I appreciate the efforts of the hon. Sen. Sagrarsingh-Sooklal, to provide some statistics, but coming from an applied science background, I respectfully cannot concur with the conclusion drawn by the hon. Senator in ascribing the rather limited percentage of detection rates to the Bail (Amdt.) Bill of 2019. In fact, no mention was made of actual charges laid. Yes, we heard general statistics on some of the serious offences but I ask: What about the specific analysis that tells us about the specific impact of the Bail (Amdt.) Act, of 2019 and the effects it has had

on the reduction of crime and, as such, the need for legislation that allows us to continue denying citizens their constitutional rights? In the statistics that were presented, thus far, no specific statistic was presented for illegal possession and use of firearms and this is, indeed, surprising, for it is the foremost amongst of serious offences under considerations when the Bail (Amdt.) Act was presented in 2019.

Madam President, the TTPS has a Crime and Problem Analysis Branch, and one would have thought that the branch would have facilitated a detailed analysis on the impact of the Bail (Amdt.) Act of 2019, and where we are with the arrests and convictions, arising out of this specific Act. Instead what we are getting, unfortunately, is some general crime statistics that are indirectly related to the issue and, in my view, does not provide us with any definitive conclusion as to the impact of the powers granted to the police by the Bail (Amdt.) Act of 2019. We are, thus, being asked in this Senate to continue the denial of the constitutional rights of citizens on the basis of appeals from the Acting Commissioner of Police, the Attorney General and the Minister of National Security amongst others who have presented from the Government Bench.

In an article in the *Trinidad Guardian* by Sharlene Rampersad, dated June 24, 2022, it is reported that the Acting Commissioner of Police Jacob said that the Bail (Amdt.) Act has assisted police in keeping violent repeat offenders behind bars, as he pleaded for it to be extended. In the same article, it was reported that the National Security Minister, Fitzgerald Hinds, warned that if the Bail (Amdt.) Act was not extended, violent criminals would run rampant in Trinidad and Tobago.

Madam President, without any meaningful research-based evidence presented to substantiate these claims, unfortunately, it seems that these appeals are aimed at the fears and the insecurities that reside in the minds of many of our citizens. In addition, fully knowing that there was a sunset clause, what has the

police been doing over the three-year period to reduce reliance on such drastic legislation? I was really hoping that this Senate would be informed as to what action the police intends to take regarding electronic monitoring bail, particularly, since the Administration of Justice, Electronic Monitoring Act, 2012 was assented to in 2020, and I thought that this would have been the forerunner for the possible use of electronic monitoring for bail purposes. And like some of the other Senators, I am of the view that this would offer a feasible option for bail for repeat offenders of major crimes without having to pass special majority legislation that infringes on individual rights and having to throw persons into remand custody. I was also expecting to hear what the TTPS and the other arms of law enforcement intend to do in the year of the sunset clause extension that would avoid them having to return for further extensions.

Madam President, I look forward to the continued debate and the wrap up from the hon. Attorney General, and I thank you for the opportunity to contribute.

Hon. Senators: [*Desk thumping*]

Sen. Thompson-Ahye: Thank you, Madam President, for allowing me to join this very important debate on the Bail (Amdt.) (Extension of Duration) Bill, 2022. The Government is here seeking an amendment to the Bail Act, No. 17 of 2019. This amendment being sought is not an amendment simpliciter requiring a simple majority. No. What is being asked of us in this Chamber is a majority vote of the Members of this House. This is what is required under section of the Constitution to pass any law such as an amendment of the Bail Act which interferes with the fundamental human rights, that is section 13(2). Further section 13(1) mandates that an Act which interferes with this right must expressly declare that it is inconsistent with the Constitution and will have effect, if the act is shown to be reasonably justifiable in a society that has a proper respect for the rights and

freedoms of the individual. One may very well ask: What is the human right protected by the supreme law of Trinidad and Tobago, our Constitution, with which this extension of proposed Bail Act, namely, the Bail (Amdt.) (Extension of Duration) Bill, as I said before, seeks to interfere? It is the right to liberty of the person. This Bail (Amdt.) Act came into force on August 05, 2019. So we, therefore, already passed the law which interfered with a fundamental human right and today the Government is seeking our vote to continue this interference.

The Government is forced to return to the Parliament for a fresh mandate, as it were, as the Bail Act contained a sunset clause which expires on August 05, 2002. This sunset clause which is section 7, was for a period of three years. The amendment sought is to delete the words “three years” and substitute the words “four years” so that the Act will expire in 2023. It is open for us today, therefore, to review our original decision and decide if we will continue to allow this abrogation of a fundamental human right. Will we say to Government, enough is enough or will we allow the Government to ride off into the sunset? One side has already pulled up its thumbs announcing publicly, this law is just not cricket. It is not of the legendary cricketer, Sir Garfield Sobers, of whom I speak.

Let us examine the law. Section 4 of the Constitution speaks to the recognition and protection of fundamental human rights and freedoms. A fundamental human right is a right to which every human being is entitled to by virtue of their very humanity. It is a human right which has always existed, continues to exist and is recognized and protected of which everyone is entitled to enjoy without discrimination by reason of race, origin, colour, religion or sex. As I said earlier, the fundamental human right, which engages our attention today, is the right to liberty, to be free. It is a right to which we subscribe also under the covenant on civil and political rights as well as our Constitution.

Now, our Constitution states further that you must not be deprived of this right except by due process of law. This last phrase “due process of law” indicates that the right to liberty is not an absolute one. It is qualified by the phrase “by due process of law”. This means a law, properly enacted for all the right reasons may interfere with this human right. The Constitution expressly provides in section 5 and section 54 for the circumstances under which this right to liberty may be curtailed. Had this right been an absolutely right, there would have been no qualification and therein lies the wrong.

Section 5(2) states that Parliament may not authorize or effect the arbitrary detention, imprisonment or exile of any person. The word “arbitrary” points to the requirement that there must be a considered judgment and not a decision based on personal or individual will. My opinion that denial of bail is allowable, but must be justifiable, is fortified by the wording in section 5(2)(f)(iii) which states that Parliament may not deprive a person charged with a criminal offence of the right to reasonable bail without just cause. And that is in a number of jurisdictions around the world. So both the use of the word “arbitrary” and the employment of the phrase “without just cause” indicates that this right to liberty, sacred thought it might seem to, is a qualified one and not absolute.

Indeed, there was enacted with the Bail Act, a Schedule of certain offences, for which bail was not an option. They were murder, treason, piracy or hijacking and any offence for which the death is the penalty fixed by law. We are aware of recent judgment of the Privy Council in this regard. Now, law is not created in a vacuum. The prevailing circumstances, generally, point to the need for a particular law. What prompted this law? What was Parliament’s intention? What is the history? Now, my family like to call me a historian, not always in a nice way, because I sometime bring of things they would rather forget. Indeed, I dare say, all

wives are historians and most mothers too.

I remember when the then Commissioner of Police pleaded for the Bail Bill to be amended to effectively fight crime. He issued a press release via the Trinidad and Tobago Police Service Corporate Communications Unit. It was headlined: “COP continues to press for amendments to Bail Act—Man fined just \$16,000 for firearm, ammo” In that release he:

“...pointed out that over the last nine years, there were 1,457 repeat offenders with respect to firearm offences. They were charged, got bail, and went back out there, only for them to be arrested on other occasions for the same offences.”

He continued:

“...323 persons were arrested for firearm offences over the last three years and were given bail at their first court appearance, with hundreds getting bail subsequently. This means that someone was held by the police every three days for firearm offences. It was just easy for them to get bail, go back and continue their trade of killing persons, and when those released go out and commit more homicides, some would blame the Police.”

So, of course, that was the former commissioner talking or writing in his press release.

“The vast majority of homicides are by those who have such illegal firearms. So we arrested most”—and again he continues—“but instead of remaining where they belong when charged, they were allowed to return to society to continue their trade of killing.”

He did not get what he wanted as the Bill had to be watered down to get Opposition support, and he continued to plead for an amendment. The Opposition now says the Bill was a failure as it has been ineffective as a crime fighting tool.

4.30 p.m.

So, Madam President, we are coming back to Parliament today in an atmosphere of fear where everyone agrees that crime is out of control. The hon. Dr. Keith Rowley, Prime Minister of Trinidad and Tobago, after learning that there were 13 murders over the last weekend—now we hear it is 14—spoke of violence as a public health emergency. The hon. Mr. Fitzgerald Hinds, Minister of National Security, also announced that he had received:

“...confirmed...”—reports that there were—“...children of this nation as young as eight and nine and 10 years old who are on the streets at wee hours of the night and morning and who are already engaged in the use of marijuana, gambling,”—and—“using alcohol...”

Now, I wonder how many children, if any, have been charged and if charges have been brought against parents and guardians under sections 56 and 57 of the Children Act which holds parents and guardians responsible for crimes committed by a child. I also wonder if there is any intention to enact a crime of giving alcohol to a child. You remember the case where an adult got off scot-free as there was no such law? I should like to tell the Minister of National Security that children have been involved in criminal activities for a very long time. This has been so even before the first juvenile court was instituted in Chicago, Illinois, in 1899. What is more important is how children are treated in law and in practice. Our law allows them to be prosecuted from age seven years. It does not mind if it is not—

Madam President: Sen. Thompson-Ahye, I need to just caution you the way I have been cautioning other speakers that—to treat with the Bill, please. Okay? The issues that you are raising are not issues that are directly related to the Bill.

Sen. H. Thompson-Ahye: Thank you, Madam President, but I am trying to determine if I should vote on this Bill having regard to what it entails. Thank you.

So what does the research say about the upper age limit for criminality? A 92-year-old woman said to me recently, “Any time anyone says anything bad about Dr. Rowley, my Prime Minister, I want to get a gun and shoot him”. Astounded, I reviewed the medical report on her file and she had an excellent report. She was completely lucid. So I would leave—I would not go more into that, except that she was *compos mentis* and I did caution her. The atmosphere in this country is tense and we are tenterhooks. We do not know when we leave home if we would return safely or at all and many of us have lost loved ones through crime.

Coming here I can tell you I was very uneasy because I was getting all these reports, “Don’t pass here, don’t pass there”, or whatever, you know, and I saw a little smoke in the air. So we are very concerned about what is happening in the society. The issue of how to treat with arresting persons, whether or not we grant them bail is not a new issue and it is something that has engaged, not only the legislators, but also the poets in Trinidad and Tobago, the calypsonians, who have examined crime and pointed to solutions. So in ’59 Lord Caruso won the Road March with “Gun Slingers”:

My father told them long time was not so,
here in Port of Spain killing is a joke.
When the police hold them and they arrest them,
do not fine them, do not prison them;
send them in the Square, let everybody be there
beat them with the cat,
and who see bound to done with that.

And in 1995 the Mighty Terror won the Road March with a calypso titled, “No Bail”. So we have been looking at bail over the years and bail has been engaging the attention of law-makers in numerous jurisdictions, as it is engaging us now and

generally it is acceptable that in law there is a presumption of innocence but this does not confer an automatic entitlement to bail and this is something that is engaging us today.

The accused has the right to apply for bail, save where there is a stated exception, as I spoke of before, and the prosecution has the right to object to bail. The accused right to apply for bail is not the same as his entitlement to be granted bail and he can only be entitled to be granted bail where there is no exception or there is no just cause for bail to be denying him. So the Bail (Amdt.) Act contained a number of exceptions for the grant of bail. I will not enumerate the list for fear of being accused of tedious reputation because you will not grant me bail, Madam, to continue. Now, I wish to make a point though that whatever fear one might rightly discern as occasioned by this law is bound up with the impaired credibility of the police. Madam President, I can tell you many persons and experiences, and I know you will not allow me, that remind me of Lord Nelson's "King Liar" calypso:

"Teacher Percy say if yuh tell ah lie

You going to hell"—until—"yuh die"

And one—you know, remember the case about the prisoners who fell off the bench and they died, you know. Madam, there was the case of young Romney who had previously pleaded guilty to a firearms charge. Had he been arrested for shooting Corporal Gilkes he would not have been eligible for bail for some time. And who knows, he might have hanged himself in prison.

I confess to a personal interest in this case, his persistent mother having been my student when I taught primary school. What this case points to is an urgent need for the police to be policed more stringently, for the police to be human rights defenders and not be judge, jury and executioners; remember, "one shot, one kill".

What is required for bail is that it not be viewed as punitive but administrative. And I would urge for research to be carried out on the effects of amendments with the Bail Act over the years. What has been the impact on the criminal justice system? The Law Reform Commission of Hong Kong's Report on Bail in Criminal Proceedings is instructive and in that regard. Another research paper by Alex Steel of the University of New South Wales, titled, "Bail in Australia: legislative introduction and amendment since 1970", should also be studied. We need empirical evidence; help us to help you. We cannot be flying blind all the time or else we will crash or is it that we have already crashed and we are here picking up the pieces. Thank you, Madam President.

Hon. Senators: [*Desk thumping*]

Madam President: Minister of Digital Transformation.

Hon. Senators: [*Desk thumping*]

The Minister of Digital Transformation (Sen. The Hon. Hassel Bacchus):

Thank you, Madam President, for the opportunity to join this debate as we look at the Bail (Amdt.) (Extension of Duration) Bill, 2022. I would like to start by thanking the Attorney General, the hon. Attorney General for his excellent and obviously cogent introduction for the Bill, and of course you could tell that this was so given the number of times his introduction has been mentioned as this has gone on. Having read the Bill and looked at it in its purest form and its simple form, the narrowness of the Bill did create some issues for me to create an expansive contribution and listening to the debate as it unfolded, I could get that that is what happened in a number of cases, but however the importance of the Bill is not lost on me at all. I think Sen. Welch put it best, and a number of other Senators mentioned it, what happens if this Bill is not passed. In my field in engineering and study the management of risk is something that is very important,

and risk is not just what happens when you are trying to do something, the parameters that surround it—Sen. Teemal would know this very well—but a significant part of the evaluation of risk is what happens when the actual thing that you are trying to accomplish does not happen. And in that case if you look at the society and where it is and the possibility of how something like that can be perceived, I think that gives us reason to consider and be wary as to how we operate in this space.

You know, we are living in a period where, you know, history and longstanding concerns about crime and public safety have been heightened of course and exacerbated by the social and economic disruptions of what is happening to us at present, and when I looked at the clamor for empirical evidence—almost every speaker asked about it, and my colleague, Sen. Sagrarsingh-Sooklal did attempt to provide some of the information that is required. Obviously people would like to see more. But the society, even the microcosm that is in here in this hallowed Chamber, has, and maybe rightfully so, a fixation on the empirical. I want to advance something that is a little different, and I would ask Senators to indulge me, to think about it. And what I am asking is, how do you measure the contribution of something that can only be evidenced when something does not happen? As a society we tend to diminish that, we put it in a different context. Most vehicles come with a workshop manual and in that manual it would suggest things that you must do to allow for the proper operations and maintenance of that vehicle. What we do as a society is we would ignore that and then we would only expend money and do things when something happens to something in that vehicle, because we do not take the necessary—we do not give the necessary importance to the things that are required to keep it going when nothing is happening to the vehicle.

So here we are today, we really want to get all the information, all the analysis. Everybody wants to know, “How has this contributed to this? What has happened here?” I ask us just to think and use a different type of intuition and say, “Think about this.” The people that will be caught and snared in the scope of what this Bill attracts, and just the simple one, repeat offenders—and Sen. Thompson-Ahye gave fairly good statistics as to how that could happen. Think about this, how do you measure in an empirical way someone who is a repeat offender that is snared under what this Bill attracts and because they have been so snared, have not been available in society to continue to perpetrate the things that got them there, snared in this in the first place? How do you measure that? What is the importance and the value of that? So if we cannot measure this empirically, are we saying then that it is not important? If we cannot demonstrate it empirically now, are we saying that it is not important? What happens if this does not pass?

Think about the headlines. I could see it already, the headlines. Think about the perception of the criminal. I am not saying I am a criminologist but think about the ripple effect that that can happen for those with that type of predisposition. We are seeking here through the Attorney General, and through you, for the passage of this Bill to extend the terms that we had for an additional year—one year. Not three, not five; one, and Members of the Senate would have asked for that this cannot happen. The things that this is supposed to cure cannot happen by this Bill itself, that there are other things that must happen in concurrence with that for that. We need another year to continue that. It is not that difficult, we need another year to continue that.

The passage of this will also allow—and it is for the same thing, for some of the solutions that are being put in place now to improve public safety and of course strengthen and improve the effectiveness of the justice system to take root and

continue to take root. Again, we are asking for one year. And it seems that everyone and all the contributions of substance indicated that most Members already know what those other things that we need that year to continue are. I do not need to list them. I will not because it has been well stated before. Obviously, my forte and where I sit, I would be very interested in things like the electronic monitoring. But those things are already underway, as well as the other things that we are talking about; resourcing, all of that is already being done. We are asking for one year. And again, I state think of what can happen if this does not go well. Consider, please, things that are not empirical in nature but just from your intuition you can understand the value of it given the case we have.

Madam President, basically what we are saying is the Government requires some time to continue to fully implement the solutions that threaten our public safety and law enforcement. The remedy proposed today, and this is only one of the things that we need, is urgent and is necessary. I want to urge my colleagues to join us in support for this Bill and for the extension of the sunset provision, understanding of course the implications of it across having it being done and also having it not being done. And I ask of course for all of you, I recommend this and hopefully for your favourable consideration. Madam President, I thank you.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Roberts.

Hon. Senators: [*Desk thumping*]

Sen. Anil Roberts: Thank you, Madam President. Let me at this juncture just wish all our American citizens and those who have green cards a Happy Fourth of July; the United States of America and especially all law enforcement agencies in the USA, you know, who are investigating senior officials for corrupt gains, hopefully he will not be granted bail when that time comes. So Happy Fourth of July to the

US citizens. Sen. the hon. Lezama-Lee Sing was rather disrespectful to my colleagues, saying that they did not understand their ankle from their elbow, and I thought it was rather unparliamentary and I am certain that it would not have been allowed had you, hon. President, been sitting, because I can assure the hon. Senator that all my colleagues—

Madam President: Sen. Roberts, if I could just interrupt you to say, I was sitting. I was in the Chair when Sen. Lezama-Lee Sing made her contribution—

Hon. Senators: [*Laughter*]

Madam President:—and because the context—

Sen. Lyder: [*Inaudible*]

Madam President: I beg your pardon, Sen. Lyder?

Sen. Lyder: Nothing, Madam President.

Madam President: Are you sure?

Sen. Lyder: Yes.

Madam President: Right. So, Sen. Roberts, can you just move on, please.

Sen. A. Roberts: Madam, you have to forgive me for not realizing that you were in the Chair because I would have thought through your rulings—

Madam President: Well, Sen. Roberts, let us not go there. I have pointed it out to you to correct your record and I will ask you to move on, please, because of course the decision had been made to allow the Senator to continue so I do not think you want to question the decision.

Sen. A. Roberts: I would never question you, Madam President, but I can assure the hon. Senator that the Senators on this side do know their ankle from their elbow and no one on this side received a scholarship of \$500,000 and failed exams—

Madam President: Sen. Roberts, again, because I was in the Chair earlier, I had

called on a previous speaker to apologize—to withdraw and apologize for that comment, so I would ask you to do that, please.

Sen. A. Roberts: Madam, it is a true comment, what am I apologizing—

Madam President: Sen. Roberts, you have a choice, you can withdraw that comment and apologize or there will be certain other steps that will be taken. You have the choice.

Sen. A. Roberts: I withdraw. I withdraw and humbly apologize, Madam President. I did not see Sen. Lezama-Lee Sing in the Cabinet of 2010 to 2015, so when she states, categorically, the rationale and reasons for the calling of the state of emergency, I do not think she is an expert witness because what she laid on the record is far from the truth and it was a much more detailed in-depth discussion that took about four Cabinet meetings; approximately four hours per meeting before that decision to call a state of emergency was made. So let me just clearly correct the record there.

Sen. Lezama-Lee Sing also said that the PNM supported—the Opposition supported the Bail (Amdt.) Bill, 2013; well, I have the *Hansard* here from the Leader of the Opposition then, the hon. Dr. Keith Rowley, Member of Parliament of Diego Martin West, and in the debate on the Bail (Amdt.) Bill, 2013, I quote from the *Hansard* of the then Leader of the Opposition, Dr. Rowley; he says:

“But let me take you, Mr. Speaker, to what this is all about. We at the onset in this country know that all citizens under the Constitution and provisions of our law and regulations are guaranteed the right to bail, and not just bail, but bail that is reasonable. That is part of the operations of the country enshrined in our laws.”

The hon. Member for Diego Martin West continued:

“This government...”

—talking about the Partnership Government:

“...stumbling around like blind man’s bluff—year one, year two, year three—and making no progress with respect to coming to grips with the crime scourge in the country, decided to revisit the granting of bail, and to come back to the Parliament with a whole basket of offences for which bail can now, if it is passed, not be granted. We...”

—meaning the PNM:

“...said upfront we are not prepared to support that.”

I also quote from the Member of Parliament, the PNM Member for Diego Martin North/East in the same Bail (Amdt.) Bill debate where he stated, and I quote:

“...I would start immediately by stating that I was present at one of the ‘anti-crime discussions’ where the Attorney General told us that it was the intention of the Government to introduce legislation to—limit bail in situations where persons had one previous conviction, and we told him clearly, unambiguously, emphatically, in unison that we would not support this legislation.”

That was the PNM Member for Diego Martin North/East. I then come to the Senate on the same debate in 2013 to correct the record put by the hon. Senator, Lezama-Lee Sing. I now speak and quote from the *Hansard* of the hon. Sen. Faris Al-Rawi taken in the debate on the Bail (Amdt.) Bill, 2013. The Senator said at the time:

“We are here to debate the tenth amendment to the Bail Act. We are here dealing with a derogation from entrenched rights in sections 4 and 5 of the Constitution. We are here staring down the Preamble of the Constitution directly in the face. It is the Preamble of the Constitution of Trinidad and

Tobago that speaks to respect for due process, and the rule of law. It is the Constitution in section 5 that speaks to the right to bail—in section 5(2)(f)(iii) of the Constitution. There is a plethora of case law that speaks to what this country and any country that respects the rule of law and due process ought to have in its consideration when passing law.”

It is amazing that the PNM now seeks to argue with the PNM. The police knew, for example in the case of crime-fighting, that the UNC was going to protest the removal of the gas subsidy, but they had no idea that from Mount Hope to the savannah that today Trinidad and Tobago would have been shut down. Is this because the SSA does not share the spyware with the TTPS? No cohesive anti-crime plan but we want to come to here to extend the Bail Bill to prevent citizens from access to the courts. The most remarkable argument is being put forward here today by the PNM. This has been the law for three years, it has failed. As all the Independent Senators have been beseeching the Government, “Give me the statistics to show me how it is working”. “How has it worked? What has it done? You are saying it is critical”—they can give no statistics because it has been a total abject failure. So this has been the law for three years, it has failed. Crime is out of hand. “We are in a crisis but please extend the law”, that is the argument presented here today by the PNM. It is illogical and it is irrational.

Secondly, this PNM that has failed in every single aspect of executive management, whether it is the economy, jobs, health, sport, education or crime—

Sen. Gopee-Scoon: Madam President, 46(1), relevance.

Madam President: Sen. Roberts, could you please come back to the Bill. Do not lead off to—all right?

Sen. A. Roberts: It is on the Bill, I am there with you, Madam President.

Madam President: Well, just take my guidance.

Sen. A. Roberts: Thank you for the guidance. This Government that has failed in every aspect of executive management is now coming to ask for an extension to take over the responsibilities of the judicial officers. What arrogance, the judicial officers are experts. We heard last week in a debate about the CCJ and the Privy Council that the PNM is impressed with our judicial officers but yet this week now, we are hearing that the PNM, the Cabinet that has failed across the board is now taking over and continuing to usurp the discretion of judicial officers.

This extension is not about the right outright for bail, it is about the ability to apply and once someone can apply you have judicial officers who understand the law, who understand the threats, who understand the system and they are experienced and they can deny bail if they see fit. So to sit here and to come to legislate to go against the Constitution, as so beautifully put succinctly in 2013 by the former Attorney General of this PNM iteration is unnecessary and must only be done when you can show evidence of its efficacy, because to infringe on the rights of citizens is a very serious thing. I have been asking all and sundry all day, today, in preparation for this debate, “What is the tablet to take for crime”? Because the PNM Prime Minister has said, “It is a public health emergency”. So what is the tablet? What is the prescription? What is the pill that we have to take to solve crime? Is there a vaccine that the PNM has because this certainly here today will have no effect as we have seen in last three years?

The hon. Senator, Independent Sen. Remy said that she would like to see hands stretched across the aisle to see the Government and the Opposition working together. Well, I would just like to remind the hon. Independent Senator, I take her back to news report, June 16, 2016:

“Opposition Leader Kamla Persad-Bissessar on Thursday wrote”—to—
“Prime Minister Dr Keith Rowley inviting him to meet at a mutually

convenient time to discuss crime and the Miscellaneous Provisions (Anti-Gang and Bail) Bill.

In her letter to Rowley, Persad-Bissessar said: ‘In recognition of the critical nature of the legislation in the fight against crime and the Government’s failure to engage the Opposition in any consultation to date on this Bill, I wish to hereby invite...’—you—‘...Honourable Prime Minister and relevant Ministers of Government to meet with my team and I at a date, time and venue of mutual convenience.’”

She also issued a statement in which she called out the Government on its failure to engage and consult MPs on the Bill. Her statement comes one week after the then Minister Stuart Young said he hopes the Opposition will be responsible and support the Bill.

So, Madam Independent Senator, you can see and you can also, if you want more evidence, you can see the COVID-19 fight at the beginning of 2020, the hon. Leader of the Opposition has begged, beseeched, written, offered her services, her team to help the Government in any way possible to lead to good governance, good laws for Trinidad and Tobago. So to come here today and to look and to share blame equally, I think it is a little bit injudicious and unfair, because the Opposition has always stood ready to consult but we have been denied the opportunity, rejected. All of our ideas and suggestions are not necessary. We were told by the Government in the Lower House by the then Minister of Tourism, Shamfa Cudjoe that they are in charge. Well, you are in charge, you want no help; the crime—

Madam President: Sen. Roberts, Sen. Roberts, please, you have made your point in respect of a comment that had been made during the contributions. I will ask you to move on now, please.

5.00 p.m.

Sen. A. Roberts: Thank you, Madam President. I move on.

Today, in this Senate, when I witnessed the bullying of a temporary Senator by this Government, it clearly illustrated why this country—

Madam President: Sen. Roberts, I am sorry, but you are going to have to withdraw that statement, please. Withdraw that statement.

Sen. A. Roberts: Madam President, you were not here.

Madam President: Sen. Roberts, I am asking you to withdraw that statement.

Sen. A. Roberts: By force, I will withdraw it, Ma'am. I will.

Madam President: Sen. Roberts, you just withdraw the statement without more.

Sen. A. Roberts: Withdrawn, Madam.

Madam President: Thank you.

Sen. A. Roberts: And as it is withdrawn, since it was not bullying, I saw my colleague, a temporary Senator, being interrupted by the Government at every junction, not allowing her to debate, not allowing her to give ideas, to help to bring good law. And if you all think that that is the way to govern, well, so be it. But do not come to tell the Opposition that we are anti-country or unpatriotic and we do not want good law. You do to work. You are in charge, you have the resources, you are the Cabinet, you are the Government. Today, Trinidad and Tobago has fallen up in smoke because you are in charge and you have failed.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: And the problem is that you are in charge until your leader and his AG are charged in the USA. This Bill is critical but in the PNM crime fight said we attacked—the Minister in the Office of the Attorney General and Ministry of Legal Affairs attacked the hon. Wade Mark, a Senator of decades of service, and said he ran out of here like a little schoolboy. A little schoolboy knows not to tell

untruths. A little schoolboy knows what class he is in, and if he is a prefect or not. A little schoolboy knows not to tell his teacher, principal, mother and father falsehoods. Unfortunately, this Attorney General does not know that which the little schoolboy knows.

The hon. Minister in the Office of the Attorney General and Ministry of Legal Affairs brings up statistics on sexual penetration of a child and was actually proud, those reports few and sporadic were detected. But she sits in a government that a report was received by the Cabinet on December 13, 2021, a scathing report, with lots of information on abuses of children, and nothing has been done up to this day. But we are coming here to pretend that some action has been taken. I was deeply disappointed. And I call upon the hon. Minister to get with her colleagues and protect the children. Act on the Judith Jones report, please, now. It is not time for talk and for policy.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: Get in there. The original Minister was correct. Ayanna Webster-Roy said in motherly instinct she wanted to go in, fire people, get in and protect children, and she was told to stand down.

Madam President: Sen. Roberts, we are treating with the Bail (Amdt.) (Extension of Duration) Bill, 2022. There will be a time and a place for all that you are saying, another debate, but not for this debate. So, could you move on, please?

Sen. A. Roberts: I will move on, Madam, but I was just responding to the hon. Minister.

Madam President: Just move on “nuh”, please.

Sen. A. Roberts: The hon. Minister in the Office of the Attorney General and Ministry of Legal Affairs also boasted about the detection of crimes that are reported by the police dealing with buggery. But hon. Minister, you forgot to tell

the entire country and this the honourable Senate that this crime is one of the lowest reported out of all crimes because of the shame, because of the pain, because of the stigmatization. So, to say that you got nine reports and you solved nine, I would not thump the desk because we must create systems where victims can come forward privately and really make reports, so that we can stop the scourge of that specific crime. So, I do not share your praise for your Government.

The hon. Minister gave me a bit of a crystal ball debating skills where she said—she personally submitted that if this did not happen, if the 120 days was not there for three years, that the crime situation would have been such and such. I do not know, my mind cannot wrap around things that do not exist. Just like when you have emails and they are not emails, that there can be no content. So, if something does not exist I have a problem with giving it some sort of meaning in this debate.

The Government admits to failure and help to make it better, this Government must—each and every Minister, you have abdicated your responsibility. Resign, move on and call an election. The country is begging for it.

Hon. Senators: [*Desk thumping*]

Sen. A. Roberts: To sit here with arrogance and to come to wave a piece of paper and say, “This that has been here for three years, please extend 12 more months. We have failed. Give us another chance to fail,” while people are dying and children are suffering, that is enough. If you cannot do the job, step aside, simple.

When one of the hon. Ministers in the Office of the Attorney General and Ministry of Legal Affairs is wrapping up, please give us the statistics on cases which were strengthened after the first 48 hours. Because the hon. Minister in the Ministry said that if it was not for the 120 days, the cases—I live in the real world, I live in Trinidad and Tobago, and I have not really seen for myself any improvement in evidence gathering over 120 days. In fact, the colder the case, the

slower the energy, the lower the intensity and the lower the lack evidence gathering. So, please, help us understand how the police “mash gas” down in day number 112 or 113 to get more evidence, rather than that critical time just after the crime.

The hon. Minister in the Office of the Attorney General and Ministry of Legal Affairs said that the hon. Attorney General changed his position because of the worsening crime. Well, this begs the question. This had been the law for three years. The hon. Attorney General in another position was against the law and for the Constitution and the rights. And now, as a Member of the Government, he is saying that while this law has existed, the crime situation has gotten worse. And it is so untenable that he has now changed his position to want to extend the same law that has failed. It baffles me. I need the hon. Attorney General to explain that in more detail, please.

They are boasting about an 18 per cent detection rate, that is an admission of failure. And even the hon. Attorney General admitted—I mean, the Minister in the Office of the Attorney General and Ministry of Legal Affairs admitted that, rather sheepishly, and she then went on to give statistics that in 2020, the murder rate was 339 and in 2021, it was 450. If we throw our minds back to the state of emergency, lock down, shut down, “bruk down”, the roads, nothing moving, and you are calling these statistics?

The real statistics are happening right now as we speak. Murders, 13 in 36 hours, four in this morning, 17 in 48 hours. That is the real crime situation right now, with no state of emergency, no COVID-19 protocols, no shut down of work, no shut down of road traffic. This is the situation that we are in, and we are now faced with another generation of children who will be suffering and who will be at risk. Over 50 per cent; over 50 per cent of the children cannot score 50 per cent.

How many got zero? What are we going to do to take care of them?

Madam President: Sen. Roberts, why are you doing this repeatedly? I have told you, I have cautioned you about the scope of this debate.

Sen. A. Roberts: We see in the Sunday *Express* Editorial, July02, 2022, just yesterday, this is a why, Madam President, we cannot take one piece of legislation and an extension in a vacuum. There is a crime fight. We are here, as we have all said, to create laws, to take decisions that will lead to the benefit for most of the citizens, or as many as we can, in Trinidad and Tobago. But here we are, the Sunday *Express* Editorial says:

“Next, the crime plan”.

I would not read it but it basically says that the Government has no crime plan, that everything has failed. And rather than come here today and state what and where they are going, other than this extension that they are asking for a special majority of something that has failed, and giving no statistical evidence to move on, we hear from the hon. Attorney General all the legislative areas that had gone before he arrived, different pieces of legislation. The fact of the matter is that over the last seven years, the crime situation has spiraled out of control. So, anything you brought has failed. So, we need to hear the crime plan so that the citizens can get some sort of comfort and live in some hope that when their families leave their homes that they would be safe.

We are hearing from the Acting Commissioner of Police now that there are some gangs that are coming into your houses now, that there is this special gang that believes in home invasion. So, is this Bail Act, is this it? Is this extension it? Is this all we can look forward to, to feel safe from the PNM? We are not sure which iteration and version this came from, but we have changed circumstances. What has changed, hon. Attorney General? You need to tell us what has changed from

2016 to now.

Children, young women and mothers, the Government is boasting that they have come and they have come to protect them, but yet we see no pepper spray. There is no action on Judith Jones, no CCTV cameras to protect our citizens and well, I will not go on to the education, but the crime fight, as stated by Dr. Eric Williams back in 1969, he stated that in order to fight crime you must provide opportunity; opportunity through education.

Madam President: Sen. Roberts, at this stage, I should be calling on you to end your contribution because I have repeatedly cautioned you and offered you guidance about the scope of this debate, and the fact that you are way out and you are just refusing to take the advice. But I will ask you to continue your contribution. This is the last time I will be warning you on this.

Sen. A. Roberts: Thank you, Madam President. I was just linking it to the hon. Attorney General.

Madam President: I really do wish that if I make a ruling that, whoever, that you just receive the ruling and you move on. I do not need to get a justification for what you were saying before. What you said before is what I have ruled to be irrelevant.

Sen. A. Roberts: The hon. Attorney General was boasting today, all day, about rulings from the Privy Council, but I thought I was in the twilight zone because last week he was saying that the Privy Council has to go and has to be replaced. The PNM has been seven years in charge. Somehow, this Attorney General quoted devastating surges in crime, increasing and alarming statistics, which illustrate the total incompetence of the PNM yet he attempted to take solace from a downward trend; a downward trend in gun crimes. Well, I nearly choked on my doubles because anyone who lives here knows that there is no downward trend in gun

crime, and part and parcel of what the Government is asking us to support here is to deal with the escalating gun crime, to deny bail, to extend for another 12 months. The hon. Attorney General cited pieces of legislation.

The crime fight requires leadership, planning, intelligence, creativity and teamwork. Leadership is not a cow, stated former Prime Minister Basdeo Panday, but yet we have a Trinidad and Tobago Police Service who is going to use this tool, this extension for 12 more months. We have a Trinidad and Tobago Police Service that is leaderless, rudderless, that merit has been ignored. They are demotivated, they are under resourced. So, why are we passing and taking the risk of infringing upon people's constitutional rights, when the Trinidad and Tobago Police Service is not prepared to attack crime as they should be?

We have lot of work to do; lots of resources to provide; lots of encouragement, leadership, planning, creativity, different attempts at monitoring, attacking crime, rather than breaching constitutional rights, without any hope of success.

We have a leader at the Trinidad and Tobago Police Service that his officers did not even respect him enough to tell him the truth in a recent incident in Rich Plain. The Prime Minister, by all accounts, is banking on a wealth of foreign assets purchased and transferred in US currency, rather than the local law enforcement to curtail criminal activity. The PNM has failed.

This Bail (Amdt.) Bill that was granted to you with special majority for three years has failed. The country is reeling. There is blood spilling and flowing throughout, and yet you come for an extension. There is no justification and the UNC will not support this failed PNM regime with this extension of this Bail (Amdt.) (Extension of Duration) Bill, 2022. I thank you, Madam President.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Vieira.

Hon. Senators: [*Desk thumping*]

Sen. Anthony Vieira: Thank you, Madam President. I hope not to be too long. Just a few general observations. You know, it is funny how the shortest Bill so often occasion the most heated debates.

Like every other citizen in Trinidad and Tobago today, I am appalled by the tragic and escalating crime scene. So, we all have a vested interest and common cause in curtailing crime. Generally, Parliament may not deprive a person charged with a criminal offence of the right to be presumed innocent and to reasonable bail without just cause.

As you have heard, in 2019, all of us on the Independent Bench supported Government in abrogating that right. Today, we are being called upon to do so again. Now, there is a philosophy behind this Bill and its parent. In blunt terms, rather than leaving it to the discretion of judicial officers, bail would be denied to persons charged with listed offences. The police say that there is a desperate need for an extension and that the 2019 law has had a positive impact and so, with this law having been operational for the last three years, we are being asked to renew for another year.

Now, I have some concerns. First and foremost is that the nature and effect of this law and the 2019 amendment is that it encroaches on the Judiciary's purview when treating with bail under the separation of powers principle and, in particular, by restricting an individual's right to apply for bail.

Denying a person who is charged with a listed offence of his right to apply for bail, precludes the desired balancing exercise between, on the one hand, the presumption of innocence, the right of all citizens to equality before the law and protection of the law, and the right to reasonable bail, and on the other hand,

protection of society by taking repeat offenders off the streets, by curbing the gang wars and by curbing firearm offences.

Now, there is a principle that I heard cited by the hon. Attorney General. The proper name of it is utilitarianism. That is the principle which places the good of the many over the few. That principle sounds good. At face value, it is attractive but it is morally dubious. For example, even if the majority of people thought it was acceptable to enslave a few or to legitimize cannibalism, it would still be wrong. If we use that approach that the rights of the many will override the rights of the few, if we use that approach to make moral decisions, or as a basis for our laws, then we are sacrificing the inalienable rights of the individual in the process, and that can be problematic. In trying to solve one problem, we may in fact be creating another.

It is incumbent on us as legislators always to be mindful of the dangers when legislation flies in the face of constitutional protections. So, even while crime seems to be at an all-time high and even while all of us want to curtail it, have we been presented with convincing or sufficient data, with convincing or sufficient arguments, that the measures we supported in 2019 have proven to be effective?

Right now, the police do not seem to be enjoying the level of public trust and confidence that they should have. As others have said, right now, protests against the police are taking place as we debate. There have been allegations about the shooting of unarmed suspects, reports about officers misleading their superiors. Crime at an all-time high, even though the 2019 amendment is in force. We should take comfort in the knowledge that the Judiciary is charged with the balancing of rights. If bail is to be granted or denied, that should be dealt with by the courts.

Now, I have no problem urging the Judiciary to up their game and to take a more robust approach when treating with applications for bail, but I am hesitant—

in fact, I am unwilling to usurp their constitutional role and function. Where we can help the Judiciary in executing their bail function is by seeking to understand why the current bail system is not working as it should, and then trying to fix the gaps and the flaws at a very fundamental level.

Now, the purpose of bail is threefold: to ensure that the accused will appear at trial, to safeguard the rights of the accused and to guarantee security to society. But the way we have sought to achieve these goals has an inherent problem, in that the bail system favours those who own land or who can afford to pay bail, and the unhappy result is that the impecunious defendant tends to remain in jail pending trial.

As a legislature, we have an interest in and we should be seeking to find ways to narrow the discrepancies in the bail system. We should not be looking to enlarge them. We should be narrowing the gap in opportunities for bail between the rich and the poor, between the haves and the have-nots.

Section 6 of the Bail Act sets out the parameters the court will consider when deciding to grant or not to grant bail, including—I mean, it a long section—committing offences while on bail, interfering with witnesses, the nature and seriousness of the offence. But I think, rather than extending the 2019 amendment, I wonder if a better approach might not be to include in section 6 the issue of community safety. So, to put that as one of the criteria when considering whether or not to grant bail and in balancing the likelihood of the defendant's appearance and the needs of community safety, I join with Sen. Teemal, his concerns about the accused who languishes in jail pending trial.

I mean, you are presumed innocent, you are in jail on remand, you lose your job, you are unable to provide for your family, you get exposed to the worst elements in the “University of Crime”, you become disillusioned and bitter. So, in

addition to enquiring about prior convictions and pending charges, perhaps when judges and magistrates are evaluating an accuse, and whether to grant him or not to grant him bail, we should also include things like his employment, his family, his community relationships, to ascertain whether he is likely to abscond, or whether he poses any threat to anyone or to society. If he poses no threat and he is not likely to abscond, then he should be released on bail under minimal conditions.

Land and money should not be the main criteria for bail, and I very much join with Senators Richards and Teemal about the greater use of electronic monitors, things like GPS and supervision orders, in addition to measures which we know currently take place, for example, like restrictions on travel, you surrender your passport, you report to the police station occasionally. But an accused should not be denied bail on a carte blanche basis. What we should be focusing on is appropriate bail, bearing in mind that unfair denial of bail can drive persons toward crime.

The critical problem of crimes being committed by repeat offenders cannot be ignored, or the seriousness of the kind of crimes we are seeing today. But denying bail for persons carte blanche is not acceptable in my view and certainly not acceptable by the Legislature rather than by Members of the Judiciary under due process of law.

I agree with and I adopt all the points made by Sen. Welch. They very much correspond with my own views and experience. The 2019 amendment was supported in good faith fully by the Independent Bench, but the current crime situation suggests a lack of success. In any event, it is not a ringing endorsement. Had it been otherwise, I would be more likely to be supportive of this Bill. The essential question is, as the hon. Attorney General has said, whether this Bill strikes an acceptable balance. But my answer to that is that we are better served

leaving it to the courts to determine bail. The courts are the appropriate mechanism, they are the appropriate place for determining and maintaining that essential balance, and we are duty-bound to respect and support the separation of powers.

Now viscerally, I want to support this Bill. We are a high crime society, and I want to believe that I am doing something useful in curtailing crime. But if one acts on a fair-based basis, it is easy to lend support to this Bill. But as a Senator, as a lawmaker, I am required to consider all the angles, and I am required to weigh all the evidence, all the data, objectively and holistically. I am required to treat with this Bill maturely and carefully. And regrettably, I cannot say that Government has put forward a convincing case. I am yet to be persuaded yet to be persuaded that the country needs this extension.

Accordingly, like Sen. Welch, I am comfortable with the sunset provisions occurring as scheduled, and then leaving it to our criminal justice system, in particular the Judiciary, to police this important area of the law, bail. In my respectful view, what is needed is not an extension, but improved efficiency in the police, in the magistracy and in the Judiciary. Madam President, I thank you.

Hon. Senators: [*Desk thumping*]

5.30 p.m.

Mr. Vice-President: Minister of Tourism, Culture and the Arts.

Hon. Senators: [*Desk thumping*]

The Minister of Tourism, Culture and the Arts (Hon. Randall Mitchell):

Thank you very much, Madam President. Madam President, I want to thank you for the opportunity to place a few comments on this Bail (Amdt.) (Extension of Duration) Bill, 2022. And I want to make those few comments and confine myself

within the very strictest limits of the debate's remit.

Members went all over, Madam President, particularly Members of the Opposition speaking about murder, rogue police officers even the father of the nation Dr. Eric Williams. But, Madam President, the Bill contains just three clauses. The first clause the short title of the Bill, second clause is the certificate that the Bill is in consistence with sections 4 and 5 of the Constitution and therefore requires a special majority. And clause 3 of the Bill seeks to extend the sunset clause of the 2019 Act by another year to 2023.

So, Madam President, if just to touch on clause 2, the Bill does require a special majority for its passage in both Houses of the Legislature, the Senate and the House of Representatives in this Parliament. And Sen. Mark sought to argue that the 2019 Act was some sort of Executive intrusion calculated to ouster the court's jurisdiction and trample on the rights of citizens. Nothing could be further from the truth and Sen. Mark was completely misleading when he made those statements. Because as Sen. Paul indicated, the Executive does not approve special majority law or any law for that matter. It is the Legislature that does that. It is this Parliament competent to do so and the Constitution of this Republic allows for those sections 4 and 5 rights in certain circumstances to be ousted.

Madam President, in the Senate this 2019 Bill was passed and in the House it was passed unanimously. But this is not a measure that is different to other amendments to the Bail Act 1994 that have been debated and approved by this Parliament since the year 2005. But, Madam President, I will focus on 2011 and with the support of the Opposition then, the People's National Movement.

In 2001, the Miscellaneous Provisions (Bail and Kidnapping) Bill, it was John Sandy on Tuesday, February 15, 2011 and he said.

“As mentioned previously, the Bill seeks to make an amendment to the Bail

Act and to the Kidnapping Act by increasing the amount of time a person can be held with no evidence for the charge of kidnapping and by changing their existing penalty for the offence of kidnapping respectively.”

At that point in time there was the scourge of kidnapping and the measure was introduced to assist law enforcement in dealing efficiently and effectively with the scourge of kidnapping. And that was passed and it was supported by the People’s National Movement.

In 2011, again, the Bail (Amdt.) Act, it was Anand Ramlogan who piloted, Madam President. And on Friday, December 10, 2010, at that point in time, Madam President, it was to treat with specific criminal matters as well.

It 2014, Anand Ramlogan again introduced the Bail (Amdt.) Act, 2014 and it was approved by the House. And in that Act it was introduced to deal with specific problem of re-offending. And he indicated:

“People who have been convicted of violent criminal offences in a court of law and after you have been convicted and you have served your time, if within the next 10 years, you re-offend and you are arrested and charged for another similar violent crime, then we say bail must be denied for a period of at least 120 days after which you can apply for bail and the Magistrate or judge can consider it.”

That was Anand Ramlogan piloting the Bill in the House of Representatives on Friday, December the 6th, 2013. So, Madam President, these matters are not strange to this Parliament.

In 2015 again, another Bail (Amdt.) Act was introduced by Garvin Nicholas and it was supported by the People’s National Movement.

In 2019 and fast forward to the Bill, the Act rather that this Bill seeks to extend by one year in duration, section 7, I believe it is, the same concern of

persons continually re-offending was present then and continues to be a serious issue now. And in that Bill as well we sought to tackle the issue of serious violent crime and to confront the scourge of illegal firearms in our society. And from three years beginning in August 2019 and continuing until August 2022 we introduced that Bill to deal with the crime situation that was occurring. So today, Madam President, we are here and we are treating this 2022 amendment Bill, just one month away from its expiry and just a few days away from the recess to ask for an extension of the provisions of that 2019 Act.

A lot weather, Madam President, was made about Government programmes and other matters related to preventative measures to halt crime was raised by the Opposition but, of course, those matters are not with the remit of this debate. And had it been, a number of us on this side, Minister of Social Development and Family Services would have had a lot to say. The Minister of Community Development and sport, the Minister of Youth Development and National Service would be able to come here and say exactly what is being done by way of preventative measures to alleviate and to treat with the scourge of crime.

A lot way also say about electronic monitoring. And, Madam President, according to CAPA a total of 34 persons are presently being monitored by electronic-monitoring devices and I am certain that in the coming years more and more persons as that programme rolls out will enter into that programme of electronic monitoring. So that is presently being done.

But, Madam President, the crux of it today is, applying the matters—applying our minds to the matters before us, what are our realistic considerations? What are those matters before us that we must apply our minds to before we make a decision to support this legislation or not.

The first thing is that, the police themselves have asked for this piece of

legislation. They have asked for an extension of one year. And many Members alluded to that. Many Members quoted the acting Commissioner of Police when he himself requested this extension. And while the numbers, Madam President, of serious crime may have decreased during the pandemic, I accept that it may very well be on account of the lockdown and state of emergency measures that were in place during that intervening period between 2019 and 2022 that caused a decrease in crime.

And, Madam President, I join with hon. Senators opposite and I do find it regrettable that we have not yet, we do not yet have the statistics from the police service, the prison service and even the Judiciary for us to make a proper determination at this time and I am sure it will be forthcoming.

But, Madam President, like similar debates before us recently, if we are to give the police, the Judiciary, the prison service the benefit of the doubt, we really cannot afford to ignore that during the intervening period and continuing, has been an incredibly disruptive period. It has been incredibly disruptive. Madam President, we cannot ignore that the COVID-19 virus did not discriminate in the population. There were policemen who were dying, members of the Judiciary who were dying. Prison officers were dying. There were persons who were being placed on quarantine and there was this revolving quarantine where people were not on work for 14 and even more days at a time, weeks at a time. And during that time, of course, they still had to attend to matters relative to their administration of justice. So it was incredibly disruptive.

So on that basis I might forgive that we do not yet have the statistics and we are still—we are at but one month away from the expiry of this sunset clause and the police themselves they have asked for it. So we do not know whether there have been successes or whether they have been failures. We have now seen that

they managed during the period of time to rollout the electronic monitoring system. We do not yet have additional successes that they may have experienced. They have only asked for one year.

Madam President, will measure be the panacea for crime? I think we all agree that this measure on its own is not the panacea for crime and for criminal scourge in our society today. It never was. It is just but one measure single to assist the police, to give the police a little room so that they assist and manage the fight of crime. They have asked for a period of one year to give them some room to fight crime.

And lastly, Madam President, it was touched on in the debate, not entirely relevant to this debate because it dealt with have bail for murder and the safe provision, et cetera, et cetera. But we await the Privy Council decisions in the Akiel Chambers matter. And that matter treats with a question of the separation of powers and saved law. And it may very well be that within that period, that one-year period that we may have to engage in a total reform of the bail laws in Trinidad and Tobago depending on the outcome of that decision. And therefore, that one-year period gives us that bit of room to await that decision and to prepare the next steps in our criminal justice system.

So, Madam President, in this short contribution if I am to conclude, the police themselves they have asked for the one-year extension and they have asked for the room to be able to manage crime. There were significant disruptions during the period, the three-year period that this law was enacted and therefore, we await measurement but even the measurements when we receive them may not be entirely applicable.

Thirdly, criminals do not discriminate. The criminal do not discriminate between red and yellow or any other colour in society. They simply do not

discriminate and we are here to assist using our legislative vote and our legislative power in this House to assist where we can to ensure that legislation is passed for the good order and the protection of our citizens.

And lastly, Madam President, these types of measures have been used since the year 2005 by different Governments and it continues to be used today to assist the police in the fight of crime. With those few words, Madam President, I commend this legislation. I commend the period of an extra year to this House and I thank you.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Deonarine.

Hon. Senators: [*Desk thumping*]

Sen. Amrita Deonarine: Thank you, Madam President, for the opportunity to contribute to the debate on this Bill which seeks to extend the sunset clause of the Bail (Amdt.) Act of 2019 for a further period of 12 months. Now, Madam President, I initially did not plan to speak today hence the reason for my late notice that I will speak but I think it is important that I place my position on the record.

Now, Madam President, when I heard this Bill was coming for debate in this honourable House before the end of this parliamentary session, I was looking forward to hearing some serious statistics and data on how this Bill has served Trinidad and Tobago as a crime-fighting tool. Madam President, that was the grounds on which this piece of legislation came into effect, to serve as a tool to assist in crime fighting such that it requires us to consider as legislators to reconsider sections 4 and 5 constitutional rights to deny bail in specific circumstances. So, I too like Sen. Deyalsingh when I voted in support of this legislation, my thought process was a similar one. Yes, crime is escalating. Yes, something has to be done. Yes, this will continue to be a problem if nothing is

done so let us see how this would work as a deterrent to crime.

And this, Madam President, this was a serious decision that had to be made to decide on infringing on section 5 constitutional rights, that is to:

- “(f) deprive a person charged with a criminal offence of the right—
 - (i) to be presumed innocent until proved guilty according to law...”

So, Madam President, I sat here eagerly awaiting to hear the results of the last three years. I am still waiting to hear about the efficacy, the effectiveness of this legislation in the last three years. Madam President, I respectfully do not accept that it cannot be empirically measured. I do not accept that the data is not available.

Madam President, any rational individual trying to make a decision on whether to extend this Bill for another year will base their decision on logical reasoning. We have to assess whether the legislation has achieved the purpose or impact. And I expected the Government to share with us this information on what you expect to achieve in the next year in delaying this Bill for—in delaying bail for another—or 120 days for another year. And I was not expecting to hear that it is not something that can be empirically measured. I do not accept for another year we are just giving the police a little room to manage to fight crime.

With respect to the data I heard coming from the hon. Attorney General I realized that it was the same information that I received from the Crime and Problem Analysis unit of the TTPS, CAPA, as usually refer to. Arrest for firearm-related offences. I also heard the hon. Minister in the Ministry of the Attorney General Sen. Sagrarsingh-Sooklall speak on the detection rate. But most respectfully, Madam President, that is not an indication of the efficacy of this legislation over the last three years. So after 17 speakers I am still waiting to hear

arguments worthy of convincing me to support this one-year extension. I have sat, I have waited.

I too who, Madam President, reached out the Crime and Problem Analysis unit on Friday last week in preparation for this debate to understand how this legislation has worked, how it has performed over the past three years. They could not provide me data on instances where bail was denied under the Bail (Amdt.) Act of 2019 and any respective convictions that were made. So then I sought out assistance from the parliamentary library who did some cross checks and advised that this information is actually recorded via the Magistrates' Courts and that this information is not published. So understanding that even though this information is available, it is unpublished. I was hopeful that the Government was prepared or was coming here today to provide us with that information. I thought the hon. Attorney General would have sought out this information from the Magistrates' Court and come here today to explain to us and to justify the performance of this Act over the last three years. What information am I speaking about, Madam President?

I am speaking about information such as, with the proclamation of this Act in 2019, what are the number of cases where bail was refused? For those persons who were denied bail under this Act, what has been the progress in commencing trials? I know some lawyers would laugh at me by saying that, by even asking that question knowing very well how long trials take to commence.

For how of those cases where bail was denied under this Act where is the evidence-gathering process for those cases? For many of those case evidence gathering is completed? Or, at least, 50 per cent completed? So we can say that, after denying bail for 120 days for those persons who have committed offences under Part II of the parent—Part II Bail (Amdt.) Act that they are in position where

the evidence-gathering process is, at least, 50 per cent completed for X number of cases or 100 per cent completed for Y number of cases.

What were the improvements in the Forensic Science Centre and the rest of the justice system? Now, I know a lot has been said about that. But I want to also ask, what progress we expect in the next year? As a matter of fact, we always hear about these improvements especially from the former Attorney General, always convincing us of plant, people, processes that he is investing into the Judiciary system. But, Madam President, how have these improvements reduced the length of time to get certificates of analysis from the Forensic Science Centre? What I heard today was that there were improvements in the Forensic Science Centre with respect to infrastructure for ballistics. I believe the hon. Attorney General referred to but I did not hear how time duration for forensic testing was reduced. The last I heard is that it takes six years for ballistics to be completed.

In conversation with some court practitioners I was advised of cases where trial is about to start some eight years after the detainee, a detainee is in remand and the certificate of analysis was not yet ready after eight years. So, Madam President, after 120 days the detained individual will be granted bail and be out on the streets to be repeat offenders and even be privy to becoming worse criminals.

Madam President, the psychological imprint that remand has on detainees must be considered. Delayed crime or even worse increases the potential seriousness of the crime when the person is released on bail. It is like 120 days of training to be a better criminal or an opportunity to conduct business in remand, while in remand. I say this because, when I spoke to a court practitioner I heard of the reality. There are people who cannot wait to go in prison and who deny requesting bail because business going good inside remand while other criminals work for them outside of prison. That is the reality that we face here with crime in

Trinidad and Tobago. We cannot deny that.

So, Madam President, without providing me with the requisite data on the efficacy of this law in the past three years, explaining to me how you are reducing the length of time for justice to be had and what tangible outcomes you expect to accomplish by extending this for another year, is really asking me as Senator, as a legislator to continue to give permission to make an exception to section 5 constitutional rights of citizens without the necessary proof of how this has worked as a deterrent for serious crime in Trinidad and Tobago. It is asking me to assume that everyone caught under this Act is guilty. I thank you, Madam President.

Hon. Senators: [*Desk thumping*]

Madam President: Leader of Government Business.

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

Madam President, in accordance with Standing Order 48(4), I beg to move that the debate on the Bail (Amdt.) (Extension of Duration) Bill, 2022 be adjourned.

Question put and agreed to.

**CHIROPODIST CLUB OF PORT OF SPAIN
(INC'N) ACT, 1972, ACT NO. 26 OF 1972**

Question put and agreed to: That a Bill to amend the Chiropodist Club of Port of Spain (Inc'n) Act, 1972, Act No. 26 of 1972, be now read a second time.

Bill accordingly read a second time.

Question put and agreed to.

Senate in committee.

Madam Chairman: So, Members, I am seeing some puzzlement on some of your faces. What we are treating with right now is a private Bill. You will remember when the Bill was laid. It is a private Bill treating with some administrative issues

for the Chiropodist Club of Port of Spain and that is why I have asked for it to be read a second time. Yes? Okay.

Clause 1 and 2.

Question proposed: That clauses 1 and 2 stand part of the Bill.

Sen. Dr. Dillon-Remy: Madam Chair, is it possible for you to just give me one second to pull up the Bill? Because I do not have it. It was not something that I knew was coming now. Could you just give me one minute to get it from the Senate, please?

Madam Chairman: Sure. May I just point out that after we conclude this one, we will deal with the second private Bill that is on the Order Paper which is to treat with the Trinidad and Tobago Association for Retarded Children Ordinance?

6.00 p.m.

Sen. Dr. Dillon-Remy: Okay, Madam President.

Madam Chairman: Yeah.

Clauses 1 and 2 ordered to stand part of the Bill.

Preamble approved.

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.

**TRINIDAD AND TOBAGO ASSOCIATION FOR RETARDED CHILDREN
ORDINANCE, 1961 (ORDINANCE NO. 15 OF 1961)**

Question put and agreed to: An Act to amend the Trinidad and Tobago Association for Retarded Children Ordinance, 1961 (Ordinance No. 15 of 1961), be now read a second time.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Preamble approved.

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. Paula Gopee-Scoon): Thank you, Madam President. I beg to move that this Senate do now adjourn to Wednesday July 06, 2022, at 10.00 a.m., when debate will continue on an Act to amend the Bail (Amdt.) Act, and then time permitting we move to the Private Security Industry Bill, 2022 and the Supplemental Police (Amdt.) Bill, 2022. Thank you.

Madam President: Hon. Senators before I put the question on the adjournment leave has been granted for a matter to be raised on the Motion for the Adjournment of the Senate. Sen. Mark.

Public Procurement and Disposal of Public Property Act, 2015 (Implementation of)

Sen. Wade Mark: Thank you, Madam President. Madam President, the matter deals with the need for the Government to fully implement and operationalize the Public Procurement and Disposal—

Sen. Walker: [*Desk thumping*]

Sen. W. Mark:—of Public Property Act, of 2015.

Madam President, as you are aware, the public procurement Act was passed in December of 2014 and has been proclaimed in parts. Regulations, as you recall, Madam President, were debated and approved by this honourable Senate and by

the Parliament as a whole earlier this year. The Minister of Finance gave us an undertaking during that debate to approve the regulations, that the Act would have been proclaimed by the end of March, only to be disappointed by the announcement, pronouncement, statement made by the Attorney General some time—I think it was about two weeks ago.

The Attorney General indicated more or less that public procurement is dead in Trinidad and Tobago, because the Judiciary had given the Attorney General a note of 30 pages, and all kinds of legalisms we incorporated into that note, signaling to the country that the PNM has no interest in public procurement in Trinidad and Tobago. Madam President, after scuttling the parent procurement Act and saddling it with all kinds of cumbersome mechanisms to obfuscate its efficacy, such as, the several amendments, 2016, 2017, 2020, the imposition of a separate under-resourced and redundant Appeal Board, under one Justice Ventour loading the board with PNM directors, delaying its implementation until the end of the term, Madam President, this Government sought to further ensure that the Office of Procurement Regulation is totally undermined by implicating other forces in their attempt to bury this piece of legislation.

Madam President, may I remind you and this honourable Senate the procurement Act took 20 years of civil society debates through the JCC to be promulgated in 2015 under the United National Congress within the People's Partnership. Then the OPR spent almost three years consulting with all the Government departments and stakeholders in Trinidad and Tobago and, Madam President, after over 500 interviews and spending close to \$200 million, plus infrastructure under the direction of the former Attorney General and the Minister of Finance, we have had a situation where the new kid on the block, the new Attorney General, came to this Parliament in the other place and literally said we

need more consultation. What an insult to the intelligence of the nation and its citizenry. More consultation, Madam President?

This Government announced in its 2015 manifesto, some seven years ago, that they were going to implement, they were going to enforce, they were going to proclaim, they were going to operationalize this piece of legislation. Well, Madam President, if that is not an indictment of total incompetence and corruption, I do not know what else. People need to know to understand what this Government is all about. Madam President, all the major business organizations, all the Chambers, the American Chambers, the Trinidad and Tobago Chamber of Industry, Trinidad and Tobago Manufacturers Association, Transparency International, every conceivable, credible organization has called on this corrupt PNM Government to proclaim the public procurement law. The Government after seven years have not done it, Madam President.

Madam President, the question is why? Why has the Government not done it? Madam President, I will tell you why. Why does this Government fear this piece of legislation in its current form? You know why, Madam President?—because it provides severe penalties for malfeasance. It provides responsibility outside the political directorate, to preserve evidence of tender documents and ascribes liability and responsibility. It addresses disposal of state assets and lays out a transparent method for doing so. Madam President, that is why they want to sell out our refinery to some foreign group of electricians without any accountability.

Madam President, you know why they do not want it? Because it will demand politicians obtain value for money and requires documented justification for spending. It will make the buying process transparent with clear audit trails to hold individuals and persons accountable. And, Madam President, it will provide a

consistent basis for buying items and limit politicians from making side deals and quid pro quo arrangement.

Madam President, it is a sad day for our nation when this Government could simply bury the public procurement legislation. Madam President, when we are told by the Regulator that we can save \$5.2 billion every year in corrupt improprieties and irregularities in the seven years that has passed, almost, if we had done that we would have had \$31 billion saved in this country. Instead of that somebody has stolen \$31 billion in this country. That is what has happened because this Government has failed to provide proclamation for the procurement legislation. That is an unacceptable conduct.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And that is why, Madam President, in closing, I want to tell you, Madam President, in closing, you see all that is going on in Trinidad and Tobago today? We are at a tipping point in this country and the reason why we are at a tipping point is because you have a corrupt administration that is prepared to undermine procurement legislation that can save \$31 billion in seven years and the Government has failed to act on that.

Madam President, I thank you for the opportunity—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—of bringing this matter to the attention of the people of Trinidad and Tobago.

Madam President: Attorney General.

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Madam President.

Hon. Senators: [*Desk thumping*]

Sen. Mark: I do not want to hear the Attorney General.

[Opposition Senators start exiting Chamber]

Sen. The Hon. R. Armour SC: Sen. Mark has introduced his question with customary hyperbole—

Sen. Mark: *[Crosstalk]*

Sen. The Hon. R. Armour SC:—and in his—

Madam President: Just one second. Sen. Mark—

Sen. Mark: Yes, Ma'am, sorry.

Sen. Gopee-Scoon: You asked a question and then you are running.

Sen. Mark: I do not want to hear him.

Madam President: Sen. Mark! Sen. Mark hold on. Please, no.

Sen. Mark: *[Inaudible]*

Madam President: Please. Please leave in silence.

[Opposition Senators exit Chamber]

Madam President: Continue Attorney General.

Sen. The Hon. R. Armour SC: Thank you, Madam President. I was in the process of saying that Sen. Mark has introduced his question with his customary hyperbole but he has also permitted himself to be less than accurate. So before I respond to the question I just wish to correct some of the hyperbolic inaccuracies. The statement which I made in the other House was not made about two weeks ago; it was made precisely on the 22nd of June, 2022. That is the first correction. And then I wish to say that the response and statement which I made was not premised on a note which I had received from the Judiciary. I made the statement before the other place in response to and as a result of having corresponded with not only the Judiciary but also the Office of Procurement Regulator and it was on the basis of the responses from those two institutions that I proceeded after consultation to make the statement.

The other misrepresentation that Sen. Mark has allowed himself to put before this solemn House, this august House, is that I said that the procurement legislation required more consultation. That is a misrepresentation of what I said. What I said was the law which is now to be proclaimed for purposes of its effective implementation required a process of consultation. I did not say, and I wish this House to record; I did not say, as is being represented by Sen. Mark lastly, but by other persons, that the Government requires more consultation for the arrival at the passage of the legislation or the bringing into being its effective proclamation. What I said was necessarily as a result of the consultations which I have had, it is clear to this Government that the process of implementation of the legislation required very careful checks and balances and for that reason I ask the House to receive the statement which I made.

Madam President, the hyperbole which has been used by Sen. Mark says that the effect of my statement on behalf of the Government is to make the legislation dead, to bury it, that it is an indictment, it is scuttling and he used other such terms. Nothing that I said could even approximate to conclusion such as those that have been drawn by Sen. Mark. To answer the expressed question that he has asked, what is the status? The status is that since I made the statement in response to consultations with the Office of the Procurement Regulator and the Judiciary I have commenced discussions with the Office of the Procurement Regulator. We have corresponded and in fact I have scheduled that his request a meeting that is to take place on Monday 11th July, at the chambers of the Attorney General at 1.00 p.m.

At that meeting we are going to have the first of what I consider will be more than one meeting with that office and to which I will invite other stakeholders for the purpose of interrogating and auditing the implementation of

the legislation, precisely because of the reasons that have been given to me not just by the Judiciary but by the Office of the Procurement Regulator.

In his letter to me, the Office of Procurement Regulator said that the responses which he had provided, this is his letter to me which I referred to in my statement to the other House, on the 22nd of June. He said to me in his letter of the 13th of June that:

The responses—which he had—collated thus far—this is the Procurement Regulator—revealed that some public bodies have commenced the process of getting ready for compliance...

So that is the process of auditing compliance and the consultation, but I digress. Let me return to the quotation. The Procurement Regulator said:

The responses collated thus far revealed that some public bodies have commenced the process of getting ready for compliance with the Act. However, there is significant work to be undertaken to establish the required systems and processes.

That followed on my having disclosed to the other House the concerns of the Judiciary which I will not repeat here, because I do not want to trouble this House with unnecessary repetition. But on Monday, the 11th, I will be meeting with the Procurement Regulator as I have indicated at 1.00 p.m. at my chambers and I am going to be proposing to him, and I say it now, I have not yet said it to him, that we work out a regime and schedule by which we will meet with other regulators in response to questions that I have since penned to him and have asked him provide me with answers to by the time we meet on Monday the 11th at 1.00 p.m. So that is in a nutshell, Madam President, the state of the implementation of the procurement legislation by way of the auditing process which this Government considers it prudent should be discussed with all stakeholders beginning with the procurement

regulator. Thank you very much.

Hon. Senators: [*Desk thumping*]

Madam President: Hon. Senators before I put the question let me just thank all Senators for your cooperation in treating with those two Private Bills. They may seem like small Bills but the impact on the two organizations is real and I therefore, I am very grateful that we were able to get through those Bills today.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.23p.m.